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EDITORIAL

Capital Market Regulation - a Need for Development Perspective



CA Vinod Jain*

SEBI has undertaken a large number of admirable steps in development of a modern capital market infrastructure and regulatory framework. A large number of new initiatives have been introduced on the lines of developed international markets including electronic trading, T+2 Settlement, demat shares, option, future and other derivatives, index funds, alternative investment fund, real estate investment trust (REIT), infrastructure

investment trust besides detailed regulation on initial public offering (IPO), private placement, listing, trading, stock brokers, insider trading, market manipulation and many other. In spite of so many initiatives, regulations, vigilance, inspection, show cause notices, suspension from capital market and financial penalties, the confidence of investors for investment in the capital market is getting eroded further in last 5 years.

The capital market sensex is on its highest level, arising out of significantly improved sentiments on the basis of Modi Government initiatives and action plan. In spite of attaining a record level, in case we consider the impact of inflation the share market prices are at 50% to 60% level as compared to 2008 index levels. The stock market is not able to channelize the genuine investments from the household savings and from other small, medium and large investors. The retail capital market at the primary market level as well as at the level of secondary market investment are at record low level in terms of participation of the retail investors. The cash market delivery transactions are very low. The poor level of activity at the primary market level is seriously impacting availability of Risk capital and resultant growth. It is, therefore, important for SEBI and the Government to examine following important suggestions to bring back necessary confidence in the capital market:

- **Mandatory valuation:** Free pricing of equity shares has to be replaced by mandatory valuation as contemplated in the Companies Act 2013. The promoters and the Companies need to take responsibility of projection and estimated

discounted cash flow. Alternatively the valuation can be taken from independent Valuers appointed by SEBI.

- **Over Priced Issues - mandatory dilution:** In case the actual market price of an Initial Public Offer or FPO fall substantially (more than 20%) below their issue price during the 1st year of the issue (on the basis of a weighted average of delivery transaction during the 1st year of listing), the company must be legally mandated to issue additional shares against consideration already paid to the suffering shareholders to adequately compensate them. The promoters may also be permitted as an option to bring in matching equity in case do not want dilution of their shareholding.
- **Independent Auditors:** The Companies Act initiative to not to permit interested shareholders to participate in voting in favour of related party resolution, need to be extended to appointment of auditors. The shareholders who are directly or indirectly connected with those charged with Governance should not be permitted to appoint or retire or remove the statutory auditors. The statutory auditors need to be empowered to look after the interest of minority and of those who are not in day-to-day governance.
- **Limit Derivatives to only actual real hedging:** SEBI need to curtail unnecessary speculation and manipulation of market by limiting derivatives and hedging to only underlying existing exposure of the transacting party. The current derivative market is intensely speculative and is in the nature of gambling in majority of cases. The derivative market is also being used to manipulate prices by false turnover and transactions, just to make money at the cost of genuine investor.
- **Unfair and non-competitive market practices:** The algo trading (based on mechanized software) and co-location of server of certain specific parties in the premises of Stock Exchange are a completely unfair practice against principles of equal competition and equal opportunity to all investors and traders in the market. The investors of far-flung locations in Assam, Bengal, Orissa, Tamil Nadu, Kerala, Kashmir, Haryana, Punjab and U.P. etc. are completely at a disadvantage vis a vis co-located servers. How can SEBI

contd.....Pg.8

* Mr. Vinod Jain, FCA, FCS, FICWA, LL.B., DISA (ICA), Chairman, INMACS and Vinod Kumar & Associates. vinodjain@inmacs.com, vinodjainca@gmail.com, +91 9811040004

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LATEST IN FINANCE

1.0 Delhi - Under Tail Spin

The Government of Delhi has revised the circle rate under the Indian Stamp Act for the purpose of payment of stamp duty very substantially as per the *Notification No.F.1(953)/Regn. Br./Div. Com./HQ/2014/5943 dated 22nd September, 2014*.

The modification has come into force from 23rd September, 2014 and has created a big havoc in the real estate market. The circle rates in most of the areas are substantially higher as compared to the market rate prevalent in Delhi, specially in case of commercial, industrial and public utility land uses where the circle rates are multiplied by 2 in case of industrial and public utility uses and multiplied with 3 in case of commercial uses.

This situation have not only put additional burden of phenomenal stamp duty to be paid on transfer of properties but have also brought in an additional burden on the buyers as well as on the sellers.

In terms of deeming provisions of Section 50C and Section 56 of the Indian Income Tax Act, the difference between the actual transaction rate and the stamp duty circle rates have to be treated as income separately in the hands of buyer as well as in the hands of the seller, unless they are able to prove that the actual market rate is different based on valuation done by the tax department.

2.0 KYC - Clarification on Proof of Address

Banks have been advised by RBI to ensure that customers are not unnecessarily asked to submit additional proofs of addresses for current addresses in cases where proofs of addresses for permanent addresses are already available.

Banks are requested to confirm latest by October 17, 2014, that the above mentioned instruction has been communicated to all their branches and the same have been meticulously complied with. *RBI/2014-15/264 dtd. 13th October, 2014*.

3.0 Apprentices Protsahan Yojana Subsidy

The Centre will contribute 50% of the total cost incurred on stipend in training one lakh apprentices by 2017 under this new scheme. This will reduce the financial burden on smaller units as well as encourage more youths to take up vocational training.

Human Resource Development (HRD) ministry runs a similar scheme in which it contributes to the stipend cost of graduates, technicians and diploma holders.

4.0 Indian companies get better rates for Foreign Loans

Indian companies have managed to borrow more from overseas markets and that too at lower rates since the new government took office, according to latest data from the Reserve Bank of India (RBI). At the same time, their weighted average margin for floating rate loans came down to below 3 per cent over 6 month London Interbank Offered Rate (LIBOR) from 4 per cent. For fixed rate loans, the minimum rate came down nearly 200 basis points to 10.5% against over 12.5 % in the same period a year ago.

5.0 New Coal Policy

The Government will take over all the coal blocks whose allocations were cancelled by a Supreme Court order and start the allocation process in 3-4 months through transparent e-auctions.

An ordinance also paves way for commercial mining by the public sector and their joint ventures with private sector.

6.0 China just overtook the US as the World's Largest Economy

China just overtook the US to become the world's largest economy, according to the International Monetary Fund. Basically, the method used by the IMF is on the basis of purchasing power parity.

7.0 SC: Farmers to recover cane dues before banks

In a major setback to PSU (Public Sector Undertaking) banks, the Supreme Court said farmers will get precedence over banks for the recovery of cane dues, amounting to around ₹5,440 crore, from sugar mills in Uttar Pradesh.

INDIRECT TAXATION

1.0 Audit by Officers of Central Excise

Doubts have been raised in certain quarters regarding powers of a Central Excise officer to conduct audit, in the background of a recent judgment of **Hon'ble High Court of Delhi** dated 04.08.2014 in case of *M/s Travelite (India) [2014-TIOL-1304-HC-DEL-ST]* wherein the **Hon'ble court has held that the powers to conduct audit as envisaged in Rule 5A (2) of the Service Tax Rules, 1994, does not have appropriate statutory backing and therefore quashed the rule.**

It may be noted that the judgment did not deal with the issue of audit in Central Excise. It is



further clarified that in Central Excise there is adequate statutory backing for audit by the Central Excise Officers. The statutory provisions relevant for audit is clause (x) of Section 37(2) and Rule 22 of the Central Excise Rules, 2002.

CBEC Circular No. 986/10/2014-CX, dtd. 9th October, 2014

2.0 Restaurant Service- Clarification

Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess, having the facility of air conditioning or central air heating in any part of the establishment, at any time during the year (hereinafter referred as 'specified restaurant') attracts service tax. In a complex, if there is more than one restaurant, which are clearly demarcated and separately named but food is sourced from a common kitchen, only the service provided in the specified restaurant is liable to service tax and service provided in a non air-conditioned or non centrally air- heated restaurant will not be liable to service tax.

CBEC Circular No. 173/8/2013-ST, dtd. 7th October, 2013

3.0 Common Market for Inter-state Free Trade on the Cards - CST, Octroi, Entry Tax to go

The NDA government is planning to set up a constitutional body to dismantle taxation barriers and create a 'Common National Market' for the entire country to ensure free movement of goods across state borders.

A commission will be tasked with dismantling taxation barriers such as tax on inter-state trade of goods (CST) and Octroi or entry tax. Further it will have to design policy interventions to address market failures and identify obsolete legislation which should be repealed.

DIRECT TAXATION

1.0 Tax info can't be disclosed outside specific case: Swiss Government

Amid a debate on disclosure of names of suspected black money holders, the government of Switzerland said information exchanged under the Swiss-India tax treaty cannot be disclosed "in principle" to a court or any other body outside the proceedings of a "specific and relevant" case.

2.0 New SEZ can employ upto 50% redeployed technical staff

The Central Board of Direct Taxes (CBDT) has raised the upper limit on redeployed employees from older business units from the 20%, introduced in July this year, to 50% of the total technical staff strength in the new IT-SEZs.

3.0 Capital Infusion is not a TP matter

In a landmark verdict rendered on October 10, the Bombay High Court has held that issuance of shares by an Indian company to its overseas parent is not exigible to arms-length price (ALP) test under Chapter X of the Income Tax Act, which houses the transfer-pricing (TP) law. The HC, allowing Vodafone's writ, declared the order null and void and decided the question of jurisdiction against the tax administration, holding that shares issuance at premium (or inadequate premium) is merely tantamount to capital account transaction and didn't warrant the rigours of transfer-pricing adjustment, a position that has shaken investor confidence in the past few years.

The HC held that transfer pricing rigours can be applied only if the transaction yields income to the associated enterprises.

4.0 Even Employees' Contribution to PF etc is allowable if deposited before due date of filing ROI

We are of the view that the decision of the Supreme Court in Alom Extrusions Ltd 319 ITR 306 applies to employees' contribution as well as employers' contribution.

CIT vs. Hindustan Organics Chemicals Ltd. (Bom HC)

5.0 Sec. 50C: AO cannot straightaway adopt Stamp Duty Value

As a matter of course, in all such cases the assessing officer should give an option to the assessee to have the valuation made by the departmental valuation officer to avoid miscarriage of justice. Even in a case where no such prayer is made by the assessee, who may not have been properly instructed in law, the assessing officer, discharging a quasi judicial function, has the bounden duty to act fairly and to give a fair treatment by giving him an option to follow the course provided by law.

Sunil Kumar Agarwal vs. CIT (Cal HC)

6.0 No TDS Disallowance if Payee has paid tax

Second proviso to Sec. 40(a)(ia) inserted w.e.f. 1.4.2013 should be treated as retrospectively applicable from 1.4.2005 and no disallowance for want of TDS can be made if payee has paid tax thereon. Assessee must be given opportunity to file Form 26A.

As per this newly inserted proviso, the assessee is required to file Form No. 26A as per rule 31ACB of the Income Tax Rules, 1962 so as not to be held as an assessee in default as per the proviso to section 201 of the Act. As held in the decision of the co-ordinate bench in the case of **S.M. Anand vs. ACIT (supra)**, since the assessee in the period under consideration i.e. assessment year 2005-06, could not have contemplated that such a compliance was to be made, we also in the case on hand, remit the matter to the file of the Assessing Officer for affording the assessee adequate opportunity to file Form No.26A and verification of whether the said payee has reflected the payment/receipt in his books of account and offered the same to tax in the period under consideration.

ITAT Bangalore, ITA NO. 1832/BANG/2013 dt. 10.10.2014

7.0 Cash payment exceeding prescribed limit (Rule 6DD)

The High Court of Andhra Pradesh held that where assessee made payment in cash on insistence of seller and there was no doubt about genuineness of payment, no disallowance could be made under section 40A(3).

Sri Laxmi Satyanarayana Oil Mill v. Commissioner of Income-tax, A.P. Hyderabad [2014] 49 taxmann.com 363

8.0 Unexplained Moneys

The High Court of Allahabad held that Sec. 69A couldn't be invoked on a presumption that unaccounted money was bound to flow in a real estate deal.

Commissioner of Income-tax v. Sanjeev Kumar Agarwal [2014] 50 taxmann.com 56 (Allahabad)

9.0 Exempted Income - Investment in Shares

The High Court of Punjab and Haryana held that unless and until, there is receipt of exempted income for concerned assessment years, section 14A cannot be invoked.

Commissioner of Income-tax, Faridabad v. Lakhani Marketing Inc. [2014] 49 taxmann.com 257

10.0 Capital gains - Transfer (Immovable property)

The High Court of Kerala held that where assessee handed over possession of property to builder on first installment of sale consideration, transfer of property took place when said installment was received.

Commissioner of Income-tax, Cochin v. Cochin Stock Exchanges Ltd [2014] 49 taxmann.com 263 (Kerala)

11.0 Section 80G - Deductions - Donations to certain funds, charitable institutions (Approval of exemption)

The High Court of Gujarat held that at the time of granting approval of exemption under section 80G, only object of trust is required to be examined and, therefore, assessee's application seeking approval under section 80G(5) could not be rejected on ground that it failed to incur expenditure to extent of 85 per cent of its income during relevant year

Commissioner of Income-tax v. Shree Govindbhai Jethalal Nathavani Charitable/Trust [2014] 49 taxmann.com 171

ACCOUNTING

1.0 Companies (Accounts) Rules, 2014 - Manner of Consolidation - No Subsidiary

Nothing in Rule 6 shall apply in respect of preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company incorporated outside India. **No CFS (Consolidated Financial Statements) need to be prepared in such cases at each level.**

In case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, will not apply during 2014-15.

MCA Notification dtd. 14th October, 2014

2.0 Clarifications on matters relating Disclosures in Consolidated Financial Statements (CFS)

It is clarified that Schedule III to the Companies Act, read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

MCA, General Cir. No. 39/2014, dtd. 14th October, 2014

CORPORATE & ECONOMIC LAWS

1.0 Clarification with regard to Trust/ Trustee as a partner in the Limited Liability Partnerships (LLPs)

It is clarified that for the purposes of the trusts that it is not barred for a trustee, being a body



corporate, to hold partnership in an LLP in its name without the addition of the statement that it is a trustee.

MCA, General Cir. No. 37/2014, dtd. 14th October, 2014

2.0 9.87 lakh Companies Active in India

India might have more than 14 lakh registered companies but only about 9.87 lakh entities were active at the end of August, according to official data.

3.0 Directors can be held liable for Dishonour of Cheques

The Supreme Court has said that all directors involved in the day-to-day running of a company can be made liable for a bounced cheque, but not one who resigned before the cheque was issued. The Supreme Court said that a case can only be quashed under Section 482 of the Criminal Procedure Code by a High Court if a director is wrongly arraigned. In cheque-bouncing cases, the court said managing directors in charge of company affairs, directors or officers who sign cheques can be arraigned as accused. Any other director can also be made liable if the person was in charge of and was responsible for the conduct of business. Other officers of a company can be made liable in such a case if a specific role by way of consent, connivance or negligence is alleged against them.

Gunmala Sales Pvt. Ltd vs. Navkar Infra Projects Pvt. Ltd.

4.0 Company Law Settlement Scheme, 2014 (CLSS-2014) extended

Minsitry has decided to extend the Company Law Settlement Scheme, 2014 upto 15th November, 2014.

MCA, General Cir. No. 40/2014, dtd. 15th October, 2014

5.0 Clarification u/s 164(2) - Disqualification of Directors - Non Filing of Annual Returns

The matter has been examined and it is hereby clarified that in case of companies, who have filed their balance sheets and annual accounts on or after 01/04/2014, but prior to launch of CLSS-2014, disqualifications under clause (a) of sub-section (2) of section 164 of the Companies Act, 2013 shall apply only for prospective defaults, if any, by such companies.

MCA, General Cir. No. 41/2014, dtd. 15th October, 2014

6.0 Refund of deposit to Loosing Directors under section 160 by Section 8 Company (Erstwhile Section 25)

In case the companies registered under section 8 of the Companies Act, 2013 (corresponding to section 25 of Companies Act, 1956) receive deposit of rupees one lakh under sub-section (1) of section 160 of the Companies Act, 2013, then the Board of directors of the section 8 company is to decide as to whether the deposit made by or on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.

MCA, General Cir. No. 38/2014, dtd. 14th October, 2014

CAPITAL MARKET

1.0 Modification of Client Codes of non-institutional trades executed on Stock Exchanges (All Segments)

Stock exchanges may waive penalty for a client code modification where stock broker is able to produce evidence to the satisfaction of the stock exchange to establish that the modification was on account of a genuine error.

SEBI, CIR/MRD/DP/29/2014, dtd. 21st October, 2014.

2.0 Single Registration for Stock Brokers & Clearing Members for all Stock Exchanges

Existing requirement of obtaining registration as stock broker/clearing member for each stock exchange/clearing corporation has been done away with and instead a single registration with any stock exchange/clearing corporation shall be required. For operating in any other stock exchange(s)/clearing corporation(s), approval will be required from the concerned stock exchange or clearing corporation.

SEBI, CIR/MIRSD/4/2014, dtd. 13th October, 2014

3.0 SAT raps SEBI for Over-regulation

The Securities Appellate Tribunal (SAT) came down heavily on the Securities and Exchange Board of India (SEBI) in the DLF case over what it termed as over-regulation.

SAT said, "You pass 10 such orders and the whole economy will crash. Is this regulation or abolition?... They (SEBI) are going more towards abolition mode than regulation...and it is clearly over-regulation. What do you get, what pleasure, out of such orders? You cannot recognise the effect of such orders. They are not to be called word-class regulators."

**4.0 BSE issues Guidance Note on Price-Sensitive Disclosures**

It is mandatory for all listed companies to immediately inform the exchange about all material and/or price sensitive events, which could have a bearing on the performance, operations or price of the company or its shares.

5.0 Government notifies 25% Minimum Public Holding norms for Listed PSUs

Paving way for sale of PSU shares worth an estimated ₹ 60,000 crore over three years, the government has notified rules for minimum 25 per cent public shareholding in listed state-owned firms. To comply with these norms, over 30 listed PSUs will need to raise their public shareholding to minimum 25 per cent by August 21, 2017.

AUDIT**1.0 Auditors Duty regarding Internal Control**

For the purposes of clause (i) of sub-section (3) of section 143 for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of adequate internal financial controls system and its operating effectiveness.

The auditor of a company may voluntarily include the statement referred above for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015.

MCA Notification dtd. 14th October, 2014

2.0 Government to bring clarity on Internal Financial Controls

The government is planning to clear the air on reporting of internal financial controls made compulsory in the new Companies Act. The government has asked the Institute of Chartered Accountants of India (ICAI) to issue guidelines.

7.0 Jaitley Recommend an Auditor's Role

Finance minister Arun Jaitley said that Government auditors must undertake their work in a straightforward manner and not sensationalise or convert public opinion into a lynch mob, cautioning them against aiding an environment of finger pointing through their reports. Auditor has to scrutinize thoroughly the decision-making process. Auditors should distinguish between a decision that's wrong in hindsight and corruption. "If he finds a corrupt view, then the level of discretion he exercises in commenting has to be (an) entirely different

standard. If he finds two views are possible and his own view is probably different, he then can have a more liberal approach. The minister said audits were a requirement of good governance because accountability and transparency are essential for this.

FEMA**1.0 FDI for Construction eased**

- Minimum Foreign investment cut to \$5m from \$10 m
- Conditions set aside for hospital, tourism, SEZ, NRIs and old age homes
- Minimum Floor area cut to 20000 sq m from 50000 sq m
- 3 years lock in removed; developer can exit on completion, if earlier
- Minimum land area condition for serviced housing plots removed
- The Indian entity investing in the project will only be allowed to sell plots for which trunk infrastructure, including roads, water supply, street lighting, drainage and sewerage, have been developed.
- Earlier exits may be allowed
- Investor can transfer stake to another before completion of a project, subject to FIPB clearance.
- In completed projects, 100 per cent FDI under the automatic route is allowed for operation and management of townships, malls/shopping complexes and business centres.
- Projects committing at least 30 per cent of the total cost for low-cost affordable housing would be exempted from the minimum built-up area and capitalisation requirements, with a three-year lock-in period.

2.0 Norms for Defence Sector firms eased

The licensee shall be allowed to sell defence items to government entities under the control of Ministry of Home Affairs, State Governments, PSUs and other valid defence licensed companies without prior approval of the Department of Defence Production (DoDP).

The government has also decided to deregulate the annual capacity for production of defence items by industrial licensees with the condition that licensees shall submit half yearly production returns to the Department of Industrial Policy and Promotion and DoDP.

REVISED REGULATORY FRAMEWORK

Requirement of Minimum NOF of Rs. 200 lakh & Compulsory Registration

It shall be mandatory for all existing NBFCs to attain a minimum NOF of ₹ 200 lakh by the end of March 2017

- ₹100 lakh by the end of March 2016
- ₹ 200 lakh by the end of March 2017

Deposit Acceptance

- Unrated AFCs (Asset Finance Companies) shall have to get themselves rated by March 31, 2016 (those not rated shall not be allowed to renew existing or accept fresh deposits thereafter)
- Limit for acceptance of deposits harmonised across the sector to 1.5 times of NOF (Net Owned Funds)

Systemic Significance (Categorization of NBFCs)

- Now, NBFCs-ND-SI (non-deposit taking systemically important NBFCs) will be those NBFCs-ND (non-deposit taking NBFCs) which have asset size of ₹ 500 crore (in place of ₹100 Crore now) & above as per the last audited balance sheet.

Multiple NBFCs

- NBFCs that are part of a corporate group or are floated by a common set of promoters will not be viewed on a standalone basis but the total assets of NBFCs in a group including deposit taking NBFCs, if any, will be aggregated to determine if such consolidation falls within the asset size of the systematically important category
- Regulations as applicable to the NBFC-ND & NBFC-ND-SI categories will be applicable to each of the NBFC-ND within the group
- Statutory Auditors required to certify the asset size of all the NBFCs in the Group

Prudential Regulations Applicable to NBFCs-ND with Assets less than ₹ 500 crore

- Exempted from the requirement of maintaining CRAR {Capital to Risk (Weighted) Assets Ratio} and complying with Credit Concentration Norms
- Leverage Ratio of 7 to be maintained (leverage ratio = Total Outside Liabilities / Owned Funds)

Prudential Regulations Applicable to NBFCs-ND-SI (asset of ₹500 crore and above) & all NBFCs-D**Tier 1 Capital**

- Maintain minimum Tier 1 Capital of 10%

- The compliance to the revised Tier 1 capital will be phased in as follows:

- 8.5% by end of March 2016
- 10% by end of March 2017

Asset Classification

- The asset classification norms for NBFCs-ND-SI and NBFCs-D are being brought in line with that of banks, in a phased manner by March 31, 2018 as detailed in the circular.

Disclosures in Financial Statements - Notes to Account

- All NBFCs-ND-SI & NBFCs-D shall additionally disclose the following (w.e.f. March 31, 2015):
 - a. Registration/ licence/ authorisation obtained from other financial sector regulators
 - b. Ratings assigned by credit rating agencies and migration of ratings during the year
 - c. Penalties, if any, levied by any regulator
 - d. Information viz., area, country of operation and joint venture partners with regard to Joint Ventures and Overseas Subsidiaries and
 - e. Asset liability profile, extent of financing of parent company products, NPAs and movement of NPAs, details of all off-balance sheet exposures, structured products issued by them as also securitization/ assignment transactions and other disclosures.

RBI/2014-15/299, dated 10th November, 2014

FINANCIAL INDICATORS

	Current Rate*	Month Ago	3 Month	6 Month
3 Month LIBOR (%)	0.23	0.23	0.23	0.22
3 Month MIBOR (%)	8.73	8.88	8.97	9.17
SENSEX	27875	26637	25329	22994
NIFTY	8344	7960	7568	6859
CRR (%)	4	4	4	4
REPO (%)	8	8	8	8
REVERSE REPO (%)	7	7	7	7
Gold (per 10 gm)	25923	26904	28576	29725.00
Silver (per kg)	35007	38130	43800	41251.00
Crude (USD/bbl)	82.13	90.05	105.02	107.97
₹ vs USD	61.45	61.16	61.14	60.04
₹ vs Euro	76.67	77.67	81.94	82.49
₹ vs 100 Yen	53.86	56.74	60.93	58.93
₹ vs RMB	10.05	9.98	9.91	9.64
₹ vs Pound	97.76	98.62	102.57	101.03
MCX Aluminium	125	116	124	103
MCX Copper	412	407.75	430	405.05

*As on 10th Nov. 2014 (Sources: MoneyControl, NSE, BSE, RBI, MCX)

EDITORIAL

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Capital Market Regulation

justify such a wrongful action against the interest of the general investors.

- The buying and selling based on an electronic software result into large scale fluctuations in the price without bringing any value to the market.
- **Development Role of SEBI:** SEBI need to concentrate on development of capital market by inculcating financial literacy and improving corporate governance, credibility and integrity of the capital market.
- **Investor Protection role:** SEBI's role need to be limited to making regulations, vigilance, inspection and launching of investigations
- **Independent court prosecution:** The decision to commence prosecution and adjudication has to be completely left to specialized courts and cannot be and should not be done internally by SEBI to ensure proper justice and control corruption. The imposition of hefty fines cannot be left to regulator SEBI & should be left to judiciary.
- **Confidentiality:** SEBI should not publicize any disciplinary action initiatives by SEBI, till the time the accused is held prima facie guilty by an appropriate court/ independent judicial process and charges are framed. The current practice being unnecessary sensation & impact reputation of accused even before they are prima facie guilty.
- **The Interim orders** to suspend promoters, companies or

intermediaries and investors from participation in the capital market, without providing an opportunity of being heard, after a proper independent judicial process is completely against the interest of natural justice. In any case no such order should be continued unless confirmed by judiciary within 15 days.

- **Security Disposal right need to be intact:** No investor should be prohibited to sell their investment except when such securities are fraudulently acquired or money laundering cases even in cases of suspension from capital market.
- **Investors' Protection Mechanism:** SEBI should introduce a proper fast track judicial mechanism under which investors can file cases against market intermediaries, promoters and companies and other participants in the capital market to redress their grievances and to claim compensation for the misstatement, manipulation or fraudulent action. It is important that investors are adequately safeguarded against any manipulative practices. Even NGO's, uninterested independent parties and class action suites may be permitted before such judicial authority with appropriate appellate process.

The vibrant capital market and sustained growth in the equity segment as well as in the debt segment are crucial for the Indian economy. The general investors can channelize huge risk capital to the capital market fuelling growth momentum, subject to having credibility, integrity and fair treatment in addition to transparency.

- **Secretarial Audit under Companies Act, 2013**
- **Internal Audit -Silver[®], Gold[®], Platinum[®] & Diamond[®]**
- **Fraud Detection & Investigation**
- **Business Process Reengineering**
- **Management Information Systems Design, Development & Turnkey Reporting**
- **Risk Management – Internal Control System**

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...Your growth partner

CONTACT US:
VAIBHAV JAIN +91 97 113 10004
vaibhavjain@inmacs.com
solutions@inmacs.com

909, Chiranjiv Tower, 43, Nehru Place, N.D.-110019
Global Business Square, Bldg. No. 32, Sector-44,
Gurgaon-122002, Haryana



• **Contact details** : Dharampal (9013363257) All India Chartered Accountants' Society - CFO World 909, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019. Ph: 26223712, 26228410, 26226933 E-mail: aicas.cfo@gmail.com / cfoworld@gmail.com • **EDITOR:** Pankaj Gupta, LLB, FCS E-mail: pankajguptafcs@gmail.com • **PUBLISHED & PRINTED:** At New Delhi by Satish Chandra, Administrative Officer, on behalf of All India Chartered Accountants' Society, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi-110 002 Phone 23265320, 23288101 E-mail : aicas.cfo@gmail.com Printed at: EIH Ltd., Unit : Printing Press, No. 7, Sham Nath Marg, Delhi-110054. Views expressed by contributors are their own and the Society does not accept any responsibility.

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