A Review of Studies on Investor Protection

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Abstract

Enormous increase in the financial market operations, unpredictable augments in the awareness levels of the customers about the financial products and the risks associated with them, mounting up of the number of financial frauds, techniques that the companies use to earn profits, and many other factors become the challenge for the survival of the financial and capital markets universally. A necessity arose for the financial regulators to introduce the concept of Investor Protection and Investor Education in order to safeguard their best interests. The financial crisis also had emphasized on the prominence of the financial awareness and protection to buffer investors from the market upheavals. The current paper is a representation of an organized literature review with dependable referencing, and conclusions that were drawn from different logical rivulet of theories relating to the study “Investor Protection: Awareness among Professionals (with special reference to Central Visakhapatnam)” undertaken by the researcher. **Keywords: Investor Protection, Investor Awareness, Corporate Governance, Investor Education, Capital Markets, Economic Growth**

I. INTRODUCTION

With the economic growth of the country, the number of firms that are associated in dealing with the public money apart from the government has increased. In addition, as the number of opportunities gave way for the establishment of many companies they too started raising funds from public for their promotion. With all these newly added systems of handling the public funds the need for protection increased. All individuals who part with their money for a higher return guaranteed by the respective promisors are called as Investors and the process is called as Investment. The method through which their money is safeguarded is called as ‘Investor protection.’ In a thriving securities market, the effort to make sure that brokers or other parties do not trick the people who invest in financial products is simply known as investor protection. In order to stay true to the philosophy believed by many, a systematic and sustainable development of the markets is the key to the economic growth of the country. But in the race to become the biggest contributor, many inferior ways are adopted by companies which in the end lead to financial distress and downfall of the company and its stakeholders. Indian investors along with different languages, ethnic inclinations and general literacy bring socio economic sections, risk appetites, past experiences and attitudes as challenges. It is not an easy task to educate about personal finances of individuals. Creating many programs for educating these investors about the precautionary measures to be followed before investing should be the prior task for the regulators with ‘Investors Beware’ as the catchphrase.

II. DEFINITIONS

Some basic and important definitions with respect to this paper include the following:

A. **Investor Protection**

According to the SEBI Act, 1992 Investor protection is ‘protecting the interest of the investors in securities and promoting the development of and to regulate the securities market and for matters connected therewith or incidental thereto.’ Generally, investor protection is known as legislation to protect the small investors from unscrupulous investment brokers and advisers.

B. **Investor Awareness**

It is a term widely used in investor relations, by public companies and parallel bodies, to express how well the investors and general investment market know their business. It is the knowledge the investment community has of the company.

C. **Corporate Governance**

Corporate Governance deals with the mechanisms that ensure investors in corporations get a return on their investment. It is a process and regulation by which corporations are controlled and directed by the regulators. It identifies the distribution of rights and responsibilities among different participants of corporation. It is used as a tool of investor protection where it aligns the interests of stakeholders. It includes the processes through which corporate objectives are set and pursued in the context of social, regulatory and market environment.
III. CONSTITUENTS OF INVESTOR AWARENESS

The core purpose of this paper is to enhance the investor awareness and help them make informed decisions, which in turn will have a ripple effect on the economic growth of the country. Therefore, it is important for the investors to be aware of their rights and duties with respect to their investment and its protection. This gives them confidence and power to utilize the information that they receive from the markets and manage their portfolios better. When such power is backed by discipline and patience, investors can experience good returns in a long run that enhances their economic and personal wellbeing.

Fig 1: Constituents of Investor Awareness

IV. CORPORATE GOVERNANCE: AN INSTRUMENT IN INVESTOR PROTECTION

(Shyam & Sunder, 2015) The topic of corporate governance and protection for all those who help in the economic growth is not a new term. It was prevailing since the 3rd century in the cloak of Kautilya Arthasastra. Apart from all the rules, regulations, frameworks, standards and conventions there is something that is required to control and safeguard the public interest. Adding to the expert knowledge about the law and other aspects, responsible officers with strong morals and integrity are vital.

Treating the codes, standards, structures and regulations as a way of life (Kar, 2000) mentioned that Kautilya further elaborated about the fourfold duties of a king that can be implied and interpreted to the duties of a company. The fourfold duties are:

- Raksha, or protection
- Vridhi, or enhancement
- Palana, or maintenance
- Yogakshema, or safeguard

Further paralleling the fourfold duties of the king, as the duty of companies in protecting the shareholders’ wealth, enhancing the wealth through proper utilization of assets, maintenance of that wealth and not using it for gambling or expropriating it and above all safeguarding the interests of shareholders will become the matters to be concerned. (Kar, 2000)

There is an evidence given by (La Porta, et al., 2002) that minority shareholder protection and controlling shareholder cash flow ownership results in higher valuation of firms. Nevertheless, this view is debated by (La Porta, et al., 2001) supporting that in many countries minority shareholders are expropriated by the controlling shareholders in the guise of law.

(Kothiya, 2012) stated that it is an achievable and a possible mission by the regulatory authorities to control the frauds and encourage investors to participate in the securities market by reducing their risk.

(Suman, 2016) said how difficult it is to check on each activities of the financial market and prevent scams. Despite such hitches SEBI has boned up all its regulations and amended many securities laws for making the company’s rulebooks more tough and investor friendly.

The noble challenge of attaining a perfect investor protection is unfortunately beyond the reach but improving it, is certainly feasible. (Lin, 2015)

According to (Aguilar, 2014) to maintain the integrity of the financial markets and improve investor protection, strengthening fund governance is vital.

(Klapper & Love, 2003) shows how law matters less for the well governed firms and there is no need for them to rely on the legal rules for their grievance redressal or governance conflicts. He further stated that the firms can establish investor protection provisions and gain good market valuation and operating performance.

Managers can strategically adapt corporate governance practices and adjust their controlling structure in order to overcome the value-decreasing risks that are associated with country laws of low investor protection. (Hughes, 2009)

Varma and Barua (1996), in a study by (Sodhganga, 2011) it was found that whether it is rights issue, script issue or a merger, right to protection of an investor is of supreme significance.

In the opinion of (Black, 2008) investors realized that special trading privileges that were given to some investors are at the detriment of others and that ‘dishonesty’ is the most prominent feature in the Indian financial industry. Investors had a reason in doubting the honesty and fairness of the securities markets and professionals who provide a biased piece of information.
In the research by (Guis o & Jappelli, 2004) it was proved that the demographic variables are responsible for low awareness about investor protection.

Many countries that has undergone the investors’ confidence crisis stands as examples to prove that capital markets that are transparent, safer and work with integrity add up to a higher investor confidence and a robust investor protection system. (Agnihotri, 2013)

(Sánchez, et al., 2015) In a research done in 12 countries it was found that complex code of ethics is present when there is a presence of independent directors. However, the power and effectiveness of these independent directors in restraining the unethical behavior of the managers is dependent on the levels of investor protection existing in the country.

Stressing on the point that there will not be any similarities in corporate governance mechanisms at international level, a study revealed that both the internal and external mechanisms, are complementary in preventing the illegal forms of behavior in multinational companies.

(Kumar, 2011) mentioned that despite having considerable achievements our regulators are yet to focus on a lot of unfinished work in investor protection and awareness due to which liquidity and penetration in Indian capital markets is pointedly lower than anticipated.

Pandya (1992) as mentioned by (Sodhganga, 2011) highlighted upon the SEBI and its endless efforts to protect investors and degree of transparency in primary market.

In the words of (Kar, 2000), a corporate writer rightly says that if we look at corporate governance from an agency perspective i.e. separation of ownership and control, it acts as an instrument of shareholder protection.

V. INVESTOR PROTECTION: A CONSTITUENT OF ECONOMIC GROWTH

Taking the reference from (La Porta et al. 1998, 1999a, 1999b), the pattern of positive correlation between the investor protection and the growth of the economy in higher levels were shown.

(PTI-Press Trust of India, 2013) Tata MF Managing Director and Chief Executive Arvind Sethi simply said as follows: “We believe that if the financial sector has to grow, people need to be educated about the Finance.”

Information disclosure and the strength of investor protection are the determinants of the effectiveness of the financial reforms on the capital markets. (Gu & Kowalewski, 2016) ascertains how tougher shareholder markets have more established equity markets than bond markets.

It is once again proved in the study done by Castro et al. (2002) as mentioned by (Sodhganga, 2009) that countries that imposes lower restrictions on cash inflows and advocate better investor protection regulations has higher growth and faster capital accumulation.

The JPC that was set up for inquiry over the Ketan Parekh scam and the payment crisis in Calcutta Stock Exchange mentioned in its report as follows:

“The small investor enters the market in the anticipation that the government and its regulators will ensure integrity of the market, so that whether the market rises or falls, market behavior is not the consequence of rigging or other malpractices or irregularities. But if there is persistent malpractice and this is not or should be known to the government and its regulators, and yet little or nothing is done quickly to restore the integrity of the market, then repeated fraud, accompanied by persistent failure on the part of the authorities to close the loopholes, becomes a scam.” (Joint Parliamentary Committee, 2001)

Foreseeing the umpteen number of opportunities that are lying ahead of our Indian Economy, (Singh, 2003) asserted that restoring the investor confidence that is shattered due to the unforeseen events in the capital market, only can intensify the economic development of our country.

The valuable recommendations that were made by (Somaiha, 2005), former Member of Parliament in his research on the protection of small investors addresses the issue of manipulations at the regulatory level too. He mentioned how small investor protection was a topic that was being discussed since the inception of the stock market and how every time new laws and commitments are made in their interest forgetting the earlier one. He grieved over the condition of how authorities neglect taking actions against guilty despite strong evidences on connections between brokers, promoters and corporates but blame small investors for being greedy and over ambitious.

In a research done on nearly 34 developed and developing economies to find out the relation between the economic growth and financial innovation it was astonishing to find that there are many chances of development of the economy in countries which had stronger investor protection laws. That means a stringent law will enable investor confidence which leads to financial innovation in which economic growth is more evident. (Hsu, et al., 2011)

In one of his studies to find out the relationship between investor protection and liquidity of scrips (Chung, 2005) mentioned that a greater market depth in the markets, higher liquidity, and lower information costs are the end products of better investor protection mechanisms and higher quality law enforcements.

It is ratified that investor confidence and efficiency of the markets can be achieved if high quality usable information is provided for the investors. (Aguilar, 2015)

(Kar, 2000) in a research study about the investors’ perception on the laws, it was found that investors are willing to invest in both equity and debt and contribute to the economy and bring valuable financial markets, where laws are protective of the investors and well enforced. This comes as a result because they feel that with better protection, expropriation is dampened and their interests and dividends would come back to them.
(Wasik, 2013) For making the investor protection activity itself simpler, designing a regulatory approach by foreseeing the potential economic consequences and implementing a fiduciary standard in the best interest of the customer standard is obligatory. As mentioned by the Financial Planning Coalition which represents financial planning organizations these fiduciary standards framed need not be in harmony with any other rules and can basically be cost effective.

It was found that the level of investor protection varies over time, around the world and directly or indirectly depends upon the structure of political and legal decision-making, the developmental stage of the economy, corporate structures dominant in the economy, as well as the stock market waves and crashes. (Bebchuk, 2009)

(Wang, et al., 2010) concluded from their studies that there exists a negative relation between investor protection and information asymmetry. They proved how higher information symmetry leads to efficient corporate governance, breadth-depth of Capital market, and economic growth of the country and also how investors are willing to pay more for securities.

VI. INVESTOR EDUCATION: A WAY OF INVESTOR PROTECTION

As found out in a study the main problem of investor protection comes because most of the investors are poorly informed of their rights and like in case of any public issue they are not able to exercise even those control rights they actually have. Investors are not even interested in knowing about the firm that they are investing in and they invest blindly in companies with excessive optimism. So, it becomes imperative for the legal systems to ensure that shareholder is protected even in such cases and so this led way to new projects like the investor empowerment and investor education. (Kar, 2000)

Criticizing our educational system that primarily focuses on employment and earning capacity development of the students RCAM CEO, Sundeep Sikka said that they should start educating the students about the basics of investment and financial markets. (Press Trust of India, 2013)

The objective of the (The Institute of Chartered Accountants of India ICAI, 2013-14) is to impart education and create awareness by bringing together all the investors belonging to diverse classes.

In order to address the complaints made by many NRI and domestic investors regarding the accounts maintenance of the Portfolio Management Schemes (PMS), SEBI is now linking investor PMS accounts to depositories. SEBI also addresses XI other types of issues under grievance redressal mechanisms and also started a campaign about awareness and named the year 2003 as “jaagte raho” and made its motto, as “An informed investor is a safe investor”. SEBI also is more concerned about the PoA (Power of Attorney) document signing made by the clients for the brokers. However, investors in order to finish the tasks early does not read every page of the document. This shows us that protecting the investors is not the sole duty of the regulator but also the responsibility of the investor to protect and take required care before signing on any document. (Babu & Naidu, 2012)

The then Prime Minister who attended the inauguration ceremony of one of the investor awareness programs mentioned that investors should be made cognizant about the regulatory safeguards that are available to protect their interests. (PIB Press Releases, 2003)

Even the (NASDAQ, 2005) has mentioned that investor should understand best before investing and that investor education is the best form of investor protection.

In order to protect the poorly literate investors fostering the financial knowledge and facilitating the comparison between financial products by standardized and centralized information is very effective. (Calcagno, et al., 2017)

The investors of our country are in such a pathetic state that they do not even know whom to approach for their grievance redressal and these grievances come in great magnitudes as a result of the non-existence of a flawless nodal authority. (Gupta, 1991)

The increase in the percentage of number of grievance redressal rate from mere 21.61% in 1991-92 to 94.99% in 2002-03 proves that well-timed redressal and harsher penalties can only limit the derelictions in the stock markets. (Goyal, 2006)

For making the transparency and professional management as the order of the day can create confidence among small investors. (Financial Daily, 2001)

To enhance the depths of the markets and foster the financial stability an effective investor protection framework is essential. However, with the increasing complexity of the financial products and market volatility addressing the deadly combination of mis-selling of the products and financial awareness, which has affected the investors trust over the years, becomes a barrier for creating this framework. Financial innovation alone cannot address the problem of financial literacy in India. It is intrinsically linked with the investor protection framework that needs to be a holistic process covering the investor rights, investors’ interests, dispute settlement mechanisms and the growth of the industry. (Kudva, 2011)

Ignorance being the recurring behavior among many investors shows that many investors are in an illusion of knowledge about investments. It was found in the recent research work on financial education in US that until a clear utility based learning is adopted for educating investors the retention of the knowledge that is gained in attending the awareness programs will remain low. (Bhattacharya, 2011)

Understanding that Indian investors though good savers lose hard-earned money due to lack of understanding and knowledge about financial markets and products, has reiterated the fact that investor education is a joint responsibility and a continuous process. Pursuing the goals not just by planning them and restricting them to papers but by creating an ecosystem of trust and enforcing the laws through discipline is the need of the hour. (Shah, 2011)

A coordinated approach, which is, adopted because of increased scope and frequency of investor awareness programs can give a holistic view of various financial products, attendant risks and returns to the investors. (Takkar, 2011)
For ensuring that the benefits offered by the financial service sector percolates down to the investors with different income segments and for reinforcing the investors with messages regarding investor protection by setting up circles of influence has become the task of the day. However, stressing upon the customer education in a country with a very low financial literacy is still a challenge to the financial services franchise despite having investor education and protection as its two pillars.

A well-articulated investor protection architecture means a system where the distributors and advisors are also made a part in radiating trust and eradicating misgivings that the prospective investors have as they take the first steps into the financial services sector. A customer centric focus to build durable long term relationships can be achieved if the distributors who represent the industry are also educated apart from the customers. (Balakrishnan, 2011)

Though the Indian capital market’s systems and procedures are of best nature, the global crisis highlighted the urgent need of bridging the gap between the understanding of financial products and knowledge of investors’ rights through Investor Awareness. In addition to these, BSE has set the following three main objectives to promote investor awareness and protection.

A. Key Objectives of IPF
- To aid, assist, subsidize, support, promote and foster research activities
- To further the advancement and propagation of education and learning.
- To promote investors education awareness and research (BSE & smc, 2009)

In (Goel, 2007) transparency, customer protection and clearly articulated terms and standards are found to be the risk mitigants in businesses like stock selling or trading. It was proved true that the micro financing industries, alone could endure the blows of the industry crisis in 2010 while the others withered.

(Giehler, 2013) Many studies have shown that as opposed to the 80% of the time spent by the investors on commercial goods only 11% is spent in selecting and buying financial products. Taking distribution of electricity as an example, the Chief Executing Director of BaFin Mr. Karl- Burkhard Caspari highlighted that all the countries though achieving a single objective should have a connector that enables every country to make adjusted use of universal principles of investor protection. The Program Director Mr. Thorsten Giehler mentioned the six objectives of the conference, which have holistic perspective of including all the four main players in investor protection viz., regulators, intermediaries, issuers, and investors. The conference covers the topics like education and financial literacy, transparency and disclosure, regulatory authorities, dispute resolution and mediation, compensation, and stock exchange surveillance.

The fact that the victims of many financial frauds is often well educated and financially sophisticated is flattered by the Commissioner of the U.S. Securities Exchange Commission in one of his posts regarding the confidence that investors demonstrate while making financial decisions given their education qualifications. (Walter, 2013)

(Press Trust of India, 2013) In order to spread the investor awareness and provide investor education closely 31 asset management companies adapted 200 districts.

There are these typical securities laws apart from the general federal securities laws that are commonly referred to as (Office of Investor Education and Advocacy, 2014)“Blue Sky Laws” and are followed in every state, entailing the companies to register the offerings before they can be peddled.

Drucker (1999), cited by (Sodhganga, 2011) mentioned that protecting the investors is of paramount importance SEBI was taking initiatives to reduce the risks of the investors by educating them and carefully bringing in rules and regulations.

VII. CONCLUSION

In a country like India where population is very high it is very wrong to assume that everyone is financially literate. Transparency, investor education are the watchwords that each regulatory body is using in order to protect the investors. But as mentioned earlier if the investors do not even know about these mechanisms and procedures then the whole purpose of investor protection, grievance redressal mechanism goes into the groove. It was found in many studies that it is often the well-educated and the high income groups that are affected by the scams.

Each time a new scandal pops up, new frameworks are made, and new laws are created forgetting the old ones. In addition, for most of it no system was specified. Despite all these with the new government and new economic conditions there are enormous possibilities for the Indian Government to intervene in all such undesired activities taking place in the country and improve the status quo. It was also found that the laws that were designed by the regulatory bodies are also not correctly and effectively enforced and put into use for safeguarding the interests of the investors.

If anything else beyond this has to be involved, then it would be about the companies’ authorities and the mechanisms. If the countries by themselves set standard for their existence and progress. If the companies themselves follow their standards in the best interest of the society and the country, then there is no requirement of the regulatory authorities as such to protect the investors. Even the investors should co-operate with the government and understand the importance of knowing about their duties, rights and responsibilities as an investor. There should be an attempt from all the three players of the securities market in upgrading the economic conditions of the country. The in depth research study had presented the researcher with many thoughtful insights that are very encouraging and empowering.

In conclusion it can be told that how much ever might be the availability and depth of the investment options and protections, they are of no avail if not combined with adequate knowledge and awareness and above all ethics and societal apprehensions.
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