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REGULATION AND CONTROL OF SEBI ON MUTUAL FUNDS

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Abstract

The paper attempts to understand the Role of SEBI in regulating and controlling Mutual Funds in capital Market to placate the interests of the Investors. The objective of the paper is to elicit the essence of Mutual Fund for small investors to invest and pave a laid-back way to make long-term investments with a sophisticated management. The Scope of SEBI'S function in the capital market and its modus operandi concerning the Mutual funds has acquired a significant importance. The article also depicts the procedure for launching schemes.

Introduction

A Mutual fund is a collective accumulation of money, wherein the investors' contributions are pooled to further invest by the Mutual Fund Intermediaries in pursuance of their monetary interests. The pool of money is further invested in the diversified portfolio of securities. There will be Mutual or Joint ownership over the accumulated money to invest as the fund is collectively owned by the investors.

"A mutual fund is a professionally managed type of collective investment scheme that pools money from many investors and invests in stocks, bonds, short-term money market instruments, and other securities"[1]

The history of Mutual Fund in India can be traced back to 1963 when UTI was established by an act of Parliament. The performance of Mutual funds can be observed by analyzing the risk-return relationship.

The Mutual Funds "Industry has grown in terms of size players and asset management. Mobilizing household savings towards equity capital seems to be inevitable in the emerging Indian market for future economic growth. The role of the Mutual fund Industry assumes significance in this context"[2]. The classification of the mutual funds

[1] Sahil Jain, *Analysis of Equity Based Mutual Funds in India*, 2 IOSR J. Bus. Manag. 1–4 (2012).

[2] Debashis Acharya & Gajendra Sidana, *Classifying Mutual Funds in India: Some Results from Clustering*, (2007), https://papers.ssrn.com/abstract=999856 (last visited Apr 22, 2022).

can be made by the objectives of the investors. Investors can speculate on the outcome of their desired objectives by analyzing the risk and income factors.

The investors consider Mutual Fund as a mindful investment because investing directly in shares may require knowledge regarding the credibility of the companies, their prospects, and the track record, this can be a tiresome process to go through especially when the investor is not well equipped to invest in an informed fashion. The complexities of understanding the money market and hiring a money manager are also difficult for small investors, hence mutual funds act as a bulwark against high trading fees and unnecessary intermediaries.

The objective of the Study

The objective of the study is to reason out the probabilities of cumbersome experiences with the investors and look into those issues by analyzing the SEBI regulations. The Indian market is flooded with Mutual Funds and rapid growth is observed in the last few years. Despite the existence of legitimate schemes, the Third-party scams take place frequently and the recent development to the existing scams is the cyber-scam, hence SEBI governs and regulates the money market through the guidelines to preserve the Investor's interests.

SEBI Mutual Fund (Regulations) 1996

"In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992, the Board, with the previous approval of Central Government, makes regulations relating to the regulation of mutual fund. Chapter I of regulations is preliminary, R. 1 contains sort title, application, and commencement, and R 2 deals with definitions. Chapter II deals with the registration of mutual funds. Chapter III of regulations discusses the constitution and management of mutual funds and operation of trustees etc. Chapter IV deals with the constitution and management of asset management company and custodian \in chapter v schemes of mutual fund"[3]

Requirement for the Grant of Certificate of Registration

A soundtrack record of the sponsor is anticipated along with the general reputation of fairness in business transactions. It entails the sponsor to carry out the business for not less than 5 years. The net worth has to be positive in the immediately preceding five years. The sponsor has to contribute to the asset management company. There is a necessity that the sponsor must endure profits after providing for depreciation, tax, and interest in three out of the immediately preceding 5 years, including the fifth year. If it is an existing Mutual Fund, then it has to be in the form of trust. Moreover, the trust deed must be approved by the board.

Provided that, any person holds 40% or more of the net worth of an asset management company, the company shall be deemed to be a sponsor, thereafter the sponsor is required to fulfill the requirement for the grant of registration.

Regulation of Mutual Fund in India

"Mutual funds are regulated by the **Securities and Exchange Board of India** (SEBI). In 1996, SEBI formulated the Mutual Fund Regulation. SEBI is additionally the apex regulator of capital markets and their intermediaries. The issuance and trading of capital market instruments also come under the purview of

[3] R. Kamble, *Mutual Funds and SEBI Regulations*, 3–5 (2013).

SEBI. Along with SEBI, mutual funds are regulated by RBI, Companies Act, Stock exchange, Indian Trust Act, and Ministry of Finance. RBI acts as a regulator of Sponsors of bank-sponsored mutual funds, especially in the case of funds offering guaranteed returns. To provide a guaranteed returns scheme, a mutual fund needs to take approval from RBI. The Ministry of Finance acts as a supervisor of RBI and SEBI and appellate authority under SEBI regulations. Mutual funds can appeal to the Ministry of finance on the SEBI rulings"[4]

Who regulates Mutual funds in India

"Primarily, mutual funds are regulated by the Securities and Exchange Board of India (SEBI). A mutual fund should have the approval of RBI to provide a guaranteed returns scheme. The Ministry of Finance acts as a supervisor of RBI and SEBI and appellate authority under SEBI regulations. The Association of Mutual Funds in India (AMFI) has been made to develop this Mutual Fund Industry of India on professional and ethical lines and to enhance and maintain standards in all areas to protect and promote the interests of mutual funds and their unitholders"[5]

Procedure for Launching Schemes (Regulation 28)

"Regulation 28 deals with the procedure for launching schemes. Sub Regulation (4) Deals with the investment limit for a sponsor or asset management company in the growth option of the scheme, which is lesser than Rs.50 Lakhs or 1% of the amount raised in the new fund offer. Also, the investment can be only redeemed when the scheme is closed.

This sub-regulation does not apply to close-ended schemes. In Sub Regulation (4), the investment made by the sponsor or asset management company can only be made in the SEBI specified option of the scheme. The investment option is no longer specific only to the growth option as was mentioned in the old Sub Regulation"[6]

SEBI Regulation on Mutual Funds

SEBI had issued a set of regulations for the smooth flow of the mutual funds in the capital and money market. SEBI had laid down the criterion to invest, disclose and make the Asset Management Company accountable including the distribution of profits its members. The important regulations include the rights and obligations of the trustees, the Constitution, and the management of the Asset Management Company. Regulations are also imposed on the existing schemes.

The primary role of the SEBI is to recognize the Investor associations and extend financial support to promote investments, at the same time it also renders investors with education to protect their interests. AS transparency is the bedrock of corporate governance, SEBI prescribes norms to disclose the portfolio to keep the investors informed about the way their money is opened to channels to generate financial assets.

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[4] Diva Rai, *Mutual funds Regulation In India : All you need to know*, IPLEADERS (2019), https://blog.ipleaders.in/mutual-funds-regulation-in-india/ (last visited Apr 22, 2022).
[5] *Id.*
[6] SEBI Mutual Fund Regulations - IndiaFilings, https://www.indiafilings.com/learn/sebi-mutual-fund-regulations-2020/ (last visited Apr 22, 2022).

Due diligence has to be observed to protect the investment decisions not being hampered by unnecessary confidentiality, the has so far been the far-reaching step by SEBI to ensure fairness in the operation of Asset Management Companies.

The Screening of Mutual Funds is done at the entry level wherein every mutual fund has to be registered with SEBI by the aforementioned requirement for the grant of certificate and this ensures the efficient and orderly functioning of the affairs of Mutual Funds.

Undue investment Risks are prominent in the Money market, hence SEBI prescribed the norms for investment management. It also ensured that these restrictions aid the investors in terms of transparency and efficacy to avoid excessive risk exposure.

To Maintain Proper Books and Records

"(1) Every asset management company for each scheme shall keep and maintain proper books of accounts, records, and documents, for each scheme to explain its transactions and to disclose at any point of time the financial position of each scheme and in particular give a true and fair view of the state of affairs of the fund and intimate to the Board the place where such books of accounts, records, and documents are maintained.

(2) Every asset management company shall maintain and preserve for [eight] years its books of accounts, records, and documents.

(3) The asset management company shall follow the accounting policies and standards as specified in the Ninth Schedule to provide appropriate details of the scheme-wise disposition of the assets of the fund at the relevant accounting date and the performance during that period together with information regarding distribution or accumulation of income accruing to the unitholder fairly and truly"[7]

Conclusion

SEBI has so far and by large looked into the old regulations and came up with many modifications. Many changes were incorporated while it issued regulations in 2011 and the same is continuing. There is a wide expanse of derivatives segment in extension to the norms pertinent to Corporatisation and Demutualisation. It also enhanced the Portfolio management service guidelines. At this juncture, SEBI is inclined to achieve investors' confidence in their understanding of mutual funds and the level of their informativeness.

[7] Rai, *supra* note 4.