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SEBI Rules and Regulations of Mutual Fund in India: A Study

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Abstract:
A Mutual fund is a pool of money managed and controlled by a professional fund manager on the behalf of investors. It is a trust that's collects money from investors who share a common investment goal and invests the same in different securities or instruments like equities, bonds, money market instruments and other securities. Mutual funds are financial intermediaries which collect the savings of investors and invest them in a large and well diversified portfolio of securities as per the requirement of investors. Mutual funds provide an easy way for small investors to make long-term, diversified, professionally managed investments at a affordable cost and earn the return out of that investment. The study focuses on the different rules and regulations laid down in India to regulate the mutual fund and examine the various processes of mutual funds and also the regulations issued by SEBI for mutual fund scheme.

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

INTRODUCTION

A mutual fund is a common pool of money where contribution is made by investors that are to be invested in accordance with a specified objective. The ownership of the fund is thus joint or "mutual", the fund belongs to all investors. The ownership of single investor of fund is in the same proportions as the amount of the contributions made by them involves to the total amount of the fund. Mututal fund is an investment programme funded by shareholders that deals in diversified holdings and is managed by professionals. Mutual funds are some kind of trust in which saving is accepted from investors and invest them in diversified financial instruments in terms of objectives set out in the trusts deed with the view to reduce the risk and maximize the return for distribution for the members. A mutual fund is a corporation and the fund manager's interest are to manage professionally the funds provided by the investors and provide a return on them after deducting management fees. The objective is to achieved by mutual fund is to provide an opportunity for lower income groups to acquire financial assets without much difficulty. They cater mainly to the needs of the individual small investor and to manage investor's portfolio in a manner that provides a regular income, growth, safety, liquidity and diversification opportunities to the investors.

DEFINITION

"Mutual funds are collective savings and investment scheme where savings of investors (whether small investors or big investors) are pooled together to invest for their benefits and returns out of that distributed proportionately".

"A Mutual fund is an investment that pools your money with the money of other investors. In return, investors own shares of the fund. In mutual funds, funds are managed by experts. The fund's assets are invested according to an investment goal into the portfolio of fund of investments. Dynamic growth of funds seeks long-term capital growth by investing mainly in stocks of fast-growing small companies or market segments. Dynamic growth funds are also known as "capital appreciation funds".

REVIEW OF LITERATURE

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

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

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

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

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

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

OBJECTIVES OF STUDY

a) To study the conceptual framework of SEBI in mutual fund.
b) To appraise different rules and regulations laid down in India to regulate the mutual fund.
c) To examine the various process of SEBI in regulating Mutual Fund Markets.

I. CONCEPTUAL FRAMEWORK OF SEBI IN MUTUAL FUND

A mutual fund shall be compose in the form of a trust and the trust's instruments shall be in the form of a deed, that should be duly registered under the provisions of the Indian Registration Act, 1908 (16 of 1908) executed by the sponsor in trustees' favour . Here are some important definition mention below:

- **Money Market Instruments** – Money market instruments includes commercial papers, commercial bills, treasury bills, Government securities with maturity up to one year, call or notice money, certificate of deposit, and other instruments as Reserve bank of india specified from time to time.
- **Money Market Mutual Fund (MMMF)** – Money market mutual fund Means a scheme which has been in existence with the objective of investing completely in money market instruments.

Mutual fund means a fund setup in the form of a trust to raise monies through the sale of instruments to the public or a section of the public under variety of schemes for investing in securities, including money market instruments (including gold or gold related instruments).

- **Offer Document** - Offer document Means any document by which a mutual fund invites public for subscription of units of a scheme.
- **Open-Ended Scheme** – Open ended scheme Means a scheme of a mutual fund which offers units for sale without specifying any duration for redemption, it contains liquidity as this scheme is open ended;
- **Schedule** - Schedule Means any of the schedules annexed to these regulations;
- **Sponsor** – Sponsor Means any person who acting alone or along with another body corporate, establishes a mutual fund.
- **Trustee** - Trustee Means the Board of Trustees or the Trustee Company who hold the property of the Mutual Fund in trust for the benefit of the unit holders. The person who hold the trust property for the benefit of investors or beneficiary and work for there profitability is known as trustee.
- **Unit** – Unit Means the interest of the unit holders in a scheme, which consists of each unit representing one undivided share in the assets of a scheme.
- **Unit Holder** - Means a person holding unit in a scheme of a mutual fund.
- **Application for Registration** - An application for registration of a mutual fund shall be made to the Board in Form A by the sponsor.

Appointment of an Asset Management Company

The sponsor or, the trustee (if so authorized by the trust deed) shall, appoint an asset management company, which has been approved by the Board. The office of an asset management company(AMC) can be terminated by majority vote of the trustees or by seventy five per cent vote of the unit-holders of the scheme. Prior approval of the Board and the unit holders is to be required for any change in the appointment of Asset management company.

Appointment of Custodian

Appointment of custodian is required in mutual fund to carry out the custodial services for the funds' scheme and provide intimation for the same to the Board within fifteen days of the appointment of the custodian. It is Provided that in case of gold or gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian. custodian in which the sponsor or its associates cannot hold 50% or more of the voting rights of the share capital of the custodian or where 50% or more of the directors of the custodian represent the interest of the sponsor or its associates shall act as custodian for a mutual fund constituted by the same sponsor or any of its associate or subsidiary company.

Winding Up

A close-ended scheme shall be wound up on the redemption of the units unless it is rolled-over for a further period under sub-regulation(4) of regulation 33. In the following circumstances the scheme can be wound up

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

To Maintain Proper Books of Accounts and Records

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

II VARIOUS RULES AND REGUALTIONS COVERED BY SEBI IN MUTUAL FUND

The securities and exchange board of india act, 1992, the board exercise the power conferred in section 30 of the act with the previous approval of Central Government, makes regulations relating to regulation of mutual fund.

- **Formation** - Certain structural changes have also been made in the mutual fund industry regarding set up asset management companies with fifty percent of independent directors, separate board of trustee companies, consisting of minimum fifty percent of independent trustees and to appoint independent custodians.
- **Documents** - The offer documents of schemes of mutual funds and the scheme particulars are required to be screened or evaluate by SEBI. A standard format is required to be formulate for mutual fund prospectuses.
- **Code of advertisement** - Mutual funds have been required to follow the code of advertisement specified by SEBI.
- **Assurance on returns** - SEBI has introduced the change in the Securities Control and Regulations Act governing the mutual funds. Now the mutual funds were prevented from giving any assurance on the land of returns they would be providing. However, under pressure from the mutual funds, SEBI revised the guidelines allowing assurances on return subject to certain conditions.

- **Minimum corpus** - The current SEBI guidelines on mutual funds prescribe a minimum start-up corpus of Rs.50 crore for an open-ended scheme, and Rs.20 crore corpus for closed-ended scheme, if failing the application money has to be refunded. In fact, the Association of Mutual Funds in India (AMFI) has repeatedly appealed to the regulatory authorities for flattering the minimum corpus requirements.
- **Institutionalization** - By introducing proportionate allotment and increasing the minimum deposit amount to Rs.5000 SEBI makes effort in the last few years, to be institutionalize the market etc. These efforts are to channel the investment of individual investors into the mutual funds.
- **Investment of funds mobilized** - SEBI increased the time limit to nine months within which the mutual funds have to invest resources raised from the latest tax saving schemes. The guideline was issued to protect the mutual funds from the disadvantage of investing funds in the bullish market at very high prices and suffering from poor NAV thereafter.
- **Valuation of investment** - The transparent and well-known declaration or Net Asset Values (NAVs) of mutual fund is an important issue in providing investors information regarding performance of the fund.
- **Inspection** - SEBI inspect mutual funds every year. A full SEBI inspection of all the 27 mutual funds was proposed to be done by the March 1996 to streamline their operations and protect the investor's interests. SEBI ensure that the mutual fund comply with the regulation and directions issued for the same. So SEBI monitored the mutual fund and the person connected thereto.
- **Underwriting** - In July 1994, Mutual funds is permitted by SEBI to take up underwriting of primary issues as a part of their investment activity. By this mutual fund can diversify its business.
- **Conduct** - Mutual funds shall not offer buy back schemes or assured returns to corporate investors, states by SEBI in sept 1994. The Regulations governing Mutual Funds and Portfolio Managers ensure transparency in their functioning.
- **Voting rights** - In September 1993, mutual funds were allowed to exercise their voting rights. Department of Company Affairs has reportedly granted mutual funds the right to vote as full-fledged shareholders in companies where they have equity investments.

III DIFFERENT PROCESS OF SEBI

- Every application form of a scheme is contains the key information about the scheme that is require to be disclose.
- The offer document requires to contain appropriate information to facilitate the investors to make investments decisions.
- All advertisements regarding the scheme have to be submitted to SEBI within seven days from the issue date of advertisement.
- The advertisements for a scheme have to disclose its investment objective to the investors.
- The offer documents and advertisements should not contain any misleading information or any misrepresentation or opinion that can create fraud or to mislead the investors.
- The initial offering period for any mutual fund schemes should not exceed 45 days, the only exception being the equity linked saving schemes.
- No advertisements can contain any information whose accuracy is dependent on assumption.
- Two schemes can never be compare in an advertisement unless the schemes are comparable and all the important and relevent information about the schemes is to be given.
- All advertisements need to disclose the name of the sponsor, the trustees, the AMC of the fund.

- All advertisements need to disclose the risk factors about the scheme.
- All advertisements shall clarify that investment in mutual funds is subject to market risk.
- When a scheme is open for subscription, no advertisement can be issued stating that the scheme has been subscribed or over subscription.

CONCLUSION

Mutual funds now present feasibly most pertinent investment opportunity for most investors. As financial markets become more mature and compound, every investor requires financial intermediary who provides the necessary information and professional expertise for better investment decision. Investor always try to uphold the returns and minimize the risk of loosing money. The investors always want maximum return from their investment. For this maximisation every investor needs the expert directions which will provide by intermediaries. Mutual fund fulfill these requirements by giving attractive returns with affordable risks. The banking industries already taken over by fund industry, more funds being under mutual fund management than deposited with banks. With the exposure of tough competition in this sector, mutual funds are launching a variety of schemes which available as per the requirements of the specific class of investors. SEBI has taken necessary step towards ensuring due diligence and transparency in all investment decisions. Sebi protects the interest of investors that's why sebi regulate mutual fund as well. However, the penalties must be more serious and appropriate, so that the market participants can save from malpractices. Sebi also regulate and register the financial intermediaries. It must ensure that new norms for corporate disclosures have more depth and are implemented over a shorter time period.

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