Azadi Ka Amrit Mahotsav

FICCI

20th #CAPAM ANNUAL CAPITAL MARKETS CONFERENCE 2023

THE EXPERTS' VOICE

A COMPENDIUM OF ARTICLES

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On the occasion of the 20th edition of FICCI's Annual Capital Markets Conference – CAPAM, we are pleased to present The Experts' Voice, a compendium of articles contributed by members of FICCI's National Committee on Capital Markets. The publication outlines the interventions required for regulation-making in a dynamic world while balancing interests of stakeholders and fostering a securities market that facilitates capital formation and in which investors can repose their trust.

Our thanks to all the members who have contributed to this compendium.

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Building more efficiency in the capital markets

Sunil Sanghai, *Chairman, FICCI National Committee on Capital Markets and Founder & CEO, NovaaOne Capital*

Without any doubt, today our markets are one of the most efficient in the world. We have come a long way in making our primary and secondary markets modern. Continuing this journey of enhancing efficiency, here are some thoughts.

A formal trading platform for unlisted companies

As there is a significant non-founder capital being put into businesses before they go public, an unlisted securities trading platform could be very useful, and could potentially open a new market segment. Globally as well, there is a formal market for unlisted securities. Even Facebook, before going for an IPO, traded, and traded well in the unlisted market.

In fact, NASDAQ's Private Markets, founded in 2013, provides a way for private companies to trade shares ahead of a stock market listing. It offers a trading platform for high quality private issuers who want to remain private. It is a trading forum for their founders, private investors, and employees.

Approximately 15,000+ private companies' data is tracked serving 320+ institutional investors and 250+ unicorn clients. Nasdaq Private Market has executed more than USD 45 billion in transactional volume since its inception in 2013 across more than 650 private companies.

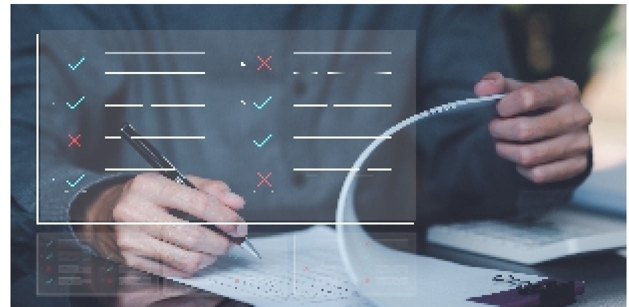
Earlier, on this platform, only accredited investors could invest but now the definition has widened to include individual investors, spouses, or investment companies. They can participate in private offerings if they hold certain financial professional accreditations or certifications or are a “knowledgeable” employee at a private investment fund.

NASDAQ Private Markets was initially formed as a joint venture with SharePost that enables private companies to raise capital and manage secondary transactions. Facebook had the largest volume of shares on SharePost. Facebook traded on this platform from 2008 before going public in 2012. In 2021, NASDAQ started its Private Market business by forming a new platform for trading of unlisted shares through a joint venture. This new entity has Citibank, Goldman Sachs, and Morgan Stanley as investors to establish an institutional grade, centralized secondary trading venue for companies, brokers, and investors to trade in private company shares. In 2023, this platform also launched a private company stock Transfer and Settlement solution.

In India, though SEBI's mandate is only to deal with listed companies, a mechanism could be found to facilitate private trading in shares of 'to be listed companies' by the stock exchanges. To start with, this facility can be offered to companies planning to list in the public market within the next 3 years. Also, provisions regarding shareholders' voting rights, applicability of the takeover code, corporate actions, etc could be made applicable as per the regulations of the Companies Act for an unlisted company. For transparency, the transaction should be done on the floor of the exchange and the number of total investors in the company should be restricted to a reasonable level and as per the law.

The disclosure requirements on an ongoing basis could include audited annual financial statements; unaudited quarterly financial statements; annual disclosure of the management team; a detailed description of the business including any significant developments, operations, competition, and risks; capital structure; and details of adoption and enforcement of an insider trading policy.

Since this mechanism will involve 'to be listed' situations and the stock exchanges will have to facilitate the trading platform, it's appropriate that SEBI be the regulator for such types of companies. A trading platform for unlisted securities will significantly augment the capital availability for businesses in their growth phase



and enable a transparent market for capital providers and capital seekers, with adequate price discovery.

Process for listed Company M&A

Overall, the corporate sector, both listed and unlisted, contributes more than 50% of direct taxes in the country. One of the areas that requires decongestion is corporate restructuring. The process today is quite tedious and time-consuming. While as a country we have made significant progress on the corporate incorporation process, both winding up and restructuring process remain long drawn and inefficient. Of course, there has been progress from the time prior to the Companies Act 2013, when the process of corporate restructuring was court-driven and extremely lengthy. And an approval of the High Court was required for any merger, acquisition, or restructuring. With the Companies Act 2013, the National Company Law Tribunal (NCLT) was empowered to approve or reject schemes of arrangement, mergers, demergers, and corporate restructuring plans proposed by both listed and unlisted companies.

This step was aimed at improving the ease of doing business and providing a specialized forum for handling company law matters. The transfer of jurisdiction for scheme approvals from the High Court to the NCLT was intended to expedite the approval process and to provide a more efficient and dedicated platform for resolving company-related issues. Initially

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established to handle schemes of arrangement under the Companies Act, the NCLT's workload today has expanded to include cases under the Insolvency and Bankruptcy Code (IBC). Consequently, there have been delays in approving schemes of arrangement, with an average waiting period of 6 to 9 months or more between the application filing and approval stages. The NCLT currently has 12,963 cases of insolvency, 1,181 cases of merger and amalgamation (M&A), and 7061 other cases, with a total of 21,205 pending cases as of January 2023.

These delays in approval of schemes negatively impact the ease of doing business, causing disruptions, unsettling employees, and draining management resources or an outright deal failure. This, in turn, will impact India's global economic ranking in ease of doing business. Notably, SEBI, as a capital markets regulator for listed companies, has also been monitoring these schemes. The SEBI regulations for listed companies ensure that M&A transactions in the Indian securities market are conducted in a fair and transparent manner, with all relevant information made available to investors and with the approval of the stock exchanges and shareholders. SEBI, via stock exchanges, provides its comments and consent.

The scope of the NCLT's power while adjudicating a scheme of arrangement is ideally limited

to overseeing potential violations of the law and safeguarding the interests of stakeholders.

It functions as a watchdog, without significant involvement in the commercial aspect of the scheme. Therefore, NCLT's authority is primarily supervisory in nature. Its role is to broadly ensure legal compliance and to protect public interest.

This can be achieved by applying broad principles inherent in any scheme such as fairness and investor protection. In case of Banks, once the scheme of amalgamation is approved by the requisite majority of shareholders, in accordance with the provisions of section 44 of The Banking Regulation Act, 1949, RBI has the discretionary authority to authorize the voluntary merger of two banking entities.

This enables banks with faster approvals and implementation of M&A schemes which in turn helps in reduction in the cost of doing business. For listed companies, SEBI's approval is a must before submission to the NCLT, emphasizing SEBI's role in investor protection.

Therefore, to avoid the lengthy process while preserving the essence of the scheme of arrangement, SEBI could be considered as the final authority to approve schemes of arrangement for listed companies. It could play the same role as the RBI does in bank mergers. This would significantly streamline the approval process for M&A and restructuring deals for listed corporates.

Tech platform for deals powered by stock exchanges

Over the period, our IPO process has become one of the best in the world. We are more evolved than some of the major global markets in terms of allowing direct participation of retail investors in an IPO. And despite the large count of retail participation, our systems are now geared up to commence trading immediately after the completion of the IPO.

In the same vein, there are opportunities for adding efficiencies in some of the other areas which are equally complex, though less frequent than IPOs.

These include buyback, delisting of securities and open offers. Some improvisations in the regulatory framework and on the technology front can streamline the processes for these products.

Back in 2015, SEBI put forth a circular which directed stock exchanges to implement a mechanism (an acquisition window facility) which would allow brokers to place orders on behalf of their clients. This was brought in to facilitate the smooth functioning of buybacks, open offers, and delisting of securities.

To make this process efficient like an IPO, one option could be to bolster the technology through an exchange driven technology platform. This platform can then be used by all intermediaries as well as investors.

Something similar has been attempted by the mutual fund industry. Greater efficiencies and investor convenience can be achieved by enabling a common infrastructure platform for buybacks, open offers, and delisting of securities. The various brokers and other intermediaries can use the platform to provide their services to the investor community in a scalable and efficient manner.

While the requisite infrastructure exists for buybacks and open offers, several broker platforms still do not have the option for a delisting transaction via their technology platforms. They continue to rely on older methods of communication such as email.

Further, many of the platforms used by brokers to input delisting transactions do not capture many of the nuances of the delisting process. As a result, shareholders are unable to submit bids for delisting at their desired price as per the reverse book building process.

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SEBI's Winning Formula: Innovating Responsibly in a Regulatory World

Vijay Chandok, *Co-chair, FICCI National Committee on Capital Markets and MD & CEO ICICI Securities Limited*

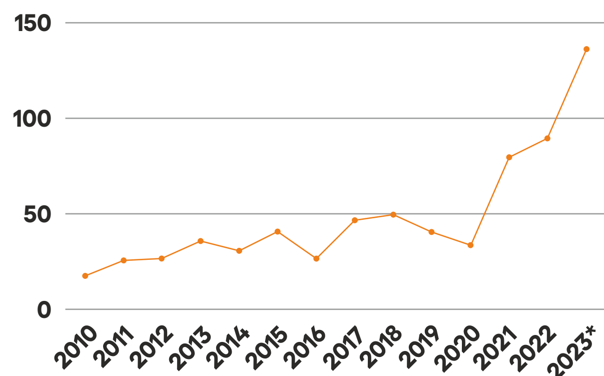
Three decades ago when the Securities and Exchange Board of India (SEBI) Act, 1992 was promulgated, amidst lack of confidence in the markets with the BSE Sensex trading at around 1049 points, it marked a turning point in the Indian financial landscape.

Today, the Sensex stands at around 64,000 and the Indian markets have grown to become the fifth-largest equity market globally, with an efficient market infrastructure, tightly regulated intermediaries and a burgeoning retail investor base. This transformation was made possible by the tireless efforts of SEBI to develop the Indian securities markets and protect the interest of investors. These efforts were supported by the policymakers market intermediaries and other stakeholders

That SEBI has made this gradual transformation through regulatory changes by adopting a consultative process with market intermediaries, policy makers and the general public is commendable. This is evidenced by an increase in the funds raised in the primary market, phenomenal increase in secondary market turnover and a rise in investment in mutual funds by retail investors.

Over the years, SEBI has constantly reviewed and revamped its policies and programs, introducing new regulations to adapt to the new market dynamics, whilst ensuring market integrity and investor protection in the digital era. In order to address the challenges posed by disruption due to fin tech ecosystem, SEBI's regulatory actions have intensified post 2020 with an emphasis on increasing transparency, fairness, efficiency, and integrity.

The following chart illustrates the substantial increase in the number of regulations introduced by SEBI since 2010:



**As on 30 Oct, 2023* *Source: SEBI*

Challenges in the Digital Age

The transition to digital technologies has revolutionized trading practices, providing increased accessibility for individual investors from every corner of the country. The merits of this digital transition were seen in the post-covid era when the number of active retail investors jumped almost 4X from 3 million in Jan 2020 to 11.7 million in Jan 2022, many of these were new investors from Tier2 and Tier 3 cities.

SEBI has been nimble footed to meet the challenges arising out of the digital transition. While it has acted proactively allowing markets to embrace these changes, it has also been

alert to figure out ways to curb malpractices arising like rampant mis- selling and unregulated advice online. It is heartening to see SEBI Committee for Leveraging Regulatory and Technology Solutions to advice and guide on improving its RegTech and SupTech abilities.

This 5X surge in the number of regulatory tweaks announced since 2020 reflects SEBI's commitment to its core mandate of investor protection, promoting capital formation, market development and mitigating systemic risk through increased awareness, clamping down on unsolicited advice, transparency and mandatory disclosures.

In the recent past, SEBI has introduced a few noteworthy regulations

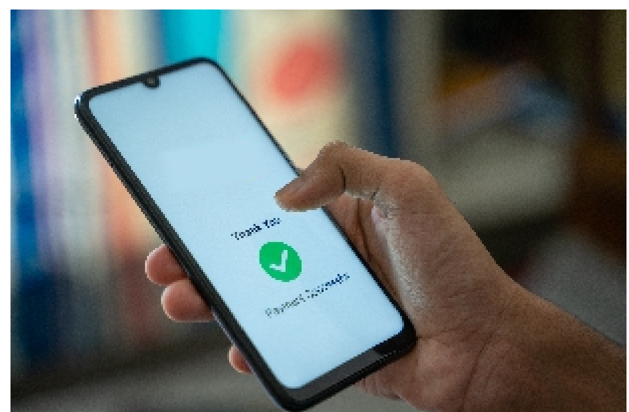
- Appointing 15 stock brokers as Qualified Stock Brokers. QSBs will be required to meet enhanced obligations and will be subjected to enhanced monitoring among various steps to protect investors interest
- Introduction of T+1 Settlement System
- Introduction of Peak Margin Rules which significantly changed the margin requirements for trading in the cash and derivatives segments.
- Issue of guidelines to Curb Misuse of Clients' Power of Attorney
- Upstreaming of all client funds held by stock-brokers (SBs) and clearing members (CMs) to protect client funds.
- Introduction of Risk Reduction Access platform to help investors square off outstanding positions in case of technical glitch at the broker's end.
- Issue of guidelines to strengthen the existing Cyber Security and Cyber Resilience Framework for stock exchanges
- Increasing Disclosure requirements for companies accessing Primary market
- Reducing IPO Timelines to T+2
- Uniform benchmarking of PMS Schemes

These regulatory changes have had a profound impact in improving quality, acceptability, and ease of implementation and SEBI plans to continue its tightrope walk to strike a balance between investor convenience and investor protection.

From its array of proposed guidelines, three proposals in particular would have a lasting impact in upholding the regulator's vision to safeguard investor interests and facilitate capital formation and market dynamism.

Safeguarding Money Transfers

To protect investors from potential broker defaults, SEBI has proposed a supplementary process based on blocked funds, enhancing cash collateral protection. The extension of ASBA (Application Supported by Blocked Amount) across all investor categories represents a pivotal stride. This mechanism ensures



protection against potential misuse of funds by brokers during the settlement period and expedites refunds for oversubscribed IPOs.

ASBA, in its democratising efficacy, invites first-time investors from Tier 2/3 cities to participate in the equity markets without the onus of upfront fund transfers to brokers. This engenders a sense of security, bolstering trust and confidence in the financial system and also allows registered brokers to ensure seamless interaction with banks and exchanges for the fluid movement of funds. However, the ASBA like facility can pose a business risk due to it's the technical change required in the order path and the cash flow challenges that come with it.

The proposed regulations can have significant implications for key stakeholders and places greater responsibility on brokerage houses to raise the bar on ethical conduct and disclosure standards.

Analysing SEBI's Proposed Finfluencer Guidelines

The rapid proliferation of unregulated 'finfluencers' on social media platforms has raised concerns about their credibility, transparency, and authenticity.

Many of these 'finfluencers' operate without regulatory oversight, credentials, or accountability, which poses a risk of biased advice and mis-selling to investors. SEBI recognizes the need to protect small retail investors and, in

response, published a consultation paper titled "Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers)."

The rise of 'finfluencers' has undeniably increased awareness about equity investments and fostered retail investor participation. However, the lack of oversight on these financial influencers has raised concerns about investors receiving unsuitable or biased advice for the sake of generating referral income.

SEBI's recent proposal to restrict dealings between registered intermediaries and unregulated finfluencers providing investment advice is a welcomed step. This action aims to protect retail investors from unregistered finfluencers making tall promises of high returns, thereby promoting transparency and safeguarding investor interests.

This consultation process, introduced by SEBI has been instrumental in democratising the quality and implementation of regulatory changes.

While the proposals mentioned in the aforementioned consultation paper are yet to come into effect, SEBI has already introduced a few regulations and programmes to protect the retail investor. It recently launched Securities Market Trainers (SMARTs) Programmes to increase investor awareness, as well as Issued an Investor Charter to promote transparency and enhance awareness, trust and confidence among investors about the securities market. Further, SEBI has taken some strong enforcement actions against the unregulated influencers sending a strong message that it is watching this space very vigilantly.

Pacing the Race with Reduced Settlement Cycles

SEBI has been exploring the possibility of instant settlement of trades, transitioning from T+2 days to T+1, and aspiring to achieve real-

time settlement cycles (T+0). Expedited settlement cycles offer numerous benefits, including reducing market risk by swiftly crediting shares to investors' accounts.

In an era of information-driven markets, real-time settlement aligns with the expectations of tech-savvy investors, offering instant liquidity and dynamic trading opportunities. Such innovations in settlement cycles bolster investor confidence and encourage retail participation in the market as it would make shares in the investor's account almost as good as cash-in-hand.

While this move would truly market Indian markets unique, market intermediaries would face an uphill battle trying to settle transactions, especially intraday trades, with the clearing corporations.

Constructive regulation also catalyses innovation in the right direction - fintech itself is thriving today due to progressive measures like unified payments interface (UPI), account aggregator framework etc. taken by regulators.

Responsible participant conduct is bound to evolve in any growing ecosystem when nudged through the right incentives and disincentives. There is also recognition that regulation needs to differentiate serious long-term players from fly-by-night operators and apply graded measures.

The objective is protecting consumers while encouraging an ecosystem where serious players carving unique niches can thrive sustainably.

Making Market Intermediaries Trustworthy

In order to ensure that the markets are not disrupted by an event of a broker failure SEBI has categorised 15 brokers as Qualified Stock Broker (QSB) given their size and nature of business, These brokers would be under enhanced vigilance and supervision to ensure that probability of systemic failure is reduced. SEBI's recent measures on enforcing strict guidelines for sales practices, transparency, and disclosure fosters accountability and effectively transforms financial advisory firms into vital contributors to investor confidence and convenience.

SEBI's evolution over the past three decades reflects a commitment to maintaining market integrity, investor protection, and fostering innovation. While embracing digital technologies, SEBI has introduced regulatory changes to safeguard investors in this new era. The collaborative efforts of regulators, intermediaries, and market participants are crucial in shaping a financial ecosystem built on transparency, integrity, and trust.

In the ever-evolving landscape of India's equity market, SEBI continues to play a pivotal role in ensuring that the markets remain resilient and investor-centric.

Boards: Navigating regulations and reality

Amit Tandon, *Co-chair, FICCI ESG Committee and Founder & MD, Institutional Investor Advisory Services (IiAS)*

As our regulations around board composition more prescriptive, businesses become more complex and investors more demanding, building a board that is fit-for-purpose will become more challenging, not less.

A boards composition is determined by an interplay between regulatory obligations and a company's own requirements.

In the last decade boards have changed in both obvious and less apparent ways. This transformation has been driven by the Companies Act, 2013, the SEBI (Listing Obligations and Disclosure Requirement) Regulations, increased pressure from shareholders, and changes that boards themselves have initiated.

The most noticeable change is the presence of women on boards. Just before the new Companies Act was rolled out in 2014, only one in twenty directors was a woman. This ratio is now closer to one in five.

A recent study on board structures and composition for the NSE500 companies places the number of women on boards at 18.2% on 31 March 2023. This is not far from the 19.7% on global boards in March 2021. This number has however moved at a glacial pace, inching up by 1.5% from 16.7% in March 2020.

True regulations were the catalyst for this change, but they have not been the silver bullet for gender equality. The current numbers seem more compliance-driven than evidence of corporates embracing gender diversity for the benefits that it brings. More needs to be done by the companies themselves.

Juxtaposing the above study with one from October 2015 that also looked at board composition, the mix is tilting towards independent directors. 26.7% of the board comprised independent directors in 2015 (1241 independent directors out of a total 4654 directors). This number is now at 42.7% (2066 independents out of 4724 directors in March 2023).

Several other parameters - board independence, non-independent chair, over-boarded directors all point towards change and a greater awareness at the board level of the increased expectations from boards by all stakeholders, including the investors and regulators.

Today, we are seeing a convergence of board demographics between the NIFTY 500 companies and the S+P 500. This is shown in the table below.

Exhibit 1: Boards - NIFTY 500 vs. S&P 500S&P		
Average board size	9.4	10.8
Independent Directors	52%	86%
Average director tenure	7.8	7.8
Average age of independent directors	63.3	63.1
Women as a % of all directors	18%	32%
Boards with at least one-woman director	99%	100%
Independent board chairs (%)	24%	36%
Independent Directors added	248	395
Directors aged 50 and younger	17%	6%
Youngest average board age	45	50
Oldest average board age	75	74

Source: *IiAS Research, Spencer Stuart 2022 US Board Index; PRIME Database; IiAS Research*
Notes: *NIFTY 500 data as on 31 March 2023; S&P 500 data draws on the latest proxy statements from 489 companies filed between 1 May 2021, and 30 April 2022.*

This should not surprise. Our regulations regarding the role of the board and board committees have evolved from those in the UK and US markets that emphasize the primacy of the board. Further, expectations from corporate boards have been reinforced by investor demands - for the longest by FII's. It is only now that domestic investors have started looking at the board composition more closely.

Should boards in India, with the presence of promoters, resemble those in the US? As the ownership is different, should not the boards also be different? In US and UK, the role of the board stems from the disbursed institutional ownership and absence of a 'promoter'. In these markets investors interact with the company management through its board. In India, the concentration of ownership suggests that the board needs to arbitrate between the interest of the owner from those of the 'minority' investors. Such differences need to be better understood.

While in large part, the changes that we have seen have been a consequence of regulations (– term limits, independence, diversity), boards must ensure that the company's own substantive needs are met. There are two sets of regulations that are critical to ensuring this.

The Companies Act 2013, asked the board to evaluate the performance of the directors and boards. SEBI, through its listing regulations, stipulated that entities should disclose in a chart or a matrix format, setting out the skills/ expertise/ competence of the board of directors.

Both regulations in conjunction will assist the nomination and remuneration committees need to balance between regulations and evaluating the skills that are needed to ensure an effective board, well suited to dealing with the company's opportunities and threats.

As regulations around board composition get more prescriptive, businesses become more complex and investors more demanding, building a board that is fit-for-purpose will become more challenging, not less.

A modified version of this blog was published in Business Standard on 27 September 2023.

Keeping the country and the market on the rails: The importance of regulations

***Ashishkumar Chauhan,** Managing Director & CEO, National Stock Exchange of India Limited*

India's financial landscape has witnessed significant growth and transformation in recent years, with its equity markets playing a pivotal role in driving economic progress. The Indian equity market is often referred to as the lifeline of the nation's economy. It provides a platform for companies to raise capital, enabling them to expand, innovate, and create job opportunities. Investors, on the other hand, have the opportunity to grow their wealth by participating in the market. The equity market's stability and transparency are essential to attract domestic and foreign investments, making it an engine for economic growth.

As the flagship index of the National Stock Exchange, the Nifty 50, over the last 28 years, has mirrored the ambitions and progress of a resolute India. Hailed as the "Nation's Stock," the Nifty 50 is a diversified index comprising 50 key stocks representing vital sectors of the Indian economy. It offers not only a comprehensive overview of the equity markets but also serves as an indicator of the overall well-being of the Indian economy. Over the past decade, significant structural reforms have reshaped the landscape of equity markets, and in harmony with these realigned dynamics, the composition of the Nifty 50 has evolved. Therefore, when it recently reached the milestone of 20,000 points the day after the conclusion of the G20 Summit in September 2023, this upward trajectory served as a compelling indicator of imminent economic prosperity.

Evidently, when the benchmark index was introduced in 1996 with an initial value of 1,000 points and base year of 1995, it took nearly 22 years to reach the 10,000-point milestone. However, the Nifty 50 experienced a significant upswing after 2017, requiring just over six years to soar another 10,000 points, ultimately reaching the impressive 20,000-point mark on September 11th this year.

The National Stock Exchange has been at the forefront of providing Indians direct access to the benefits of this accelerated economic growth. Founded in 1992, the exchange has achieved remarkable milestones, with one of its most significant accomplishments being the democratization of wealth creation and financial inclusion. Through the introduction of screen-based trading, the exchange has bestowed every Indian with the power to participate in the capital markets, thereby enabling them to engage in India's flourishing growth narrative.

This phenomenal growth and trust have been possible because of the robust regulations over

the last two plus decades that have ensured the stability and integrity of the Indian equity market. Regulations have acted as the guiding force behind maintaining the order, fairness and transparency of the equity market. The setting up of the National Stock Exchange in 1992 paved way for a modern, automated, screen-based trading system with national reach, that has been a watershed moment in the history of the Indian stock markets. This was followed by advent of dematerialization in late 1990s—the process of converting physical shares and securities into digital or electronic form--that led to enhanced transparency, convenience, cost reduction and safety. In addition to ensuring market integrity and fairness, regulations over the last three decades have also aimed at ensuring stability by imposing circuit breakers, price limits and other mechanisms, that have helped prevent extreme market volatility.

In the last few years, the securities market in India has seen a tremendous growth, both in terms of volumes as well as number of participants. This increasing participation with the rise in new investors in the securities market puts a greater onus on the regulators to make markets safer for its participants, more specifically in the areas of investor asset protection and investor compensation. In order to safeguard the investors' assets and retain their confidence, it is imperative that the investors' funds and securities are adequately protected from the possibility of misuse/default by a stockbroker.

The Securities and Exchange Board of India (SEBI) and the exchanges in the recent past have taken numerous steps in the interest of investors, including radical structural changes to safeguard the investors' assets. Preventive measures such as introduction of margin pledge/re-pledge of securities thereby prohibiting off-market transfer between client and member, prohibition of pledging of clients' securities to raise funds, introduction of Block Mechanism in demat account of clients undertaking sale transactions etc. that were meant to prevent misuse of clients' assets have been taken. In addition to the above, detective measures including an early warning mechanism have been taken to detect misuse of investor assets at an early stage. Further, the National Stock Exchange has established an Investor Protection Fund, having a corpus of nearly Rs 1765 crores, with the objective of compensating investors in the event of defaulters' assets not being sufficient to meet the admitted claims of investors, promoting investor education, awareness and research.

These regulations over the years have contributed to the establishment of trust among retail investors—the consequence of which has been an influx of new investors into Indian capital markets over the last few years. Our market today reaches 99.8% of pin codes in

India with over 8 crore unique investors where an individual sitting in Ballia district in Bihar invests in a company operating from Tamil Nadu.

In the last decade, India has experienced robust economic development, positioning itself as one of the world's fastest-growing economies. Consequently, Indians have witnessed an increase in disposable income, fostering heightened enthusiasm for investing in the equity markets.

However, that's not the whole story. To truly grasp the current economic narrative of India, one must look at the Nifty's sectoral representation. Topping the list is the Financial Services sector, closely followed by Information Technology, Oil & Gas, FMCG, Automobiles, Healthcare, and Construction. This array of sectors reflects a robust and consumption-centric economy, signaling a significant enhancement in the standard of living for the average Indian. It also underscores a government committed to infrastructure development and the growth of the digital economy.

Arguably, one of the most compelling indicators of India's economic progress is the health of its financial services sector. Enhanced earnings, improved access to credit facilities, the digitization of payments, and the burgeoning trend of home ownership have collectively elevated the Financial Services sector's weightage in the Nifty 50 from 20% in 1995 to an impressive 38% as of June 2023.

Furthermore, consider this telling clue: when the Nifty was launched, it had no representation from the IT sector. Today, the IT sector carries a significant weight of around 13% in the index. India has since emerged as a global leader in IT, a sector that plays a pivotal role in shaping the country's future readiness. Alongside this, sectors like telecommunications and power are well-represented in the Nifty, underlining India's position on par with global

economies in terms of technology, engineering expertise, and knowledge.

Over time, Indian investors have shown a growing level of maturity, demonstrating patience and a better understanding of the financial markets. During this time, the Nifty 50 has maintained a track record of consistently delivering impressive returns. When combined with the fact that its constituents represent more than half of the total market capitalization of listed companies in India, the Nifty's potential for wealth creation is nothing short of extraordinary.

Today, the typical small investor recognizes mutual funds based on the Nifty as a highly appealing investment option. These funds, referred to as index funds or passive funds, offer not only robust returns but also the added advantage of diversification across a wide spectrum of stocks. This diversification serves to mitigate risk, and what's more, these funds boast low expense ratios, making them even more attractive to investors. As of August 31st, 2023, the total Assets under management (AUM) of passive funds tracking Nifty indices in India have reached an impressive Rs. 5.2 trillion. Of these, the Nifty 50, India's flagship index, is tracked by 35 passive funds, boasting a collective AUM of Rs. 2.7 trillion. This surge in AUM reflects a growing trust in Nifty Indices among investors.

The NSE remains committed to promoting

investor protection and financial inclusion and making the exchange a safe and preferred place for investors—Indian as well as international—to participate in India's growth story. In a significant move this July, the NSE took a groundbreaking step by unveiling a fresh brand identity for GIFT Nifty, as part of the comprehensive transition from SGX Nifty to GIFT Nifty. This development symbolizes a unique opportunity and a new direction for international investors to partake in India's narrative of growth and progress, gaining access to Nifty products through NSE IX at Gift City (Gujarat International Finance Tec-City), an International Financial Services Centre located in Gandhinagar, Gujarat. GIFT Nifty is poised to catalyze the realization of the Hon'ble Prime Minister's vision for GIFT City to become a global price setter for the most traded instruments worldwide. Such bold and ambitious initiatives will not only enhance domestic economic value but also amplify India's influence in global markets.

India's burgeoning global confidence stems from its adept utilization of its economic prowess. With a median age of ~28 years, India stands as one of the world's most youthful nations. This positions the country exceptionally well, as its swift economic advancement is driven by a dynamic and innovative younger generation, providing India with a substantial advantage as it strides confidently toward a more prosperous future. The NSE as a front-line regulator of Indian capital markets remains committed to disciplined market development, market integrity and investor protection, thereby playing a pivotal role in the nation's progress.

FICCI

To Regulate or not to Regulate: Finfluencers

Mohit Saraf, *Co-Chair, FICCI PE & VC Committee and Founder & Managing Partner Saraf & Partners*

Ramya Suresh *and* ***Dhruv Chatterjee,*** *Partners, Saraf & Partners*

With the advent of social media, especially in the backdrop of digitization fueled by the COVID-19 pandemic lockdowns, in line with global trends, the community of *'influencers'* has proliferated across geographical and economic strata in the country. In the borderless world of social media, *'influencers'* through their content are seen to be influencing consumer habits and behaviours across a broad spectrum such as consumer products, education, trivia, and entertainment, including the financial markets - the last lot, notoriously labelled as *'finfluencers'*.

'Influencers' are, in essence, digital content creators with access to an audience and the power to affect their purchasing decisions at the back of their own knowledge, position, or relationship with the audience. By extension, *'finfluencers'* seem to have become unwitting albeit unregistered participants in products and services in the financial markets on matters like securities trading, investment advice, portfolio management, banking products, insurance, real estate investment, etc.

The menace of unregulated finfluencers came to the notice of the Securities and Exchange Board of India (SEBI) over the last several months based on complaints raised by aggrieved retail investors lured, trapped, and duped by finfluencers:

- claiming to be experts and leaders in the field and giving investment advice cloaked in educational courses related to trading and investing;
- to invest in specific stocks, promoted by such finfluencers at the behest of brokers or companies; and/or
- to participate in 'pump and dump' schemes.

While the finfluencers' kitty remains flush with payments accruing from referral charges, hits / promotional content, non-cash benefits, profit-sharing opportunities, etc., retail investors ostensibly suffer significant losses in the process.

SEBI Regulatory & Jurisprudential Framework

At present, under the umbrella of SEBI regulations, the recourse against false and misleading statements made by finfluencers, to induce investors to invest in securities markets, is not specifically provided for. Such contraventions are seen to be adjudicated through SEBI's

general powers under the provisions of the Securities and Exchange Board of India Act, 1992 (SEBI Act) read with certain provisions of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (PFUTP Regulations) with reliance on Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (IA Regulations) and SEBI (Research Analyst) Regulations 2014 (RA Regulations) in relation to the scope of terms such as *'investment advice'* and *'research analysts'*. While these provisions do enable recourse against illegitimate finfluencer activities, the ever-increasing proliferation of finfluencers in the market warrants a more nuanced approach that addresses and regulates finfluencer activities specifically.

SEBI's investigations into and adjudication of *inter alia* stock recommendation and unregistered investment advisory activity in the matters of Sadhna Broadcast Limited, Sharpline Broadcast Limited, and Baap of Charts under the ambit of the legal framework referred above have led to relevant finluencers being held accountable through orders imposing securities trading ban, orders directing refund of money and/or compounding of money in bank accounts, orders directing cease and desist from acting as an investment advisor or engaging in any fraudulent activity, and/or orders directing withdrawal of public access of content in matters.

In the wake of these cases involving finfluencer contraventions, and following the Guidelines for Influencer Advertising in Digital Media released by the Advertising Standards Council of India (ASCI Guidelines), SEBI, in August 2023, introduced the:

- Consultation Paper on Association of SEBI Registered Intermediaries/ Regulated Entities with Unregistered Entities (including Finfluencers) to inter alia reduce the perverse incentives available to finfluencers by disrupting their revenue model (Consultation Paper 1); and
- Consultation Paper on Collection by SEBI Registered Investment Advisers and Research Analysts to create a closed fee collection ecosystem for SEBI registered investment advisers and research analysts (Consultation Paper 2).

This follows the guidelines and directives issued by SEBI and other bodies, towards the end of 2022 and early 2023, which appeared to be focused on restricting and regulating the participation of *'celebrities'* in advertisements made by SEBI registered intermediaries. Under these guidelines and directives, the term *'celebrity'* has been defined to include any person who is an influencer with more than 10 lakh followers/subscribers (per social media handle) on any social media platform that

includes but is not limited to YouTube, Instagram, Facebook, X (formerly known as Twitter), etc.

Regulation v Prohibition

In stipulating that registered finfluencers must display appropriate registration and contact details and make appropriate disclosures and disclaimers on any post, Consultation Paper 1 presupposes that some finfluencers might already be registered as SEBI intermediaries, however practically, that may not be the case. In fact, recent trends are to the contrary - finfluencers are reported to be taking SEBI registration number on rent from registered investment advisers to not fall foul of the ASCI Guidelines.

Further, while Consultation Paper 1 aims to limit the incentives finfluencers receive from SEBI registered intermediaries/regulated entities, the proposed measures fall short in that not all incentives to finfluencers come from SEBI registered intermediaries or regulated entities. For instance, compensation received by finfluencers directly from social media or other platform where they share their content would continue to remain accessible to them.

Furthermore, since SEBI is only trying to regulate what comes within its purview, the models which are used by the finfluencers which require no collaboration with anyone are still untouched such as giving deceitful advice under the guise of education - as was the case in the matter of Baap of Charts, where the finfluencer presenting himself as a stock market guru across multiple social media platforms, lured investors, and clients to join his 'educational courses.' Subscribers to these courses were subsequently invited into exclusive groups where they received buy-and-sell recommendations promising profits. These courses came with a fee, as well as a share in the users' profits.

The Consultation Papers appear to focus on compliance obligations on SEBI registered intermediaries to take active measures to dissociate themselves from unregistered entities. Whilst this would address a part of the issue, given the concerns discussed in the foregoing paragraphs, and in light of the eligibility criteria applicable to existing SEBI intermediary categories, it may be worthwhile for SEBI to introduce a separate category for finfluencers with specific eligibility criteria and disclosure and disclaimer requirements and consider narrowing the already available exemption for educational activities and knowledge sharing in the context of the above recommendation for a separate category and criteria for finfluencers.

Need for Clarity

Consultation Paper 1 refers to the definition of *'influencers'* as set out in the ASCI Guidelines which is considerably broad - *"someone having access to an audience and power to affect such audiences' purchasing decisions or opinions about a product, service, brand or experience, because of the influencer's authority, knowledge, position, or relation with their audience"*. While it is certainly not the intent, in drafting the relevant regulations, SEBI should consider specifically addressing and defining the term finfluencer so as to *inter alia* avoid any overlap or unintended exclusion of marketing agencies in the ordinary course and also clarifying the interplay between the terms *'finfluencer'* and *'celebrity'* as discussed above.

As per the IA Regulations, *'investment advice'* given through newspapers, magazines, any electronic or broadcasting, or telecommunications medium, which is widely available to the public shall not be considered as investment advice. With respect to regulating activities of the finfluencers, SEBI may consider amending this exception to be available finfluencers only subject to compliance with their disclosure and disclaimer requirements (such as including disclosure of proprietary trading interests, conflict of interests) as is the case of investment advisers.

The Consultation Papers appear to be silent on the potential consequences of non-compliance by SEBI registered intermediaries. For instance, at present, in case of non-compliance with the provisions of the IA Regulations, SEBI is entitled to issue directions at its discretion which may include restricting or altogether prohibiting operations for a specified time period and/or, requiring refund any money collected as fees, charges, commissions etc. Given the limited nature of additional compliances proposed in the Consultation Papers, SEBI could consider whether non-compliance of the provisions set forth in the Consultation Papers should be penalized in a similar manner.

Reporting Mechanism

Consultation Paper 1 stipulates that all SEBI registered intermediaries must take active measures to dissociate themselves from any unregistered entity and report them to the concerned enforcement agency. Registered intermediaries are also directed to notify enforcement agencies to take appropriate action (including, by way of filing a criminal complaint for fraud under section 420 of the Indian Penal Code, 1860 (IPC)). Impersonation or fraud perpetrated by finfluencers, on or in connection with, registered intermediaries does not find a place within the SEBI Act or the relevant underlying regulations which is PFUTP Regulations. Accordingly, SEBI's mandate to registered intermediaries to take up these matters of impersonation or fraud through as criminal complaints under IPC are appropriate. This also appears to be in consonance with SEBI's direction to the Commissioner of Police, Delhi (in 2012) where it highlighted the need to sensitize officers manning the police stations about the grievance redressal mechanism already in place for dealing with complaints of civil nature against intermediaries.

The aforesaid, however, does not address any potential instances of manipulative, fraudulent, or unfair trade practices by and between finfluencers and retail investors. PFUTP Regulations, being a specific legislation and under a specific authority (i.e. SEBI) puts in place a mechanism pursuant to which retail investors can seek recourse from SEBI if and when the aforementioned issues arise - retail investors, in such cases, also would not need to rely on general criminal law for the enforcement of their complaints (provided SEBI sets up and actively addresses their complaints against such unregistered entities / finfluencers).

Further, while SEBI has introduced the SEBI Complaints Redress System (SCORES Platform) for lodging online complaints pertaining to securities market, this platform:

- is only available to retail investors (i.e., not SEBI registered intermediaries); and

- only enables complaints against listed companies and SEBI registered intermediaries (i.e., not unregistered entities).

SEBI to consider procedural changes such that complaints against finfluencer activities to the extent pertaining to securities trading can be communicated by anyone (including, SEBI registered intermediaries) with SEBI through an updated and robust SCORES Platform - this would discourage aggrieved retail investors against spam mailing various SEBI officials or tagging SEBI to posts on X (formerly known as Twitter).

Comprehensive Regulation

Last but definitely not the least, since finfluencers' activities are not restricted to securities markets and they also provide information and/or advice on other financial topics such as investing banking products, insurance, real estate investment, etc. their activities also bear relevance for other regulators such as the Reserve Bank of India (RBI), Insurance Regulatory and Development Authority of India (IRDAI) and Pension Fund Regulatory and Development Authority (PFRDA). Accordingly, in time, a more comprehensive framework to regulate finfluencer activities would be essential and may entail collaboration amongst various regulators.

Conclusion

SEBI's efforts in this direction are commendable and appear to be in line with global practices adopted to contain illegitimate finfluencer activities such as in the European Union and Australia. If implemented well, this could harken a regulatory framework for finfluencer activities as opposed to a prohibitory regime.

FICCI

Regulations for a dynamic market: Balancing interests of all stakeholders

Navin Agarwal, *Managing Director & CEO, Motilal Oswal Asset Management Company Limited*

SEBI's steps towards strengthening regulatory framework & oversight for capital markets have continued to further strengthen confidence in the financial markets in general and the asset management business in particular. This rising confidence is one of the biggest drivers of the strong growth in the assets under management of mutual funds.

SEBI encouraged the constitution of the Association of Portfolio Managers of India (APMI). APMI provides a common interface to regulators, government agencies, industry participants, intermediaries, investors and other stakeholders alike for the conduct of the industry in an orderly, organised manner.

Its efforts towards rationalising costs for mutual fund investors have started yielding results. The rising share of investment in direct plans, combined with gradually reducing TER due to the rising size of funds, reflects the same. Last year's circular on the development of passive funds is also a step in the right direction. Of the total individual AUM of Rs.26 lakh crore, the AUM of retail investors or investors having investments of less than Rs.2 lakh is Rs.12 lakh crore. In March 2020, this number was Rs.4 lakh crore.

Abolishing of upfront commission put AIFs at par with MF & PMS on discontinuance of upfront distributor commission. Recent moves towards dematerialisation will also lead to better transparency, governance and investor protection.

A robust and technology-friendly capital markets ecosystem is pivotal in channelling household savings towards financial markets with ever-increasing investor participation.

Gross domestic savings totalled just about $12 tn over the last 25 Years (FY97 to FY22). Over the next 25 years, a study by Motilal Oswal shows that this is expected to grow to $103 tn. This opens up massive opportunities for Capital Markets amplified by digital reach and investor-friendly regulations.

Dematerialised (demat) Accounts have shown a Hockey Stick trend, with the monthly average shooting up from 3.6 lacs between FY17-20 to 20.6 lacs in FY20-23. Total demat account stood at 12.7 crores in Aug-23 from a meagre 4.1 crores in Mar-20. The combination of the number of investors participating in the markets and the amount of savings attributable to them will continue to drive growth in demat accounts. Even at a conservative estimate of 20 lac accounts added every month for the next 5

years, the total number of demat accounts could reach nearly 25 crores by 2028, 2x the current level.

The Mutual Fund Sahi Hai Campaign by AMFI, under the guidance of SEBI, which started in early 2017, was a pivotal catalyst in popularising Systematic Investment Plans (SIP) in India. So much so that investors are known to say that I do not invest in mutual funds; I invest in SIPs.

Monthly registered SIP contributions have grown by 21% CAGR to Rs. 16,042 crores in Sept-23 from Rs 8,641 crores in Mar-20. The introduction of online KYC rules by SEBI during the COVID period spurred retail investors' participation in financial products. This persistent flow of domestic savings, predominantly into equity funds, has been instrumental in providing a counterbalancing force to Foreign Portfolio Investor (FPI) flows. Even at a conservative estimate of 10% growth in SIP commitments over the next 10 to 12 years, monthly SIP commitments could reach Rs. 40,000 to 50,000 crores monthly and Rs. 4.8-6 lac crores per annum. Due to this emerging trend, we are witnessing a shift in the ownership landscape of Indian equities, with FII holdings dwindling to 19.2% in July 2023 from 21.7% in December 2020. Simultaneously, DII ownership has risen from 13.9% in December 2020 to 16.9% in July 2023.

Since its inception in 1979, Sensex has achieved a remarkable compounding growth of approximately 980 times, equivalent to a 16.7% CAGR, when considering dividends. Furthermore, in the past three decades, an investment of 1 rupee in Nifty 50 would have burgeoned to Rs. 36.8, far surpassing the returns of Rs. 10 in bank deposits and Rs. 13.5 in gold. This serves as a testament to the wealth-creation potential of

equities. Nevertheless, the share of equity in household assets remains a modest 5%, offering substantial room for expansion when compared to the United States, where it stands at approximately 45%. Currently, the count of stock market investors and mutual fund investors stands at 8 crores and 3.5 crores, respectively, implying that there is a considerable journey ahead for both segments.

Health insurance users in India are about ~ 51 crores. This group of citizens are evidently aware of health usage benefits and could be considered conscious of investment needs as well. There is a long journey ahead to bring them into capital markets. It is an opportunity and a challenge for all market participants to evolve an enabling ecosystem for channelling this potential. The regulator is playing its part by ensuring a robust regulatory framework, and it is up to the asset management companies and the distribution fraternity to increase penetration through digital and physical modes.

India is undergoing a structural shift towards the Financial isation of household savings, and the opportunity is only limited by the vision and scale of market participants.

FICCI

Financial Guardrails: How Regulations Prevent Investor Exploitation

Nilesh Shah, *Managing Director & CEO, Kotak Mahindra Asset Management Company Limited*

When we go bowling, there are guardrails. These guardrails aren't just there for show; they serve a vital purpose. They keep the ball on track, guiding it towards its intended path. They prevent it from straying into the dreaded gutters where no pins can be hit. They're there to help us hit the pins, and perhaps even achieve that elusive strike. Similarly, in the field of finance, particularly when it comes to investing your hard-earned money, the regulator plays the indispensable role of a guardrail. It ensures that our investments remain on the desired path. It stands guard against dubious and potentially harmful schemes, ensuring our funds don't stray into risky territories. Its main purpose is to help investors aim for financial security, ensuring that our journey towards our financial goals becomes more steadfast and less volatile.

In today's India, a staggering number of around 18 crore investors have ventured into the largely uncontrolled world of crypto currencies. These investors, filled with hope and ambition,

are trying to earn quick money. In this unknown and unpredictable territory, they often rely on random tips, many of which come from WhatsApp groups, which act as their make-shift guide. This reliance on cryptocurrencies and the anecdotal advice surrounding it has highlighted the inherent dangers of unregulated markets, especially to the small, everyday investors. Alarmingly, nearly 40% of these crypto investors ventured into these volatile markets in the past year, often without fully grasping the associated risks. Seduced by tales and hopes of quick wealth, many even borrowed heavily, staking more than they could afford, to buy cryptocurrencies. Similarly, there are around 2 crore Indians who, lured by the allure of high returns, invest in Ponzi schemes promising as much as 2% returns per month, only to suffer losses. Many unsuspecting individuals fall into this trap, seeing their life-long savings evaporate before their eyes. And then, there are approximately 10 crore people who indulge in online gaming platforms like Teen Patti, Ludo, and matka. These platforms offer zero investor protections, leaving many vulnerable to both addiction and substantial financial loss. Disturbingly, there are also schemes specifically targeting female investors, often linked to jewellery investments. Without a robust regulatory framework, these schemes frequently exploit the existing lack of financial literacy among women, leading to gross injustice and disservice to this demographic.

Now, let's shift our focus to the mutual fund industry, a stark contrast to the aforemen-

tioned sectors. This industry boasts a little over 4 crore investors. What's commendable about this industry is its inclusive approach. Whether it's a High Net Worth Individual (HNI) or someone from a humble background, the industry doesn't differentiate. Every investor, irrespective of their financial stature, is offered the same product, same level of service, and, importantly, the same returns. This is a true example of democratization in finance. There's a saying in Hindi, "Subah ka bhula shaam ko ghar aa jayega", which means that those who have lost their way will eventually find it. In this context, we optimistically expect all those who have incurred losses through unregulated investment channels to eventually find solace in the mutual fund route. One of the primary reasons for the relatively low penetration of mutual funds in India is the uneven playing field they're pitched against. For instance, a Ponzi scheme might brazenly promise 2% return per month and broadcast it without any worries, whereas a mutual fund scheme cannot make factual claims, even if it has indeed multiplied investor wealth substantially over a decade. Instead, mutual funds have a mandate to communicate returns in terms of CAGR (Compound Annual Growth Rate) for better transparency. And the question arises: how many average investors truly understand this technical term?

Here, the Securities and Exchange Board of India (SEBI) emerges as a beacon of hope, monitoring the industry with the vigilance of a traffic cop at a busy intersection. At SEBI, investor interests aren't just important; they take top priority above everything else. SEBI's initiatives, like daily NAV disclosures, monthly portfolio revelations, and clear risk communication about schemes, have infused a level of transparency that was previously lacking. This tight supervision acts as a protective shield, safeguarding investor money from potential operational hazards. Moreover, when fund managers have their own money invested, it ensures that their interests resonate with those of the investors. The disclosures mandated by

SEBI provide investors with a lucid understanding of the fund's investment strategy, its performance over time, and the associated risk profile. This, in turn, enables them to assess whether a particular fund aligns with their personal investment goals and risk appetite.

A standout feature of the mutual fund industry is the co-creation of regulations. This co-creation, a defining hallmark of the MF industry, exemplifies how trade associations and regulatory bodies can come together, collaborating for sustainable and responsible growth. This joint approach towards regulation ensures that the financial market remains vibrant, dynamic, yet secure and trustworthy. The government's unwavering commitment to stringent regulation ensures a level playing field for every stakeholder involved. Often, discussions surrounding promised versus actual returns are skewed in favor of the provider, sidelining the investor. However, in the Mutual Fund (MF) model, the investor isn't just important; they're the protagonist, the star. This investor-centric approach is made possible by a robust regulatory framework, which oversees not just the Asset Management Company (AMC) but the entire industry, including the Association of Mutual Funds in India (AMFI), auditors, and the MF advisory committee.

As we venture into new, uncharted financial territories, the SEBI model stands as a testament, a guidepost. Drawing inspiration from its success, we can hope to propagate values of transparency, accountability, and responsibility across the expansive financial domain.

India's Inclusion in Global Bond Indices: A Game-Changer for the Indian Economy

***Nipa Sheth,** Founder and Managing Director, Trust Group*

India's inclusion in global bond indices is a significant development that holds the potential to reshape the dynamics of the global financial landscape. As one of the world's fastest-growing economies and a prominent player in the emerging markets, India's inclusion marks a pivotal moment for both domestic and international investors. Increasing integration into the international financial system opens up new avenues for investment, economic growth, and financial stability.

India has worked its way long enough for such an event with minimum exchange volatility, relative fiscal discipline and minimal inflation differential with developed markets. Let's understand the implications and advantages of India's inclusion in these indices and how it can impact the nation's financial markets and the global investment community.

Global bond indices serve as essential benchmarks for global fixed-income markets. They represent a diverse range of bonds from various countries, helping investors assess the performance of these markets. Being part of such indices is a mark of credibility and attractiveness for a nation's bonds, as it makes them accessible to a global investor base.

It is expected to attract foreign investment, strengthening the country's economy by increasing foreign direct investment (FDI) and portfolio investment. This influx of capital can provide a boost to the Indian economy, particularly in sectors like infrastructure, manufacturing, and technology.

India faces a substantial infrastructure funding requirement exceeding 1.8 trillion dollars over the next five years. Strategically managing a lower government security yield curve becomes essential, ensuring a lower cost of borrowing for long-term initiatives in the realm of infrastructure development.

Furthermore, the heightened interest from international investors is set to create competition, leading to lowering borrowing costs for the Indian government and corporations.

Consequently, reducing interest rates and contributing to the country's fiscal stability and enhancing its capacity to undertake development projects.

With a growing number of international investors participating in the Indian Bond Market, liquidity is expected to increase. This in turn is expected to simplify the buying and selling of bonds for investors, leading to a more efficient market.

This shift is also anticipated to strengthen the Indian Rupee (INR) as global investors purchase Indian bonds, causing the demand for the Rupee and therefore making imports more affordable and aiding in controlling inflation. However, it is gradually calibrated in a manner not to have too much volatility.

While India's participation in global bond indices promises significant advantages, it also brings forth certain challenges and risks. These include external factors, where economic and political developments in other parts of the world can influence investor sentiment, hence impacting India's financial market. Additionally, fiscal responsibility is paramount, demanding the Indian government to uphold effective debt management to preserve its

credibility among global investors. Finally, effective control of inflation becomes imperative with the influx of capital, requiring vigilant monitoring to ensure financial stability. Notably, India has navigated through events like the Southeast Asia currency bubble, the Lehman crisis in 2008, and the Covid pandemic without significant adverse effects in domestic environment.

As India continues to build its reputation in the global financial market, it must stay committed to reform, transparency, and investor protection to reap the full benefits of this participation. The future holds immense potential for India's economy, and its inclusion in global bond indices is undoubtedly a game-changer.

FICCI

Navigating Indian Climate Change: Essential Solutions for a Prosperous Future

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India, a country known for its rich cultural heritage and diverse ecosystems, is facing the daunting challenges posed by climate change. With its rapidly growing economy and expanding population, the country is increasingly vulnerable to the impacts of global warming, extreme weather events, and environmental degradation. The country has witnessed a rise in average temperatures, changes in precipitation patterns, and an increase in the frequency of extreme weather events, including cyclones, floods, and droughts. These changes have had far-reaching consequences for various sectors of the economy, with agriculture, water resources, infrastructure, and public health all being significantly affected.

To address the multifaceted challenges posed by climate change, the Indian government has proposed a series of comprehensive financial solutions aimed at mitigating climate change risks and fostering sustainable growth across various sectors. These solutions encompass initiatives in renewable energy, sustainable agriculture, green infrastructure, and climate-resilient urban development, all aimed at ensuring a prosperous and resilient future for the nation.

The agriculture sector, which serves as the backbone of the Indian economy and a source of livelihood for millions, is particularly vulnerable to the impacts of climate change. Erratic monsoon patterns, water scarcity, and soil degradation have led to reduced crop yields, threatening food security and exacerbating rural poverty. In urban areas, the challenges of climate change manifest in the form of air pollution, inadequate infrastructure, and the growing vulnerability of densely populated cities to extreme weather events.

In the agricultural sector, India has emphasized the adoption of sustainable agricultural practices as a means of building resilience to climate change. Financial support in the form of subsidies for drip irrigation, organic farming, and the use of climate-resilient crop varieties has encouraged farmers to adopt sustainable practices. The promotion of integrated farming systems, agroforestry, and the conservation of water resources has played a crucial role in enhancing agricultural productivity and ensuring food security. Additionally, the provision of crop insurance and access to affordable credit has helped farmers manage the risks associated with climate variability, enabling them to invest in climate-smart technologies and sustainable farming practices.

Under the Paris Agreement, India had communicated its Nationally Determined Contributions (NDCs), or targets to be achieved by 2030. The quantifiable commitments as per the updated NDCs are: 1. Achieve 50 % cumulative electric power installed capacity from non-fossil fuel-based resources by 2030 2. Reduce Emissions Intensity of its GDP by 45 percent by 2030, from 2005 level. While the global target for Net Zero is by the year 2050, India targets to achieve Net Zero by 2070.

Energy Transition

Decarbonisation of the grid and shifting to non-fossil sources of energy has been a focus for India like across the world. As stated in its National Electricity Plan (NEP) (Vol 1 Generation), India has laid out its plans for incremental installed capacity from renewable including solar and wind, nuclear, hydro and Battery Energy Storage System (BESS) sources. India negotiated a phase down and not a phase out of coal power, considering its reliance on coal. This makes Carbon Capture & Storage (CCUS) a necessity for India's low emission plans. Also, there is a need of Smart Grid System, which facilitates a variety of operational and energy measures including smart meters, smart appliances, renewable energy resources, and energy efficiency resources along with application of digital processing and communications to the power grid, making data flow and information management central to the smart grid.

Industry

India's actions have been on improving the energy efficiency, reducing the emission intensity, and encouraging a circular economy within industries. Globally the focus is on electrification in manufacturing, alternate fuels, promoting green hydrogen use in industrial processes like H2 for DRI in steel, for green ammonia etc.

The hard to abate industries (Steel, Cement etc.) are in focus through many technological and process improvements being experimented globally. The major wastes produced in integrated steel plants include BF Iron Slag Steel Melting Shop (SMS) Slag accounting for nearly more than half a ton for each ton of steel produced in ISPs. Most of the steel plants are utilising 100% of the iron slag produced (mostly in cement making and some portion as aggregate, both of which are permitted in BIS or IRC Standards Specifications) while others are closer to reach the 100% utilization. However, there are lack of guidelines for use of steel slag as replacement of natural aggregates in construction activities and road-making.

India and Sweden are leading the industry National Leadership Group for Industry Transition (LeadIT), a platform for Governments and the private sector to identify, cooperate and promote low carbon transition in hard to abate industry sectors. The Resource Efficiency and Circular Economy Industry Coalition (RECEIC), an industry driven initiative, conceptualized under India's G20 Presidency, aims to promote resource efficiency and circular economy practices.

Building & Urban Development

A significant contributor, especially in our cities, this is being addressed through changes in building codes and urban planning. More

action can be expected in the smart city, satellites city plans and making the existing city infrastructure resilient through strengthening drainage, improving water reuse and recharge. India's city and state action plans are also expected to increase focus on solid waste management and water supply & water treatment as a main mitigant.

Transport

Movement to Electric Vehicles, also for commercial vehicles, is expected to pick up in the coming years with the focus on technology improvements and innovation already happening in this space. Mass rapid transport systems, transport through railways and waterways are expected to be in focus in the coming decade.

India's focus on green infrastructure development is essential for promoting sustainable urbanization and environmental conservation. The integration of green building practices, energy-efficient transportation systems, and eco-friendly urban planning approaches has become a priority for the government. Financial mechanisms, such as green bonds, public-private partnerships, and dedicated funds for green infrastructure development, have been instrumental in mobilizing funds for sustainable infrastructure projects. By promoting the use of renewable materials, energy-efficient technologies, and nature-based solutions, India is striving to reduce carbon emissions and promote sustainable urban development.

To ensure the effective implementation of financial solutions for climate change mitigation, India has established a robust institutional framework comprising regulatory authorities, financial institutions, and policy think tanks dedicated to promoting sustainable financing and environmental conservation. The creation of specialized agencies, such as the National Clean Energy Fund and the Climate Change Adaptation Fund, has facilitated the allocation of funds for climate-friendly projects and initiatives. The government has also fostered partnerships with international organizations and multilateral development banks to leverage global expertise and resources for sustainable development and climate resilience.

The Adaptation story is yet to play out

India has taken leadership in launching Coalition for Disaster Resilient Infrastructure (CDRI) to promote resilience of new and existing infrastructure systems to climate and disaster risk.

As per its first report released in Oct 2023, the global Average Annual Loss (AAL) for infrastructure, including buildings and the health and education sectors, currently lies between $732 – $845 billion, 70% of which is attributable to climatic hazards. 80% of this risk is concentrated in the power, transportation, and telecommunications sectors.

Considering the global Gross Fixed Capital Formation (GFCF) of $25 trillion, about $1 trillion can be the potential annual spend on adaptation infrastructure in the coming years. This can include civil works like coastline protection, large flood water storage facilities within cities, improving safety and capacity of dams, improvement in existing drainage systems, change of railways tracks to absorb higher temperature, elevation of some part of cities,

development of new cities based on more green solution adoption etc.

India should roll out an adaptation infrastructure plan like NIIP to identify and strengthen the existing critical infrastructure. It should also focus on the adding climate resilience as a parameter, upfront, in the yet to be built out infrastructure.

Themes to watch out for:

Loss and Damage Fund

During COP 27, developing nations strongly voiced setting up a separate fund for loss and damage. After negotiations, it was decided to establish new funding arrangements for assisting developing countries that are particularly vulnerable to the adverse effects of climate change in responding to loss and damage, with a focus on addressing loss and damage. A transitional committee has been established to work out the modalities. One of the big themes to watch out for in COP 28 is the developments on this.

Finance

The world of finance acknowledges Climate Change both the physical risks transition risks due to movement to low carbon economy. These risks have been mainstreamed through disclosure norms and changes in reporting standards. The Network for Greening the Finance System (NGFS) brings together central banks and supervisors, committed to taking due account of the climate risk to global financial stability. The Glasgow Financial Alliance for Net Zero is the world's largest coalition of financial institutions committed to transitioning the global economy to Net Zero emissions.

Global funds have largely been mobilised towards actions in the energy transition with focus on the commercially established renewable energy space. However, this has not led to concessional finance at scale even for the mitigation actions. The commercial viability of adaptation measures are still not established and hence does not attract funding. The insurance industry along with the financiers can play a pioneering role in redirecting funding to build resilience in existing and yet to be built out infrastructure.

How to organize the financing, how to get the private sector and other people to invest, and how to consider the business model to facilitate will continue to be an interesting challenge, not only for India but also for other countries. There needs to be a realignment between investing in infrastructure and creating new infrastructure, and perhaps the country needs to invest at least 3% of the GDP in adaptation infrastructure and 3-4% of GDP in energy transition and normal infrastructure. By advancing investments in renewable energy, encouraging sustainable agriculture practices, investing in green infrastructure, and enhancing climate-resilient urban development, India is laying the groundwork for a resilient, low-carbon economy. With a strong focus on strengthening institutional frameworks and fostering international collaborations, India is poised to emerge as a global leader in climate change mitigation, setting an example for sustainable development and environmental stewardship on the world stage.

Conundrum of Corporate Governance in High Value Debt Listed Entities

Shilpa Mankar Ahluwalia, *Partner- Banking & Finance, Shardul Amarchand Mangaldas & Co*
Nikhil Naredi, *Partner, Shardul Amarchand Mangaldas & Co*
Tarun Srikanth, *Senior Associate, Shardul Amarchand Mangaldas & Co*

On March 29, 2023, SEBI decided to extend the 'comply or explain' period for *'High Value Debt Listed Entities'* ("HVDLEs") in respect of corporate governance norms applicable to them under Regulations 15 to 27 of the Listing Regulations till March 31, 2024. Following the decision, such extension was introduced by way of an amendment to the Listing Regulations notified on June 14, 2023. This move came on the back of a consultation paper issued by SEBI earlier in February 2023 discussing the challenges faced by HVDLEs in achieving compliance with the norms pertaining to related party transactions under Regulation 23(4) of the Listing Regulations. The extension granted by SEBI is a reprieve for HVDLEs as it gives them more time to prepare themselves for their continued participation in the debt markets.

Background

Between 2016 and 2021, SEBI, RBI and MCA through concerted regulatory measures have endeavoured to vitalize the debt capital markets. This included mandating certain category of large borrowers to raise a portion of their incremental debt in a financial year through market instruments and exempting entities with listed instruments issued on private placement basis from the definition of *"listed company"* provided under Section 2(52) of the Companies Act. This incentivised private and unlisted public companies to raise funds from the capital markets without being subject to the administrative burden that comes from being a listed company. As a result, several private and unlisted public companies raised funds through issuance of listed non-convertible debentures on a private placement basis.

However, in September 2021, SEBI extended the applicability of certain corporate governance requirements (*i.e.*, Regulations 15 to 27 of the Listing Regulations) to a prescribed category of listed debt issuers who qualify as HVDLEs on a *"comply or explain"* basis until March 31, 2023 and on a mandatory basis thereafter. HVDLEs are unlisted entities which have their non-convertible debt securities listed on recognised stock exchanges and the outstanding value of such listed debt securities is INR 500 crores or more. It is pertinent to note that the majority of HVDLEs are listed on the wholesale debt markets segment of the stock exchanges, where the listing is undertaken through private placement of securities rather than through a

public offer and such transactions are often akin to bilateral transactions with a fair amount of visibility on the transactions and terms of the securities for the subscribers. As a result, fund-raising through private placement of debt securities required issuers to reconfigure their governance and compliance structures on account of these requirements being made applicable to HVDLEs.

Related Party Transactions

Regulation 23(4) read with Regulation 23(1) of the Listing Regulations requires the prior approval of the shareholders for all material related party transactions, and any shareholder who is a related party shall not vote to approve such transactions, irrespective whether such shareholder is a related party to the relevant transaction or not.

HDVLEs often are closely-held entities where the majority shareholders together hold either the entire or a significant percentage of equity interest in the company. Such companies may need to transact with their majority shareholders who qualify as 'related parties' and will be required to obtain the approval of *majority of the minority public shareholders* for undertaking any related party transaction. Consequently, even a small shareholder may be able to influence the decision making in this regard. It is to be noted that the Companies Act provides specific relaxations under Section 188, wherein related parties are allowed to vote on transactions entered into by a company in which 90% or more members are related parties. However, the Listing Regulations currently do not provide any such relaxation.

It is very common for both equity and debt investors in unlisted entities to include well negotiated contractual controls in relation to related party transactions, which take into account the specific operational requirements and shareholding structures of the company.

To address the issues faced by HVDLEs wherein more than 90% of its shareholders are related parties, SEBI in its consultation paper had proposed a mechanism wherein the debenture holders holding the non-convertible debt securities of the HVDLEs are required to approve the related party transactions prior to such transactions being placed before the shareholders for their approval. This proposal was not eventually adopted into the Listing Regulations.

Very often, shareholders in unlisted companies, largely, internal or financial/ strategic investors who may have negotiated their terms of entry, may not need the regulatory protection which is higher than what is provided under the Companies Act. Hence, the regulatory approach can be further reviewed to make a distinction for HVDLEs which have issued listed instruments on a private placement basis alone.

Board Composition Norms

In its consultation paper, while SEBI did not review the issues involved in compliance with the requirements pertaining to the composition of the board of directors, they also merit consideration from the perspective of issuers who tap the debt capital markets through the private placement route.

Regulation (17) (b) of the Listing Regulations requires companies to have at least one-third of its board of directors to comprise independent directors, where the chairperson of the board is a non-executive director and at least half of the board to comprise independent directors, where the chairperson is not a non-executive director.

As is customary for unlisted companies with different shareholder groups, the investors have certain inter-se rights in relation to the governance of the companies, including rights to nominate directors on the board and the committees thereof, affirmative voting rights and minority protection rights. The shareholders of private companies or closely-held unlisted public companies do not rely on independent directors to protect the interests of minority shareholders, but usually contractually agree to a detailed set of minority protection rights in the investment agreements. In case of HVDLEs which had undertaken debt issuance and listing prior to September 2021, the requirement under Regulation 17(1)(b) would not have been applicable at the time of investment by the investors and such investors would not have taken into account such corporate governance norms while formulating their governance structures and rights related thereto.

Typically, infusion of capital by investors is negotiated on the basis of governance and investor protection related rights derived from the ability to nominate directors and any changes to the same may require the investors to review their position in the investee companies.

Non-promoter shareholders in private and unlisted public companies are typically sophisticated private institutional investors that ensure protection of their rights and interests via affirmative voting rights and either nominee directors or observers on the board of directors of such companies. Such investors do not require the protections which are needed to protect the interests of retail shareholders. Similarly, in privately placed offerings, subscribers are sophisticated institutional investors, and hence, the regulatory approach can be calibrated differently.

Therefore, as stated above, a nuanced approach in implementation of governance norms on HVDLEs will help in improving and deepening the debt capital markets in India in the right manner.

FICCI

Should digital gold be nurtured and regulated in India?

Somasundaram PR, *Regional CEO, India, World Gold Council*

India has a strong affinity for gold underpinned by strong socio-economic reasons, both historic and current. Over the last 3 decades, since economic liberalisation, the gold market has become more organised and is gradually adopting modern practices and technology.

Recent years have witnessed the emergence of a novel way to save and invest in physical gold - buying it over digital channels.

Such "digital gold" is not a virtual or electronic asset or a token. It is physical gold bought electronically and held on customer's behalf in a professional vault. The customer has a choice of seeking physical delivery of a minimum quantity of gold against such digital balance or sell the digital balance directly and realise the proceeds. The salient features of digital gold offered by a few reputed players are as follows:

- Individuals purchase physical gold online from digital gold provider.
- Taxes (GST) is paid upfront on sale by the digital gold provider.
- It can be bought and sold 24*7 through digital gold provider's or front end partner's app.
- Prices are transparently quoted 2 ways so both buy and sell can happen instantly.
- The physical gold is held on his/her behalf, bankruptcy remote, in professional and independent accredited vaults.
- The customer can sell the vaulted gold or get it physically delivered whenever they wish.
- Where physical delivery is sought, customers are made aware that they have to pay additional for minting and delivery. This is standard practice in the bullion market where any exchange for physical carries attendant costs.

Digital gold is gaining popularity

Digital gold has been gaining popularity and wide acceptance in India:

- There were over 80 million customers for digital gold in India in 2019 (double the number of demat accounts in the country then). Over half the investors in digital gold in India are from smaller towns.
- In 2019, there were 2.5 million active customers in digital gold in India trading around 4–5 tonnes of digital gold (3% of annual gold retail investment).
- Current industry estimates suggest the digital gold industry to be ~ INR 5,000 crores annually with ~7 to 8 tonnes in annual trading volume, 120+ million customers have bought digital gold so far with approximately ~ 40 million customers holding digital gold currently.

Digital gold supports government's initiative on formalisation of gold industry

NITI Aayog's report on Transforming India's Gold Market (2018) had "Financialisation of Gold" as the second pillar of its vision for transforming gold industry. Its recommendations include "first, to integrate existing above-ground stocks of gold into the financial system and real economy; second, to ensure that all future investment demand for gold is made in financial products that are backed by gold and not held as physical gold; third, to ensure that the economic value of an individual's gold holdings are realised (e.g. loan against gold jewellery)". The report rightly concluded that financialisation of gold and incentivizing digital payments will bring about transparency in gold transactions and may well contribute towards India's savings rate.

Government of India, through various measures like mandatory gold hallmarking, Gold Monetization Scheme (GMS), Electronic Gold Receipts (EGRs), Sovereign Gold Bonds (SGBs) and India International Bullion Exchange (IIBX) in Gift City, is driving towards a vision of formalization and financialization of gold market in India with a transparent and robust recycling market. Given the estimated size of private gold holdings (~ 30K tonnes) among households and trusts, India has to mainstream gold using technology.

Digital gold platforms offer a significant opportunity towards the vision stated in NITI Aayog's report due to its following attributes:

- It is transparent due to completely auditable digital platforms.
- It promotes 100% digital payments and formalization.
- It enables recycling and over time, reduce dependence on imports.
- It encourages use of gold savings recently developed peer to peer lending of digital gold.
- It can seamlessly support and revitalise government schemes such as Gold

Monetisation Scheme (GMS) and Gold Deposit Scheme (GDS) as gold exists physically in certified bullion form and vaulted with professional agencies.

- It complements the government's electronic gold receipts (EGRs) as Digital gold providers potentially can aggregate the micro-savings by its ~120 million+ (and growing) investors and buy EGRs on the supply side thereby creating demand and liquidity for EGRs.

Digital gold has a smaller average ticket size of under INR 1,000, catering to very focused small, retail customers who cannot directly buy EGRs or SGBs due to challenges of access, commercial feasibility, and logistics.

In a nutshell, Digital Gold is one of the promising mechanisms for formalisation of gold and "prospective" gold monetization, i.e. monetising gold at the point of purchase.

Current landscape: Lack of regulatory framework

The regulatory stance has been to prohibit regulated entities from associating with digital gold as it is unregulated and the horizon for regulation is unclear[1]. This has prompted regulated brokers and trustees, who could bring about a mindset change in the manner gold is bought and sold, to not provide a platform to buy/sell/deal in digital gold or act as a trustee for digital gold.

The absence of regulations:

- Limits the participation by regulated reputed players like trustees and brokers in the digital gold market.
- Exposes the ~120 million+ (and growing) customers and market participants of digital gold to additional risks (by removing the additional layer of protection provided to the customers by the trustee).
- Creates uncertainty in the minds of participants and customers who are often micro investors.
- Adversely impacts potential growth of digital gold that can be an elegant solution to monetization of gold savings.

Need for a regulatory framework

There is a need to facilitate orderly growth of the digital gold market to protect and promote micro savings in gold through transparent digital gold platforms and to deter any unscrupulous fly-by-night operators from misusing the emerging opportunity. It is also necessary to enable people to get used to gold savings in digital form safety and securely (first step to large scale monetisation of gold) and making gold savings productive rather than lying unused as dormant stock in lockers and private vaults.

To this end, instead of restricting regulated entities from participating in the market, we should consider bringing out appropriate guidelines and regulatory oversight that would

[1]https://www.medianama.com/2021/08/223-nse-fintech-digital-gold-sebi/

introduce checks and balances to ensure customers of digital gold are protected and a transparent way to buy and hold gold digitally, aligned with the broader economic agenda on digitalisation of assets, is promoted.

The proposed regulatory oversight would entail:

- Defining the digital gold product.
- Mandating all digital gold providers to appoint registered trustees for their digital gold product.
- Providing clear guidelines for the market participants in the digital gold market including the digital gold provider, the trustee, the front-end platforms, and the vaulting agency.

Such regulatory oversight framework for digital gold can be designed with the following objectives.

- Defining the digital gold and the roles and responsibilities in the eco-system.
- Defining a criteria and compliance mechanism to ensure “fit and proper” criteria for participants to eliminate any possibilities of fly-by-night operators.
- Ensuring customers' money and gold is protected and safely secured.
- Providing clear communication of price, all charges (e.g., storage, minting, delivery, etc.) and other terms involved to the customers.
- Promoting value added features for stored gold to “earn” interest from gold holdings with appropriate risk mitigants and controls, e.g. peer-to-peer (P2P) lending of gold holdings with identifiable and auditable consent of respective customers and with full disclosure of all terms and risks involved.
- Providing a robust mechanism to address customer queries and complaints.
- Ensuring compliance with taxation and a tailored Know Your Customer (KYC) norms.
- Providing and complying with responsible sourcing guidelines for gold procurement including Know Your Provider (KYP) checks.
- Independent assurance mechanism for gold quality and quantity.
- Ensuring customers can withdraw their gold and get delivery within the stipulated timelines.
- Protection of customers' interest if any player exits the market or discontinues business.
- Ensuring data protection and privacy and soon....

As a first step, a working group of industry stakeholders and regulators could be asked to consider and agree a comprehensive regulatory oversight mechanism on digital gold and practical steps to enable the trend of digitalisation enters gold in a big way in a manner that the outcomes are aligned with broader economic objective of monetisation of gold savings of millions of investors.

Striking a Regulatory Balance of the 3 Is - Investors, Innovation, and Intermediaries

Sundeep Sikka, *Executive Director & Chief Executive Officer, Nippon Life India Asset Management Limited*

The financial landscape of India has witnessed a remarkable transformation over the years, and at the heart of this evolution lies the asset management industry. From its humble beginnings in 1963, this industry has grown into a key player in India's financial ecosystem and is currently managing assets of INR 47.5 trillion. India's asset management industry has undergone substantial changes over the years, and further transformations are on the horizon as the regulators, markets, and investors continue to mature.

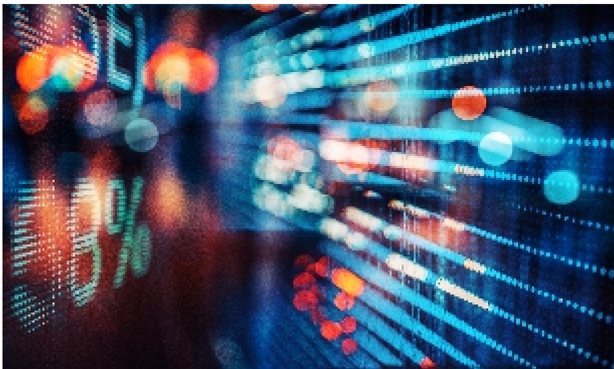
Evolving Industry Landscapes

The asset management industry's journey in India began with just one player, the Unit Trust of India (UTI), holding a monopoly for the first 25 years. This marked the industry's humble origins, with little indication of the tremendous growth it would later experience. In 1987, the entry of public sector entities led to a tenfold growth in Assets Under Management (AuM), soaring from INR 4,600 crore in March 1987 to INR 47,000 crore in March 1993.

The real game-changer came in 1993 with the introduction of the Mutual Fund Regulations. These regulations laid the foundation for the industry's long-term growth and evolution. They brought structure and governance to the mutual fund sector, creating a regulatory framework that set the industry on a path of stability and expansion. It was during this time that the AuM of the industry crossed the INR 1 trillion mark in 2003, a significant milestone highlighting the industry's growing importance in the Indian financial landscape.

The years between 2003 and 2019 witnessed an extraordinary breakout in the asset management industry. During this period, the industry experienced substantial growth, amassing an additional INR 23 trillion in AuM, recording an impressive Compound Annual Growth Rate (CAGR) of approximately 24%. This era was characterized by Mutual Fund ('MF') industry's relentless pursuit of expansion, despite facing challenges such as the global financial crisis of 2008 and lower returns in capital markets.

What's particularly noteworthy is that the Indian mutual fund industry not only weathered these challenges but also outperformed other major markets. From 2007 to 2017, the industry delivered a robust 14% CAGR, a remarkable feat when compared to the 4% CAGR recorded in North America, Europe, and the Middle East during the same period.



Several regulatory changes also contributed to the industry's growth. In 2009, the entry load was abolished, and it could no longer be used for paying distributor commissions. The removal of entry loads aimed to bring transparency to commission payments and incentivize long-term investments.

In 2012, the regulator introduced a beyond-15 (B15) incentive to increase MF penetration. The scheme paid a higher commission for selling MFs to investors beyond the top 15 cities. Around the same time, a fee for MF transactions was introduced, charging INR 150 for new investors and INR 100 for existing investors for every transaction beyond a certain threshold.

The year 2013 brought significant regulatory changes that further catalysed the industry's growth. The regulator introduced direct plans, enabling investors to buy MF units directly from Asset Management Companies (AMCs), eliminating the role of middlemen and commissions. The same year, registered investment advisory (RIA) was permitted. RIAs are regulated entities and allowed to charge a fee but barred from earning commissions on selling mutual funds. Further, the reduction of Security Transaction Tax (STT) for equity funds was a welcome development. Simultaneously, the introduction of uniform dividend distribution tax (DDT), product labelling, and direct plans streamlined the mutual fund ecosystem. These changes made mutual funds more investor-friendly and navigable, enhancing the industry's appeal. Regulator also introduced Riskometer with the aim of assisting investors in making well-informed investment choices. Notably, in 2021, SEBI implemented certain modifications to enhance the accuracy and transparency of the riskometer.

In 2015, another key development unfolded when the Employees' Provident Fund Organization (EPFO) regulations were relaxed, allowing for investments in the equity market through Exchange Traded Funds (ETFs). This move broadened the investor base and deepened the integration of mutual funds into various investment avenues. This period also saw investments in technology with the launch of industry platforms such as MF Utility.

In 2017, the industry further took a progressive step towards improving customer awareness with campaigns such as 'MF Sahi Hai'. The campaign resulted in onboarding over 5 million new investors within 12 months. In the next year, i.e. 2018, the regulator implemented a prohibition on payment of upfront commissions to MF distributors and issued guidelines instructing fund houses to transition to an all-trail model.

The period from 2019 to 2023 is marked by ongoing growth, with AuM surging from INR 25.5 trillion to INR 47.5 trillion. Despite the challenges posed by the COVID-19 pandemic, MF industry continued to flourish. Notably, there was a significant influx of retail investors who recognized the potential of mutual funds in achieving their financial goals.

Data-Led Decisions and Regulations

In recent years, the regulator has evolved by embracing data-driven decision-making. This shift is crucial to keep pace with the ever-changing financial landscape. For instance, the regulator's May 18, 2023, consultation paper proposed limiting higher commissions to distributors when investors switch funds from existing ones to New Fund Offers (NFOs). This proposal was grounded in the data that exposed distributors seeking higher fees in NFOs, which may not align with investors' best interests.

Under the leadership and strong vision of the regulator, there has been a significant boost in data analytics. The regulator now harnesses the wealth of data generated across the financial ecosystem, from mutual funds and registrar and transfer agents to exchanges and brokers. This enhanced data utilization allows the regulator to detect suspicious activity swiftly. Regulator's use of technology and data is a significant step towards better investor protection and a more transparent market.

White and Black - Nothing Grey

Notably, the regulator has transitioned towards a more detailed, consultative, and data-driven approach in its communications with industry participants. Circulars and consultation papers have become more detailed, leaving little room for interpretation. The increased specificity is evident in areas such as how fund houses determine their Total Expense Ratios (TERs) and how commissions should be structured in New Fund Offers (NFOs).

The move toward more explicit rules ensures that market participants follow the letter of the law, reducing potential grey areas and room for interpretation - reflecting the regulator's commitment to investor protection.

Conclusions

In conclusion, the asset management industry in India has come a long way since its inception in 1963. It has seen significant growth and transformation, underpinned by regulatory changes. The role of data in shaping regulatory decisions is paramount in today's fast-paced financial landscape. Regulator's data-driven approach allows for quicker detection of potential issues but also comes with the risk of false positives.

The shift towards more prescriptive regulations may seem restrictive to some, but it is in line with the regulator's commitment to investor protection. The regulator's intention is clear - to safeguard investors and foster market innovation, while ensuring that market intermediaries operate within clearly defined boundaries.

Balancing interest of investors, intermediaries, and fostering innovation is a delicate task. It requires open communication, collaboration, and adaptability among all stakeholders. In the end, the common goal is to build a financial ecosystem that is transparent, trustworthy, and beneficial to all, from the smallest investor to the largest market player.

Initiatives of FICCI National Committee on Capital Markets

1. First meeting of Industry Standards Forum – 14th August 2023; National Stock Exchange, Mumbai

In line with its commitment to facilitate capital formation in the economy and ease of doing business, SEBI has facilitated the formation of Industry Standards Forum, being chaired by Mr KV Kamath, Chairman, NaBFID. The Forum has representation of industry associations including FICCI and the process of engagement included consultations is being facilitated under the aegis of the Stock Exchanges. Important discussions at the first meeting of the Forum included constitution of subgroups and finalisation of priority areas for formulation of standards for implementation of specific SEBI regulations and circulars.

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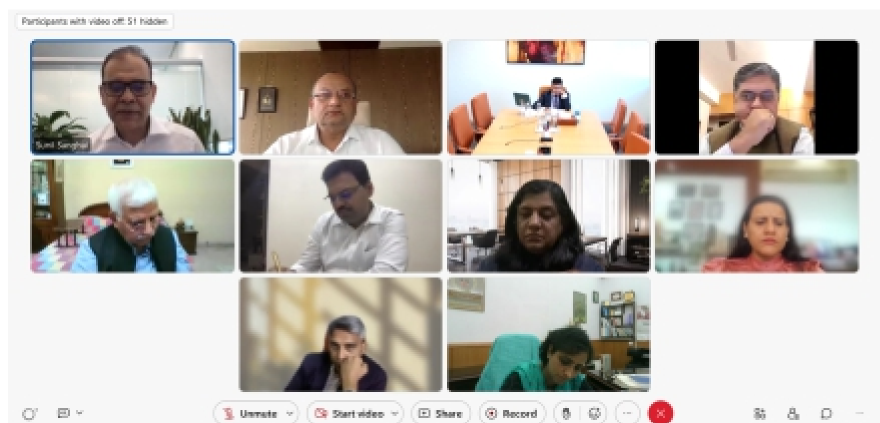
2. Interaction with Ms Surbhi Jain, Joint Secretary, Department of Economic Affairs, Ministry of Finance– 14th April; online

FICCI had organized a closed-door interaction with Ms Surbhi Jain, Joint Secretary, DEA, Ministry of Finance on 14th April 2023 through online mode.

Members of the Capital Markets Committee and Corporate Laws Committee were present at this interaction. Focused discussions were held on several issues affecting industry as well as the capital market ecosystem and also to provide suggestions for further growth of the capital markets.



3. Interaction with Mr Jeevan Sonparote, CGM, SEBI – 28th September 2022; online

FICCI had organized a closed-door interaction with Mr Jeevan Sonparote, CGM, SEBI on 28th September 2022 through online mode.

Members of the Capital Markets Committee and Corporate Laws Committee highlighted several issues affecting industry as well as the capital market ecosystem w.r.t. regulations on ICDR, LODR, SAST, Buy back, delisting and ESOP.

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4. Interaction with Global Leadership team of OTPP - 28th September 2022; Mumbai

FICCI had organized an Interaction with Mr Ziad Hindo, Chief Investment Officer, Ontario Teachers' Pension Plan on 28th September 2022 in Mumbai. Discussions were held on investment opportunities in India and OTPP's strategy and focus areas.

Key speakers included Mr Sunil Sanghai, Chairman, FICCI Capital Markets Committee and Founder & CEO, NovaDhruva Capital Pvt Ltd, senior leadership team of OTPP comprising Mr Amit Sobti, MD- Private Equity, Mr Deepak Dara, MD and Mr Debapratim Hajara, Director - Infrastructure other than members of FICCI's Capital Markets Committee.

Policy Recommendations

- **Suggestions on exemption from sending physical copies of Annual Reports to shareholders**

  In line with MCA Company Law Committee Report of April 2022 and also in view of the long-term benefits of paperless communication as well as its positive impact on the environment, FICCI had requested SEBI to grant an exemption to listed companies from the requirement of sending physical copies of notices and documents to members.

  FICCI gratefully acknowledges that our recommendations in this regard were accepted and relaxations have been provided to listed companies from requirements of sending hard copy of annual reports to shareholders upto 30th September 2024.

- **Suggestions on ease of doing business**

  FICCI submitted ease of doing business recommendations to SEBI with a broad objective of reducing cost of compliance, simplifying submissions, digitizing submissions, registrations etc. on several regulations under the purview of SEBI Primary Market Advisory Committee. This included suggestions for simplifying disclosures and compliances pertaining to delisting and reverse book building process, MPS norms, applicability of LODR Regulations to high value debt listed entities, insider trading and buy back. These are under review.

- **Suggestions on Takeover Regulations**

  SEBI had constituted a Committee on Review of Takeover Regulations earlier this year. Mr Sunil Sanghai, Chairman, FICCI's Capital Markets Committee represented FICCI on this Committee. Based on suggestions highlighted by members, FICCI had submitted detailed recommendations to SEBI for an effective and simplified Takeover Code. These are under review.

- **Suggestions on KYC related issues in capital markets**

  Multiple KYC processes act as barrier for investor participation in financial products. Despite providing Aadhaar Card and PAN Card which are interlinked and bank accounts details where a KYC is already done, investors still have to undergo KYC procedures for opening MF account or demat account or trading account. FICCI has submitted to SEBI that a simpler KYC will facilitate investments in financial products. It was also recommended that creating a simple and common KYC across the entire financial sector will improve ease of making investments and truly promote Digital India.

  Subsequently, Hon'ble Finance Minister announced in the Budget speech earlier this year that the KYC process will be simplified and the regulators in the financial sector will be encouraged to have a KYC system fully amenable to meet the needs of digital India. FICCI looks forward to early implementation of this proposal.

FICCI

- **Follow up Note submitted to Ms Surbhi Jain, Joint Secretary, Department of Economic Affairs, Ministry of Finance on recommendations for increasing robustness of capital markets**

  Based on the closed-door interaction between JS, DEA and members of FICCI Capital Markets Committee held in April 2023, detailed recommendations were submitted on issues raised at the meeting. These include suggestions on need for common KYC norms across regulators, overseas listing, acquisition finance, InvITs & REITs and such other matters for increasing robustness of capital markets. FICCI welcomes Government's recent decision to allow direct overseas listing of Indian companies, a long-standing industry ask.

- **Suggestions on Easing of investment process for NRIs**

  FICCI submitted a detailed note to SEBI highlighting operational challenges in investment process for NRI investors and suggestions to ameliorate those. This included suggestions to allow online KYC process for NRI clients, expansion in the list of permissible OVD (Officially Valid Documents) for overseas clients, eliminating the need for NRI clients to make physical visits for attestation of documents, easing the process of updation of email and mobile and so on.

- **Suggestions relating to amendment to ODI/OPI/LRS Rules**

  FICCI has highlighted industry concerns to the Reserve Bank of India on recent amendments to Foreign Exchange Management (Overseas Investments) Directions, 2022 dated August 22, 2022 and amendments to Master Direction - Liberalized Remittance Scheme (LRS) dated August 24, 2022. As per the amendments, only CCPS is being treated as equity capital and other instruments such as Convertible Note (CN), SAFE (Simple Agreement for Future Equity) Note etc. are not being treated as equity capital. However CN and SAFE are also compulsory convertible into equity capital and thus it has been submitted that these instruments should be covered in the definition of equity capital. Further, due to the 180 day period rule, a resident individual has to face lots of issues like where to park the fund to get better return and may also not able to invest the amount within the given time of 180 days. It has been submitted that this requirement may be dispensed with.

- **Suggestions on Consultation Papers issued by SEBI**

  Based on inputs received from committee members, detailed submissions have been made through the year on the following Consultation Papers issued by the Regulator from time to time:

  1. Streamlining disclosures by listed entities and strengthening compliance with LODR Regulations
  2. ESG Disclosures, Ratings and Investing
  3. Strengthening Corporate Governance by Empowering Shareholders
  4. Amendments to ICDR Regulations with the objective of increasing transparency and streamlining certain processes

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5. Review of Total Expense Ratio charged by AMCs to unitholders of schemes of Mutual Funds to facilitate greater transparency and accrual of benefits of economies of scale to investors

6. Review of the definition of UPSI to bring greater clarity and uniformity of compliance in the ecosystem

7. Review of SEBI (Delisting of Equity Shares) Regulations, 2021

8. Protection of public equity shareholders in case of listed companies undergoing CIRP

9. Review of disclosure requirements for material events or information under LODR Regulations

10. Review of SEBI (Buyback of Securities) Regulations, 2018

11. BRSR Core

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