SEBI ON INVESTOR PROTECTION

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ABSTRACT

It is actually not possible for a company to deal alone with all kinds of risks and financial burden upon them hence to tackle these problems they are opting for the help of investors to make investments through various ways. Therefore, for the protection of investors the establishment of SEBI that is Securities and Exchange Board of India took place in order to protect the interest of the investors. The paper basically shed light upon the heading who is an investor, role of SEBI in protecting the investor, main objective of SEBI, measures taken by SEBI to protect the investors. It also discusses about the Investor Education and Protection Fund and Investor Awareness Programmed also the historical background of SEBI and function of SEBI is mentioned in the paper. The investor protection: legal structuring is also mentioned with some case laws discussion and finally some suggestions and conclusion has been given. The research paper has both primary sources such as legislations, treaties, and conventions as well as secondary sources of data such as books, articles, journals, cases and judicial interpretation.

Keywords: investors, SEBI, Investor Education and Protection Fund, Investor Awareness Programmed

Introduction

An investor is a person who admires capital to an investment in the hope that they will see a financial return by investing in it. However, in the investment community, investors used to have a different attitude to investing other than traders. To be a successful investor in the financial market means picking the investments that return the most profit in the future. To do so, investors need to apply their own analysis to various financial markets and choose an investment which will be proved suitable.

Investors can use many different financial markets to produce profit, and the profiles of different investors will vary hugely according to their expertise, style, risk tolerance, analysis and many other factors.

Generally, investors vary from traders in terms of the length of their investments and their day-to-day investment in the market. Investors usually take a long-term view on their positions, whereas traders will usually try to take advantage of shorter-term investment in the market.

The Securities and Exchange Board of India (SEBI) was established as a statutory body and regulatory body by the Government of India in the year 1992 and the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and it came into force on January 30, 1992. It is established to regulate the securities market in India and to protect the interests of investors in security market. It also helps in regulating the functioning of the intermediaries, stock market, mutual funds, check the books of accounts of stock exchanges and call for periodical returns, approve by-laws of stock exchanges, inspect the books of financial intermediaries such as banks, compel certain companies to get listed on one or more stock exchanges, and handle the registration of brokers or intermediaries etc. in the financial market.

It was established to keep a fair check on the unfair and malpractices and protect the interests of investors from such malpractices in the market. The organization was established to meet the necessary requirements of the following three groups:

- Issuers
- Intermediaries
- Investors

The Fundamental objectives of SEBI are mentioned as follows;

- To monitor the activities of the stock exchange in the financial market.
- To safeguard the rights and interests of the investors.
- To curb fraudulent and unfair practices by maintaining a balance between statutory regulations and self-regulation.
- To define the code of conduct for the brokers, underwriters, and other intermediaries in the financial market.

Investors are the pillar of the financial and securities Market in a country. They help to establish the level of activity in the market. They put the money in various aspects like funds, stocks, etc. to help grow the market and the Economy. Therefore, it is necessary to protect the interests of the investors and investor protection involves various measures established to protect the interests of investors from various forms of malpractices.

Investor Protection Measures by SEBI

Investor protection legislation is described under the Section 11(2) of the SEBI Act,1992. The measures are mentioned as follows:

- Regulation of the stock exchange and other securities markets.
- Registering and overseeing business intermediaries such as bankers, registrars, trustees, brokers, transfer agents, investment advisors, merchant bankers, and so on. keeping track of and recording the activities of participants, international investors, custodians, depositors, credit rating agencies, etc.
- Registering investment programs such as venture capital funds and mutual funds and overseeing their operations.
- Encouraging and managing self-regulating businesses.
- Monitoring fraudulent activity and unethical trading practices in the securities industry. monitoring and controlling significant business acquisitions and transactions.
- Train the intermediaries of the business. Inspecting and auditing the security exchanges (SEs) and intermediaries.
- Assessment of fees and other charges. [1]

[1] https://www.fincash.com/l/investor-protection-measures-sebi

Investor Education and Protection Fund (IEPF)

Investor protection measures by SEBI also involves the Government of India established a fund which is known as Investor Education and Protection Fund (IEPF) under the 1956 Company Act. The statute states that a company that has successfully finished its seven years in operation must give the government through the IEPF all unclaimed fund dividends, matured deposits, debentures, share application money, etc. In order to settle investor claims against exchange members (brokers) who have defaulted or neglected to pay, the Inter-connected Stock Exchange (ISE) established the Investor Protection Fund (IPF) in compliance with the guidelines issued by the Ministry of Finance for investor protection. If a member (broker) of the Bombay Stock Exchange (BSE), the National Stock Exchange (NSE), or any other stock exchange neglects to pay the money owed for the investments made, the investor may request compensation. The amount of compensation that investors can receive has been capped by the stock exchanges. This restriction has been placed in accordance with the advice and conversations with the IPF Trust. For major stock exchanges like BSE and NSE, the maximum amount that can be given as compensation for a single claim is INR 1 lakh; for other stock exchanges, the maximum amount is INR 50,000.

Investor Awareness Programme

"An informed investor is a safe investor" is the motto that guides SEBI's investor protection initiatives.

As a result, in January 2003, SEBI started the Securities Market Awareness Campaign. These days, SEBI frequently organises and maintains these programmes to inform and raise awareness among market investors. Key ideas covered in the training include tax laws, mutual funds, portfolio management, the Investor Protection Fund, and SEBI's Investor Grievance Redressal System.

Historical Background

SEBI was officially established by the Government of India in the year 1988 and came into effect in the year 1992 with SEBI Act 1992 and being passed by the Indian Parliament.

Generally, SEBI was a non-statutory body without any statutory power given by the government. But in the year of 1995, the SEBI was given additional statutory power by the Government of India through a successful amendment to the Securities and Exchange Board of India Act, 1992. In April, 1988 the SEBI was constituted as the regulator of financial capital markets in India under a resolution passed by the Government of India.

The following persons constitute the SEBI's membership, who oversee it:

1. The chairman, who receives a nomination from the Indian Union Government.
2. Two participants, specifically, Union Finance Ministry officers.
3. A single Reserve Bank of India employee
4. The Union Government of India nominates the remaining 5 members, at least 3 of whom must be full-time members.

Before SEBI was established by the government of India for protecting the rights and interests of the investors in the security market, the Indian financial markets were regulated by the Controller of Capital Issue which was established under the Capital Issues Act of 1947 by the Government of India.

SEBI is a very powerful statutory and regulatory body because it has three powers inserted in a single body. These powers are:

- Quasi Legislative – SEBI can draft rules and regulations under this power.
- Quasi Executive: With this authority, SEBI can carry out investigations and impose necessary sanctions.
- Quasi-Judicial – SEBI can pass orders and rules under its judicial capacity.[2]

To create an accountability, an appeal process is there, where an appeal can be raised to Securities Appellate Tribunal against any issues. It is constituted as a three-member body which hears and disposes the appeals against the orders passed by SEBI. And after the Tribunal, a second appeal can also be raised to the Supreme Court of India.

Function of SEBI in Investor Protection: -

Investors Protection is one of pivotal component of an expanding securities industry. It mainly focuses on ensuring that the investors are thoroughly enlightened about their purchases, deals, transactions, and the corporate events and accordingly their updates. Numerous guidelines, procedures, rules and regulation have been established in the legislation to safeguard the investor's rights and re instill their lost faith and confidence.

[2] https://www.capitalvia.com/blog/what-is-sebi

Investors are basically the pedestal of financial and securities market. Primarily Investors rule and determine the number of affairs in the market. Fundamentally the money invested by the investors are put into the funds, stocks, etc which directly assists in the growth of the market and indirectly the development of the country's economy takes place. So it is essentially very important to safeguard the interests of the investors. The investor protection principally includes various procedures created in order to shield and defend the rights and interests of investors from various malpractices. Basically, Securities and Exchange Board of India (SEBI) is accountable for regulations of the Mutual Funds and protect the rights and interests of the investors. Investor protection steps by SEBI are set up to guard the investors from the malpractices in shares, the stock market, Mutual Fund, etc. SEBI is set up with two prime aim:- Primarily providing a proper conductive environment for raising the money from capital market by various rules, regulation, business methods and directions. SEBI manages stock exchanges and supplemental mediators in securities market such as brokers, sub-brokers, merchant bankers, venture funds, mutual funds, FII etc. Secondly providing protection to the investors and educating them. SEBI targets at safeguarding the investors from fraudulent practices and educating investors so as to make them aware of their rights as well as duties.

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

Because investors are not directly connected to the SE and rely solely on stock brokers and sub brokers to act as intermediaries between them and the SE, it is necessary to maintain regular monitoring of broker and sub broker activities in order to protect investors' interests, and thus this regulation was issued by SEBI. This rule establishes specific conditions that stock and sub brokers must meet before beginning their company, such as submitting full personal information so that any fraudulent conduct or malpractice may be easily traced. Some necessary obligations have been imposed to prevent them from engaging in such misconduct, and these must be observed by all stockbrokers. In the event of a default, SEBI may impose a monetary penalty under Chapter VI.

SEBI Prohibition of Insider Trading Regulations 1992:

According to rule 2(e), a "insider" is someone who has a link to a company and is reasonably expected to have accessed unpublished price sensitive information in relation to the firm's shares, or has received or had access to such unpublished price sensitive information. The word 'insider trading' refers to specific practices that are prohibited under regulation 3, such as having direct or indirect access to any unpublished price sensitive information and communicating or advising a third party in exchange for money. To be treated as price sensitive information, the aggrieved party must show that the information has had a major and substantial impact on the security market. As a precaution, this rule includes various preventive measures, such as requiring individual shareholders, including companies, to disclose all material information so that their intentions may be more properly scrutinized by the SEBI.

SEBI (Prohibition of fraudulent and unfair trade practices relating to Securities Market) Regulations,2003:

The primary goal of this Act is to safeguard investors from various fraudulent and unfair business practices in the securities market. As a result, SEBI created this policy in order to prevent such abuses in the securities market. This regulation defines what constitutes fraud and provides a broad scope for investigating fraudulent actions, as well as the specific chevalier method. As a result, SEBI may impose harsh penalties such as certificate cancellation or suspension if evidence of fraudulent activity is found.

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 main purpose of this regulation is to monitor the activity of investment advisors in the capital markets. For the purposes of Rule 2 (l), investment advice refers to advice on the purchase, sale, or investment in other transactions of securities or investment products, and securities or investment products, whether written or verbal by other means. Means advice on the investment portfolio involved. Communication for the benefit of the client, including financial planning, provided by newspapers, magazines, or other electronic media, and in accordance with Rule 2 (m), with investment advisors, investment advice instead of consideration. Means the person who provides. A client or other person or group of people. This rule provides detailed instructions for registering an investment adviser and issuing a certificate of registration. It also imposes some obligations on investment advisors, such as disclosing all materials to clients and keeping records to resolve complaints. We also approve SEBI to conduct regulatory investigations into the behavior of investment advisors.

Case Discussion

Hindustan Lever Limited vs. SEBI

Two weeks before the merger of HLL and BBLIL was made public, Hindustan Lever Ltd. ("HLL") purchased 8 lakh shares of Brook Bond Lipton India Ltd. ("BBLIL") from Public Investment Institution, Unit Trust of India ("UTI"). Suspecting insider trading, SEBI sent a Show Cause Notice (SCN) to the Chairman, all Executive Directors, the Company Secretary, and the HLL Chairman at the time. HLL and BBLIL were both subsidiaries of London-based Unilever, which shared management. Because HLL and its directors were aware of the merger beforehand, SEBI concluded that they were insiders. According to Section 2(k) of the 1992 Regulations, which covers any information about amalgamations, mergers, and takeovers 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," SEBI further found that HLL was in the possession of UPSI.

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.

Conclusion

The operation of the stock market promotes the economic growth of the country. More efficient is the stock market; greater impact on economic growth. Therefore, it is necessary to ensure more efficient, transparent and secure operations on the stock market. Investors should be protected against various unfair and unfair practices by companies and intermediaries. As the community of individual investors and investment avenues grows, it is interesting to see how investors should be protected by various laws. The stock market as a whole need to be regulated to improve its functioning in fair transactions and to facilitate market access for businesses and investors. The current positive attitude of investors is encouraging even as investors' sentiment has been shaken by various scandals. Although there are many investment opportunities, investors are still hesitant to invest in companies. In such a situation, the protection of individual investors becomes necessary to support the economic development of all countries. Achieving the desired level of economic growth depends on the availability of investor protection in the country concerned. Overall, there is growing evidence that investor protection has played an important role in a country's economic development. The integrity of the country's financial markets and economy depends on corporate responsibility and investor confidence. The global concern to make capital markets safer, more transparent, strengthen the financial system and manage the crisis cannot be resolved quickly. But they form a more powerful system. Globally, many countries have experienced a crisis of investor confidence in different respects. Global evidence shows that whenever there is a stock market crash, money flows into bank deposits. If not 100% sure, SEBI has almost 100% success in protecting investors. As we have seen, through various directives he has ensured that no stone is left unattended on the path to investor protection. Once again with the economic recovery in the country, funds are being redirected to the market. Investors panic when the market drops. It is important for investors to realize that stock returns are cyclical and that the market fluctuates up and down over time. Understanding the market and being patient during a bear market is important while investing in stocks. The recovery of investor protection in the corporate stock market is needed to make the market for converting savings to investments more efficient. If investors are not properly protected by return and capital, the company will not be able to collect money from the market at a cheap and efficient rate in the coming days. In order to win the confidence of investors in the stock market, it is necessary to provide a commensurate rate of return and fair performance of enterprises in the stock market, and then to attract investors. market participants. This can be done through a series of systematic measures, which will strengthen their confidence in the system.