



Functioning of market regulator for the benefit of economy

Siddharth Addy¹, Rudraneek Biswas^{2*}

^{1,2} Students, Amity Law School, Department of Law, Kolkata, West Bengal, India

Abstract

Every aspect of an economy revolves around Money. A country's income sources are from taxes and FDI. The economy extends to the Geographical boundaries, Embassies, and national aircrafts. The most common source of income is from foreign investments in Equity shares of an indigenous company listed in country's National stock exchange. Even in day to day import exports, countries tend to make arrangements and negotiations to come to an agreement favorable to both countries. But some Faults, tax deductions & subsidies change the whole outlook of a country, making the system more complicated and vulnerable to disputes. With such aggressive digitalization in the past decade, in order to regulate these and to resolve the problem to avoid such instances in the future, countries must consider the problems. Foreign countries are facing in trading to the country and continuously revise and update the policies and legal framework regulating such trading.

Market regulators are sacrosanct for the nation's development. Market regulator governs the different markets in the respective segment with the aim of optimum utilization of limited resources in the economy. With evident growth in technology and advancement of time the market regulators have contributed towards strengthen of investor protection mechanism and making a strong legal framework i.e.- SEBI, Income tax laws, etc. Apart from this most sort out legal framework in which disputes are resolved is ADR. As the investor protection mechanism strengthen more investor are inclined towards investing in the economy, As more the inflow of investment enters into the market it would increase the cash flow of the producers of the market therefore naturally producer would have an desire towards increase in the production it would therefore increase the countries production level positively effecting the employment rates in the country and contributing to socio economic development. The market regulators quasi functions helps in market growth ensuring barrier free trade and also increasing the reserve of the country and contributing to infrastructure development.

Keywords: economy, Foreign, FDI, SEBI

1. Introduction

the Dictionary defines market as " regular gathering where people buy and sell goods" and defines regulator as " a person or an organization that officially regulate and area of business"

There are many regulatory bodies in India, such as:-

1. RBI (banking and Finance)
2. SEBI (securities, stock, capital market)
3. AMFI (mutual funds)
4. EEPC (trade and investment)
5. EICI (trade)
6. FIFO (export)

And many others

The market of any country is highly volatile and can be influenced with any economic, social, legal, technological factors or amendments.

As these Markets are so volatile, investing in them involve many risk, apart from that, trading needs formal platforms and authorities which settle trades, solve dispute, imposed sanctions, minimize fraud and check authenticity and quality.

Such demands created or rather established the market regulators.

The investment maybe in equity shares or government investment in export or import. The monetary functions or specifications in India is regulated by RBI which is now focusing, developing and promoting cashless transaction which in the long run may reduce tax frauds. Other

Regulatory bodies work in the same manner.

Brief history of market regulator

During the post independence era, India introduced "Socialistic mixed economy" in this format of economy private sectors where allowed to continue their activity but they were speculated and controlled by the government through web of control. Thus, the government was not only a producer and regulator of strategic and important goods and services; it also exerted direct control over the output, and sometimes even associated prices, of private sector activity. Given that electoral pressures exerted by various interest groups did affect regulatory actions by the government, such regulation can hardly be labeled as „independent“^[1]. After the embrace of 1985 the LPG (liberalization, privatization and globalization) concept were introduced in the economy this had several undue benefits in the economy this include scrapping the practice of licensing of private sector enterprise to carry trade, selling of sick PSU and also liberalizing the trade policy this lead easy inflow of FDI in the market which had undue advantage in the economy.

Regulation in India can be broadly categorized under 3 heads economic regulation, regulation in the public interest and environmental regulation.

Economic regulations

Economic regulations aim at tackling issue related to market failure, and prescribe rules for punishment in case of breach

of market regulator. I.e. Foreign trade (development and regulation) act 1992 for facilitating imports into and augmenting exports from India and the Electricity Act of 2003, which allows State regulators to fix tariffs for power consumption, thus preventing suppliers from taking advantage of natural monopolies, SEBI (securities exchange board of India) 1992 for the protection of investor and regulation of market.

Public interest regulation

The regulatory industry in this case looks after the main aim of upholding the standard of public importance in the market. Bureau of Indian Standards Act, 1986 has been setting quality and safety standards for various products, authority like BIS helps in laying down rules for ensuring standard quality of products and also spreading awareness among consumer. Apart from poor quality and low consumer awareness, skewed income distribution and lack of capacity of majority of the population to pay for essential services might call for regulation in the public interest. In fact this is often the ostensible reason for regulation in the public interest in India.

Environmental regulation

The environmental regulation is sacrosanct in the industry with the main purpose of keeping the environment clean and for the same several statutes had been adopted in context of India statutes like EPA (environment protection act), air act, water act etc had been introduced and SPCB (state pollution control board) and CPCB (central pollution control board) which looks after the sustainable growth and development in the environment. Environmental clearances for investment projects in India take a huge amount of time, and for certain types of investment projects such as power, the number of approvals required is higher than for others. Environmental issues around any industrial project are highly sensitive and quite often lead to civil society activism.

Updating and revising provisions

The systems in India are getting more simplified. The latest revision of the tax system in India replaced sales tax with GST (goods and sales tax) which made calculating and understanding the indirect tax system more simple. If the systems are complicated people with low risk appetite may find it very hard to invest. But as the systems are getting much simpler, people are understanding system, they are feeling much more confident in investing.

And this is not only limited to the trading sector, Digitalization has caused even tendering to be done electronically, and when there is increased transparency in e-tenders, the corruption in awarding of government contracts is expected to go down.

A very common problem of trading and tendering is 'insider information'.

With sensitive information, people can tend to predict the upward or downward movement of stocks. Information such as, change in management, future mergers and acquisitions, etc. And in tendering, insider information like prices and over coating are some of the prime reasons corruption exists. Such factors are governed by SEBI, as this function is mentioned under section 11, sub-section 2(g) of SEBI Act, 1992

And the fact that it is prohibited under section 12A (d) of

the same act.

SEBI has the right to penalize a person organization found/proved guilty under section 15(g).

This is just one of the fractions, of the whole regulatory framework in India.

The framework of regulations in India is similar or rather inspired by OECD principles. Even the World Bank ranked India 8th in their report in 2015.

One another such example, which is stated in Ministry of Commerce and industries press note no. 9(2014 series) which stated the streamlining of the procedure for grant of industrial licences^[2] and even increasing the validity of the license.

This is only for the development of internal trade, even though when outsourcing these factors may generate more revenue. But the Indian government has also made changes in the Coal sector, opening it for the whole world to invest.

On top of that in the recent changes in India's foreign trade policy(FTP)^[3]

In its first chapter, India has offered and negotiated to encourage other countries to export to India. Such offers include, 24*7 custom clearance, no MOT charges for custom officers, etc.

Simplifying these systems has worked out pretty well for India, But there are always some drawbacks.

The Date and timings of the trades specified by India is through the official gazette. Such Date and timings are specified to avoid interruption during serious times, such as strike, elections, etc. But even when there are no such occasions, the government fails to update the date and time in the gazette.

This is even very specifically mentioned in the United States of America's official export website^[4], where it is mentioned that some products India imports from America are "channelized" and even listed on a "negative list" and that the Indian government lacks transparency. A simple solution to this is regularly revising and updating the provisions based on the problems other countries are facing. Not only for America but for other countries as well. If done, the understanding between the two countries would be better and there will be a better, smoother trade commencement.

Share market industry

Before a formal trading platform was established the price of the shares were around rs2000 to rs5000 and only the very wealthy class of people could afford to purchase share during that era. There was lack of regulation and mindless speculation in the market and the trade was facilitated by unregistered broker this was resulting to severe malpractice in the market. It negatively affected the inflow of currency within the nation the investor were unwilling to invest in the share market it therefore led to fall in economy, As the GDP was low it signified that there is less production in the country therefore people are not fully employed and there was less cash in hand with the people signified negative effect in the standard of living of the people. Therefore BSE (Bombay stock exchange) and SEBI (securities exchange board of India) was introduced as regulator is the share market for the trading purpose. This regulatory framework were introduced with the main purpose for protection of investor in the market, curb all the malpractices involved in the industry, and promote trade in the market, in directly contributed positively to the economic strata in the nation as

it lead to infrastructure development and wealth creation in the nation.

Stock exchange

Coming to the financial path, as mentioned above, the aggressive digitalization has caused trading in stocks and commodities to be done via internet.

In India there are 23 stock exchanges. They are:-

1. U.P. Stock Exchange, Kanpur
2. Vadodara Stock Exchange, Vadodara
3. Koyambtour Stock Exchange, Coimbatore
4. Meerut Stock Exchange, Meerut
5. Mumbai Stock Exchange, Mumbai
6. Over the Counter Exchange of India, Mumbai
7. National Stock Exchange, Mumbai
8. Ahmedabad Stock Exchange, Ahmedabad
9. Bangalore Stock Exchange, Bangalore
10. Bhubaneshwar Stock Exchange, Bhubaneshwar
11. Calcutta Stock Exchange, Kolkata
12. Cochin Stock Exchange, Cochin
13. Delhi Stock Exchange, Delhi
14. Guwahati Stock Exchange, Guwahati
15. Hyderabad Stock Exchange, Hyderabad
16. Jaipur Stock Exchange, Jaipur
17. Canara Stock Exchange, Mangalore
18. Ludhiana Stock Exchange, Ludhiana
19. Chennai Stock Exchange, Chennai
20. M. P. Stock Exchange, Indore
21. Magadh Stock Exchange, Patna
22. Pune Stock Exchange, Pune
23. Capital Stock Exchange Kerala Ltd., Thiruvananthapuram, Kerala

Out of these 23 only the National Stock Exchange (NSE) and the Bombay Stock Exchange(BSE) conducts heavy, huge number of transactions every day.

The indexes of these stock exchanges are 'nifty' for NSE and 'sensex' for BSE.

The values of both have been increasing ever since, and The settlement duration for transactions in India is 'T+2'. And as told before that market are very volatile, and can crash anytime, to prevent this in 2001, sEBI imposed a tool, namely 'circuit breakers' [5]

The function of circuit breakers is to temporarily halt or even stop further trading for a day. If there is a stagnant upward or stagnant downward movement in price of any index.

The working of circuit breaker is as follows:-

1. If trigger limit of 10% is reached:
 - a. Before 1pm - 45 mins halt
 - b. Between 1 - 2:30pm - 15 mins halt
 - c. After 2:30 - No halt
2. If trigger limit of 15% is reached:
 - a. Before 1pm - 1 hour 45 mins halt
 - b. Between 1- 2pm - 45 mins halt
 - c. After 2pm - trading stops for the day
3. If trigger limit of 20% is reached:
 - (a) Any time of the trading hours - Trading stops for the dayAnd also SEBI governs any disputes, fraud, malpractices, etc

And settles them and compensates the losses.

With these features the Indian stock market works smoothly and efficiently making it a suitable market to invest in.

But unfortunately, there are very less International investors. Because they are only limited ways a foreigner can invest in Indian stock market.

The ways are

1. Qualifying as a 'qualified foreign investor' (QFI)
2. Investing in Indian mutual funds and ETF's
3. NRI can invest in India except in the prohibited sectors. The investments are subject to Foreign Exchange Management Act (FEMA) regulations and the FDI policy
4. And other methods as well, if the foreign country and India are in some agreement.

If more ways and methods are introduced by which foreigner can invest in Indian stock market, then the FDI generated will help India increased its asset side in the Balance of payments, Will help the local markets to grow with the money, eventually expanding the production, generating employment, etc.

The economy grows then India would develop faster, with more revenue

India will be able to clear its debt. As India's debt stood at US\$ 471.9 billion in March 2017, decreasing by US\$ 13.1 billion (2.7 per cent) over the level at end-March 2016 [6].

More the revenue, faster India will be able to clear the debt

Importance of legal framework in relation to market regulator:-

The regulators issue notification, circulars and guideline which are to be followed by the market participants. Various activities in the securities market in India are regulated in a coordinated manner by four regulator which are Department of economic affairs, of the ministry of finance, ministry of company affair, securities exchange board of India, reserve bank of India.

The regulatory framework of the securities market in India has strengthened through various legislative and administrative measure and is consistent with the best international benchmark, such as standards which are laid down by the international organization of securities commissions(IOSCO).

1. SEBI (Intermediaries) regulations,2008

The main functions of SEBI regulation act 2008 are as follow:-

- A. The SEBI regulation put in place a comprehensive regulation which is applicable to all the market participants. It includes grant of registration, general obligations and common code of conduct, common procedure for action in case of default and miscellaneous provisions are applicable for all intermediaries.
- B. It makes the registration process simplified. An applicant can file an application for the purpose of registration in the prescribed format laid down in the act along with additional information as required under the relevant regulations along with the requisite fees.
- C. Common code of conduct has been laid down which is to be followed by every trader in the market has to follow.
- D. The registration made by the intermediaries is

permanent unless it has been cancelled accordance with the provision of regulation.

- E. Common requirement are governed by the new regulation, the intermediaries specific requirement will continue to be as per the relevant regulations to individual intermediaries, further the relevant regulations will be amended to fit the requirement of the present generation.

2. SEBI (Prohibition of Insider Trading) regulations, 1992

The malpractice of “insider trading” affects many investors, in simple terms “insider trading” means selling or buying in securities on the basis of price sensitive unpublished information of a listed corporate which if published could lead to a fall or rise in the prices of the corporate.

To tackle such problems of insider trading, SEBI brought amendments in February 2002 and they were notified as SEBI (Insider Trading) (amendment) regulations act 2002.

With the establishment of this act the Insider trading was reduced in the system it positively affected the minds of the investors’ hence it positively boosted the economy and helped in wealth creation.

3. The Depositories act,1996

The paper based ownership and transfer of securities was a major drawback of the Indian securities market since it often resulted in delay in settlement and transfer of securities leading to “ bad delivery”, theft, forgery, etc. The transition was facilitated by the depositories act, 1996

This act provides for the establishment of depositories in security with the main objective of free transferability of securities with speed, accuracy and security.

- A. Making securities of public limited companies freely transferable subject to certain exceptions.
- B. Dematerializing the securities in the depository mode
- C. Providing for maintenance of ownership records in a book entry form. For the settlement process.

The act has made the securities of all public limited companies freely transferable and restricting the organization right to use discretion in effecting the transfer of securities and the transfer deed and other procedural requirements under companies act.

4. Indian Contract Act, 1872

In the securities market, contracts govern matter relating to sell or purchase of securities. However, the Indian contract act 1872 also have a bearing on these securities contract as this is a general act which governs the right of parties in a contract and effect thereof.

Section 2(h):- An agreement enforceable by law is a contract.

Section- 10:- essential of a valid contract

- Lawful object
- Lawful consideration
- Free consent
- Party competent to contract

If any of the given essential is missing the contract is deemed to be void contract or in layman terms not enforceable in court of law.

There are two forms of contract:-

- Standard form of contract (sec 1 to 75)
- Special contact(sec 125 to 238)

5. Income Tax act, 1961

It is very difficult to explain how it works as it is a complex system but the here are some basics. The income department has put the burden of computing and paying taxes on the assesses (i.e. taxpayer). There are provisions for deducting tax at the source of income in order to avoid tax evasion. Further, there is a system of assessment in which the cases are selected on certain criteria. Detailed assessment of such cases are done. Income tax department also has the rights to conduct search (raids) if there is proof that tax evasion is happening. There are various punishment for offences committed under the act which includes interest, penalty or even jail term.

What is an ITR: ITR stands for Income Tax Return. It contains all the incomes earned, deductions claimed and taxes paid during the financial year. It is mandatory to file ITR for those with taxable income.

What are some of the tax benefits available -
Some of the basic and most common Tax saving investments are as follows:

Under Section 80C - upto Rs. 1,50,000 in total.
Life Insurance Premium - primarily this is for Life Insurance but there are several money back and growth policies which pay good returns on investment. It is advisable to treat this as Insurance and not Investment.

Public Provident Fund - One of the safest investment options with minimum risk. The interest rates are always higher than marker interest rates. However, there is a lock-in period of 15 years. However, one can avail loan against it from fourth year.

Fixed Deposits - Tax saver FDs pay more than FDs for shorter periods. Also, your funds are safe if the FDs are in nationalized banks. Look-in period of 5 years.
ELSS - Slightly riskier than other tax-saving investments because the returns vary on market conditions. Lock-in period is three years. Tuition Fees - Payment of School Fees of your kids will be liable for deduction. Under section 80D, deduction of Rs. 25, 000 (Rs. 30,000 for senior citizens) will be available for medical insurance. Under section 80CCD(1B), contribution of upto Rs. 50,000 is allowable as deduction in excess of limit of Rs. 1,50,000 under 80C.

If you have never invested in share market before, you can claim deduction for any investment upto Rs. 50,000 under section 80CCG. The deduction available is 50% of amount invested. Therefore, maximum deduction available is Rs. 25,000. However, there are several conditions in this like lock-in period.

If you live in a rented accommodation and get HRA, you can take benefit for HRA.

However, if you do not get any HRA, you can claim a deduction of upto Rs. 2,000 per month or rent paid whichever is higher.

If you have taken a housing loan, you can claim the interest paid on the same as a loss from house property.

Donations under section 80G carry tax benefits [7].

Conclusion

Market regulators are sacrosanct for the nation's development. Market regulator governs the different markets in the respective segment with the aim of optimum utilization of limited resources in the economy. With evident growth in technology and advancement of time the market regulators have contributed towards strengthen of investor protection mechanism and making a strong legal framework i.e.- SEBI, Income tax laws, etc, Apart from this most sort out legal framework in which disputes are resolved is ADR. As the investor protection mechanism strengthen more investor are inclined towards investing in the economy, As more the inflow of investment enters into the market it would increase the cash flow of the producers of the market therefore naturally producer would have an desire towards increase in the production it would therefore increase the countries production level positively effecting the employment rates in the country and contributing to socio economic development.

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References

1. Vijay Vir Singh, Regulatory Management and Reform in India(june7,2019, 5: 32 pm) <https://www.oecd.org/gov/regulatory-policy/44925979.pdf>
2. Ministry of Commerce and industry, department of of industrial policy and promotion, file no. 9(8)/ 2014-IL(IP) (june7, 2019, 5:33pm) https://dipp.gov.in/sites/default/files/pn9_2014_1.pdf
3. Directorate General of foreign trade, FTP-chapter 1(2017),(june7,2019, 5:33pm) https://dgft.gov.in/sites/default/files/FTP%20Chapter%201%20as%20on%20March%2031%202019_1.pdf
4. Export.gov, india trade barriers, (june7,2019, 5:34 pm) <https://www.export.gov/article?id=India-Trade-Barriers>
5. EBI Circular No. SMDRPD/Policy/Cir-37/2001(june7,2019,5:34pm)
6. Ministry of Finance, press Information Bureau, india's external debt report (2017), (june7,2019 5:35 pm)

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=170828>

7. Basics of Income tax act,quora(june,11,2019, 2:00 pm) <https://www.quora.com/What-are-the-basics-of-the-Income-Tax-Act-India-that-every-Indian-should-be-aware-of>
8. Export.gov, india trade barriers, (june7,2019, 5:34 pm) <https://www.export.gov/article?id=India-Trade-Barriers>