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CAPITAL MARKET INTERMEDIARIES

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ABSTRACT
During last 20 years or so, the capital market in India has witnessed growth in volume of funds raised as well as of transactions. The changes in economic scenario and the economic growth have raised the interest of Indians as well as foreign institutional investors in the Indian capital market. The buoyancy in the capital market has appeared as a result of increasing industrialization ,growing awareness ,globalization of the capital market ,etc. several financial institutions, financial instruments, and financial services have emerged as a result of economic liberalization policy of the government of India. The capital market has two independent segments: the primary market and the secondary market.

The research contains the depth analysis of important provisions on capital market intermediaries and their registrations in an appropriate manner, obligations, responsibilities & the further penalities in case of default in any manner.

INTRODUCTION
A capital market is a market for securities (debt or equity), where business enterprises (companies) and governments can raise long-term funds. It is defined as a market in which money is provided for periods longer than a year, as the raising of shortterm funds takes place on other markets (e.g., the money market). The capital market includes the stock market (equity securities) and the bond market (debt). Financial regulators, such as the UK's Financial Services Authority (FSA) or the U.S. Securities and Exchange Commission (SEC), oversee the capital markets in their designated jurisdictions to ensure that investors are protected against fraud, among other duties Whereas A financial intermediary is an entity that acts as the middleman between two parties in a financial transaction, such as a commercial bank, investment banks, mutual funds and pension funds. Financial intermediaries offer a number of benefits to the average consumer, including safety, liquidity, and economies of scale involved in commercial banking, investment banking and asset management. Although in certain areas, such as investing, advances in technology threaten to eliminate the financial intermediary, disintermediation is much less of a threat in other areas of finance, including banking and insurance.

LITERATURE REVIEW
Pandya (1992), in a study, “SEBI: Its Role, Powers, Functions and Activities”, observed that as a regulatory and development body, SEBI's efforts in the direction of investor protection are varied and unlimited. The measures brought in by SEBI broadly cover measures for allocation efficiency in the primary market with a fair degree of transparency. It was found out that reforms in the secondary market institutions, mutual funds and regulation of various market intermediaries and above all for the protection of the investing public, were necessary.

Hyderabad (2007), in a study of risk management measures, pointed out that risk management measures should be a continuous process. Stating that, the process should help in identifying all risk factors, analyzing risks factors and deciding upon good measures of effective risks handling and control. It found out that, risks handling and control therefore involved such activities as risks identification, risks quantification, risks mitigation and risk insurance. It pointed out that, like other parameters used in taking the temperature of the Capital Market and reporting to investors when to buy and when to sell, there should be a risk measurement parameter that should be reporting the risky level of the Capital Market, so that investors should know when to invest and when not to invest. A risk measurement index was very necessary in the Capital Market. This could help to inform investors when to expect low returns.

Sherman 2009 stated that the capital market intermediaries roles are getting stringent as far as the regulations by SEBI and companies act 2013, provisions are concerned to the subject matter. One must be very much ethical

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towards practising any activity under the same aspects be it the company who is dealing or the intermediaries itself on every step.

Economic Times of India (2007), reported that the Securities and Exchange Board of India (SEBI) created a database of all participants in the bourses, a move that helped the regulator to keep a watch on traders, investors and intermediaries operating in the market. It stated that the National Institute of Securities Market (NISM) was coordinating certification in the country's Securities Markets and engaged agencies to administer computer-based tests across the country, (SEBI release). NISM, established by SEBI, also put in place a comprehensive continuing professional education framework involving reputed institutions. SEBI had always organised workshops for market participants on `Certification of associated persons in the Securities Markets. It pointed out that, certification had been mandated in the US, UK and Singapore among other countries. In India, certification was mandated for distributors of mutual funds, traders in derivatives segment and depository participants. The regulations introduced in the year 2007, had enlarged the scope of mandated certification to a number of new segments of intermediaries and their associated persons. It pointed out that, all persons handling investors' money, investor complaints, dealing with operational risk, attending to compliance and persons responsible for management of intermediates must have to demonstrate minimum proficiency standards in order to maintain their registration with SEBI. The certificate was to be obtained by passing an examination approved by SEBI and was valid for three years. The above reviews fall short of quantifying the risks in the Capital Market. This research project should be able to quantify the risks and examine the functions of SEBI as regulator of the Indian Capital Market. This should be able to guide investors to invest wisely, avoiding losses.

RESEARCH METHODOLOGY

- Preparation of Questionnaire within various aspects and filling it by own as and when got the answer
- Visiting various companies to have a depth knowledge with regard to the process of markets & the intermediaries.
- Analysing information gathered time to time
- Referring rule books of Companies Act 2013, and focussing on the share patterns.
- Referring the capital markets & securities laws as are applicable to the companies.
- Analyzing aspects of companies act, 2013.

OBJECTIVES

- Understanding the capital markets & security laws
- To have depth & nutshell information on the subject matter of capital market intermediaries
- To learn about the mandatory requirements of capital market intermediaries

DATA RESEARCH & ANALYSIS

Capital Market Intermediaries

These are the **experts** of various aspects of the capital market and facilitate the transactions between the Corporate and the investors in the Capital Market and charge the professional fees for their services.

I. Merchant Bankers/Lead Managers

Who is engaged in the business of:

1. Issue management which includes the following:
   - Preparation of prospectus/Letter of Offer.
   - Preparation of other information related to the issue.
   - Determine the financial structure.
   - Tie up of financiers.
   - Final Allotment and refund of application money.
2. To act as advisor, consultant or manager.
3. To act as underwriter.
4. To act as portfolio manager.

Responsibilities

Lead Merchant Banker shall file a **statement of responsibility** relating to an issue mainly those of disclosures, allotments and refunds with SEBI at least one month before the opening of an issue. In case of more than one

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Lead Merchant Bankers to an issue, a statement demarcating the responsibilities, also to be filed at the same time.

Lead Merchant Banker shall not manage an issue of associate company in any form i.e. group company, holding company, subsidiary company, investment company etc of the Lead Merchant Banker.

II. Registrars And Share Transfer Agents (Rta)

It is a combination of two expressions, namely 'Registrars to an Issue' and 'Share Transfer Agent'. Registrar to an Issue relates to Primary Market and Share Transfer Agent is related to Secondary Market. There are two categories of RTAs i.e.

Category I who acts both as the Registrar to Issue as well as the Share Transfer Agent.

Category II who acts either as the Registrar to an Issue or as the Share Transfer Agent.

Definition of Registrar to an Issue

A person authorized by a body corporate to carry on the following activities on his behalf:

- Collecting applications from investors in respect of an issue.
- Keeping a proper record of applications and moneys received from investors.
- Assisting body corporate in the following:
- ➢ Determining the basis of allotment of securities.
- ➢ Finalizing the list of persons entitled to allotment of securities; and
- ➢ Processing and despatching the allotment letters and refund orders.

Definition of Share Transfer Agent

- Any Person who, on behalf of body Corporate, maintains the records of holder of securities issued by such body corporate and deals with all connected matters with the transfer or redemption of its securities.
- A department or division of a body corporate performing the activities specified above in the above clause, if at any time the total number of the holder of its securities issued exceed I lac.

III. Underwriters

Underwriting means an agreement with or without conditions to subscribe to the securities of a body corporate when the existing shareholders of such body corporate or public do not subscribe to the securities offered to them.

Underwriter means a person who engages in the business of underwriting of an issue of securities of a body corporate. Generally, banks, financial institutions, merchant bankers and stock brokers do the work of underwriting.

IV. Debenture Trustee

Debenture Trustee means a trustee of a Trust Deed for securing any issue of Debentures of a body Corporate. A scheduled commercial bank, Public financial Institution, an Insurance Company or a body corporate can act as Debenture Trustee.

Inspection of Books of accounts, records and documents of Debenture Trustees

SEBI may appoint one or more persons as Inspecting Authority to inspect the books of accounts, records and documents of Debenture Trustees, for the following purposes:

- To ensure that the books of accounts are being maintained in the required manner.
- To ensure that the provisions of SEBI Act, 1992, SEBI (Debenture Trustees), Regulations, 1993 and Companies Act, 2013, are being complied with.
- To investigate into the complaints received from investors, other debenture trustees or any other person on any matter having a bearing on the activities of the debenture trustee,
- To investigate suo moto into the affairs of the Underwriter in the interest of securities market or investors.

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Before Investigation, SEBI shall give reasonable notice to the concerned debenture trustee. Such notice need not be given, if SEBI feels that it will adversely affect the interest of the investors.

After inspection, the Inspecting Authority shall submit an inspection report to SEBI. SEBI shall, after consideration of inspection report, take such action it may deed fit and appropriate.

Duties and Responsibilities of Debenture Trustees
No debenture trustee shall act as debenture trustee unless he gives his consent to the body corporate in writing to act as such under the Trust Deed. Such consent is to be given before the issue of debentures for subscription. The Trust deed shall also specify the time limit within which the security for debentures shall be created.

The debenture trustee shall not work as such, where debenture trustee is an associate of the body corporate and where he has lent or proposed to lend money to the body corporate.

V. Bankers To An Issue
Banker to an Issue means a Scheduled Bank (bank specified in the schedule II of the RBI Act, 1934) carrying on any or all of the following activities, namely:
- Accepting applications and application moneys.
- Acceptance of allotment and call money.
- Refund of Application moneys.
- Payment of dividend or interest warrants.

VI. Portfolio Manager

Meaning and Concept of Portfolio Manager
Portfolio means the total holdings of securities belonging to a person. Thus, Portfolio Manager means a person who manages the total holdings of securities belonging to a person. He studies the market and adjusts the investment mix for his client on a continuing basis to ensure safety of investment and reasonable returns thereupon. The Portfolio Manager charges a fee from the client for rendering portfolio management services and such fee shall be independent of the research.

There are two types of Portfolio Managers:
1. Discretionary Portfolio Manager
He manages the funds of his client independently with full discretion in accordance with the needs of his clients.

2. Non-Discretionary Portfolio Manager
He manages the funds of his client without discretion and in accordance with the instructions and directions of his client.

Definition of Portfolio Manager
Portfolio Manager means any person who, pursuant to a contract or arrangement with a client, advises, directs or undertakes on behalf of the client the management or administration of the portfolio of securities or the funds of his clients, as the case may be.

Contracts with Clients
Every Portfolio Manager before taking up assignment of management of portfolio on behalf of the client, enter into an agreement with such client defining the inter se relationship and setting out their mutual rights, liabilities, and obligations etc.

The agreement may contain the following:
- Investment objectives and services to be offered.
- Areas of investment and restrictions, if any.
- Type of investment and proportionate exposure.
- Period of agreement.
- Amount to be invested.
- Procedure for settling the client's account.

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- Fee payable to the Portfolio Manager.
- Custody of Securities.

The funds of the clients shall be placed by a Portfolio Manager in a separate account to be maintained by him in a scheduled commercial bank.

Investment of Client Money

- Portfolio Manager shall not accept money or securities from its client for a period of less than one year.
- Portfolio funds can be withdrawn or taken back by the client under the following circumstances:
  - ➢ Voluntary or compulsory termination of portfolio management services by the Portfolio Manager.
  - ➢ Suspension or cancellation of Certificate of Registration of Portfolio Manager by SEBI.
  - ➢ Liquidation or winding up of the Portfolio Manager.
- All transactions of sale or purchase at market price.
- Securities may be held in the name of Portfolio Manager, if the contract with the client permits that.
- Purchase or sale of securities on behalf of clients may be clubbed if it offers economies of scale and in that case proportionate allocation to be done in the clients accounts.

Reports to be furnished to the Client
Periodic reports to be sent to the client/s but not exceeding a period of 6 months and shall include the following:

- The composition and value of portfolio.
- Details of sales and purchases during the period.
- Beneficial interest received during the period in terms of interest, dividend, bonus shares, rights shares etc.
- Expenses incurred in managing the portfolio of the client.
- Details of risk foreseen by the Portfolio Manager.

VII. Stock Brokers And Sub-Brokers
Stock broker is a person registered with Stock Exchange as a Member. He helps both the seller and buyer of securities to enter into a transaction. Sub-broker is one who works along with the Stock Broker and is not directly registered with Stock Exchange as a Member. However, he must be recognized by the Stock Exchange. He acts as an agent of the Stock Broker.

Registration of Stock Broker
An application by the Stock Broker to made in Form A of Schedule I to SEBI (Stock Brokers and Sub Brokers) Regulations 1992 through the Stock Exchange if which it is a member. The Stock Exchange shall forward the application to SEBI, within 30 days of its receipt.
SEBI shall take into account the following factors while granting the Certificate of Registration:

- He is eligible to be admitted as a member of the Stock Exchange.
- Has necessary and adequate infrastructure.
- Possesses the past relevant experience.
- He has not been subjected to any disciplinary proceedings
- That he is a fit and proper person.

SEBI, after being satisfied shall grant the Certificate of Registration in Form D of Schedule I to SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 to the Stock Broker and also send intimation to the Stock Exchange of which the Stock Broker is a Member. The stock broker shall pay the requisite fees.

Registration of Sub-broker
An application by the Stock Broker to made in Form B of Schedule I to SEBI (Stock Brokers and Sub Brokers) Regulations 1992 to the Stock Broker. The stock broker shall forward the application to the Stock Exchange along with its recommendation letter in Form C in which it is a member. The Stock Exchange shall forward the application to SEBI in Form CA, within 30 days of its receipt.

SEBI shall take into account the following factors while granting the Certificate of Registration:

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- The applicant or its directors or its partners are at least 21 years of age and has not been convicted of any offence involving fraud or dishonesty.
- The applicant or its directors or its partners have passed at least 12th standard examination or its equivalent.
- Has necessary and adequate infrastructure.
- The applicant has been recognized by Stock Exchange as a Stock Broker affiliated to a member broker of the Stock Exchange.

SEBI, after being satisfied shall grant the Certificate of Registration in Form E of Schedule I to SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 to the Stock Broker and also send intimation to the Stock Exchange of which the Stock Broker is a Member. The stock broker shall pay the requisite fees.

VIII. Custodian Of Securities

Any person who carries on the business of providing custodian services. Custodian Services mean safekeeping of securities of a client and providing services incidental thereto:

- Maintaining accounts of securities of a client.
- Collecting the benefits of rights accruing to the client in respect of securities.
- Keeping the client informed of the actions taken or to be taken by the issuer of securities.

Custodian of Services is required to be registered with SEBI. Capital adequacy norms to be complied with i.e. net worth of minimum Rupees 50.00 crores (paid up capital and reserves).

IX. Self Regulatory Organizations (Sros)

SRO means an organization of intermediaries which is representing a particular segment of the securities market and which is duly recognized by SEBI but excludes a stock exchange. It is a company registered under Section 25 of the Companies Act, 1956. It needs to have a minimum net worth of Rs. one crore.

It shall be responsible for investor protection and education or its members and shall ensure observance of Securities Laws by the members. It also specifies standards of conduct by its members and also responsible for implementation of the same by its members.
It may conduct audit and inspection of its members, on regular basis, through independent auditors.

Sebi (Foreign Portfolio Investors) Regulations, 2014

These regulations provide for the framework of FPI and DDP and have replaced the old regulations 1995.

X. Foreign Portfolio Investor (Fpi)

Designated Depository Participants (DDPs) are authorized to grant registration to FPIs on behalf of SEBI. The application is to be made to DDP in the prescribed Form along with the specified fees. FPI means a person who meets the prescribed eligibility criterion.

- That the applicant is not a resident in India
- Not a NRI
- Legally permitted to invest in securities outside the country of its incorporation.
- Authorized by its Incorporation Documents to invest on behalf of its clients.
- Possesses sufficient experience and expertise and has a good track record in the field.
- That the applicants' Country Financial Regulator has MOU with SEBI.
- That the applicant being a bank, is a resident of a country whose central bank is a member of the bank for International Settlements.
- That the applicant is not a resident of country identified in public statement of Financial Action Task Force having a anti money laundering or terror financing deficiencies to which counter measures apply.

XI. Designated Depository Participant (Ddp)

A person can act as DDP after obtaining approval of SEBI.

An existing custodian of securities and qualified depository participant shall be deemed to be DDP subject to payment of prescribed fees.

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The application to SEBI for registration as DDP to be made through the Depository in which the applicant is a participant.

SEBI shall grant registration to act as DDP subject to the following conditions:

- The applicant is a participant and custodian registered with SEBI.
- An authorized dealer category I bank authorized by RBI.
- Has multinational presence either through its own branches or through agency relationships.
- Has systems and procedures in place to comply with the requirements of FATF Standards, Prevention of Money Laundering Act, 2002.

The Certificate of Registration granted to a DDP shall be permanent unless suspended or cancelled by SEBI or surrendered by the DPP.

XII. Kyc And Kyc Registration Agency

A mechanism for centralization of the KYC records in the securities market has been developed.

An intermediary shall perform the initial KYC of its clients and upload the details on the system of KYC Registration Agency (KRA). When a client approaches another intermediary, the intermediary can verify and download the client's from the system of KRA. As a result, once the client has done KYC with a SEBI registered intermediary, he need not undergo the same process again with another intermediary.

CONCLUSION

As the major provisions highlights the intermediary role & further acts of their. It is concluded that the CODE OF CONDUCT FOR CAPITAL MARKET INTERMEDIARIES To make all efforts to protect the interest of investors and Shall maintain all standards of integrity, dignity and fairness in the conduct of its business, & Shall also fulfil the obligations in prompt, ethical and professional manner. Capital market intermediaries Shall exercise due diligence, ensure proper care and exercise professional judgment. They would examine the Grievances of investors are redressed promptly and all enquires are adequately dealt with to provide true and adequate information to investors. Along with that they shall ensure that copies of prospectus, offer documents and other details are provided to the investors & maintain utmost confidentiality of transactions of the clients. Most importantly they shall maintain arms length relationship between its core activities and other activities.

Further, OBLIGATIONS OF CAPITAL MARKET INTERMEDIARIES UNDER PREVENTION OF MONEY LAUNDERING ACT, 2002

Every capital market intermediary to :

- Maintain record of all transactions, the nature and value to be prescribed.
- This information to be supplied to the Director, as per prescribed time lines.
- To verify and maintain the records of the identity of all its clients.
- Records to be maintained for a period of 10 years.

Section 13 of the Act, prescribes the procedure for enquiry by the Director against any intermediary to determine compliance of the provisions of the Act.

In case of default, the Director may impose fine as per provisions of the Act, on the market intermediary.

Section 15 of the Act, empowers the Central Government to prescribe the procedure and the manner of maintaining and furnishing information for the purpose of implementation of the provisions of the Act.

It is concluded that all the capital market intermediaries to follow the applicable provisions and the same regulations must be followed while the enactment.

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