International Journal of Law
ISSN: 2455-2194, Impact Factor: RJIF 5.12
www.lawresearchjournal.com
Volume 2; Issue 2; March 2016; Page No. 12-18

The class action suit: A challenge for protection of interest of investors

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Abstract
Capital market has emerged as a powerful tool of socio- economic growth in the post globalised world. It has attracted the investors from socio-economic groups, big and small. Historically, the ups and downs in the securities market has always played a significant role in shaping the life and economy of the nation. Thus, investors' confidence in the capital market which is ought to be based on a sound financial system of transparency and efficient system of protection and justice has assumed an important role for any developed / developing economy .To strengthen the securities market and to gain investors' confidence, the past decade witnessed wide ranging legislative interventions. So as to protect investors ' interest in securities, promote development and regulate securities market. Class action law suits as a convenient mode of realisation of securities interest and protection thereof has gained currency in western countries like USA and UK. As securities investment is a largely growing feature of Indian economy and society, it is imperative that India shapes it's legal framework to make class action suit a reality for securing the interest of Indian investors.

Keywords: securities**,** Depositories, Class Action

Introduction

Capital market is the backbone of any country's economy. It facilitates conversion of savings in to investments. Capital market is classified as primary and secondary market. The fresh issue of securities takes place in primary market and trading among investors takes place in secondary market. Primary market is also known as new issues market. Equity investors first enter in to capital market through investment in primary market. In India, common investor's participation in the equity primary market is massive. The number of companies offering equity through primary markets increased continuously in the post-independence period till the year 1995. After 1995, there is a continuous slump experienced by the primary market offering equity. The main reason assigned is lack of investor's confidence in the primary market. So it is imperative to understand the causes and measures of revival of investor confidence leading to capital mobilization and investment in right avenues creating, economic growth in the country. Globally, there are increased evidences to suggest that investor confidence has assumed an important role in the economic development of a country). A lot of issues need to be addressed to make capital markets safer. [1] Transparency, strengthening financial system and managing crises are the issues, which cannot be quickly fixed but they add up to a stronger system. Lee Hsien Loong [2] while addressing Financial Institutions in Bangkok stressed the importance of rebuilding investor confidence for prosperity of ASEAN countries. He indicated that for investor confidence, rebuilding of sound fundamentals, dealing with capital account risks, economic co-operation among ASEAN, corporate restructuring, banking sector reforms and improvement of political and social conditions are important. Joseph. J. Oliver [3] in his presentation to the senate standing committee on banking, trade and commerce, suggested that close to half of all Canadians have investments in equities and their confidence is essential for a healthy and dynamic capital market. Deep bear market [4], corporate scandals, insider trading, high levels of executive compensation and inaccuracy of published financial statements are cited as reasons for lack of investor confidence in Canadian capital markets. He indicated that regulators, the accounting professionals, analysts, brokerage firms, public companies, shareholders and Government must contribute to ensure good corporate governance and reduce corporate failures. McCall [5] (2002) in his testimony before the committee on financial services of United States house of representatives, observed that integrity of the financial markets and economic well-being of the country depend on corporate accountability and investor confidence. Revival of confidence of the investors is necessary to make the securities market more efficient means of converting savings to investment.

In India Investors are the backbones of the securities market. Protection of their interest is essential for sustenance of their interest in securities and hence development of market The authorities have been quite sensitive to requirements of the development of securities market, so much so that the last decade (1992-2003) witnessed nine special legislative interventions, including two new enactments, namely the Securities and Exchange Board of India (SEBI) Act, 1992 and the Depositories Act, 1996. The Securities Contract regulation Act, the SEBI Act and the Depositories Act were amended six, five and three times respectively during the same period. The developmental need was so urgent at times, that the last decade witnessed five ordinances relating to securities laws. Besides, a number of other legislations (the Income Tax Act, the Companies Act, the Indian Stamps Act, The Bankers' Book Evidence Act, The Benami Transactions (Prohibition) Act etc.) having bearing on securities markets have been amended in the recent past to complement amendments in securities laws.

There was no legislation for the regulation of capital market till the Bombay Securities Contracts Control Act was enacted

in 1925. This Act was, however, deficient in many respects. After the constitution came into force in January 26, 1950, stock exchanges and forward markets came under the exclusive authority of the Central Government. [6] The Government appointed the A. D. Gorwala Committee in 1951 to formulate legislation for the regulation of the stock exchanges and of contracts in securities. Following the recommendations of the Committee, the SCRA was enacted in 1956 to provide for direct and indirect control of virtually all aspects of securities trading and the running of stock exchanges and to prevent undesirable transactions in securities.

The two exclusive legislations of post world war period that governed the securities market till early 1992 were the Capital Issues (Control) Act, 1947 (CICA) and the Securities Contracts (Regulation) Act, 1956 (SCRA). The acts were retained after the war with some modifications as means of controlling the raising of capital by companies and to ensure that national resources were channeled into proper lines, i.e., for desirable purposes to serve the goals and priorities of the government, and to protect the interests of investors. The previously existing Capital Issues (Continuance of Control) Act in April 1947. Was made permanent in 1956 and enacted as the Capital Issues (Control) Act, 1947. Under the Act, the Controller of Capital Issues was set up which granted approval for issue of securities and also determined the amount, type and price of the issue. This Act was, however, repealed in 1992 as a part of liberalization process to allow the companies to approach the market directly provided they issue securities in compliance with prescribed guidelines relating to disclosure and investor protection.

The legal reforms began with the enactment of the SEBI Act, 1992, which established SEBI with statutory responsibilities to (i) protect the interest of investors in securities, (ii) promote the development of the securities market, and (iii) regulate the securities market. It empowered SEBI to appoint adjudicating officers to adjudicate wide range of violations and impose monetary penalties.

To provide protection to the investors in an effective way besides all these regulatory and penal measures, class action suit emerge as a new form of remedy.

Class Action lawsuits have recently been made the front page news, more particularly in western countries. The reason being the sudden fall (bankruptcy) of financial industry and the consequent losses suffered by large number of investors amounting to millions of dollars.

The class action has developed in the twentieth century as a way of managing complex, multiparty litigation. It may be traced to the “bill of peace,” [7] a proceeding that originated in England's equity courts in the seventeenth century. The bill of peace was used when the parties to a dispute were too numerous to be easily managed and when all parties shared a common interest in the issues. It permitted the case to be tried by representative parties, with the judgment rendered binding all. This was more efficient than trying each case individually and was more consistent with equity's goal of doing complete justice.

English courts would allow a bill of peace to be heard only if the number of litigants in a single issue are so large that joining their claims in a lawsuit was possible and practical. The members of the group possessed a joint interest in the question to be adjudicated and the parties named in the suit could adequately represent the interests of persons who were absent from the action but whose rights would not be affected by the outcome. If a court allowed a bill of peace to proceed, the judgment that resulted would bind all members of the group.

Justice Joseph Story advocated the development of the bill of peace in the United States. He was of opinion that in equity courts, "all persons materially interested, either as plaintiffs or defendants in the subject matter of a bill ought to be made parties to the suit, however numerous they may be," so that the court could "make a complete decree between the parties and prevent future litigation by taking away the necessity of a multiplicity of suits" [8] The bill of peace, and later the class action, provided a convenient and efficient vehicle for resolving legal disputes affecting a number of parties with similar claims. Common issues that could have similar outcomes did not have to be tried piecemeal in separate actions, thus saving the courts and the litigants’ time and money.

Class Action

In law, an action in which a representative plaintiff sues or a representative defendant is sued on behalf of a class of plaintiffs or defendants who have the same interests in the litigation as their representative and whose rights or liabilities can be better determined as a group than in a series of individual suits. ‘Class Action’, which is also known as ‘Representative Action’, is actually a form of lawsuit where a large group of people collectively bring a claim to the court through a representative. This form of lawsuit finds its origin in United States and is predominantly tried in their federal / state courts. In United States, such claims are governed by Federal Rules of Civil Procedure, more particularly Rule 23 [9]. Later on Class Action Fairness Act of 2005 [10] was introduced which expanded federal jurisdiction over many large class action lawsuits (where amount in controversy exceeds $5 Million) and mass actions started taking place in the United States. It is pertinent to note here that Class Action Fairness Act contains provision, for shareholder class action lawsuits which are covered by Private Securities Litigation Reform Act, 1995 which imposes new Rules on securities Class action lawsuits are filed either by a large number of consumers who suffer losses due to some illegal claims made by companies about their products (which we may term as “Consumer Class Action”) or by employees of a Company adopting discriminating hiring or illegal salary practices (which may be termed as “Employee Class Action”) or by large number of investors who suffer losses due to erroneous decisions or actions taken by the management of a Company wherein they had invested their hard earned money (which may be termed as “Shareholder Class Action”).

Advantages of class actions

Class action lawsuits offer a number of advantages because they aggregate a large number of individualized claims into one representational lawsuit in western countries.

First, aggregation can increase the efficiency of the legal process, and lower the costs of litigation [11]. Second, a class action may overcome "the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. [12] " "A class action solves this problem by aggregating the relatively paltry potential

recoveries into something worth someone's (usually an attorney's) labor [13]." In other words, a class action ensures that a defendant who engages in widespread harm – but does so minimally against each individual plaintiff – must compensate those individuals for their injuries. For example, thousands of shareholders of a public company may have losses too small to justify separate lawsuits, but a class action can be brought efficiently on behalf of all shareholders.

Secondly, more important than compensation is that class treatment of claims that may be the only way to impose the costs of wrongdoing on the wrongdoer, thus deterring future wrong doings.

Third, class action cases may be brought to purposely change behavior of a class of which the defendant is a member. *Landeros v. Flood* [14] was a landmark case used to purposely change the behavior of doctors, and encourage them to report suspected child abuse. Otherwise, they would face the threat of civil action for damages in tort proximately flowing from the failure to report the suspected injuries. Previously, many physicians had remained reluctant to report cases of apparent child abuse, despite existing law that required it.

Fourth, in "limited fund" cases, a class action ensures that all plaintiffs receive relief and that early-filing plaintiffs do not raid the fund (*i.e.*, the defendant) of all its assets before other plaintiffs may be compensated [15]. . A class action in such a situation centralizes all claims into one venue where a court can equitably divide the assets amongst all the plaintiffs if they win the case.

Finally, a class action avoids the situation where different court rulings could create "incompatible standards" of conduct for the defendant to follow [16]. A court might certify a case for class treatment where a number of individual bond-holders sue to determine whether they may convert their bonds to common stock Refusing to litigate the case in one trial could result in different outcomes and inconsistent standards of conduct for the defendant corporation. Thus, courts will generally allow a class action in such a situation [17]. Whether a class action is superior to individual litigation depends on the case, and is determined by the judge's ruling on a motion for class certification. The Advisory Committee Note to Rule 23 [18], for example, states that mass torts are ordinarily "not appropriate" for class treatment. Class treatment may not improve the efficiency of a mass tort because the claims frequently involve individualized issues of law and fact that will have to be re-tried on an individual basis [19]. *Castano v. Am. Tobacco Co* [20] ruled that Mass torts also involve high individual damage awards; thus, the absence of class treatment will not impede the ability of individual claimants to seek justice.

Impact on investment portfolio

In United States, mutual funds may file class action lawsuits on behalf of its investors, with an option given to them to opt in or out of the participation in the lawsuit. If a company goes bankrupt or goes bust due to any reason suddenly, the stock price of that company falls drastically and if a portfolio holds the shares or securities of that company, then the return on investment obviously gets impacted, since the portfolio value drops to an extent of the quantity of the units held in the portfolio, going by the logic that more weight age the security has in the portfolio, the more will be loss of return. Mutual Funds have no control over this situation and have to report the 'understated' rate of return which is caused due to the fall in price of the security. Now here, two scenarios arise. When the stock price falls drastically, as explained above, the portfolio gives a low rate of return in that particular month or period of months. Now since the class action lawsuit takes long time to reach the settlement, it happens that when the shareholders get compensated for their losses, there is an inflow of funds into the portfolio, which may be huge. Now this un-expected flow of funds causes the return of the portfolio to shoot up, since the portfolio value increases as compared to the previous month or period's portfolio value. This flow of funds causes the portfolio to get overstated. Therefore, due to class actions there emerge two scenarios: One, which makes the return to quote 'understated' and second, which makes the return to quote 'overstated' The mutual fund industry is in a debate, whether to include and use this inflow of funds arising out of the result of the settlement, for performance of the portfolio or to give the funds, back to the investor.

Investors Class Action' suits

Generally it is observed that when a Company's management plays fraud or take erroneous policies with malafide intensions and consequently, the share prices falls or the Company becomes bankrupt; the worst hit class of people are its shareholders who losses and to recover such losses they collectively file Class Action. Most class actions seek to recover Investors losses relating to falling share prices or, in the worst case in the scenario of, insolvency. History has witnessed that shareholder class action litigation results more from a company's stock price movements than from the actual commission of fraud by the corporation. It is interesting to note here that it's not necessary that such Class Actions are filed only against the Companies; sometime they are also initiated against the errant management including the Directors and other officers. But the class of shareholders must comprise of those shareholders that have suffered common injury or injuries. When one joins a class action suit, he / she have to forgo his / her right to file an individual suit against the Company.

One may find that Shareholder Class Action may either become jury trials or may be settled prior to trials through mediation and settlement. In mediation, the damages and compensation are agreed to by the defendant company. In Jury Trials, the compensation is awarded through a judgment wherein if the compensation is a huge amount the defendant company may opt for appeal. The appeal process may take years and then the concerned plaintiffs have to wait for long to get compensation and in such cases if the Company is declared bankrupt the plaintiffs may never get compensation.

In India "The shareholders of a Company, which is in administration, can make claims against the administrator for continuous breach of disclosure guidelines and misleading and deceptive statements and conduct of the Company and such shareholders can be ranked equally with the unsecured creditors rather than making them stand in the queue after the creditors. Accordingly, the shareholders who buy shares in a Company, which becomes bankrupt shortly, relying on the misleading statements or incomplete disclosure by the Company will have an action as a creditor against the liquidator or administrator for any loss suffered as a result of that reliance." – Federal Court of USA in *Sons of Gwalia Limited (Administrators Appointed) v Margaretic* [21]. *Known*

as the famous Satyam Computer Services case, twelve class action suits have been filed so far and more are expected against the Company and the Managing Director including the other members of errant management of the Company by US Law firms on behalf of purchasers of Satyam's American Depository Receipts. In the same fiasco, the global audit firm Price Waterhouse coppers, along with its international and India unit, was also charged with class action for having "recklessly disregarded" a multi-national massive fraud by the management of Satyam Company. The suit was filed on behalf of the purchasers of the American Depository Receipts of Satyam company between January 6, 2004 and January 6, 2009. Some recently seen Class Action suits are on Freddie Mac [22], Wachovia [23], Fannie Mac. In United States, all these Class Action suits are under "Class Action Fairness Act of 2005".Recently the Class action suit on Satyam reached on out of court settlement with nearly $125 million to end a set of class action suit removing a measure road block of its merger with Techmahindra on its efforts to relist on the NYSE. More than twelve class action suits were filed by scores of investors in the US against the Hyderabad based Satyam Company. All the suits were clubbed into one suit at Southern District court of Newyork. The $125 million deal was signed on 18th February 2011 which pass the statutory approval in India and get assent from the US court.

The $125 million out of court settlement announce by the Mahindra Satyam was a moment of happiness for the US investors but it could not bring cheer to Satyam's investors in India. They are not supposed to get anything by way of compensation. [24]

Types of Class Action Suits:

In general, the class action rule is in effect to improve the legal system's effectiveness by permitting large groups of people with similar claims to join together into a single lawsuit. These large groups can be comprised of consumers, small businesses or injured people. One or more of the affected then represents the harmed group in court, and if those representatives meet specific criteria, they are granted permission to prove and settle not only their own claims, but also the claims of each individual of the larger affected group as well.

Insurance Claims

Insurance companies that misrepresent policies, do not pay valid claims, deny coverage to classes of individuals, fail to make prompt investigations or payments are all vulnerable to class action lawsuits.

Class actions are typically brought on behalf of a group of investors who have been injured as a result of a company's improper conduct, such as misstating earnings, concealing or misrepresenting risks, or otherwise engaging in activity detrimental to the company. Other securities actions are brought as direct result of a financial advisor or broker's, or group of advisors, repeated misrepresentation, negligence, dishonesty or fraud.

In addition to these industry class actions there are many other potential class actions that can be entered into the legal system if a large group of people have suffered or been harmed by the same person, company or entity in the same manner. A law firm that handles these types of cases can provide the guidance necessary to proceed with a class action lawsuit. Most fees are paid by the class action settlement.

Apart from share-holder Class action suits, there are some other types as well. Class Action lawsuits may be filed for matters relating to Dangerous consumer products, Unauthorized telephone charges, Unpaid overtime, Unauthorized Web loyalty charges, Unauthorized disclosure of credit card information, Illegal debt collection practices, Predatory lending practices, Excessive loan servicing charges, Unfair credit reporting, Pharmaceutical liability, Product liability etc.

Scenario in India

Decisions of the Indian Supreme Court in the 1980s loosened *strict standi* requirements to permit the filing of suits on behalf of rights of deprived sections of society by public minded individuals or bodies. Although not strictly "class action litigation" as it is understood in American law, Public Interest Litigation arose out of the wide powers of judicial review granted to the Supreme Court of India and the various High Courts under Articles 32 and 226 of the Constitution of India respectively [25]. The sort of remedies sought from courts in Public Interest Litigation go beyond mere award of damages to all affected groups and have sometimes (controversially) gone on to include Court monitoring of the implementation of legislation and even the framing of guidelines in the absence of Parliamentary legislation. [26]

However, this innovative jurisprudence did not help the victims of the Bhopal Gas Tragedy who were unable to fully prosecute a class action litigation (as understood in the American sense) against Union Carbide company due to procedural rules that would make such litigation impossible to conclude and unwieldy to carry out. Instead, the Government of India exercised its right of *parent patria* to appropriate all the claims of the victims and proceeded to litigate on their behalf, first in the New York courts and later, in the Indian courts. Ultimately, the matter was settled between the Union of India and Union Carbide (in a settlement overseen by the Supreme Court of India) for a sum of Rs. 760 crores (about 400 million dollars) as a complete settlement of all claims of all victims for all time to come. The Bhopal gas tragedy gave rise to a number of litigation concerning issue on environmental erosion, criminal negligence and labiality etc. The case which was negotiated and settled is reopened again on various legal issues, mostly concerning the payment of compensation and damage.

In India, class action lawsuits may be compared to Public Interest Litigations (PIL) allowed under Civil Procedure Law, wherein an individual or a group of individuals are allowed to file a civil suit. Such litigations are mainly used in consumer complaints and rising environmental & cultural concerns; generally limited to protection of fundamental rights and are meant for protection of public interest. Such litigations can be initiated either by the Court itself or by public spirited individuals that represent the victims. In such cases, generally victims are unable to approach courts due to financial disability or otherwise. One may find that in India, though the principles of class action suits by shareholders against managements have been upheld by various Courts [27] in the past, these are yet to be reflected in law.

Class Action vs. Mass action

Interestingly, though both Class Action lawsuits and Public Interest Litigations allow a large number of plaintiffs to bring

collective suits that relate to same cause of action by way of representations opposed to conventional lawsuit wherein the plaintiff represent himself only; still these both differ from each other. Like in Class Action lawsuits the plaintiff's attorney charges contingency fees; which means no fees in case of failure and in case of success it is directly related to the amount of compensation / award (whether awarded in a judgment or received through settlement) and hence the risk of success or anxiety to succeed gets shifted from plaintiff to his Attorney, which is not so in Public Interest Litigations since as per Indian law, lawyers are not permitted to charge contingency fees. 2010

Another difference is in Class Action lawsuits, US Law requires each party to bear its own cost of litigation irrespective of the result of the lawsuit and hence even if plaintiff losses, he is not required to pay the defendant his cost of litigation. However, as per Indian law the courts may ask payment of such cost by the losing party. Actually, these differences alone acts as a deterrent to use class action mechanism in India, the way it is used in US and other European Countries. Further, PILs can only be filed against public bodies / regulatory bodies / state in High Court or Supreme Court under Article 226 or 32 of the Constitution respectively however; the Class Action lawsuits can be filed even against the private bodies. For establishment of Class Action litigation there must be a legal injury to the plaintiff however in PIL such injury / damage is not necessary.

Shareholder Class Action and Indian Body Corporate

In India, the need to codify class action litigation in Indian law had been recommended by J J Irani Committee which submitted its report to Ministry of Company Affairs on May 31, 2005. One may find that after the Satyam Fiasco, the greater need to encourage class action litigations has been felt in India. The provisions contained for representative suits in Section 397 and 398 in the existing Companies Act, 1956 [28] for oppression and mismanagement may be termed alike US Class Action.

However, there is no specific provision for class action litigations under existing Indian Companies Act.1956 Interestingly the proposed Companies Bill 2009 however contains few provisions for class action lawsuits. Clause 32 of the Bill states that "A suit may be filed or any other action may be taken under Section 30 or Section 31 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus." Similarly Clause 215 and Clause 216 propose to provide for a class action mechanism. Once enacted, these provisions will enable the shareholders of a Company to hold the errant companies and their management responsible for the wrong-doing. Recently, on May 19, 2009 the Securities and Exchange Board of India (SEBI) also notified SEBI (Investor Protection and Education Fund) Regulations, 2009 according to which SEBI will establish an Investor Protection and Education Fund which will be used inter-alia, for "aiding investors' associations recognized by the Board to undertake legal proceedings in the interest of investors in securities that are listed or proposed to be listed" [29] –Such aid will be subject to certain conditions as stipulated under Regulations. This verifies amendment is a path-breaking one and is believed to set shareholder activism in India. This would provide impetus to class action litigations. Though the regime is onset yet much is needed to make such litigations successful in India. In order to make the system functional lot of issues need to be settled which pertains to procedural as well as legal aspects. The procedure need to be clearer in terms of approach. Several amendments are still expected in Securities Law of the country so as to avoid abuse of process.

SEBI's Efforts

Given the current disposition under Indian law that carries disincentives against class actions, SEBI has recently taken steps to create a class action mechanism. In the recently issued SEBI (Investor protection and education Fund) Guidelines, 2009 [30], SEBI has the retained the power, in rule 5(2)(d) to aid investors' associations recognised by SEBI to undertake legal proceedings in the interest of investors in securities that are listed or proposed to be listed. The expression "aid" in this context is quite wide, and this could include the provision of funding to investors' association to initiate class actions. A report [31] in Business Standard indicates that SEBI proposes to fund class actions on behalf of investors utilizing this legal provision. The report also contains some details regarding SEBI's thought process on the types of actions that will be funded as well as other modalities. Apart from procedural aspects, there may have to be changes in securities laws if class actions are to be successful. The current rules on several fronts, particularly in areas such as price manipulation and insider trading require plaintiffs to discharge a fairly high burden of proof. Encouraging class actions alone may not be enough, and it may be necessary to address some of the substantive and evidentiary issues as well.

Conclusion

The Class Action Lawsuits are subject to several criticisms as well. One among them is the large fees for attorney who normally charge conditional / contingency fees which is proportionate (normally a higher percentage of compensation / award money) leaving behind very small portion of money with class members and the second being the time taken for a final judgment, which may take years. At the outset, it is necessary to deal with a misconception that class actions are not possible in India. That is not at all true. The civil procedure law allows combination of suits that relate to the same cause of action, and hence it may be possible for plaintiffs to bring suits similar to class actions in the U.S. However, the difference lies in the economics: the incentives that trigger class actions do not exist. Indian rules on legal practice do not permit lawyers to charge contingency fees. Therefore, there is a complete absence of a plaintiff bar. Plaintiff themselves (especially small shareholders) do not find it worthwhile to initiate class actions as there is neither a certainty of recovery nor of obtaining a net benefit from the suit (after taking into account the costs incurred). Further, India tends to follow the British rule whereby courts can award costs in favour of the successful party, which have to be paid by the losing party. Hence, if plaintiffs are to lose in a class action lawsuit, not only do they end up without any compensation, but they may even have to bear the costs of the defendant company. This would maxmaise the amount of risk that plaintiffs may be willing to take. For these reasons, it is not possible to have a market-based class action mechanism in a manner that exists in U.S. and perhaps certain other countries as well.

As funding has been identified as the key incentive to the creation of a class action mechanism, SEBI's proposal may help create that incentive in India. However, there could be several issues that could arise in the implementation of such a proposal. Which type of class actions would be funded? Who would determine that, and on what basis? Will the amounts available in the investor protection fund be sufficient to cater to a vast number of class actions? Will regulators have a role in determining who the plaintiff lawyers will be, and how their fee would be fixed? These and other questions need careful consideration before any system is established.

References

1. David Bullard, Business Times (Sunday times) has indicated that in the are the big losers in South African listings scam. Companies with no earning record and with inexperienced private investor's directors got listed on stock exchanges. Their only objective was profit making out of inflated market price. The net result is private investors lost confidence in the market, 1998, 25.
2. ASEAN post-crisis - rebuilding confidence and prosperity (Central Bank Speeches, 2000, 30.)
3. Proceedings of the Standing Senate Committee on Banking, Trade and Commerce, Second Session Thirty-Seventh Parliament, 2002.
4. A market condition in which the prices of securities are falling, and widespread pessimism causes the Negative sentiment to be self-sustaining.
5. McCall testimony before the financial service committee on Corporate and Auditing Accountability, Responsibility and Transparency Act of, 2002, 20.
6. The constitution of india, Article, vii Schedule, union list (List1), entries. 48, 246.
7. Bill of Peace was an English court practice used in the 17th and 18th centuries for legal disputes Involving multiple parties that shared common aspects. It allowed the English Court of Chancery to settle the rights of parties, a group known as the "multitude", in one suit, in equity court.
8. *West v. Randall*, 1820; 17-424. 29 F. Cas. 718, 2 (C.C.R.I. Mason) 181
9. Federal rules of civil procedure of 9.Rule 23 Class action One or more members of a class may sue or be sued as representative parties on behalf of all members.
10. Class Action Fairness Act of''.s.5 assure fair and prompt recoveries for class members with legitimate claims, 2005.
11. In cases with common questions of law and fact, aggregation of claims into a class action may avoid the necessity of repeating "days of the same witnesses, exhibits and issues from trial to trial." Jenkins v. Raymark Indus. Inc., (granting certification of a class action involving asbestos), 1986; 782 (2):468-473

12 Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 617 (1997) (quoting Mace v. Van Ru Credit Corp., 109 F.3d 388, 344 (7th Cir. 1997)).

13. Amchem Prods., Inc., 521 U.S. at 617 (quoting Mace, 109 F.3d at 344).
14. Cal. 3d 399, 551 P.2d 389 97 ALR 3d 324
15. Ortiz v. Fibreboard Corp., 527 U.S. 815 (1999)
16. Fed. R. Civ. P. 23(b)(1)(A).
17. . Van Gemert v. Boeing Co., 259 F. Supp. 125 (S.D.N.Y. 1966).
18. Rule 23. Class Actions

A. Prerequisites.

One or more members of a class may sue or be sued as representative parties on behalf
of all members only if:

(1) the class is so numerous that joinder of all members is impracticable,
(2) there are questions of law or fact common to the class,
(3) the claims or defenses of the representative parties are typical of the claims or
(4) defenses of the class; and

the representative parties will fairly and adequately protect the interests of the
class.

(b) Types of Class Actions.

A class action may be maintained if Rule 23(a) is satisfied and if:

(1). prosecuting separate actions by or against individual class members would create
a risk of:

(A). inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the
class;

19. *Castano v. Am. Tobacco Co* 84 F.3d 734 (5th Cir. 1996) (rejecting nationwide class action against tobacco companies)
20. 12 bid
21. Gwalia Ltd v Margaretic [2007] HCA 1; 23 ALR 232; 81 ALJR 525
22. Civil Action NO. C2-03-711.In Freddie Mac case judge Sargus and Judge Abel amended class action complaint for its violation of the securities laws.
23. Civil action NO.06-cv-00955-JG Filed 03/02/2006; United states District court Eastern District of Pennsylvania Ralph Brooks.
24. The Hindu, Business Line, Mahindra Satyam setteles US Lawsuits for $125 million Viskhapatnam, Friday February, 2011, 1
25. Article 32 of the Indian constitution: The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. Article 226 power of high courts to issue certain rights
26. Khatri v. State of Bihar II [(1981) 1 SCC 635] (the Bhagalpur Blinding case)
27. Aekta Ben Patel & other shareholders Vs Satyam Computer Services Limited, 6th jan 2009 in the federal district court of the Southern District of New York.
28. Any member of a company who complain that the affairs of the company [are being conducted in a manner prejudicial to public interest or] in a manner oppressive to any member or members (including any one or more of themselves) may apply to the [Tribunal] for an order under this section
29. Sebi cir-5/2009 nov.26 2009 clause 5 (2) (d) of the Regulations.
30. Investor Guidance oct 25 2010, Investor Awareness program/workshop on oct 27,2010 Investor Guidance oct

18 2010,Investor Awareness program/workshop on oct 22 and 23,2010.
31. Anindita Dey Sebi proposes to fund class action suits, Business standard Mumbai June 01, 2009, & Friday, Oct 29, 2010.