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SEBI: As a Regulator of Capital Market

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INTRODUCTION

The SEBI stands for Securities and Exchange Board Of India, it is a national regulatory body for the securities market, set up under The Securities And Exchange Board Of India Act, 1992, to "protect the interest of investors in capital market and to encourage the development of, and to control the securities and for matters connected therewith and incidental too."[1]SEBI is a quasi-executive, quasi-judicial and quasi-legislative body and it can draft rules, conduct inquiries, pass ruling and impose penalties.

SEBI as the watchdog of the industry has an important and crucial role in the market in ensuring that the market participants perform their duties in accordance with the regulatory norms. The Stock Exchange as a responsible Self-Regulatory Organization (SRO) function to regulate the market and its prices as per the prevalent regulations. SEBI and the Exchange play complimentary roles to enhance the investor protection and the overall quality of the market. According to the SEBI Act, 1992, the power and elements of the Board envelop the guideline of Stock Exchanges and different protections markets; registration and guideline of the functioning stock dealers, sub-broker, financiers to an issue (a public of capital), legal administrators of trust deeds, merchant banker, under writer, portfolio chiefs, speculation consultants and such different go-betweens who might be related with the securities exchange in any capacity; registration and guidelines of common assets; advancement and guideline of self-administrative associations; restricting fake and out of line exchange practices and insider exchanging protections markets; managing significant procurement of offers and takeover of organizations; calling for data from, undertaking examination leading requests and reviews of stock trades, middle people and self-administrative associations of the protections market; carrying out such roles and practicing such powers as contained in the arrangements of the Capital Issues (Control) Act, 1947 and the Securities Contracts (Regulation) Act, 1956, imposing different charges, furthermore, different charges, directing fundamental exploration for above purposes and carrying out different roles as might be recommended every once in awhile.

With the development in the dealings of securities exchanges, parcel of misbehaviour's additionally began in securities exchanges like cost fixing, informal premium on new issue, and deferral in conveyance of offers, infringement of rules and guidelines of stock trade and posting prerequisites. Due to these malpractice with the clients began losing certainty

1https://www.caclubindia.com/articles/howdoessebiprotectinterestofinvestors.

furthermore, confidence in the stock trade. So legislature of India chosen to set up an office or administrative body known as Securities Exchange Board of India (SEBI). SEBI is a body corporate having a different lawful presence and never-ending progression.[2]

HISTORY:[3]

The idea of setting up a regulator was first proposed by former Prime Minister, Late Mr. Rajiv Gandhi who was also the Finance Minister in 1987. In his budget speech for 1987-88, Mr Gandhi had said "For a healthy growth of capital markets, investors' rights must be fully protected. Trading malpractices must be prevented. Government has decided to set up a separate board for the regulation and orderly functioning of stock exchanges and the securitiesindustry." Thus, a notification was issued and SEBI was constituted on 12th April 1988 as an interim administrative body under the Finance Ministry. However, it was four years later, on 4th April 1992 that a notification awarding statutory powers to SEBI was finally issue SEBI isa quasi-legislative, quasi-judicial and quasi-executive body. It can draft regulations conduct inquiries, pass rulings and impose penalties. All decisions taken by SEBI are collectively takenby its Board that consists of a Chairman and eight other members. The current Chairman of SEBl is Ajay Tyagi who was appointed on 10'h January 2017, replacing
U. K. Sinha, and took charge of the Chairman Office on 1* March 2017. Moreover, SEBIappoints various committees, whenever required to look into the pressing issues of that time Further, a Securities Appellate Tribunal - SAT has been constituted to protect the interest ofentities that feel aggrieved by any of SEBI's decision. SAT, consisting of a Presiding Officerand two other Members, has the same powers as vested in a civil court. Further, if any personfeels aggrieved by SAT's decision or order can appeal to the Supreme Court.
It was officially established by The Government Of India in the year 1988 and given statutorypowers in 1992 with SEBI Act 1992 being passed by the Indian Parliament. SEBI has its Headquarters at the business district of Bandra Kurla Complex in Mumbai, and has Northern Eastern, Southern and Western Regional Offices in New Delhi, Kolkata, Chennai and Ahemdabad respectively. Controller of Capital Issues was the regulatory authority before SEBIcame into existence; it derived authority from the Capital Issues (Control) Act, 1947
Initially, SEBI was a non-statutory body without any statutory power. However in the year of 1995, the SEBI was given additional statutory power by the Government of India through an amendment to the Securities and Exchange Board of India Act 1992. In April, 1988 the SEBI

2 https://www.dynamictutorialsandservices.org/2015/04/securities-and-exchange-board-of-india.html.

3 https://www.capitalvia.com/blog/what-is-sebi

was constituted as the regulator of capital market in India under a resolution of the Governmentof India.
The SEBI is managed by its members, which consists of following:

a) The chairman who is nominated by Union Government of India
b) Two members i.e. Officers from Union Finance Ministry
c) One member from The Reserve Bank of India.
d) The remaining 5 members are nominated by Union Government Of India; out of them atleast 3 shall be whole-time members

Capital market:[4]

Capital market sectors are monetary business sectors for the trading of long haul obligation or value upheld protections. These business sectors channel the abundance of savers to the peoplewho can put it to long haul useful use, for example, organizations or states making long haul ventures. Capital market sectors are characterized as market sectors in which money is provided for periods longer than a year.

Current capital business sectors are constantly facilitated on computer based electronic exchanging frameworks; most can be gotten to simply by substances inside the monetary area or on the other hand the depository divisions oflegislatures and companies, yet some can be gotten to straight by the public. There are a huge number of such frameworks, most serving just little pieces of the general capital markets. Elements facilitating the frameworks incorporate stock trades, venture banks, and government offices. Genuinely the frameworks are facilitated everywhere the world, however they willgenerally be gathered in monetary focuses like London, New York, and Hong Kong.
A vital division inside the capital sectors is between the essential business sectors and auxiliary business sectors. In essential markets, new stock or security issues are offered to financial backers, frequently through an instrument known as endorsing. The principal elements trying to raise long haul assets on the essential capital business sectors are states (which may be civil,nearby or public) and business endeavour (organizations). States will generally issue just bonds, while organizations frequently issue by the same token value or bonds. The fundamental elements buying the securities or stock incorporate benefits reserves, flexible investments, sovereign abundance reserves, and less regularly affluent people and venture banks exchangingall alone sake. In the optional business sectors, existing protections are sold and purchased

4 https://www.investopedia.com/terms/c/capitalmarkets.asp

among financial backers or brokers, for the most part on a trade, over-the-counter, or somewhere else. The presence of auxiliary business sectors builds the ability of financial backers in essential business sectors, as they realize they are probably going to have the option to quickly cash out their ventures assuming the need emerges.

Importance of capital market:[5]

The capital market fills an exceptionally valuable need by pooling the capital assets of the nation and making them accessible to the ambitious financial backers well created capital business sectors increase assets by drawing in and loaning subsidizes on the worldwide scale. A created capital market can tackle this issue of lack of assets. For a coordinated capital market can prepare and pool together even the little and dispersed reserve funds and increase the accessibility of investible assets. While the quick development of capital markets, the development of joint stock business has in its turn energized the advancement of capital business sectors. A created capital market gives various productive venture potential open doors for little savers.

Capital market in India:[6]

After the securities are issued in the primary market, they are traded in the secondary market by the investors. The stock exchanges along with a host of other intermediaries provide the necessary platform for trading in secondary market and also for clearing and settlement. The securities are traded, cleared and settled within the regulatory framework prescribed by the Exchanges and the SEBI. Till recent, it was mandatory for the companies to list their securities on the regional stock exchange nearest to their registered office, in order to provide an opportunity to investors to invest/trade in the securities of local companies. However followingthe withdrawal of this restriction, the companies have an option to choose from any one of thefollowing stock exchanges in India to list their securities. Due to the earlier regulation requiring companies are to get listed first at the regional stock exchange, there are in all 23 exchanges operating today in the country. With the increased application of information technology the trading platforms of all stock exchanges are accessible from anywhere in the country through their trading terminals.

5 https://www.insightsonindia.com/indian-economy-3/indian-financial-system-ii-money-and-capital-market-in- india/importance-of-money-market-and-capital-market-for-an-economy/importance-of-capital-market-for-an-economy/

6 https://www.indmoney.com/articles/personal-finance/what-is-capital-market-what-are-the-functions-of-capital-markets

However, the trading platforms of NSE is also accessible through internet and mobile devices In a geographically widespread country like India, this has significantly expanded the reach ofthe exchanges to the homes of ordinary investors and assuages the aspirations of people to have exchanges in their vicinity. As a result of the reforms/initiatives taken by the Government and the Regulators, the markets microstructure has been redefined and modernized. The investment choices for the investors have also broadened.

The securities market moved from T+3 settlement periods to T+2 rolling settlement with effectfrom April 1, 2003. Further, straight through processing has been made mandatory for all institutional trades executed on the stock exchange. RBI to settle inter-bank transactions online at real time mode has also introduced real time gross settlement. These developments in the securities market provide the necessary impetus for growth and development, and hereby strengthen the emerging market economy in India.

MISSION OF SEBI:[7]

Securities And Exchange Board Of India (SEBI) formed under the SEBI Act, 1992 with the prime objective of:-

- Protecting the interest of investors in securities
- Promoting the development of, and
- Regulating, the securities market and for matters connected therewith or incidentalthereto.
- Focus being the greater investor protection, SEBI has become a vigilant watchdog.

OBJECTIVE OF SEBI:[8]

In 1988, the Securities And Exchange Board Of India (SEBI) was laid out by the Government of India through a leader goal, and was in this way updated as a completely independent body(a statutory Board) in the year 1992 with the death of the Securities And Exchange Board Of India Act (SEBI Act) on the 30th January 1992. Instead of Government Control, a legal and

7 https://tavaga.com/tavagapedia/sebi/#:~:text=SEBI's%20objectives%20are%3A&text=To%20monitor%20the %20activities%20of%20the%20stock%20exchange.&text=To%20curb%20fraudulent%20practices%20by,statut ory%20regulations%20and%20self%2Dregulation.&text=To%20define%20the%20code%20of,%2C%20underwr iters%2C%20and%20other%20intermediaries.

8 https://www.geeksforgeeks.org/securities-and-exchange-board-of-india-sebi-objectives-and-functions/

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independent administrative board with characterized liabilities, to cover both turn of events andguidelines of the endlessly market, and free powers has been arrangement.[9]

The basic objective of the board were as follow:

- To promote the development of securities market.
- To protect the interest of investors in securities.
- To regulate the securities market and
- For matter connected therewith or incidental there to.[10]

Since its commencement SEBI has been working focusing on the protections and its takingcare of the satisfaction of its targets with praiseworthy energy and aptitude. The upgrades in the protections markets like capitalization prerequisites, margining, foundation of clearing companies and so on decreased the gamble of credit and furthermore diminished the market. SEBI has introduced the comprehensive regulatory measures, prescribed registration norms, the eligibility criteria, the code of obligations and the code of conduct for different intermediaries like, bankers to issues, merchant bankers, brokers and sub-brokers, registrars, portfolio managers, credit rating agencies, underwriters and others. It has framed by-laws, riskidentification and risk management systems for Clearing houses of stock exchanges,surveillance system etc. which has made dealing in securities both safe and transparent to theend investor.

POWERS OF SEBI:[11]

- SEBI has a power to call for periodical returns from any recognized stock exchange.
- SEBI has power to impose monetary penalties on capital market and other participants for violation of rules.
- SEBI has power regulate the business of various stock exchanges.
- It has power to regulate insider trading.
- It has power to call for any information or explanation form any stock exchange.
- SEBI has power to grant approval to any byelaws of any stock exchange.
- Power to impose sanctions, fines, or fees for carrying out good regulation.[12]

9 https://www.sebi.gov.in/about-sebi.html.

1010 https://www.sarthaks.com/1668922/overall-objective-protect-interest-investors-promote-development- regulate.

11 https://www.sebi.gov.in/powers-and-functions.html

12 http://corporatelawreporter.com/2013/10/30/role-sebi-capital-market-developments-challenges.

SEBI as a Regulator: [13]

For a developing and dynamic economy like India, capital market sectors assume a significant part in drawing in homegrown and unfamiliar venture as well as mirror the situation in our country. To introduce the Indian dream most well among financial backers, our capital business sectors should have major areas of strength for a non-manipulative framework and to guarantee this, India has its capital market controller, the Securities and Exchange Board of India - SEBI. With changing times and keeping in mind that confronting fresher difficulties, SEBI has consistently gotten a sense of ownership with all that is correct or wrong in India's capital business sectors. Indeed, even now, when SEBI ends up encompassed by the clamour of chit reserves redirecting crores of rupees from financial backers and a requirement for fixing insidertrading standards; the Indian government has cheerfully obliged to SEBI's interest for additional powers. Likewise the public authority has declared Securities Laws (Amendment) Second Ordinance, 2013 that would change the SEBI Act, the Securities Contracts (Regulation) Act and the Depositories Act. With these alterations, SEBI will actually want to manage any cash pooling plan worth Rs. 100 crore or more and join resources in instances of resistance. The SEBI Chairman would have the position to arrange "search and seizure activities". The changed regulation would likewise permit SEBI to look for data, for example, call information records, from any people or elements in regard to any protections exchange being explored byit. The law would additionally permit setting up of extraordinary courts to accelerate SEBI related cases.

REGULATORY FUNCTIONS:[14]

1. Regulation of Business in the Stock Exchanges.
2. Registration and Regulation of the Working of Intermediaries and Mutual Funds, Venture Capital Funds & Collective Investment Schemes.
3. Prohibiting fraudulent and unfair trade practices and insider trading in the securitiesmarket.
4. Investor education and the training of intermediaries.
5. Inspection and inquiries.

13 https://unacademy.com/content/upsc/study-material/commerce/sebi-as-a-regulator/#:~:text=protects%20investors'%20rights.-,Answer%3A%20The%20primary%20function%20of%20the%20SEBI%20as%20a%20regulator,in%20the%2~~0Ind ian%20stock%~~20market.

14 https://groww.in/p/sebi-securities-and-exchange-board-of-india

6. Regulating substantial acquisition of shares and take-overs.
7. Performing such functions and exercising such powers under the provisions of the Securities Contracts (Regulation) Act, 1956 as may be delegated to it by The Central Government;
8. Levying fees or other charges for carrying out the purposes of this section.[15]

DEVELOPMENTAL FUNCTIONS:

1. Advancing financial investor training and preparing of intermediaries. 2.Conducting examination and distributing data valuable to all market members.
2. Advancement of fair practices and self administrative organisation.

PROTECTIVE FUNCTION:

These functions are performed by SEBI to protect the interest of investor and provide safety ofinvestment as protective functions SEBI performs following functions:-

- **It Checks Price Rigging:**

Price Rigging refers to manipulating the prices of securities with the main objective of inflating or depressing the market price of securities. SEBI prohibits such practice because this can defraud and cheat the investors.

- **It Prohibits Insider Trading:**

Insider is any person connected with the company such as directors, promoters etc.

These insiders have sensitive information which affects the price of the securities. This information is not available to people at large but the insiders get this privileged information by working inside the company and if they use this information to make profit, then it is known as insider trading, e-g., the directors of a company may know that company will issue Bonus shares to its shareholders at the end of year and they purchase shares from market to make profit with bonus issue. This is known as Insider trading. SEBI keeps a strict check when insiders are buying securities of the company and takes strict action on insider trading.

- SEBI prohibits fraudulent and Unfair Trade Practices:
- SEBI does not allow the companies to make misleading statements which are likely toinduce the sale or purchase of securities by any other person.

15https://www.slideshare.net/probikersagar/sebis-role-in-capital-market.

- SEBI undertakes steps to educate investors so that they are able to evaluate thesecurities of various companies and select the most profitable securities.

ROLE OF SEBI IN CAPITAL MARKET:[16]

SEBI is regulator to control Indian Capital Market. Since its establishment in 1992, it is doinghard work for protecting the interests of Indian investors. SEBI gets education from past cheating with naïve investors of India. Now, SEBI is more strict with those who commit fraudsin capital market. The role of security exchange board of India (SEBI) in regulating Indian Capital Market is very important because government of India can only open or take decision to open new stock exchange in India after getting advice from SEBI. If SEBI thinks that it willbe against its rules and regulations, SEBI can ban on any Stock Exchange to trade in shares and stocks. Now, we explain role of SEBI in regulating Indian Capital Market more deeply with following points.

POWER TO MAKE RULES FOR CONTROLLING STOCK EXCHANGES:

SEBI has power to make new rules for controlling stock exchanges in India. For example:SEBI fixed the time of trading 9 AM and 5 PM in stock market.

TO PROVIDE LICENSE TO DEALERS AND BROKERS:-

SEBI has power to provide license to dealers and brokers of capital market. If SEBI sees that any financial product is of capital nature, then SEBI can also control to that product and itsdealers. One of main example is ULIP's case. SEBI said, "It is just like funds and all banks andfinancial and insurance companies who want to issue it, must take permission from SEBI." TO STOP FRAUD IN CAPITAL

MARKET:-

SEBI has many powers for stopping fraud in capital market.

It can ban on the trading of those brokers who are involved in fraudulent and unfair trade practices relating to stock market. It can impose the penalties on capital market intermediariesif they involve in insider trading.

TO CONTROL the MERGER, ACQUISITION AND TAKEOVER OF THECOMPANIES:-

Many big companies in India want to create monopoly in capital market. So, these companies buy all other companies or deals of merging. SEBI sees whether this merger or acquisition if for development of business or to harm capital market

16 https://www.inspirajournals.com/issue/downloadfile/2/Volumne-Pages/z7YE0Qy3lZb14ARrZPJW

TO AUDIT THE PERFORMANCE OF STOCK MARKET:

SEBI uses his powers to audit the performance of different Indian Stock Exchange for bringing transparency in the working of Stock Exchanges.

Critical Analysis:

Before the foundation of SEBI stock trades were under the managerial control of the Stock Trade Division of DEA. The stock trade division was answerable for the organization of the Securities Contract Regulation Act, 1956 (SCR Act, 1956 from this point forward) whichrepresented the matter of purchasing, selling and managing in protections. The activation or issuance of capital through the public protections market or on the other hand in any case wasconstrained by the Controller of Capital Issues (CCI). The CCI needed to satisfy a few social and financial goals in the release of its capabilities for example, (I) public financial backersecurity (ii) arrangement of corporate ventures with plan needs of the Administration of India

(iii) guaranteeing that the capital design of organizations was sound and in broad daylight interest (iv) guaranteeing that excessive clog of public issues did not happen in that frame of mind of the year; and (v) guideline of unfamiliar speculation. CCI's method for understanding these goals included (I) miniature administration of the protections issuance process (ii) concentrated organization and unwieldy systems and (iii) Tight controls on quantum of issue, terms (cost and non - cost) and in any event, timing of issue. The CCI system along these linesaddressed an outrageous occurrence of "merit guideline".

With the appearance of new innovation, SEBI should persistently redesign its manpower and work on abilities to manage circumstances can emerge. Making a more powerful structure to effectively manage the threat of insider exchanging and severe execution of buyback standards will likewise assume a significant part in guaranteeing a supported investor interest. SEBI would additionally need to firmly deal with the issue of fake aggregate speculation plans. Despite the fact that SEBI has endorsed a proposition to punish unregistered CIS substances and has chosen to proclaim the unlawful preparation of assets as a fake and out of line exchange practice; the drawn out consequences of these means will just guarantee their viability. To guarantee that FIIs keep on putting resources into India and to channelize family investment funds into the capital market will be another test.

Why SEBI Act is Different From other Act?

The SEBI Act, 1992 gives SEBI power draft regulations in order to regulate the market and discharge functions and duties. While the objectives are provided the in SEBI Act, 1992, the implementation details are left the regulator. The securities market is regulated more through regulations than through the SEBI Act, 1992. This is in marked contrast to other "statutes in India, which provides for the regulatory framework in the parent Act For example, the Income-Tax Act is complete self- sufficient code and the income tax authorities are required to implement the Act as against notifying the regulatory framework. They are not expected notify the regulatory framework and be policy decision-makers the government notifies not only the Act but also the rules Similarly, the Parliament notifies the Indian Companies Act. 1956, and the government notifies the rules thereunder.

In the case of SEBI, Parliament has delegated its powers of drafting the regulatory framework to SEBI. Besides the parent Act, SEBI also has powers under the provisions of the Securities Contract (Regulation) Act, 1956, (referred as the SCR Act) to notify the framework to regulate stock exchanges, and transactions on the stock exchanges, as well as the depositories under the provisions of the Depositories Act, 1996.

CONCLUSION:

Changes in the protections market, especially foundation and strengthening of SEBI, designation of assets by market, screen based cross country exchanging, dematerialization and electronic exchange of protections, accessibility of subsidiaries of protections, and so forth have significantly worked on the administrative structure and effectiveness and wellbeing of issue, exchanging getting and settlement free from protections. Notwithstanding, endeavors are on to work on working of the protections market further. The fundamental change, which has seen the Indian protections market, is that prior exchanging both essential market and auxiliary market was done genuinely and is currently swapped by electronic frameworks accessible for exchanging. With a reinforcing of the administrative framework and presentation of different Acts has engaged the Indian protections market and consequently has improved as a possibility for effective money management the assets, we can likewise see that no of individuals contributing frailties be it Mutual Funds, Derivatives, in Equity Market, in Debt Market is on increment and will likewise additionally increment with more refinement of innovation and not to fail to remember regulation specialists safeguarding freedoms of financial backers. Security trade leading body of India SEBI has been assuming a significant part in directing the business in stock trades and some other protections markets and to safeguard the interests of financial backers. The rise of the protections market came about as a significant wellspring of money for exchange and industry across India. A developing number of organizations are access in the protections market as opposed to relying upon credits from FIs/banks. Besides the Indian protections market is adding to Indian GDP development massively.