A CASE STUDY OF INVESTORS PROTECTION UNDER SEBI

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INTRODUCTION

The most essential responsibility of SEBI is to protect investors. The Securities and Exchange Board of India (SEBI) was established for the protection of investors as well as the healthy development of Indian financial markets. The Securities and Exchange Board of India Act, 1992 (the SEBI Act) was changed several times between 1995 and 2002 to meet the evolving needs of the stock market and to respond to market events. The preamble of the SEBI Act,1992 lists two objectives: the first is to protect the interests of investors in securities, and the second is to promote the growth, regulation, and control of the securities market, as well as topics related to or incidental to it.

The sole of exchange is the investor, as he is the only one whose rights must be respected first. Various legislations, as well as rules and regulations made thereunder, specify the disclosure requirements that must be met by companies, as well as the penalties and remedies for non-compliance. Investor protection refers to preventing corporations from defrauding, deceiving, or putting investors at risk. Investor protection is one of SEBI's main obligations in India.

In order to provide adequate protection to investors, provisions have been incorporated in various legislations such as the Companies Act, Securities Contracts (Regulation) Act, Consumer Protection Act, Depository Act, and Stock Exchange Listing Agreement, as well as numerous guidelines, circulars, and press notes issued by the Ministry of Finance, Ministry of Corporate Affairs, and SEBI from time to time.

Investor protection is a broad word that refers to a variety of policies aimed at protecting investors from the wrongdoings of firms, merchant bankers, depository participants, and other middlemen.

Investor Beware should be the motto for any savings mobilisation scheme. Because every investment involves some level of risk, investors should be aware of this risk and take all reasonable efforts to safeguard their interests. They only have themselves to blame if they throw caution to the wind and invest in any business venture without first assessing the danger.

SEBI has spent the last 25 years trying to strike a balance between the two goals by constantly reviewing and re-appraising its existing policies and programmes, formulating new policies and regulations to foster developments in these areas, and putting them in place to ensure market growth while maintaining efficiency, integrity, and investor protection. All throughout, enforcement and surveillance has been a major priority for SEBI. It introduced several reforms in primary market and acted as a catalyst for the mordernisation of market infrastructure. The securities market relies heavily on investors. SEBI has streamlined and simplified the issue procedure, increased the issue process' flexibility, and tightened the criteria for accessing the securities market.

Most traditional stock exchanges have modernised their trading infrastructure, upgraded their clearing settlement systems, and formed depositories. The number of complaints filed with SEBI has decreased as a result of their measures. Aside from delivering cause letters, inspections, and investigations, SEBI has brought lawsuits against firms.

IMPORTANT DEFINITIONS

INVESTOR PROTECTION

One of the most crucial aspects of a flourishing stock market or other financial investment institutions is investor protection. The word 'investor protection' refers to a procedure or technique that safeguards an investor's interests in the securities market. Essentially, it refers to actions taken with the goal of increasing and maintaining procedural openness when dealing with investors through regulatory authorities and appropriate legislation. Various investor protection procedures have been implemented in India to protect the interests of investors. There are primarily three procedures to protect investors' interests in the securities market regulatory organisations such as SEBI, as well as numerous Acts and Judiciaries.

Investor protection is defined as "safeguarding the interests of investors in securities, encouraging the growth of, and regulating the securities market, and for matters associated with or incidental thereto," according to the SEBI Act of 1992. Investor protection, in general, refers to legislation designed to safeguard small investors against unethical investment brokers and advisers. Thus, the phrase 'investor protection' refers to the steps and procedures that must be taken to protect the interests of investors in the capital market, such as implementing appropriate legislation, establishing regulatory organisations, or drafting regulations or guidelines.

The country's economic progress is aided by securities market operations. The higher the promotion effect on economic growth, the more efficient the securities market is. As a result, it's critical to make securities market operations more efficient, transparent, and secure. In this context, investors want protection against different corporate and intermediary malpractices and unfair activities. As the number of individual investors and investment opportunities grows, it's important to understand how investors will be safeguarded by various laws. Securities market in general are to be regulated to improve the market operations in fair dealings and easy to access the market by corporate and investors. The corporate systems and processes must be credible and transparent in order to protect investors' interests in a way that allows them to make educated investment decisions while also providing them with a fair exit option. The Securities and Exchange Board of India (SEBI) has been charged with safeguarding the rights of investors in securities, as well as promoting the development and regulation of the securities market in order to create a vibrant securities market that contributes to the Indian economy.

INVESTOR EDUCATION

SEBI's initiatives to protect investors' interests in securities markets include investor education. Investors have already received a series of information flyers and pamphlets. These publications detail the various risks associated with capital market investments, as well as investors' rights, responsibilities, and details of the grievance redressal machinery available to them in the event of various grievances, as well as the remedy/relief available from various agencies such as SEBI, the Ministry of Corporate Affairs (MCA), the Stock Exchange, the Reserve Bank of India, and the Registrar to the Issue, in addition to seeking relief through the Consumer Dispute Redressal Forum.

Investor educational programmes are held by SEBI-registered investor associations, stock exchanges, and professional bodies on a regular basis to inform investors about changes in the legislation and regulations, as well as how to protect themselves against market malpractices and delays. This is supported by corporate investment journals and publications, as well as press pieces that highlight newly emerging difficulties and fit falls, as well as ways to safeguard oneself.

INVESTOR EDUCATION AND PROTECTION FUND

The Central government established the Investor Education and Protection Fund (IEPF) under Section 125 of the Companies Act, 2013 to raise investor knowledge and defend investors' interests. The guidelines of the Investor Education and Protection Fund (IEPF) specify the activities connected to investor education, awareness, and protection for which IEPF can grant financial assistance.

OBJECTIVES OF INVESTOR EDUCATION AND PROTECTION FUND (IEPF)

Providing information to investors on how the market works.

1. Educating investors so that they can analyse and make well-informed judgments.
2. Educating investors about the market's volatility.
3. Making investors aware of their rights and various investment rules.
4. Promoting studies and surveys to increase investor awareness.

FUNDING OF IEPF

Except for points (f) and (g), the following amounts will be included in the IEPF if they go unpaid for seven years from the date of declaration:

a. Amounts in unpaid dividend accounts of companies;

b. Application moneys received by companies for allotment of any securities and due for refund;

c. Matured deposits with companies;

d. Matured debentures with companies;

e. Interest accrued on the amounts referred to in clauses (a) to (d);

f. Grants and donations given to the Fund by the Central Government, State Governments, companies or any other institutions for the Fund's purposes

g. The interest or other income received out of the investments made from the Fund.

UTILISATION OF FUND

The Companies Act of 2013 (the Act) specifies the purposes for which the Fund would be used, as set out in the Rules. They are: to refund unclaimed dividends, matured deposits, matured debentures, the application money due for refund, and interest thereon; to refund unclaimed dividends, matured deposits, matured debentures, the application money due for refund, and interest thereon; to refund unclaimed dividends, matured deposits, matured Education, knowledge, and protection of investors are all encouraged.

Distribution of any disgorged amount among eligible and identifiableapplicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which has ordered disgorgement;

Reimbursement of legal expenses incurred in pursuing class actionsuits under section 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and Any other purpose incidental thereto.

SCORES (SEBI COMPLAINTS REDRESS SYSTEM)

SEBI's Scores (http://scores.gov.in) is a web-based centralised grievance redress system that was established in June 2011. The goal of SCORES is to provide a place for aggrieved investors whose securities market issues have gone unaddressed after direct contact with the concerned listed business or registered intermediaries.

SCORES also provides a platform, supervised by SEBI, through which investors can contact the relevant listed business or a SEBI-registered intermediary in an effort to resolve investor issues in the securities market as quickly as possible. Investors should, however, first address their objections to the concerned listed business or registered intermediary, who are expected to have designated person/officials for dealing with matters pertaining to compliance and redress of investor grievances. This allows market intermediaries and publicly traded corporations to accept investor complaints online, respond to them, and report on their resolution.

All operations related to a complaint, from filing it to having it closed by SEBI, would be conducted online in an automated system, and the complainant will be able to track the status of his complaint. If an investor is unfamiliar with SCORES or does not have access to

SCORES, he or she can file a complaint in person at any SEBI office. These complaints will be scanned and uploaded to SCORES for processing.

THE SALIENT FEATURES OF SCORES ARE:

1. SCORES is web enabled and provides online access 24 x 7;
2. Complaints and reminders thereon can be lodged online at the above website at anytime from anywhere;
3. An email is generated instantaneously acknowledging the receipt of complaint and allotting a unique complaint registration number to the complainant for future reference and tracking;
4. The complaint forwarded online to the entity concerned for its redressal;
5. The entity concerned uploads an Action Taken Report (ATR) on the complaint;
6. SEBI peruses the ATR and closes the complaint if it is satisfied that the complaint has been redressed adequately;
7. The concerned investor can view the status of the complaint online from the above website by logging in the unique complaint registration number;
8. The entity concerned and the concerned investor can seek and provide clarification on his complaint online to each other;
9. Every complaint has an audit trail and
10. All the complaints are saved in a central database which generates relevant MIS reports to enable SEBI to take appropriate policy decisions and or remedial actions, if any

OMBUDSMAN

In its most literal meaning, an ombudsman is a person designated to hear and respond to citizen complaints regarding government services. SEBI had been receiving investor complaints against listed businesses, including non-receipt of refund orders, non-receipt of shares certificates / unit certificates, non-receipt of dividend, and a variety of other issues. There have been a slew of complaints about middlemen' lack of service. SEBI has been counselling corporations or intermediaries to resolve investor grievances.

Investors have also sought damages, reimbursement, and interest, among other things. The alternative option for dealing with the listed company is to prosecute it or to impose a monetary penalty on it. The suspension and revocation of registration, as well as the enforcement of a monetary penalty, are all options for dealing with intermediaries. The aforementioned does not address the investors' grievances or provide any compensation to them**.** Therefore, issue of an alternative redressal mechanism which is cheap, fast, informal and efficient has been engaging the attention of SEBI. SEBI is exploringvarious avenues such as scheme of Ombudsman.

In its report, the Joint Parliamentary Committee on Stock Market Scam and Related Matters advised that – There also appears to be a need for an independent review at how investor complaints against firms and market intermediaries are resolved. The Committee recommends that the Ombudsman idea, which is already in use in the banking sector, be applied to the capital market as well. The question of the Ombudsman's power, duties, and obligations should be properly worked out. In the case of investor complaints against brokers and other market intermediaries, arbitration councils at the exchange level might be used to resolve the issues. Such a body would be free of market intermediaries, especially brokers.

The concept of the Ombudsman for Securities Markets was discussed at meetings of the SEBI's Legal Advisory Committee, which is chaired by former Chief Justice of India Mr. Justice M. N. Venkatachaliah. In accordance with its powers under section 11 of the Securities and Exchange Board of India Act, 1992, the Committee has recommended that SEBI draught the SEBI (Ombudsman) Regulations.

ELIGIBILITY CRITERIA FOR APPOINTMENT OF AN OMBUDSMAN

To be appointed as an Ombudsman, a person must be

(a) an Indian citizen;

(b) of high moral integrity;

(c) not less than 45 years old; and

(d) either a retired District Judge or qualified to be appointed as a District Judge, or having at least ten years experience of service in any regulatory body, or having special knowledge and experience in law, finance, corporate matters, economics, management, or administration for a period of not less than five years.

RIGHTS OF THE SHAREHOLDERES

The Shareholders provide the capital and carry the risk; they have been granted specific rights, both individually and collectively. When shareholders attend a general meeting of the firm as a group, they have the power to exercise control over the company's policies and operations. A shareholder has a number of options when it comes to exercising his or her rights. The following are examples of different types of rights:

- In the appointment of directors, shareholders play a significant role. The shareholders must approve the appointment with an ordinary resolution. Aside from that, shareholders have the authority to appoint a variety of directors. They are: an extra director who will serve until the next general body meeting;
- an additional director who will serve until the next general body meeting; and an additional director who will serve until the next general body meeting.
- For a period of three months, an alternate director will operate as an alternate director;
- Director nominee
- Any director nominated in a general meeting of a public business to fill a casual vacancy in the office of any director.

Aside from that, any decision made by the general body meeting for the nomination of a director might be challenged by the shareholders.

LEGAL ACTION AGAINST DIRECTORS

Shareholders can also take legal action against a director under the Companies Act of 2013.

• Any conduct taken by the director that is damaging to the company's affairs;

• Any act taken by the director that is outside the law or against the constitution.

• Fraud.

• When a company's assets are being transferred at an undervalued rate.

• When the company's funds have been diverted.

• Any act committed in an ill-intentioned manner.

APPOINTMENT OF COMPANY AUDITORS

Shareholders also have a say in who the company's auditors are. The board of directors must appoint the company's initial auditor under the Companies Act of 2013. Furthermore, on the suggestion of the directors and audit committee, the shareholders at the annual general body meeting. The appointment is usually for five years, although it can be extended by a resolution passed at the annual general body meeting.

VOTING RIGHTS

The annual general body meeting is also open to shareholders, who have the right to attend and vote. The Companies Act of 2013 requires any company registered in India to abide by its regulations. Every Indian firm is required to convene an annual general meeting at least once a year. The meeting can take place at the firm's headquarters or at any other location specified by the company. There are several necessary agendas to be considered at the meeting. Financial statements must be adopted, and directors and auditors must be appointed or ratified.

When members of a corporation bring a resolution forward, the Companies Act of 2013 states that the resolution can only be passed by shareholder vote. The following forms of voting are recognised by the Companies Act of 2013.

Voting by show of hands - Each person present at the meeting receives one vote. As a result, in this type of voting, shareholders just display their hands to vote.

Polling voting - This method of vote is initiated by the chairman or the shareholders. A particular class of equity shares may, nevertheless, have weighted voting rights in the situation of differential voting rights.

Electronic voting– Every corporation with more than 1000 shareholders is required to set up an online voting system. Every member should have access to online voting options.

Voting via postal ballot - every resolution passed at the meeting can be passed by postal ballot as well.

When a shareholder is unable to attend a meeting, he or she has the option of appointing a proxy to act on his or her behalf. Though a proxy cannot be included in the quorum of a meeting for voting purposes, it can be if a procedure outlined in the Companies Act 2013 is followed.

RIGHT TO CALL FOR GENERAL MEETINGS

A general meeting can be called by shareholders. They have the authority to order a company's director to call an extraordinary general meeting. They can also go to the Company Law Board to request that a general body meeting be held if it is not done in accordance with the law.

RIGHT TO INSPECT REGISTERS AND BOOKS

As shareholders are the main stakeholders in a company, they have the right to inspectthe accounts register and also the books of the firm and can ask questions about the same if they feel so.

RIGHT TO GET COPIES OF FINANCIAL STATEMENTS

Financial statements are available to shareholders upon request. It is the company's responsibility to provide the company's financial statements to all of its shareholders on a quarterly or annual basis.

WINDING UP OF THE COMPANY

Before the company is wound up the company has to inform all the shareholders aboutthe same and also all the credit has to be given to all the shareholders.

OTHER SHAREHOLDERS' RIGHTS

When a firm's material is sold, the shareholders should receive the amount to which they are entitled; when a company is changed into another, the shareholders must first approve the conversion. Also, all appointments must be made in accordance with all regulations, as well as auditors and directors; the right to contact the court in the event of insolvency.

DUTIES OF SHAREHOLDERS

Shareholders have responsibilities and obligations that they must fulfil. They have a number of rights, as well as a number of responsibilities.

• Shareholders should attend general body meetings to observe and advise on things that they believe are not doing well;

• Shareholders should consult on financial and other topics.

• Shareholders should communicate with other members of the company so that they are aware of the company's progress.

GRIEVANCES AND REDRESSAL OF INVESTORS

Investors' general grievances about firms can be summarised as follows:

(a)Inadequate information or misrepresentation in prospectuses, application forms, advertisements, and materials relating to rights offers.

(b) Non-receipt of refund orders, allotment letters, and share certificates/debentures certificates/bonds due to delays or non-receipt

(c) Non-receipt of share certificates/debentures certificates due to a delay or non-payment. (d)An increase in the time it takes for securities to be listed on stock exchanges.

(e)Delay in receiving bonus shares/right shares or non-receipt of bonus shares/right shares (f)Delay or non-receipt of meeting notices/annual reports

(g)Interest warrants and dividend warrants are delayed or not received.

(h)Getting an unfair advantage as a company insider

(i)Failure to pay interest or return deposits due to a delay or default.

Complaints can be filed with the Registrar of Companies, the stock exchange, or SEBI, as the case may be, and in some situations, with the Company Law Board to get remedies and relief.

Every recognised stock exchange has established a centre that handles all complaints about trades executed in the exchange and relevant members of the exchange. Furthermore, investors have two further options for seeking redress for their businesses: corporations with a Consumer Disputes Redressal Forum and lawsuits in the courts.

OMBUDSMAN POWER AND ITS FUNCTIONS IN SEBI

Any individual appointed under regulation 3 of the Securities and Exchange Board of India (Ombudsman) Regulations, 2003 is referred to as a "ombudsman." In its most literal meaning, an ombudsman is a person designated by the government to hear and act on citizen complaints regarding government services.

(1) The Chairman may appoint one or more Ombudsmen, including Stipendiary Ombudsmen, on the suggestion of a Selection Committee for such area and jurisdiction as may be indicated

from time to time by announcement.

(2) The members of the Selection Committee referred to in sub-regulation (1) are as follows:

(i) a retired High Court judge, who will be recommended by the Chairman;

(ii) a financial market operations specialist or someone with exceptional knowledge and expertise in law, finance, or economics, as nominated by the Chairman.

(iii) a Board representative not below the position of Executive Director who will also serve as the Selection Committee's Secretary, as proposed by the Chairman.

(3) For the purposes of these regulations, the Selection Committee may suggest the appointment of an Ombudsman and prepare a panel of Stipendiary Ombudsmen.

POWERS AND FUNCTIONS:

The following are the powers and functions of the Ombudsman:

(a) to receive complaints against the provision of services by an intermediary or about a publicly traded corporation;

(b) to take such complaints into account and assist in their resolution;

(c) a friendly arrangement between the listed firm or the intermediary and the aggrieved parties to reach a resolution;

(d) to decide any claim against a listed firm or an intermediary in a matter involving a public offering, buying, selling, or dealing in securities in accordance with these regulations.

OTHER POWERS AND FUNCTIONS

The Ombudsman is responsible for the following: (1) providing supervision and control over his office and for the conduct of business there; (2) drawing up an annual budget for his office in consultation with the Board and incurring expenditure within the approved budget; (3) submitting an annual report to the Chairman within three months of the end of each year containing a general review of his office's activities; and (4) providing any information to the Board as may be required.

CONCLUSION & SUGGESTION

It can be concluded that the securities market's top goal is to protect the interests of investors. SEBI is in charge of ensuring investor protection. The SEBI has clearly put in place certain stringent safeguards to protect investors, such as "An informed investor is a safe investor," says the investor protection awareness campaign. Investor education is also important for safeguarding investors' interests in the securities market. Investor education programmes should be conducted on a regular basis to inform investors on changes in the law and regulations, as well as ways to protect themselves against market malpractices and delays.

Some important problems and suggestions:

(1) Investor education should be given on a regular basis since it is useful for the investor to be aware of the important rules and regulations that must be taken into account.

(2) The investor should have a thorough grasp of the system for resolving investor grievances and complaints.

(3) Quick resolution of grievances in SCORES and proper intimidation of compaints' status.

(4) The nomination of an ombudsman should be done in a fair and impartial way, with no self-serving reasons.

(5) The investor must be appropriately informed in order to understand the rights that must be protected.