

SEBI'S GRIEVANCE REDRESSAL MECHANISM AND ITS EVALUATION

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Abstract : This paper discusses grievance redressal mechanism adopted by Securities and Exchange Board of India (SEBI) to solve the investor grievances and its performance.

Key Words: Grievance redressal mechanism, Investors assistance

INTRODUCTION

A grievance can be defined as any sort of dissatisfaction, which needs to be redressed in order to bring about the smooth functioning of the investor in the capital market. Broadly, a grievance can be defined as any discontent of dissatisfaction with any aspect of the organization. It can be real or imaginary, legitimate or ridiculous, rated or unvoiced, written or oral; it must be however, find expression in some form of the other. Discontent or dissatisfaction is not a grievance. They initially find expression in the form of a complaint. When a complaint remains unattended to and the investor concerned feels a sense of lack of justice and fair play, the dissatisfaction grows and assumes the status of grievance.

In this connection the Government's avowed interest in regulating the capital market and safeguarding the retail investors lead to the creation of Securities and Exchange Board of India (SEBI) and subsequent reforms in the market. These significant events in the past decade have changed the course of the Indian capital market. The Initial Public Offers (IPOs) in the primary market and several secondary market practices got changed affecting the prime constituent of the capital market, the retail investor. There cannot be two options on the fact that SEBI has, by its guidelines, regulations and directions, statutorily promoted disclosure of all relevant information and has strengthened the protection to investors in the securities market.

GRIEVANCE REDRESSAL MECHANISM AT SEBI:

There will be occasions when an investor has a complaint against, a listed company or an intermediary registered with SEBI. In the event of such complaint, the investor should first approach the concerned company/intermediary against whom there is a complaint. Sometimes the response received may not be satisfactory. Therefore, investors should know as to which authority they should approach, to get their complaints redressed.

Investors who are not satisfied with the response to their grievances received from the brokers/Depository Participants/listed companies, can lodge their grievances with the Stock Exchanges or Depositories. The grievance can be lodged at any of the offices of the BSE/NSE/CDSL/NSDL located at Chennai, Mumbai, Kolkata and New Delhi. In case of unsatisfactory redressal, BSE/NSE have designated Investor Grievance Redressal Committees (IGRCs), or Regional Investor Complaints Resolution Committees (RICRC), This forum acts as a mediator to resolve the claims, disputes and differences between entities and complainants. Stock Exchanges provide a standard format to the complainant for referring the matter to IGRC/RICRC. The committee calls for the parties and acts as a nodal point to resolve the grievances. For any detailed information, please visit the website of the respective stock exchange. If the grievance is still not resolved, an investor can file arbitration under the Rules, Bye laws and Regulations of the respective Stock Exchange/Depository.

SEBI has a dedicated department viz., Office of Investor Assistance and Education (OIAE) to receive investor grievances and to provide assistance to investors by way of education. Investors who are not satisfied with the response to their grievances received from the Stock Exchanges/Depositories can lodge their grievances with SEBI. Grievances pertaining to stock brokers and depository participants are taken up with respective stock exchange and depository for redressal and monitored by SEBI through periodic reports obtained from them. Grievances pertaining to other intermediaries are taken up with them directly for redressal and are continuously monitored by SEBI. Grievances against listed company are taken up with the respective listed company and are continuously monitored. The company is required to respond in prescribed format in the form of Action Taken Report (ATR). Upon the receipt of ATR, the status of grievances is updated. Where the response of the company

is insufficient / inadequate, follow up action is initiated. If the progress of redressal of investor grievances by an entity is not satisfactory, appropriate enforcement actions (adjudication, direction, prosecution etc.) are initiated against such entity.

SEBI COMPLAINTS REDRESS SYSTEM (SCORES)

SCORES is a web based centralized grievance redress system of SEBI. SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the above website from anywhere. This enables the market intermediaries and listed companies to receive the complaints online from investors, redress such complaints and report redressal online. All the activities starting from lodging of a complaint till its closure by SEBI would be online in an automated environment and the complainant can view the status of his complaint online. An investor, who is not familiar with SCORES or does not have access to SCORES, can lodge complaints in physical form at any of the offices of SEBI. Such complaints would be scanned and also uploaded in SCORES for processing.

To register a complaint online on SCORES portal, (<http://scores.gov.in>) investor should click on 'Complaint Registration' under "Investor Corner". The complaint registration form contains personal details and complaint details. There are certain mandatory fields in the Form. These fields include Name, Address for correspondence, State, Email Address of Investor. After filling the personal details, select the complaint category, entity name, nature of complaint related to, complaint details in brief (up to 1000 characters). A PDF document (up to 1MB of size for each nature of complaint) can also be attached along with the complaint as the supporting document. On successful submission of complaint, system generated unique registration number will be displayed on the screen which may be noted for future correspondence. An email acknowledging the complaint with complaint registration number will also be sent to the complainant's email id entered in the complaint registration form.

Generally, the entity responds to the complaint within a few days after the receipt of the complaint. Entities are required to submit the Action Taken Report (ATR) within a reasonable period but not later than 30 days. However, the redressal of complaint may be delayed due to various reasons viz., non receipt of satisfactory reply from the entity, non receipt of information/documents sought by the entity / SEBI from the investor, court matter, entity not traceable or vanished companies, etc.

Sometimes a complaint is successfully resolved and the entity is advised to send reply to complainant. But in certain

cases, the entity or company denies wrongdoing, and it remains unclear as to who is wrong or whether any wrongdoing occurred at all. If this happens, SEBI cannot act as a judge or an arbitrator and force the entity or company to resolve the complaint. Further, SEBI cannot act as personal representative or attorney of the complainant. Securities laws and other laws provide important legal rights and remedies if an investor has suffered wrongdoing. On their own, investors can also seek to resolve their complaint through the courts, consumer courts, or arbitration.

If the grievance is not resolved by the Stock Exchange/ Depository due to disputes, an investor can file arbitration subject to the Bye-laws, Rules and Regulations of the exchange / Depository. All claims, differences or disputes between the investors and stock brokers/depository participants can be filed for arbitration. Simplified arbitration can be a less costly alternative to legal recourse before the courts of law. If the investor has an account with the broker or a depository participant (DP), he/she can choose arbitration to settle disputes. The investor generally cannot pursue an issue through arbitration if it is barred by limitation prescribed. When deciding whether to arbitrate, the investor has to bear in mind that if the broker or DP goes out of business or declares bankruptcy, he/she might not be able to recover money even if the arbitrator or court rules in his/her favor. However, with certain restriction to the nature of transactions, Stock Exchanges may settle on case to case basis the claim of an investor up to a limit prescribed in the "Investor protection fund" guidelines of the respective Stock Exchange.

The claimant is required to carefully review the rules governing simplified arbitration before filing a claim and should also weigh the costs of arbitrating against the likelihood of being able to collect any award in favor. An investor, who has a claim / counter claim up to ₹ 10 lakh and files arbitration reference for the same within six months, need not make any deposit for filing arbitration. SEBI initiates action against recalcitrant entities on the grounds of their unsatisfactory redressal of large number of investor complaints as a whole.

- a. Complaints those are incomplete or not specific.
- b. Allegations without supporting documents.
- c. Offering suggestions or seeking guidance/ explanation.
- d. Seeking explanation for non-trading of shares or illiquidity of shares.
- e. Not satisfied with trading price of the shares of the companies.
- f. Non-listing of shares of private offer.
- g. Disputes arising out of private agreement with companies /intermediaries.

SEBI cannot handle the following complaints:

- a. Complaints against unlisted /delisted/wound up/ liquidated/sick companies
- b. Complaints that are sub-judice (relating to cases which are under consideration by court of law, quasi-judicial proceedings etc.)
- c. Complaints falling under the purview of other regulatory bodies viz. RBI, IRDA, PFRDA, CCI, FMC, etc., or under the purview of other ministries viz., MCA, etc.

ASSISTANCE TO INVESTOR IN REDRESSAL OF GRIEVANCES

Shri Prem Chand Gupta, Union Minister of Company Affairs launched the portal www.investorhelpline.in. The portal is part of the project sponsored by Investor Education and Protection Fund (IEPF) to assist investors, free of charge, in redressal of investors' grievances.

Investor Helpline (IH) will process them, follow it up with the concerned entities and request the regulators/ authorities intervention at an appropriate time, if required. Investor Helpline contains numerous novel features, which provides for efficient handling at the back end, and are user friendly. It has eleven different types of grievance forms, listed below, to enable the user to lodge his specific grievance.

Form No.	Grievance Types
IH-A	Non Receipt of Refund Order/ Allotment Advise related.
IH-B	Non-Receipt of Dividend.
IH-C	Non-Receipt of Share certificates / Units after Allotment / Transfer / Bonus Transmission etc.
IH-D	Non-Receipt of Debentures / Bond Certificate or Interest / Redemption Amount.
IH-E	Offer for Rights Issue.
IH-F	Non-Receipt of Investments and returns thereon on Collective Investment Schemes / Plantation Companies.
IH-G	Non-Receipt of Annual Report / AGM Notice / Proxy Form.
IH-H	Non-Registration of Change in Address of Investor.
IH-I	Non-Receipt of Fixed / Public Deposits related amounts.
IH-J	Demat related Grievances.
IH-K	General Form.

While lodging his grievance, the user can search the company name from online database which contains over 5000 entries including listed companies, mutual funds, and CIS (Commonwealth of Independent States) companies and

so on. For easy identification, the database contains both old and new names of the companies. In case, user does not find his company in this database, he can request IH for addition of company name in database. IH will then search for the company in its offline database and process his request within 72 hours of his request which can be viewed by the user online.

User can track the status of his grievance along with a summarized history sheet detailing the steps taken for redressal of his grievance, replies received etc., online, either by using his Grievance ID or User ID. The site has an interactive tracking system and online reminder / redressal mechanism.

Investor Helpline objectives are to strengthen existing grievance redressal mechanisms, fill the systemic gap between investors and companies, impart thrust to investor grievances through focused and sustained attention and make the companies respond promptly. It also contains a section to inform investor about his lawful rights under various acts and the procedures to get them enforced.

IH expects to provide inputs, to the regulators and government, for policy planning. This would be facilitated through feedback received from the investors and systemic gaps and weaknesses encountered in speedy redressal of grievances.

The association has been working for the cause of small investors since 1996 and has major achievements, including Payments in Canstar Case, Vanishing Companies Issue, to its credit. Besides this, the association has also filed several PILs for securing investors interest.

SEBI also provides assistance/guidance to investors by replying to their queries received through the following modes:

- a) Telephone (Investor Helpline 91-22-26449188/26449199/40459188/40459199 at Head office and through board lines at the Regional Offices)
- b) E-mail (investor complaints @sebi.gov.in)
- c) Investors visiting SEBI Offices
- d) Letters
- e) Grievance form in the SEBI Website.

GRIEVANCES REDRESSAL SO FAR:

There are up downs in receipt and redressal of investor grievances for the last decade. The following Table 1 presents the receipt and redressal of investor grievances for the period of 2001 to 2010. From the Table, it is revealed that, 96,913 grievances received during the year 2000-01

and 85,583 were redressed. Least number of grievances were received during the last decade are 26,473 during the year 2006-07 and least number of grievances also redressed in the same year i.e., 17,899. During 2009-10, SEBI received 32,335 grievances from investors and resolved 42,742 grievances as compared to 57,580 grievances received and

75,989 grievances resolved in 2008-09. It can be observed that average numbers of grievances redressed are less than the average number of grievances received during the period. Hence, it is required to fasten the grievances redressal.

TABLE 1
RECEIPT AND REDRESSAL OF INVESTOR GRIEVANCES

Year	Grievances Received		Grievances Redressed	
	During the Period	Cumulative	During the Period	Cumulative
2000-01	96,913	96,913	85,583	85,583
2001-02	81,600	1,78,513	70,328	1,55,911
2002-03	37,434	2,15,947	38,972	1,94,883
2003-04	80,422	2,96,369	64,262	2,59,145
2004-05	53,409	3,49,778	53,282	3,12,427
2005-06	40,485	3,90,263	37,067	3,49,494
2006-07	26,473	4,16,736	17,899	3,67,393
2007-08	54,933	4,71,669	31,676	3,99,069
2008-09	57,580	5,29,249	75,989	4,75,058
2009-10	32,335	5,61,584	42,742	5,17,800
Average		5,615.84		5,178

Source: SEBI annual reports

TYPE-WISE STATUS OF GRIEVANCES AWAITING REDRESSAL:

The following Table 2 presents type wise status of grievances awaiting redressal. As per Table, as on March 31, 2010 there were 1,60,593 grievances pending grievances as compared to 1,71,000 unresolved grievances as on March 31, 2009, these pending grievances are 1,89,409 in

by the end of March 31, 2008. The majority pending grievances are from the type 'VI- None Receipt of Investment & Returns thereon (CIS)' with 1, 09,373 grievances, in second place type 'I to V- Complaint against listed companies' with 37,755 grievances. Type 'X - Derivative Exchanges and related Organizations etc.' are in last place with only two grievances at the end of 31st March, 2010.

TABLE 2
TYPE-WISE STATUS OF GRIEVANCES AWAITING REDRESSAL

Type	Particulars	Pending as on March 31, 2008	Pending as on March 31 2009	Pending as on March 31 2010
I to V	Complaint against listed companies	61,648	38,498	37,755
VI	Non Receipt of Investment & Returns thereon (CIS)	1,09,076	1,09,121	1,09,373
VII	Mutual Funds, Venture Capital Funds, Foreign Venture Capital Funds, Portfolio Managers, FIIs, Custodians etc.	1,766	1,669	1,974
VIII	Brokers, Sub-brokers, Merchant Bankers, Debenture Trustees, Registrar and Transfer Agents, Bankers to Issue, Underwriters, Credit Rating Agencies, Depository Participants, etc.	15,119	18,602	9,879
IX	Stock Exchanges, Clearing and Settlement Organizations, Depositories etc.	264	258	293
X	Derivative Exchanges and related Organizations etc.	24	4	2
XI	Corporate Governance, Restructuring, Substantial Acquisition and Takeovers, Buyback, Delisting, Compliance with Listing Conditions etc.	1,512	2,828	1,317
Total no. of Grievances Awaiting Redressal		1,89,409	1,71,000	1,60,593*

* Includes 1, 22,713 grievances where action has been initiated u/s 11B, 15C or prosecution launched.

Source: SEBI annual reports

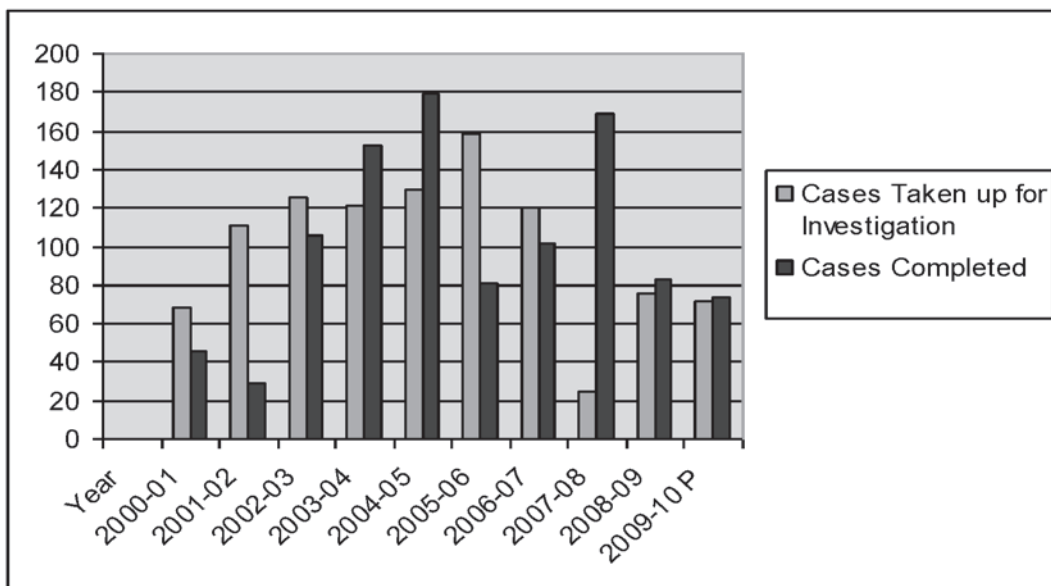
Insider trading , market trading pattern in the market after public manipulation, price rigging, takeovers, issue, illegal carry forwards, non disclosure

under SEBI regulations, investigation pertaining to GDR conversions etc., are the areas where SEBI got improvement by completed investigations. Cases taken up for investigation and cases completed in the above said issues for the period 2000-2010 are mentioned in the following discussion.

Investigations taken up and completed by Securities Exchange Board of India are presented in the following

Figure 1. Figure reveals that there were 68 were taken up investigation during the year 2000-01 out which only 46 cases are completed. During the 2005-06 the highest number of cases i.e., 165 was taken up for investigation and 81 cases are completed, the most number of cases i.e., 179 are completed in the 2004-05. During the year 2009-10, 71 cases were taken up for investigation as compared to 76 cases in the previous year. 74 cases were completed in the same year, whereas this figure is 83 in the previous years

FIGURE1
INVESTIGATIONS TAKEN UP AND COMPLETED BY SEBI



Source: SEBI annual reports

Based on the nature of investigations cases are classified into five types they are:

- Market manipulation and price rigging,
- Issue related manipulation,
- Insider trading,
- Takeovers and
- Miscellaneous

Miscellaneous includes trading pattern in the market after public issue, illegal carry forwards, non disclosure under SEBI regulations, investigation pertaining to GDR conversions

The following Table 3 presents the investigations taken up by SEBI based on their nature

TABLE 6.3
NATURE OF INVESTIGATIONS TAKEN UP BY SEBI

Particulars	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Market manipulation and price rigging	47	86	95	96	110	137	95	12	52	44
Issue related manipulation	5	1	2	2	2	3	0	0	2	2
Insider Trading	6	16	13	14	7	6	18	7	14	10
Takeovers	1	1	9	2	1	4	2	2	3	2
Miscellaneous	9	7	6	7	10	15	5	4	5	13
Total	68	111	125	121	130	165	120	25	76	71

Source: SEBI annual reports

Investigation taken up was increased during 2000-2001 to 2005-2006, after there is a decrease till to 2010. Investigations related 'Market manipulation and price rigging' were continuously increased 2000-2001 to 2005-2006 i.e., 47 to 137. After there is a decline in the investigation, only 44 cases taken up in the year 2009-10

when compared to 52 in the year 2008-09. Next leading investigations related to Insider Trading. The least number of cases were in 'Issue related manipulation'.

Investigations completed by SEBI based on their nature are mentioned in the following Table 4.

TABLE 4: NATURE OF INVESTIGATIONS COMPLETED BY SEBI

Particulars	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Market manipulation and price rigging	27	11	72	122	148	62	77	115	62	46
Issue related manipulation	8	0	8	3	2	1	4	3	1	7
Insider Trading	4	6	14	9	10	8	10	28	12	10
Takeovers	3	1	7	3	2	3	3	2	1	5
Miscellaneous	4	3	5	15	17	7	8	21	7	6
Total	46	21	106	152	179	81	102	169	83	74

Source: SEBI annual reports

According to the table 46 investigations were completed related to 'market manipulation and price rigging' in the year 2009-10 when compared to 62 cases in the year 2008-09. The next highest investigations were completed related to 'insider trading in the year 2009-10. The highest number investigations i.e., 179 were completed in the year 2004-05. The least number of investigations i.e., 46 were completed in the year 2000-01.

Actions taken by SEBI after the proper investigations are categorised into the following types: cancellation,

suspension, warning issued, prohibitive directions issued under section 11b of SEBI act, issues refunded/ option given. Highest actions in number 932 were taken during the 2009-10, the least were in 2000-01 i.e., 39. Majority actions felt under the category of 'prohibitive directions issued under Section 11B of SEBI Act', the next leading action is 'warning Issued'. The least number of actions are felt in the category of 'cancellation'. The Table 5 presents action taken by SEBI.

TABLE 5: ACTION TAKEN BY SEBI

Particulars	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Cancellation	1	1	11	3	3	2	-	-	-	-
Suspension	4	8	42	43	42	36	52	44	46	48
Warning Issued	9	36	62	22	53	71	27	48	179	37
Prohibitive directions issued under Section 11B of SEBI Act	21	98	140	106	134	632	345	537	230	691
Issues refunded/ option given	4	-	2	-	-	-	-	-	6	156
Total	39	143	257	174	232	741	424	629	461	932

Source: SEBI annual reports

CONCLUSION

This paper highlighted mechanism adopted to solve the investor grievances. The portal www.investorhelpline.in is part of the project sponsored by Investor Education and Protection Fund (IEPF) to assist investors, free of charge, in redressal of investors' grievances. Investor can utilize this portal to send their grievances to SEBI. Performance of redressal mechanism is satisfactory for last few years. Insider trading, market manipulation, price rigging, takeovers, trading pattern in the market after public issue, illegal carry forwards, non disclosure under SEBI regulations, investigation pertaining to GDR conversions etc., are the areas where SEBI got improvement by completed investigations.

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