SEBI RULES AND REGULATIONS OF MUTUAL FUND IN INDIA: A STUDY

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Abstract: *Mutual funds are financial intermediaries which collect the savings of investors and invest them in a large and well diversified portfolio of securities. Mutual funds provide an easy way for small investors to make long-term, diversified, professionally managed investments at a reasonable cost. The study focuses on the different rules and regulations laid down in India to regulate the mutual fund and also examine the various processes of mutual funds.*

Keywords: *Mutual Fund, Investment, Diversification, Investor, Securities, SEBI, Portfolio.*

INTRODUCTION

A mutual fund is a common pool of money into which investors place their contributions that are to be invested in accordance with a stated objective. The ownership of the fund is thus joint or "mutual", the fund belongs to all investors. A single investor's ownership of the fund is in the same proportions as the amount of the contributions made by him or her bears to the total amount of the fund. Mutual funds are trust, which accept savings from investors and invest the same in diversified financial instruments in terms of objectives set out in the trusts deed with the view to reduce the risk and maximize the income and capital appreciation for distribution for the members. A mutual fund is a corporation and the fund manager's interest is to professionally manage the funds provided by the investors and provide a return on them after deducting reasonable management fees. The objective sought to be achieved by mutual fund is to provide an opportunity for lower income groups to acquire without much difficult financial assets. They cater mainly to the needs of the individuals' investor whose mean are small and to manage investor's portfolio in a manner that provides a regular income, growth, safety, liquidity and diversification opportunities.

DEFINITION

"Mutual funds are **collective savings and investment vehicles** where savings of small (or sometimes big) investors are pooled together to invest for their mutual benefits and returns distributed proportionately".

"A Mutual fund is an investment that pools your money with the money of an unlimited number of other investor. In return, you and the other investors each own shares of the fund. The fund's assets are invested according to an investment objective into the fund's portfolio of investments. Aggressive growth funds seek long-term capital growth by investing primarily in stocks of fast-growing smaller companies or market segments. Aggressive growth funds are also called capital appreciation funds".

REVIEW OF LITERATURE

Sabarinathan (2010) provides a critical assessment of the adequacy and structure of the statutory levers that SEBI operates. The assessment indicates that SEBI is a suitably empowered and autonomous organization that has the necessary legal authority to be an effective regulator.

Varma (2009), in a study, Satyam Fraud: The Regulatory Response stated that a major fraud was an opportunity to push through important reforms which would otherwise be resisted by powerful vested interests. It stated that this opportunity was missed in India. Point out that the initial regulatory response to the Satyam fraud was swift and appropriate, but this momentum was lost very quickly. Those who hoped for comprehensive and decisive reforms had been disappointed. This means the Corporate Governance principles only rely mainly on the SEBI clause 49 for enforcement

La Porta et al (2003), it examines the adequacy of these institutions based on a detailed analysis of the provisions of these statutes and arrives at some tentative inferences about the adequacy of the available institutional prerequisites. Such an understanding is essential to assess the effectiveness of the regulatory regime. Recent attempts to assess the extent and quality of protection to equity investors and creditors have involved an analysis of the details of the legal provisions.

MCA (2009), According to the MCA, it "enables a statutory platform for essential Corporate Governance requirements essential for functioning of the companies with transparency and accountability, recognizing and protecting the interests of various stakeholders." An optimal corporate law had been identified earlier as an important prerequisite. The law governing companies in India is the Indian Companies Act, 1956 (the Companies Act, hereafter). The Companies Act is a comprehensive piece of statute covering nearly all aspects of the working of a body corporate in India. Modelled along and derived substantially from its

British antecedents, The Companies Act and the rules made there under are an important element of the regulation of a company in India and are applicable to all body corporate in India.

In 1992, the Indian Parliament passed the Securities and Exchange Board of India Act, 1992, to establish the Securities and Exchange Board of India (SEBI) in its new incarnation as an empowered regulator of the Indian Securities Market.

OBJECTIVES OF STUDY

a) To study the conceptual framework of SEBI in mutual fund.

b) To appraise different rules and regulations laid down in India to regulate the mutual fund.

c) To examine the various process of SEBI in regulating Mutual Fund Markets.

I CONCEPTUAL FRAMEWORK OF SEBI IN MUTUAL FUND

A mutual fund shall be constituted in the form of a trust and the instrument of trust shall be in the form of a deed, duly registered under the provisions of the Indian Registration Act, 1908 (16 of 1908) executed by the sponsor in favor of the trustees named in such an instrument. Here the following some important definition and word that use in mutual fund.

- **Money Market Instruments -** Includes commercial papers, commercial bills, treasury bills, Government securities having an unexpired maturity up to one year, call or notice money, certificate of deposit, usance bills, and any other like instruments as specified by the Reserve Bank of India from time to time.
- **Money Market Mutual Fund (MMMF) -** Means a scheme of a mutual fund which has been set up with the objective of investing exclusively in money market instruments. Mutual fund means a fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for investing in securities, including money market instruments (or gold or gold related instruments).
- **Offer Document -** Means any document by which a mutual fund invites public for subscription of units of a scheme.
- **Open-Ended Scheme -** Means a scheme of a mutual fund which offers units for sale without specifying any duration for redemption;
- **Schedule -** Means any of the schedules annexed to these regulations;

- **Sponsor -** Means any person who, acting alone or in combination with another body corporate, establishes a mutual fund.
- **Trustee -** Means the Board of Trustees or the Trustee Company who hold the property of the Mutual Fund in trust for the benefit of the unit holders.
- **Unit -** Means the interest of the unit holders in a scheme, which consists of each unit representing one undivided share in the assets of a scheme.
- **Unit Holder** - Means a person holding unit in a scheme of a mutual fund.
- **Application for Registration -** An application for registration of a mutual fund shall be made to the Board in Form A by the sponsor.

Appointment of an Asset Management Company

The sponsor or, if so authorized by the trust deed, the trustee shall, appoint an asset management company, which has been approved by the Board. The appointment of an asset management company can be terminated by majority of the trustees or by seventy five per cent of the unit-holders of the scheme. Any change in the appointment of the asset management company shall be subject to prior approval of the Board and the unit holders.

Appointment of Custodian

The mutual fund shall appoint a custodian to carry out the custodial services for the schemes of the fund and sent intimation of the same to the Board within fifteen days of the appointment of the custodian. It Provided that in case of a gold or gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board. No custodian in which the sponsor or its associates hold 50% or more of the voting rights of the share capital of the custodian or where 50% or more of the directors of the custodian represent the interest of the sponsor or its associates shall act as custodian for a mutual fund constituted by the same sponsor or any of its associate or subsidiary company.

Winding Up

A close-ended scheme shall be wound up on the expiry of duration fixed in the scheme on the redemption of the units unless it is rolled-over for a further period under sub-regulation (4) of regulation 33. A scheme of a mutual fund may be wound up, after repaying the amount due to the unit holders.

- On the happening of any event which, in the opinion of the trustees, requires the scheme to be wound up; or
- If seventy five per cent of the unit holders of a scheme pass a resolution that the scheme be wound up; or
- If the Board so directs in the interest of the unit-holders.

To Maintain Proper Books of Accounts and Records

- Every asset management company for each scheme shall keep and maintain proper books of accounts, records and documents, for each scheme so as to explain its transactions and to disclose at any point of time the financial position of each scheme and in particular give a true and fair view of the state of affairs of the fund and intimate to the Board the place where such books of accounts, records and documents are maintained.
- Every asset management company shall maintain and preserve for a period of eight years its books of accounts, records and documents.
- The asset management company shall follow the accounting policies and standards as specified in Ninth Schedule so as to provide appropriate details of the scheme wise disposition of the assets of the fund at the relevant accounting date and the performance during that period together with information regarding distribution or accumulation of income accruing to the unit holder in a fair and true manner.

II VARIOUS RULES AND REGUALTIONS COVERED BY SEBI IN MUTUAL FUND

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992, the Board, with the previous approval of Central Government, makes regulations relating to regulation of mutual fund.

- **Formation -** Certain structural changes have also been made in the mutual fund industry, as part of which mutual funds are required to set up asset management companies with fifty percent independent directors, separate board of trustee companies, consisting of a minimum fifty percent of independent trustees and to appoint independent custodians.
- **Documents -** The offer documents of schemes launched by mutual funds and the scheme particulars are required to be vetted by SEBI. A standard format for mutual fund prospectuses is being formulated.

- **Code of advertisement -** Mutual funds have been required to adhere to a code of advertisement.
- **Assurance on returns -** SEBI has introduced a change in the Securities Control and Regulations Act governing the mutual funds. Now the mutual funds were prevented from giving any assurance on the land of returns they would be providing. However, under pressure from the mutual funds, SEBI revised the guidelines allowing assurances on return subject to certain conditions.
- **Minimum corpus -** The current SEBI guidelines on mutual funds prescribe a minimum start-up corpus of Rs.50 crore for an open-ended scheme, and Rs.20 crore corpus for closed-ended scheme, failing which application money has to be refunded. The idea behind forwarding such a proposal to SEBI is that in the past, the minimum corpus requirements have forced AMCs to solicit funds from corporate bodies, thus reducing mutual funds into quasi-portfolio management outfits. In fact, the Association of Mutual Funds in India (AMFI) has repeatedly appealed to the regulatory authorities for scrapping the minimum corpus requirements.
- **Institutionalization -** The efforts of SEBI have, in the last few years, been to institutionalize the market by introducing proportionate allotment and increasing the minimum deposit amount to Rs.5000 etc. These efforts are to channel the investment of individual investors into the mutual funds.
- **Investment of funds mobilized -** In November 1992, SEBI increased the time limit from six months to nine months within which the mutual funds have to invest resources raised from the latest tax saving schemes. The guideline was issued to protect the mutual funds from the disadvantage of investing funds in the bullish market at very high prices and suffering from poor NAV thereafter.
- **Valuation of investment -** The transparent and well understood declaration or Net Asset Values (NAVs) of mutual fund schemes is an important issue in providing investors with information as to the performance of the fund. SEBI has warned some mutual funds earlier of unhealthy market
- **Inspection -** SEBI inspect mutual funds every year. A full SEBI inspection of all the 27 mutual funds was proposed to be done by the March 1996 to streamline their

operations and protect the investor’s interests. Mutual funds are monitored and inspected by SEBI to ensure compliance with the regulations.

- **Underwriting -** In July 1994, SEBI permitted mutual funds to take up underwriting of primary issues as a part of their investment activity. This step may assist the mutual funds in diversifying their business.
- **Conduct -** In September 1994, it was clarified by SEBI that mutual funds shall not offer buy back schemes or assured returns to corporate investors. The Regulations governing Mutual Funds and Portfolio Managers ensure transparency in their functioning.
- **Voting rights -** In September 1993, mutual funds were allowed to exercise their voting rights. Department of Company Affairs has reportedly granted mutual funds the right to vote as full-fledged shareholders in companies where they have equity investments.

III DIFFERENT PROCESS OF SEBI

- Every application form for units of a scheme is to be accompanies by a memorandum containing key information about the scheme.
- The offer document needs to contain adequate information to enable the investors to make informed investments decisions.
- All advertisements for a scheme have to be submitted to SEBI within seven days from the issue date.
- The advertisements for a scheme have to disclose its investment objective.
- The offer documents and advertisements should not contain any misleading information or any incorrect statement or opinion.
- The initial offering period for any mutual fund schemes should not exceed 45 days, the only exception being the equity linked saving schemes.
- No advertisements can contain information whose accuracy is dependent on assumption.
- An advertisement cannot carry a comparison between two schemes unless the schemes are comparable and all the relevant information about the schemes is given.

- All advertisements need to carry the name of the sponsor, the trustees, the AMC of the fund.
- All advertisements need to disclose the risk factors.
- All advertisements shall clarify that investment in mutual funds is subject to market risk and the achievement of the fund's objectives cannot be assured.
- When a scheme is open for subscription, no advertisement can be issued stating that the scheme has been subscribed or over subscription.

CONCLUSION

Mutual funds now represent perhaps most appropriate investment opportunity for most investors. As financial markets become more sophisticated and complex, every investor needs to financial intermediary who provides the required knowledge and professional expertise on successful investing. As the investor always try to maximize the returns and minimize the risk. Mutual fund satisfies these requirements by providing attractive returns with affordable risks. The fund industry has already overtaken the banking industry, more funds being under mutual fund management than deposited with banks. With the emergence of tough competition in this sector mutual funds are launching a variety of schemes which caters to the requirements of the particulars class of investors. SEBI has taken a far-reaching step towards ensuring due diligence and transparency in all investment decisions. SEBI has done a commendable job in terms of stringent regulation. However, the penalties must be more severe and appropriate, so that they deter the market participants from indulging in malpractices. It must ensure that new norms for corporate disclosures have more depth and are implemented over a shorter time period.

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