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REGULATORY ARRANGEMENTS OF INDIA MUTUAL FUNDS

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ABSTRACT

India is undoubtedly emerging as the next big investment residence, equestrian on a high investment and savings proportion, as compared to other Emerging economies. The Indian Mutual Fund industry is passing through a transformation, adapting to the various regulatory changes. In today's volatile market environment, Mutual Funds are looked upon as a transparent and lowcost investment vehicle, which attracts a fair share of investor attention promoting the growth of theindustry. The study focuses about the reforms and regulations of Mutual Funds formulated by SEBI (Regulator of Capital Market in India) and also compared regulatory arrangements of Mutual Funds of other countries (United States, United Kingdom, China and Australia).

Keywords: Mutual Fund, Reforms, Regulations, Economy, SEBI

INTRODUCTION

India has vast growth potential backed by a resilient economy, commensurate with an accelerated GDP growth rate of 7.5% (in 2014), high rate of household savings and investments. As per a report authored by PwC "The World in 2050", the average real GDP growth in India was likely to be in the range of 5.8% between 2007-2050, with the per capita income likely rising to USD 20,000 from the current USD 5,250. Over 50 per cent of the total population is less than 30 years of age, with the ratio of working population likely to increase significantly over the next decade. The trend of rising personal income has been perceived not only amongst the young population, but also among the High Net Worth (HNI) segment, with an investable surplus of Rs.250 million which rose from 16 percent to 1.17 lakh in the last fiscal year and expected to triple in the next three years. India also has a strong middle class of about 300 million, which is expected to double over the next two decades. It is in the backdrop of some of these hopeful statistics that the Indian Mutual Fund industry has fostered itself. Since the 1990's, when the Mutual Fund space unlocked to the private sector, the industry has navigated a long lane, adapting itself continuously to the change that has come along. Growth in Assets under Management (AUM) experienced has been unprecedented, growing at a CAGR of 28% over the last four years.

The Table I portrays the situation after privatization in 1993, when the Asset Under Management (AUM) was at 47,000crores. In year 2001 assets mobilized through Mutual Fund was Rs.1,21,805 crores and in the year 2015 assets mobilized was Rs.12,02,196 crores. During the last decade there was growth in Asset Under Management by more than 500 percent, but slowing down only in the year 2008, due to the global economic recession. Thus investors' confidence was significantly eroded and AUMs suffered a dip, but now the sale of Mutual Funds has revitalized over the last few years, which implies regained confidence of investors, determined to look at alternate investment opportunities and the associated higher returns, though the markets continue to be volatile.

Table I Asset Under Management (AUM) of Indian Mutual Fund Industry

YEAR	AUM*(Rs. in crores)*
Mar-93	**47,000**
Mar-01	1,21,805
Mar-02	87,190
Mar-03	79,464
Mar-04	1,39,616
Mar-05	1,49,554
Mar-06	2,31,862
Mar-07	3,26,388
Mar-08	50,512
Mar-09	4,17,900
Mar-10	6,13,979
Mar-11	5,92,250
Mar-12	5,87,217
Mar-13	7,01,443
Mar-14	9,03,325
April- 15	12,02,196

Source:SEBI

In today's volatile market environment, Mutual Funds are considered as a transparent and low cost investment vehicle, which attracts a reasonable share of investors' attention helping to shoot up the growth of the industry. Over time, inclusive growth across the Financial Market seems to have taken centre-stage, reforming all business approaches around this exclusive objective. The

Mutual Fund industry being no exception, several measures are being taken by regulatory bodies and distributors to spread and reach to the semi-urban and rural divisions. It is clear that the role of technology as a growth enabler has presumed to enhance responsibility in this regard, to persuade towards efficient distribution.

The system of the financial sector in India is continuously growing, accredited to regulatory changes being undertaken, with its leading market participants like the Asset Management Companies (AMCs) and distributors to streamline their strategies and adopt business prototypes which will yield supportable benefits. The performance of private Mutual Funds in India has been very encouraging.

The top five giants have cornered more than half of the industry’s Asset Under Management (AUM). Gaint funds like HDFC, Reliance, ICICI Prudential, Birla Sun Life, and UTI Mutual Funds have not only captured 53 percent of the sector’s assets but have also out placed the sector’s AUM’s growth in the current financial year 2014-2015 so far. Besides positive growth symptoms, all this is happening because of the investors education initiatives run by the industry and AMFI across the country.

The below given Table II depicts the number of folios of Income, Growth and Exchange Traded schemes expanding by 6.07, 5.09 and 4.09 percent respectively, during the period of 2013-14 to 2014-15. Number of folios in case of balanced and fund of funds scheme decreased to 25 and 17 per cent. The data clearly describes that the investors concentrate and rely on the equity oriented schemes.

Table II TOTAL NUMBER OF FOLIOS

TYPE OF FOLIO	TOTAL NO. OF FOLIOS (Rs.)		CHANGE (%)
	2014-2015*	**2013-14****	
A .Income/Debt oriented Schemes (i+ii+iii+iv+v) i. Liquid/Money Market ii. Gilt iii. Debt (other than assured return) iv. Debt (assured return) v. Infrastructure Development	72,05,630	67,92,933	6.075387
B. Growth/Equity oriented Schemes (i+ii) i. ELSS ii. Others	3,11,81,388	2,96,70,110	5.093604
C. Balanced Schemes	19,53,772	26,34,370	-25.8353
D. Exchange traded Fund(i+ii) i. Gold ETF ii. Other ETFs	7,00,613	6,73,024	4.099259
E. Fund of Funds Investing Overseas	1,49,405	1,82,095	-17.9522
TOTAL(A+B+C+D+E)	4,11,90,817	3,99,52,532	3.099391

*** indicates as on April 28, 2014, * indicates as on April 28, 2015* *Source: SEBI*

The future looks bright for the Mutual Fund industry in India, the study conducted by the Associated Chamber of Commerce and Industry of India and AMFI. The report predicts that the Mutual Fund industry is expected to jump sharply from its present share of 6% in GDP to 40% in the coming years, with the country's growth rate consistently exceeds 6% per annum. The report says that by 2014,the size of Indian Mutual Fund Industry is estimated to go up to over Rs.2,00,000cr.It suggests that India is going to follow the pattern seen in the developed markets such as the US where the size of the industry is 70% of the GDP. Worldwide contribution of the industry is about 37% of GDP. It is evident from above data that Indian Mutual Fund industry was already passed nascent stage. Yet regulatory reforms required to develop it fully as in developed countries. Sensing this, some of the foreign companies such as Morgan Stanley showed interest to promote the Mutual Funds in India. The below Table III describes Mobilization of funds from private and public sectors other than UTI investments (Public Sector) to Indian Mutual Fund industry, Funds mobilized ranging from Rs.54,928 crores in 2009-10 to Rs.1,85,329 crores in 2014-15 by private sector. Public sector contributed from Rs.12,499 crores in 2009-10 to Rs.13,967 crores in 2014-15. Private sector contributed greater than public sector to Mutual Funds. From the table given below data, thus it is witnessed that private sector is playing a vital role in the economic development.

Table III Mobilization & Redemption of Private and Public Sector Mutual Fund

YEAR	Gross Mobilization		Redemption		Net Inflow/outflow	
	Private Sector	Public Sector	Private Sector	Public Sector	Private Sector	Public Sector
2009-10	76,98,483	14,38,688	76,43,555	14,26,189	54,928	12,499
2010-11	69,22,924	11,52,733	69,42,140	11,66,288	-19,215	-13,555
2011-12	56,83,744	6,13,482	56,99,189	6,16,877	-15,466	-3,394
2012-13	59,87,889	6,46,646	59,19,979	6,42,647	67,911	3,999
2013-14	73,75,940	7,97,633	72,42,243	7,81,417	1,33,697	16,216
2014-15 $	8,237,301	7,30,149	8,051,972	7,16,182	1,85,329	13,967

$ indicates as on April 28, 2015. *Source: SEBI*

It is sensible at this point to take a glimpse of the business and regulatory arrangements taking shape across the global economies, which might ensemble a shadow on the Indian markets. Developments on aspects of entry load, management fees paid to Asset Management Companies (AMC's), regulation of distributors and taxation of Mutual Funds from the investor point of view, are some of the areas which deserve to be given attention.

The street ahead for the Mutual Fund industry will be paved by the performance of the capital markets. But, more importantly, it remains to be seen, how asset management companies adapt themselves to changes in regulations, thereby remodeling growth for the future. A continuously evolving regulatory framework makes it mandatory for the industry to provoke a clear growth track and building it easier to assess obstacles.

Emerging markets exemplify 37% of the world's gross domestic product, and Goldman Sachs is estimating that Emerging Economics will represent 49% by 2020, hence signifying stable growth in years to come. The firm stream of FII inflows in India are indication to the high growth, offering better returns as compared to advanced economies.

As rapidly developing economies such as China and India grow, it is important that an increasing proportion of the population benefit from this growth. If wealth in these countries is not distributed quickly and equitably enough, there is a risk of social unrest. Although this remains a longer term concern for several emerging economies, efforts are being made to address this concern. The Chinese government in particular, is aware of this issue and is trying to tackle it with, increased government spending in rural areas. In India also, efforts towards financial inclusion are being revived up.

According to IMF "Some of the larger, fast-growing Emerging Economies, faced with rising inflation or asset price pressures, have appropriately tightened monetary conditions. Monetary policy actions must remain responsive in both directions. In particular, should downside risks to global growth materialize, there may need to be a swift policy reversal."

The global surplus savings should be channelized into the emerging economies to balance the demand in the world economy. Risks arising in these economies need to be curtailed with policies for monetary tightening and marginal exchange rate appreciation. Further, the fiscal policies should be formulated to address exchange rate concerns and moderate the pressure on interest rates. It is imperative to have adequate regulatory intervention and establish capital control measures to guard against excessive capital inflows.

REGULATIONS AND REFORMS

In the light of evolving regulatory frame works, it is worthwhile to adjudge India’s place with respect to other global economies. A few specific criteria have been considered as points of discussion, throwing light on the key developments of Mutual Fund industry in India as compared with other countries regulations.

Interest of Investor

SEBI, comprehends the essential role, investor confidence plays, in driving market sentiments optimistically, which has taken diverse regulatory arrangements to highlight the faith of the investor. Investor’s interest is the main focus of the Mutual Fund regulator (SEBI). This has been clearly evident in the reforms and from the amendments in the Mutual Fund regulations in recent times. In all its circulars, SEBI has time and again reiterated that the changes sought to be made are to enhance transparency, uniformity and accountability in the industry.

SEBI has expelled fund houses from tapping the unit premium reserve to distribute dividends. Instead, it has directed Mutual Funds to pay dividends only from realized gains. Mutual Funds and distributors have used dividend assertion as a promotion tool to attract investors. The amended norm will protect investors' interest and curb mis-selling. Regulator has instructed Mutual Fund houses to clarify by way of an addendum that units of Mutual Fund held in a demat form will be freely transferable from the date of the issue of the addendum. This makes the investors to easily engage in the investing process.

Typically, the nature of unfair trade practices is predominantly that of market exploitation, and price rigging. Some of the other irregularities may be that of insider trading, takeover violations, and violation of norms in capital issues, non-disclosures under SEBI regulations and illegal carry forwards. To protect investors from these unfair means, the need is to have a sound Customer Due Diligence (CDD) system, a comprehensive "In-Person" verification process and ongoing monitoring of transactions by the registered intermediaries is well recognized. To ensure that trading practices are in order and investor's rights are duly protected, it has been established in a SEBI directive that responsibility for all documentation involving the investor or customer will rest on the shoulders of the fund houses. In December 2009, SEBI has made it mandatory for all AMCs to maintain a copy of full investor documentation including Know Your Customer i.e ., KYC details. Such documentation was earlier maintained by the respective MF distributors who have now been asked to give a copy of the same to the fund houses. The trustees have been entrusted to take action in cases where they find the documentation details to be incomplete or unavailable.

Entry and Exit expenses

SEBI had banned charging of preliminary issue expenses, which were permitted for closed-ended schemes, and mandated that such MF schemes shall recover sales and distribution expenses through entry load only. These steps were aimed at creating more precision in fees paid by investors and serving out investors in making informed investment decisions. Subsequently, with effect from 1 August 2009, SEBI expelled the entry load that was deducted from the invested amount, and instead allowed customers the right to negotiate and decide commissions directly with distributors based on the investor's assessment of assorted factors including quality of services rendered. The objective was to bring about more precision in commissions.

In recent years, the industry regulator, Securities and Exchange Board of India (‘SEBI’) has focused more on investor protection, introducing a number of regulations to empower retail investors in Mutual Funds (‘MFs’).SEBI began by prohibiting the charging of initial issue expenses, which were permitted for closed-ended schemes, and mandating that such MF schemes shall recover sales and distribution expenses through entry load only. These steps aimed at creating more transparency in fees paid by investors and to help make informed investment decisions. Subsequently, w.e.f. August 1, 2009, SEBI banned the entry load that was deducted from the invested amount, and instead allowed customers the right to negotiate and decide commissions directly with distributors based on investor’s assessment of various factors and related services to be rendered. The objective was to bring about more transparency in commissions and encourage long-term investment.

The amendment of SEBI (Mutual Funds) Regulations, 2014, Asset Management Company is enchanting steps to meet out the net worth requirement within the specified time, the asset management company may be allowed to launch up to two new schemes per year. Though the intent of the amendment was to benefit the investor, it has hit the margins of the Asset Management Companies (‘AMCs’). Further, higher distributor commission on Unit Linked Insurance Products (issued by Insurance companies) is giving tough competition to the business of Mutual Funds.

SEBI has scrapped the additional management fee of 1% charged by AMCs on schemes launched on a no load basis leading to a further squeeze in margins earned by the AMC. Recently in India, the industry regulator, SEBI has instructed that no entry load be charged for all MF schemes launched on or after August 1, 2009. Distributors receive commission from the investors based on investor’s assessment of various factors including service rendered. Exit loads may or may not be charged to the investors and it varies depending on the period they stay invested in the scheme. But In UK, front end charge of about 5% of the net assets and distributors are paid commission (typically 3%) out of this by the MFs. Similarly, in the case of US, both entry and exit loads are charged to investors of open-ended MF schemes. No such loads are charged in the case of close-ended schemes. In China, fund houses charge both entry and exit loads and commission to distributors is ultimately borne by the investors as the MFs pay distributors from the loads charged to the investors in the scheme. Australia does not have a concept of entry and exit load that is charged by the MF to the investors. But brokers receive fees from the investor for the advice rendered to them.

Management Fees to the AMC's

In India, there exist legislative limits, defined by regulator for payment of management or advisory fees to the AMC. The advisory fees payable are topped at 1.25% where the net assets outstanding donot exceed Rs.100 crores and at 1% over the net assets above the threshold of Rs. 100 crores. However, in case of index funds, the advisory fees payable to AMCs arecapped0.75%of the net assets in the scheme. In the UK, there exists no cap on the management fees to the AMC other than those stipulated in each fund's scheme prospectus. Typically fees vary on the type of fund and are usually about 1.5% of the net assets or an actively managed equity fund. Presently, new participants in the UK market are charging lower annual management in an attempt to gain a higher market share. Similar, no statutory limits are prescribed by regulatory authority in the US but AMC fees typically range between 0.50% to 1.75% of the net assets depending on the type of the fund, whereas in China, For equity-based funds, the AMC fees are covered at 1.5% of the net assets while for index funds, debt-based funds and money market funds, fees are capped at 0.5-0.7%, 0.6-1.2%and 0.33% respectively. There are no pre-defined statutory caps on the fees payable to AMCs in Australia. The fees payable vary, inter alia, depending on the type of the fund.

Distributors Reforms

In August 2009, restriction on entry loads was announced for Mutual Funds, where commission was to be paid directly by the investor to the distributor, depending on the service rendered. It is expected that this would segregate the streams of payment for the two roles of distributor, as a point of sale for the asset management company and an advisor to the investor. Many Mutual Fund investors leverage the services of the distributor acting as a financial advisor who is expected to assist investors in choosing schemes that suit their respective risk-return appetite besides assisting him in the application procedure. To protect the Mutual Fund industry from frequent churns and to safeguard the interest of investors, a step to restrict entry loads was undertaken. This is likely to result in empowering the investor to decide the commission to be paid to the distributor, ensuring transparency in commissions paid, based on the quality of service received. Distributors of MF units were required to obtain certification from the Association of Mutual Funds in India ('AMFI') by passing a certification examination and to acquire registration with AMFI. The Regulator felt the need to renovate the certification process of MF advisors, In order to improve their efficiency. The certification examination for distributors of MF would be conducted by the National Institute of Securities Markets ('NISM'). It was decisive by SEBI. The new certification exam for distributors will now be NISM conducted by the NISM and not AMFI.

In India, the distributors of the MF units are not separately regulated by SEBI or any other regulatory authority. Currently, distributors are required to take a simple test. However, there have been instances of distributors rendering professional advice to investors without the requisite qualifications and information about the MF schemes. Unlike in India, distributors in UK are regulated by the Financial Services Authority. In the UK there is a regulation being proposed that will require distributors of MF units to undertake certain examinations. And distributors in the US are regulated by the Securities Industry and Financial Markets Association and are required to pass the securities broker-dealer exams in order to sell units of MFs. In china, MF distributors are regulated and authorized by China Security Regulatory Commission, the major regulator of the MF Industry. Whereas in Australia, The Australian Securities and Investments Commission regulates the distributors in Australia. No specified certificate is required to be obtained by distributors in Australia to entitle them to provide professional advice to investors in MF schemes.

SEBI had observed that AMCs do not maintain all documents of investors, there by restricting the rights of the investors to approach the AMCs directly and investors are forced to depend on the distributors for executing transactions. With this in mind, SEBI had made it mandatory for all AMCs to maintain a copy of full investor citations including Know Your Customer i.e. KYC details. Such documentation was earlier prior maintained by the relevant MF distributors who have now been asked to give a copy of the same to the fund houses. In this regard, SEBI directed all MFs to ensure complete citations as per the prescribed KYC. In order to ensure that investors have unobstructed access to AMCs and to enable AMCs to provide prompt investor service including execution of investors' financial or non-financial transactions, the

Regulator has directed all MFs/ AMCs to:

• Open novel folios/ accounts only after ensuring that all investor related documents including account opening documents, PAN, KYC, PoA (if applicable), specimen signature are available with AMCs/ Registrar and Transfer Agents and not just with the distributor.

• Renovate investor related documents including account opening documents, PAN, KYC, PoA (if applicable), specimen signature for existing investors.

Taxation Reforms

In India, MFs are treated as a pass through entity and hence are not liable to tax.In UK, capital gians from MF are tax exempt. Non-UK dividend income is taxed to the extent that it is not covered by chargeable expenses. Interest income received in case of bond funds are not liable to tax in the hands of the MF if the income is distributed to the investors in the scheme as an interest distribution. In US, Funds are pass-through entities and only the investor pays tax upon receipt of income or capital gain distributions by the fund. MFs only pay foreign source taxes or US taxes if they fail to distribute the majority of income earned in the tax year (ie> 90%). In order to promote China MF industry, the tax authority in China gives nearly full tax exemptions to MF and investors. Currently, both MF and investors are not subject to any turnover or income taxes except for the institutional investors who redeem/sell the fund units. Also, dividends declared by MF are tax free. Similar to India, Australia MFs are treated as a pass-through entity and hence are not liable to tax.

CONCLUSION

Mutual Fund is considered as most suitable investment for the common people as they can invest their money into the diversified managed portfolio at relatively low cost. Performance of the industry has been strong and it is well-placed to achieve sustainable growth levels. The way forward for the next couple of years for the Mutual Fund industry would be influenced hugely diverse Range of Products. It may be concluded that due to number of reforms, the Mutual Fund of India has developed a lot, it has made it possible to compare Indian Mutual Fund with the international Mutual Fund. SEBI is doing a lot of work for the development of Mutual Fund industry that attract the global investors to invest in the Indian Mutual Fund. And also SEBI working slowly in transforming Indian stock market into a globally competitive and contemporary market.

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