

Securities and Exchange Board of India and Its Effectiveness in Safeguarding Investor Interests

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ABSTRACT

Companies are turning to investors for assistance in making investments through various means since they simply cannot handle the financial and risk burdens associated with running their business on their own. As a result, the Securities and Exchange Board of India (SEBI) was set up to provide investors with protection. This research paper takes a close look at SEBI's make-up and operations, its job in protecting investors, the laws that back up investor protection, and the ways in which it falls short in doing its job. Also discussed are investor protection: legal architecture and a few case laws. Although SEBI has made great strides in boosting investor trust and market discipline, the paper finds that in order to keep up with evolving risks and make sure investors are better protected in India's ever-changing capital market, legislative reforms, more enforcement, and adaptive tactics are needed.

Keywords: *Investors, Securities, Capital market, Protection, Investments.*

I. Introduction

After liberalisation, the Indian capital market exploded in size. As one of the world's most robust economies, it is well-positioned to attract investment and expansion from companies both at home and abroad. By encouraging people to save for the future and then invest those funds in productive ways, it boosts economic growth. Capital is the main focus of the capital market. The capital market is often thought of as a place where people may buy and sell long-term assets and money. Financial instruments, both short- and long-term, as well as commercial, industrial, and government paper, are all part of the capital markets.

In most cases, investment is crucial to a country's economic development. Although investing in the stock market (in the form of shares, debentures, bonds, etc.) carries a higher degree of risk, many people believe that it offers the highest potential return on investment. An official regulatory body, the Securities and Exchange Board of India (SEBI), was established by the Government of India to safeguard the interests of these investors and their hard-earned money.

An administrative entity known as the "Securities Exchange Board of India (SEBI)" was established in April 1988. On 30.1.1992, the SEBI Ordinance, which is now an Act of Parliament, was promulgated, giving it statutory standing. By implementing a number of developmental and regulatory initiatives meant to safeguard investors and promote the capital market's healthy growth and regulation, the SEBI has left an indelible imprint on the industry over its more than 23 years of operation.

To adapt to the ever-evolving securities market and address new developments, the Securities and Exchange Board of India Act, 1992 (SEBI Act) underwent three rounds of amendments in 1995, 1999, and 2002. In accordance with the SEBI Act, 1992, the Securities and Exchange Board of India's principal role is to foster the growth of India's financial markets while simultaneously safeguarding the interests of investors.

To safeguard investors' interests by providing them with accurate information and sound advice on how to buy and sell stocks. To that end, the Securities and Exchange Board of India (SEBI) has promulgated regulations that brokers and other financial intermediaries must adhere to. When investors file complaints, SEBI handles them in a fair and equitable manner. Also, it publishes pamphlets to help and shield individual investors. To manage and oversee the company's presence in the stock market and other security markets. Brokers are subject to SEBI oversight for this purpose. All brokers and sub-brokers are required to register with the government and adhere to specific requirements.

Mutual funds, underwriters, lead managers, merchant bankers, underwriters, and companies releasing new securities into the market are all required by SEBI's guidelines to adhere to regulations that aim to safeguard investors and promote fair trading in the securities markets. Transparency in their operations and protection of investors from exploitation are two goals of these standards. To educate the public about the dangers of investing and to guarantee that all disclosures are complete, fair, and honest, SEBI has established a code of conduct for public issue advertisements. If investors encounter issues with the non-transfer of shares, non-receipt of dividends, non-receipt of share certificates, or any other fraudulent actions by corporations, they can submit an online complaint to SEBI. SEBI investigates and takes action against firms that fail to meet their obligations in order to address complaints from investors.

II. Composition and Function of SEBI

In order to keep up with the dynamic needs of the financial industry and ensure that SEBI remains relevant in the years to come, it has been amended many times between 1995 and 2021. While investigating the SEBI's structure, it was found that the Board is comprised of nine people, with one of them serving as chairman. Two people are associated with the illustrious Ministry of the Central Government. Their main duty is to keep a close eye on all the administrative and financial details of the Companies Act of 1956. The responsibility of selecting one representative from the prestigious Reserve Bank and four others rests entirely on the Central Government. The responsibility for making sure that at least three of the members listed above are full-time participants lies with this governing body.

The SEBI regulates, protects, and facilitates development; these are the three main areas in which it excels. The Securities and Exchange Board of India (SEBI) is responsible for regulating the securities market and may make laws and regulations to govern the activities of companies, intermediaries, and others. As part of its regulatory function, the SEBI creates guidelines, statutes, and a code of ethics. Businesses, merchant banks, brokers, and other middlemen are all part of the securities industry, and there is an effort to regulate and oversee their operations so that everyone may stay on the same page. The Securities and Exchange Board of India (SEBI) is in charge of registering and monitoring investment corporations and venture capital firms, as well as intermediaries including merchant bankers, sub-brokers, and brokers. The stock and Exchange Board of India (SEBI) is responsible for conducting routine audits and investigations of stock exchanges, supervising large-scale acquisitions, and regulating firms when necessary.

In 2003, the SEBI (Prohibition of Fraudulent and Unfair Trade Practise relating to Securities Markets) Regulations were put in place by the Securities and Exchange Board of India (SEBI) to prohibit stock market fraud and unfair trade practices. One of the most prevalent ways that stock values are artificially manipulated to cause fluctuations in the securities market is through price rigging. The securities market is vulnerable to fraud that might be perpetrated using this instrument, especially against investors with large stakes. The Securities and Exchange Board of India (SEBI) keeps a close eye on the financial markets, investigates the many factors that might lead to price manipulation, and then takes action to stop and prevent it. One piece of legislation that limits insider trading in the corporate world is the SEBI (Prohibition of Insider Trading) Regulations, 2015. The Securities and Exchange Board of India (SEBI) promotes and fosters activity in the securities industry through a number of developmental initiatives. Those duties are put in place to make it easier for the economy to flourish and for people to buy stocks using modern technologies. Brokers and dealers in the securities market can take advantage of the SEBI's training programs. An important part of the SEBI's mission is to fund studies that will help the securities market grow and improve.

III. Role of SEBI in Protecting Investors

For the economy and financial markets to operate and remain stable, investors play an essential role. They decide how active the market is. By investing in these funds and equities, one may encourage the growth of markets and, by extension, the economy. Protection of the most important interests of the parties involved is, thus, paramount.

Investor Education and Protection Fund (IEPF)

To protect investors, the SEBI has taken many measures. As required by the Companies Act of 1956, one such measure is the creation of the Investor Education and Safety Fund (IEPF) by the Indian government. After seven years of operation, businesses are required by law to send the IEPF any assets that pertain to the government, including unclaimed fund dividends, matured deposits, debentures, share application money, and more.

Unique Order Code Number

It is mandatory for the stock exchanges to establish a mechanism whereby every transaction is allocated a distinct order code number, which is sent by a broker to their respective clients. Upon the execution of the transaction order, it is required that this numerical value be written on a contract.

The Practice of Time-Stamping Contracts

Brokers in the stock market have a legal obligation to capture the exact second a client makes a request, and then to incorporate that detail, together with the time of order execution, in the contract note. This method ensures that the broker puts the customer's order first and charges them the correct amount, without taking advantage of price changes over the day.

The Process of Simplifying the Procedure for Share Transfer and Allotment

Shri R. Chandrasekaran, Managing Director of the Stock Holding Corporation of India Limited, has been appointed to head a committee set up by the Securities and Exchange Board of India (SEBI). Improving the efficacy and efficiency of share allocation and transfer procedures is the goal of the committee's methodology development efforts. In order to get their thoughts on the board of trustees' preliminary study, many market intermediaries have been contacted. After carefully reviewing the criticisms raised earlier, the research will be concluded and substantial steps will be taken to put the suggestions into effect. The problems that investors have been experiencing as a result of lengthy wait times for share transfers and subpar delivery should be greatly reduced if these recommendations are put into action. There is no other order code number like it.

The Investor Awareness Programme

Potential investors' knowledge and comprehension of investing in general and certain areas in particular are to be enhanced by this all-encompassing effort. An educated investor is more likely to make secure investing choices, according to the SEBI's investor protection procedures. In January 2003, the Securities Market Awareness Campaign was launched by the SEBI. In an effort to educate and raise awareness among investors, SEBI now hosts events on a regular basis. Important subjects covered in the course include tax laws, investor protection funds, mutual funds, portfolio management, and SEBI's grievance redressal system. It also makes it easier to learn about a wide range of financial instruments, including derivatives, stock trading, and the Sensex index.

IV. INVESTOR PROTECTION: LEGAL STRUCTURING

Legal structuring contains the statutory provisions available for protection of the investors. The various rules, regulations, guidelines, schemes and various circulars passed by SEBI time to time for the protection of the investors.

SEBI (Stock Broker & Sub Broker) Regulation, 1992

The Securities and Exchange Board of India (SEBI) issued this regulation to ensure that stock brokers and sub brokers are regularly monitored for their activities. This is necessary to protect investors' interests, as they are not directly connected to the SE and rely on them as intermediaries. In order to prevent the easy tracing of any fraudulent or malpractice activity, this regulation lays out particular requirements that stock and sub brokers must fulfil before starting their business. Everyone in the stockbroker industry is responsible for adhering to the rules put in place to keep them from acting unethically. A financial penalty under Chapter VI may be imposed by SEBI in the case of a default.

SEBI Prohibition of Insider Trading Regulations 1992:

An "insider" is defined as an individual with a connection to a company who has received or had access to non-public, price-sensitive information about the firm's shares, or who is reasonably believed to have done so, under rule 2(e). Regulation 3 outlaws "insider trading," which includes things like interacting with or instructing a third party for financial gain and having direct or indirect access to any unpublished price sensitive information. For information to be considered price sensitive, the wrongdoer must prove that it has significantly affected the security market. This rule takes a number of precautions, such as mandating full disclosure of all significant information by all shareholders (including firms), to allow the SEBI to more thoroughly examine their intentions.

SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003:

The fundamental objective of this law is to prevent unfair and fraudulent activities in the securities industry and to protect investors from them. Consequently, SEBI instituted this strategy to forestall such securities market abuses. The specific chevalier procedure is defined and the law gives a broad scope for detecting fraudulent conduct. It also defines what constitutes fraud. Therefore, if SEBI finds proof of fraudulent behaviour, they may apply severe penalties including certificate cancellation or suspension.

SEBI (Ombudsman) Regulations, 2003:

This rule provides for the appointment of an ombudsman, an officer who deals with public complaints. He investigates public complaints against government officials for infringing on individual rights. His main task is to properly investigate complaints such as unreceived stock certificates, refund orders and dividends.

SEBI (Investor Protection and Education Fund) Regulation, 2009:

The main purpose of this regulation is to protect the interests of investors by educating and raising awareness through organizations such as seminars, research papers and publications. As a result, education requires huge amounts of money, and in 2007 a fund called the "Investor Protection Education Fund" was established. In addition, an Education Advisory Board has been set up to improve investor practices.

SEBI (Investment Advisers) Regulations, 2013:

The primary objective of this rule is to keep an eye on what investment advisors are up to in the stock market. Advice on the buying, selling, or investing in other transactions involving securities or investment products, whether expressed verbally or in writing, is considered investment advice for the purposes of Rule 2 (l). Means advise on the investment portfolio involved. Advertising in print or online periodicals for the purpose of client benefit, such as financial planning; and, in compliance with Rule 2 (m), offering investment advice to clients rather than consideration to investment advisors. This refers to the provider. An individual or organization that is not a customer. Issuing a certificate of registration and registering an investment adviser are both covered in full in this rule. Investment advisors are also required to disclose all relevant information to their customers and

maintain records to address customer concerns. Investment advisors' actions can be investigated by SEBI for regulatory violations, which we also authorise.

V. FAILURE OF SEBI IN PROTECTING THE INVESTOR INTEREST

To safeguard investors from the dangers posed by market predators, SEBI has come a long way as a leading institution for handling securities-related issues. Several mutual funds backed by banks have introduced guaranteed return plans, which have attracted substantial investments. Unfortunately, I was unable to meet the guaranteed return by the maturity date. Banks that were sponsored also made an effort to stand up, such as Canara Bank, Indbank, State Bank of India, and others. A direction was issued by SEBI to the sponsor bank to honour the mutual funds' promise. In order to help small investors, sponsor banks covered a shortfall of almost Rs. 2,000 crores. The Securities and Exchange Board of India (SEBI) has issued orders requiring all listed businesses, and the top 150 in particular, to adhere to the corporate governance code by the end of March 2001. On the other hand, the larger fish managed to evade capture while the smaller ones continued to fight for survival.

Another criticism levelled is that the SEBI watchdog is toothless. It battles manipulators—who ultimately get away with murder—only while wearing dentures. The delisting of Essar Steel is a case study that occurred recently. As the promoters entered the market, failed to distribute gains, and abandoned their investors, SEBI stood by and allowed the cool delisting option to be considered.

VI. CASE LAWS

Hindustan Lever Limited vs. SEBI

Public Investment Institution, Unit Trust of India ("UTI") sold 8 lakh shares of Brook Bond Lipton India Ltd. ("BBLIL") to Hindustan Lever Ltd. ("HLL") two weeks prior to the announcement of the merger between the two companies. At the time, SEBI addressed a Show Cause Notice (SCN) to the Chairman, the Executive Directors, the Company Secretary, and the HLL Chairman due to suspicions of insider trading. Unilever, headquartered in London, oversaw both HLL and BBLIL. Due to their prior knowledge of the transaction, HLL and its directors were deemed insiders by SEBI. In addition, SEBI determined that UPSI possessed HLL in accordance with Section 2(k) of the 1992 Regulations, which addresses any information regarding mergers, takeovers, or amalgamations that "is not widely known or published by such company for general information, but which, if published or known, is likely to substantially impact the price of securities of that company in the market."

The Case of Kishore Biyani

In addition to being the creator of retail companies like Big Bazaar and Pantaloon Retail, Kishore Biyani is the CEO and Founder of Future Group, a group of brick and mortar retailers. In order to determine whether any specific individuals or entities traded in Future Retail Limited's ("FRL") scrips on the basis of UPSI between March 10, 2017, and April 20, 2017, in violation of the SEBI Act, 1992, and SEBI PIT Regulations, 2015, SEBI launched an investigation into the company's scrip.

Sahara India Real Estate Corporation Limited & Ors. v. SEBI (2012)

In this landmark case, SEBI directed Sahara to refund over ₹24,000 crore to investors after it was found that the company had raised funds through optionally fully convertible debentures (OFCDs) without complying with SEBI's regulations. The Supreme Court upheld SEBI's order, reinforcing SEBI's role in protecting investor interests.

SEBI v. Rakhi Trading Pvt. Ltd. (2018)

This case involved allegations of synchronized trading and circular trading by certain entities, leading to artificial price manipulation. The Supreme Court upheld SEBI's order penalizing the entities involved, highlighting SEBI's commitment to maintaining market integrity.

SEBI v. Kishore R. Ajmera (2016)

In this case, SEBI imposed penalties on brokers who facilitated fictitious trading by their clients. The Supreme Court upheld SEBI's action, emphasizing the role of brokers in ensuring that their clients engage in legitimate trading practices.

SEBI v. Shriram Mutual Fund (2006)

SEBI penalized Shriram Mutual Fund for violating the SEBI (Mutual Funds) Regulations, 1996, by investing in an unapproved derivative product. The Supreme Court upheld SEBI's order, stressing the need for mutual funds to adhere to regulations to protect investors.

VII. CONCLUSION

The enactment of the SEBI Act within the context of other statutes such as the Companies Act, Depositories Act and Securities Contracts Regulation Act has provided a strong regulatory framework for the Indian market. Strengthening SEBI's power in the investigative, administrative and legal aspects of enforcement would enable it to speedily address legal challenges such as those faced during dematerialization or disclosure requirements. In the future, SEBI should adopt more transparency to gain higher public confidence.

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