

## AN INVESTORS' REQUIREMENTS IN INDIAN SECURITIES MARKET

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**S**ECURITIES market development is expressing the economic development of the country. The object of economic activity in any country is to promote the well-being and standard of living of the people, it depends upon the distribution of income in terms of goods and services in the economy. For the growth process in the economy, production plays a vital role. Production of output depends upon material inputs, human inputs, and financial inputs. Material inputs are in the form of raw materials; plant, and machinery etc., Human inputs are like labour and enterprise. Financial inputs are in the kind capital, cash, credit etc., the proper co-ordination between these inputs, it promotes the growth process in the economy and promotes the well-being and standard of living of people in the country. The financial inputs emanate from the securities market system. Trading in money and monetary assets constitute the activity in the securities markets and are referred to as the capital market activities, the capital market activities are based upon the investors confidence based upon their return on investment and anticipating the capital appreciation from their investment. As such, in this paper an attempt has been made to study the investors' requirements in the Securities Market in India.

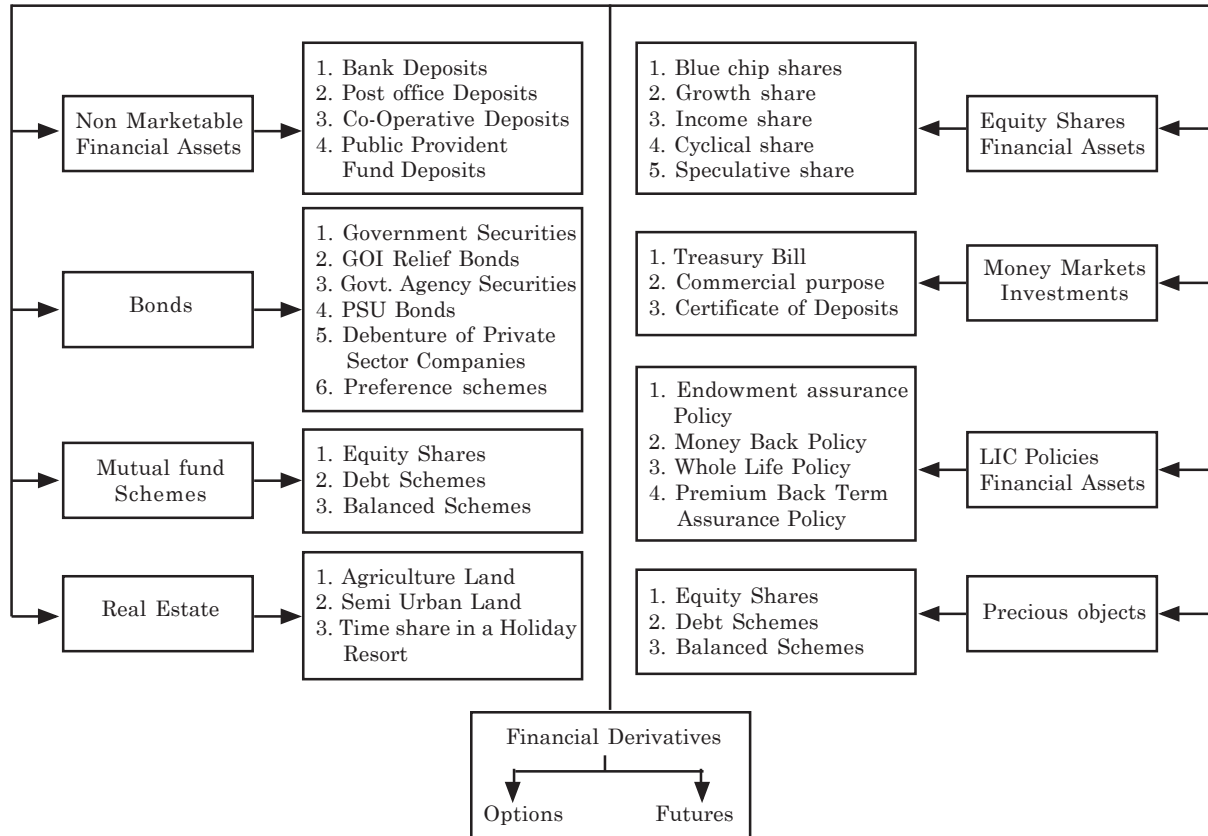
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Investors are a heterogeneous group, they may be large or small, rich or poor, expert or lay man and not all investors need equal degree of protection (Mayya, 1996). An investor has three objectives while investing his money, namely safety of invested money, liquidity position of invested money and return on investment. The return on investment may further be divided into capital gain and the rate of return on investment as interest or dividend. Among all investment options available as shown in Figure 1.1 securities are considered the most challenging as well as rewarding. Securities include shares, debentures, derivatives, units of mutual funds, Government securities etc.<sup>1</sup>. An investor may be an individual or corporate legal entity investing funds with a view to derive maximum economic advantage from investment such as rate of return, capital appreciation, marketability, tax advantage and convenience of investment.

The Capital market facilitates mobilization of savings of individuals and pools them into reservoir of capital which can be used for the economic development of a country. An efficient capital market is essential for raising capital by the corporate sector of the economy and for the protection of the interest of investors in corporate securities. There arises a need to strike a balance between raising of capital for economic development on one side and protection of investors on the other. Unless the interests of investors are protected, raising of capital, by corporates is not possible. An efficient capital market can

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<sup>1</sup> See Section 2(h) of the Securities Contracts (Regulation) Act, 1956.



**Figure 1: Investment Avenues (Vashisht and Gupta, 2005)**

provide a mechanism for raising capital and also by protecting investors in corporate securities. In the Indian Capital Market scenario, even before independence, an attempt to create a healthy and efficient capital was made by means of taking legislative measures.

The Capital Issues (Control) Act, 1947 was the first piece of legislation passed in India to control the capital market. After that, the Companies Act, 1956 was passed with a view to regulate the formation, administration and dissolution of companies. The Companies Act, 1956 has provisions to ensure certain rights to its members, but the rights given to its members under this Act will not redress the grievances of individual investors and there is no protection under this Act, as far as getting back the capital invested and rate of return on investment. Apart from the Companies Act, the Securities Contracts (Regulation) Act, 1956 was also passed with a view to prohibit speculation and unfair trading in the stock market as a way out for investors' protection. In the mean time the Globalization of financial market led to several changes in Indian Capital Market. The Capital Issues Control Act was replaced by the Securities and Exchange Board of India Act, 1992 (herein after referred to as "SEBI Act". The SEBI Act creates an autonomous body by name Securities and Exchange Board of India (herein after referred to as "SEBI"). The SEBI acts as the capital market regulator by acquiring powers from the Companies Act 1956, the Securities Contracts (Regulation) Act 1956, and from various other legislations. The SEBI Act has the prime objective of protecting the investors' interest. The SEBI then and there issues guidelines to issuing companies, stock exchanges, stock brokers and other intermediaries etc., Among other guidelines, the SEBI is of the view that the guidelines for Disclosure of Information for Investor Protection is expected to protect the interest of the investors. It is based on the logic that the disclosure of information by the issuing companies as per the law may enable the investors to take a

right investment decision and there by the investors would protect themselves. If at all, there is any grievance to any of the investors over the information disclosed or procedure to be followed, the investors can redress their grievance as per the grievance redressal mechanism of the SEBI. SEBI was, for quite some time, pressing for comprehensive changes in the SEBI Act. These covered making certain capital market offences cognizable and increased monetary penalties for offences; The proposals were also for granting power to the regulator for search and seizure of books of intermediaries and other market players, attaching bank accounts and suspension of trading of scrips, where there were allegations of manipulation; SEBI also sought powers, empowering its officers to summon certain persons dealing with securities like an issuer or an investor (Gopalsamy, 2005).

The rapid growth of economy and globalization of financial markets is perhaps one of the most significant developments at the international level in the financial market operations, capital market provides valuable contributions as it deals in financial assets, excluding coin and currency. The financial assets comprise of banking accounts, pension funds, provident funds, mutual funds, insurance policies, shares, debentures, and other securities. Shares and debentures are playing a very important role in the capital market operations in the country. The shares and debentures are normally called upon the securities market.

The securities market occupy an important position in the national economy of a country. It facilitates the mobilization of the savings of individuals and pools them into reservoir of capital which can be deployed for the economic development of a country. Efficient stock markets are key to raising of capital by the corporate sector of the economy and the protection of interest of the investors. In the last decade, far reaching developments have taken place in the working of the stock market which has influenced the operations of all the players of the stock market. Present stock market is significantly different from what it used to be in eighties and before. There appears to be new opportunities, challenges and threats in the stock market.

Among all investment options available, securities are considered the most challenging as well as rewarding. But investment in securities requires considerable skill and expertise and carries the risk of loss if the choice of securities is not right or they are not bought / sold at right time. There are a large variety of instruments referred to as securities in common parlance. SEBI has been established with the primary objective of protecting the investors interest in securities, which is defined in the Securities Contracts [Regulation] Act, 1956 to include:

- i. Shares, scrips, stocks, bonds, debenture stock or other marketable securities of a like nature in or of any incorporated company or body corporate;
- ii. Derivative;
- iii. Units or any other instrument issued by any collective investment scheme to the investor in such schemes;
- iv. Government Securities;
- v. Such other instruments as may be declared by the Central Government to be securities;
- vi. Rights or interest in securities.

Different securities carry different risk-return profiles. Generally, higher risks carry higher returns and vice-versa. The risks may be taking the form of credit risk [counter party may default payment as it may not have integrity]. The return risk [the return from the investment may depend on several contingent factors] and liquidity risk [it may be difficult to convert security into cash]. The various investment options are available in the securities market, the investment decisions are based upon the

investors' life cycle stages and the constraints of the investment decisions like liquidity, safety, return on investments, tax savings, active involvement required to manage the investment, and minimum amount requirement for selecting the instruments.

After understanding the concept of investment, the investors would like to know how to go about the task of investment, how much to invest at any moment and when to buy or sell the securities, This depends on investment process as investment policy, investment analysis, valuation of securities, portfolio construction and portfolio evaluation and revision. Every investor tries to derive maximum economic advantage from his investment activity. For evaluating an investment avenues are based upon the rate of return, risk and uncertainty, capital appreciation, marketability, tax advantage and convenience of investment. The following Table 1 should give the clear picture relating to the investors' investment decisions in various financial market instruments.

**Table 1: Summary Evaluation of Various Investment Avenues (Vashisht and Gupta, 2005)**

Investment options	Return		Risk liquidity	Market-ability	Tax shelter [From Income Tax Act]	Convenience
	Return yield	Capital Appreciation				
Equity Shares	Low	High	High	Fairly High	Section 80L benefit	High
Non-Convertible Debentures	High	Negligible	Low	Average	Nil	High
Equity Schemes	Low	High	High	High	Section 80L benefit	Very high
Debt Schemes	High	Low	Low	High	No tax on dividends	Very high
Bank Deposits	Moderate	Nil	Negligible	High	Section 80L benefit	Very high
Public Provident Fund	Nil	High	Nil	Average	Section 88 benefit	Very high
Life Insurance Policies	Nil	Moderate	Nil	Average	Section 88 benefit	Very high
Residential House	Moderate	Moderate	Negligible	Low	High	Fair
Gold and Silver	Nil	Moderate	Average	Average	Nil	Average

It must be emphasized that within each investment category individual assets display some variations, relating to the investors risk-bearing capacity, tolerance etc., The Securities markets should discharges the important function of transfer of savings, especially of the household sector to companies, Governments and public sector bodies. Individuals or households with surplus money invest their savings in exchange for securities like shares, debentures and other form of instruments prescribed in the Securities Contract (Regulation) Act, 1956 in the way of primary or secondary market.

An investor is a person who is an individual or a corporate legal entity investing his capital in another venture or business but does not do the business himself or itself. The investor has no role to play in the day-to-day management of the business or its control except as permitted by the law. Investor carries on business when they buy and sell assets, arranges for other to buy and sell assets, manages assets belonging to others, or operates collective investment schemes. These activities are engaged by an investor, but they are not having any control over the day to day activities of any corporates. Normally, an investor is a blind person; they do not know any activities made by the company. Investor cannot

guide the fate or destiny of the money invested. An investor to that extent is quite fragile and is exposed to certain risks because the utiliser of his money can commit mistakes. Normally they are contributing the funds for productive purpose of the company, and they are exposing him to the business decisions that the company has taken or will be taking. There are no doubt laws some of which are adequate but some are not. An investor obviously needs some protection per se (Vashisht and Gupta, 2005).

“Investor protection” is a very popular phrase which everyone concerned with regulation of the capital markets uses these days, be they the Securities and Exchange Board of India, Stock Exchanges, Investors associations or for that matter of fact the companies themselves. The term Investor Protection is a wide term encompassing various measures designed to protect the investors from malpractices of companies, merchant bankers, depository participants and other intermediaries. “Investor Beware” should be the watchword of all programmes for mobilization of savings for investment. As all investment has some risk element, this risk factor should be borne in mind by the investors and they should take all precautions to protect their interest in the first place. If caution is thrown to the winds and they invest in any venture without a prior assessment of the risk, they have only to blame themselves. Investors are a heterogeneous group, they are large or small, rich or poor, expert or lay and not all investors need equal degree of protection (Vashisht and Gupta, 2005) for their invested amount from the corporate securities.

As an investors have three objectives while investing his surplus money, namely safety of invested money, liquidity position of invested money, and return on investment in selected securities. Normally, an investor desires to have safety of his invested funds, liquidity of his investments and a good return with minimum risk. An investor can be classified as individual or professional who manages the funds on behalf of others. First there are inexperienced investor who needs to be properly advised about the intricacies of investment avenues and opportunities in corporate securities. Secondly, there are the experienced investors who understand the risks involved in the selected investment avenues and who need no advices from others, his response / order just to be executed without much time. Thirdly, there are occasional investors who seek advice and assistance once in a while with no desire to create a long-term perspective.

During 1990s, there was a bearish trend in the Indian capital market. During 2000s, there is an unexpected bullish trend in the capital market. There is every uncertainty in terms of market price and rate of return. The uncertainty acts as barriers for many investors to enter into the stock market operations. The investors fear that there is no protection for their investments and immediate return as dividend. The disclosure of information relating to the issue of securities, market operations, grievance redressal mechanism etc., is there but there is no regulator to give assurance relating to the return on investment and capital appreciation.

Inspite of these legislative measures, there are fraudulent companies which are cheating the investors. For example, in India around 9600 listed companies are available for trade in Bombay Stock Exchange and National Stock Exchange of India Ltd., but only 2500 company shares are traded in Bombay Stock Exchange and nearly 800 company shares are actively traded in National Stock Exchange, most of companies are traded only in the penny stock level. The remaining companies are enjoying benefit from the legal provisions of corporate veil from the Companies Act 1956. Recently the Central Government has identified nearly 229 (Website, [mca.gov.in](http://mca.gov.in)) companies which were vanished. The Government also was unable to trace some companies' managerial persons, proper communication addresses etc., and the Department of Company affairs filed a prosecution against 75 (Website, [mca.gov.in](http://mca.gov.in)) companies through the Registrar of Companies. Most of the vanished companies tapped capital from the market and collected funds from the public through issue of shares / debentures at the time of Capital Market boom period during early 1990s. Some of the companies took advantage of the market conditions but later defaulted in their commitments made to the public while mobilizing funds. Some of these companies are not even traceable; the public has thus been cheated of their hard earned money.

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At present there is no ceiling on the quantum of issue of securities by the issuing companies and instead any number of securities can be issued for raising funds subject to the guidelines of SEBI for issue of securities. Besides fresh issue of securities can be made either at free pricing or as a process of book building price. But dividend will be paid only on the par value, under this circumstance the investors will be benefited only when there is capital appreciation over and above free pricing or book building process pricing. Whether the liberalized capital market followed by free pricing or book building process will protect the investors in terms of capital gain and return on investment or not?

The significant literature in the field of Investors' protection in corporate securities market is summarized in the following paragraphs:

In the Indian Context, Saroja S. (1991), Vinayakam N. (1994) has identified for the investors' protection need in following areas viz., Proper allocation of shares, bonds, etc./or refund of money, Receipt of share/debenture certificates. Safety of his hard-earned money and use of money for the purpose stated, Rate of return as promised, actual payment of dividend, and ability to sell the securities as and when he/she needs money. Final Return of his debenture/ fixed deposit investments is promised. Receipt of Annual Reports, Bonus share, Rights Issue forms, Restoration of confidence in the markets stabilization operations by Government/mutual fund to re-inforce confidence and neutralize runaway bear and bull situations, True and fair view of prospects and management, protection from fraud and fly-by-night operations, proper transfer of shares, able to buy the share he wants, availability of floating shares.

For the Investor, Protection in the Indian Securities Market was the first empirical verification. Neelamegam R. & Srinivasan R. (1996) examined the adequacy of various protective measures offered under the existing Companies Act 1956, Securities Contracts (Regulation) Act 1956, and Securities and Exchange Board of India Act 1992 and also examined the trading activities of primary market and secondary market in India. They have found from their study, various protection measures were taken by regulators through the legislative system. The investors have lost their confidence which is revealed in the increasing trend of grievances and complaints even after the establishment of the SEBI and administrative system of securities market. The same view has been expressed by Mohana Rao (1996), Krishna Kumar Agarwal (1997), and Sakriya (2000) in their various studies.

The Delhi-based Society for Capital Markets (Gopalsamy, 2005) also conducted a study (October 1998) that revealed that the majority of retail investors have lost confidence in various agencies associated with capital markets, including the Securities and Exchange Board of India. Investors have no confidence or low confidence in company managements, auditors, stock brokers and the SEBI. Expressing concern over low investor confidence, it said, 'No vibrant corporate growth can be expected if most investors have so little confidence in corporate managements and various agencies, which are supposed to protect investors.' It said "the situation called for a strong official initiative from the government for introducing radical reforms in corporate governance". The study also reveals a significant shift of investors from equity share towards high quality bonds of domestic financial institutions. Retail investors were, however, reluctant to touch the bonds of private sector companies, it said. The study said "investors' preference for buying new issues, instead of making secondary market purchases, had completely disappeared as a result of free pricing". The findings also showed that a majority of retail investors were not influenced by credit ratings and also expressed a lack of confidence in these agencies. As regards the perception about safety of investments, most investors regarded the Unit Trust of India schemes as safe. On the future investment strategies, the majority indicated that they would invest in UTI units in the next 12 months. The majority of retail investors intended to reduce their exposure in equity investment. The study was based on an all-India survey of household investors, who accounted for 80 per cent of savings in India. After the study report of this society, the Government of India has considered to introduce an independent legislation on investor protection to safeguard the interest of small investors in securities market (Shaji, 2001).

A separate legislation has been recommended in the report prepared by Mitra, former Director of the National Law School, Bangalore, who was commissioned by the Finance Ministry to draw up the terms of reference for a new Bill. A debate has been on over the need for a separate legislation for protecting the interests of small investors, considering that there are multiple agencies involved in policing companies that raise funds from the public be it public listed companies, or NBFCs. These include the capital markets regulator, SEBI, the banking regulator, RBI, and the Department of Company Affairs (DCA) which is responsible for regulating unlisted companies. Several parliamentarians led by Mr. Kirit Somaiya, have also put pressure on the Government to enact legislation considering what he says is the ineffectiveness of various regulatory agencies (Shaji, 2001).

According to the report of Mitra, there should be a separate legislation for protection of small investors. However, there was no need for a separate regulatory agency for this task and that the existing structure, where the regulatory turf is clearly earmarked for SEBI, RBI and DCA, need not be rocked, the report says. SEBI has been in favour of a separate regulatory agency for the protection of small investors. The regulator had earlier submitted a proposal to the Finance Ministry, outlining the need for a new Act (Shaji, 2001).

The National Law School report has also advocated the empowerment of consumer courts to ensure adequate and speedy compensation for investors. Since the cases of cheating are generally treated as criminal in nature, the issue of compensating investors assumes secondary importance. This could be overcome if consumer courts are empowered, the report has said. The setting up of a comprehensive fund for the protection of investors has also been recommended by Dr. N. L. Mitra. In fact, the report has suggested that the existing Investor Protection Fund, the corpus of which is to come from unclaimed dividends, should be merged with the new fund (Shaji, 2001).

Small shareholders are already aggrieved that they have been given the short shrift after attempts to have their representation on the boards of companies were scuttled, by aggressive lobbying by major industrial houses. The Companies Act, in its present form, has made it only optional for company boards to have a representation of small shareholders (Shaji, 2001) Dr. N.L. Mitra Committee has submitted its study report on investor protection to the Government with the following recommendations (Shaji, 2001):

- i. There is a need for a specific Act for protecting investors' interest. The Act should codify, amend and consolidate laws and practice for the purpose of protecting investors' interest in corporate investments.
- ii. A judicial forum is needed for the redressal of investors' grievance for the purpose of remedying the same with the award of compensation. The consumer forum should be the redressal forum only for the purpose of compensating the investors.
- iii. The provisions relating to investor education and protection fund should be removed from the Companies Act, 1956 and included in the SEBI Act, 1992 and the fund should be administered by SEBI.
- iv. SEBI should be the only regulator for the entire capital market, both primary and secondary. It should have powers for investigation and to attach the public fund and all converted assets to prevent misappropriation. But it should not have powers to award compensation, which is the job of a justice delivery system.
- v. The regulator may require all Initial Public Offerings to be insured on the principle of third party insurance with differential premium based on the risk study by the insurance companies.
- vi. SEBI should have the power and function of an on-and-off-the-field regulator. The report has listed

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a number of additional powers to be conferred on SEBI. However, it cannot be an investigator, regulator and judge at the same time.

- vii. The SEBI Act, 1992 should be amended to provide for statutory standing committees on investors' protection, market operation and standard setting.
- viii. The Securities Contract (Regulations) Act, 1956 should be amended to provide for corporatisation and principles of good governance for stock exchanges.

In India, the worries for the investors in the securities market are shortage of application forms, preferential allotment to the financial institutions, mis-statements, concealment of facts and pushing the issue through advertisement, fraudulent company management, price volatility, price manipulation, insider-trading, unfair trade practices of brokers and sub-brokers, increasing the number of vanishing companies, lack of commitment for the corporate entities, stock market scams, price rigging, insider-trading, lack of professional expertise, defaults committed by brokers, multiplicity of number of investor complaints, absence of genuine investors, price rigging before issue, prevalence of insider-trading, lack of liquidity, scarcity of floating securities, lack of transparency, high volatility in the secondary market, dominance of public sector and financial institutions. The former Chairman of SEBI G.N. Bajpai has so expressed in his tenure period as "My main priority is to build investors confidence and bring the small investor back..." The same view was expressed in the report of the expert group headed by Justice Kania M.H [2005] for suggesting amendments to Securities and Exchange Board of India Act, 1992 deliberated that the investors in the equity market invest in risk capital and no assured return or compensation for non fulfillment of every expectation may be provided in the statute. However, the compensation in respect of fraud or misrepresentations or mis-statements by companies or intermediaries may be considered. Further, the compensation to small investors in respect of fraud or misrepresentations or mis-statements by companies or intermediaries may be considered as a matter of investor protection

Launching the Securities Market Awareness Campaign organised by SEBI (January 2003), the Prime Minister\* said the prolonged quietness in the stock markets had tested the confidence of the small investor who was the backbone of the securities market. 'If investors are not attracted, then companies will not be able to raise money through the capital market. The Indian household investor, off late, has been putting much of his savings in non-financial assets. Even with financial assets, most of the savings are going to the banking system. This is not the best or the most productive use of our savings,' he said. In recent years, there had been many instances of companies raising money from the market by creating hype and then defrauding the investor. Many of them issued shares at hefty premiums; most of their scrips are now trading well below their face value. Stock market scams brought a bad name to the Indian business community. This is how boom went bust and hopes turned to dust for many gullible investors. And that is how the investor community lost confidence in the market, leading to prolonged stagnation. The Prime Minister, therefore, called upon the market regulator and the intermediaries to "learn the right lessons" from our experience of the past few years. He said "We need markets that are known for their safety and integrity."

While technology and the regulatory framework of capital markets had improved, the standards of corporate governance had not kept pace. No doubt, we may have many companies that have become role models of good corporate governance, but there are still many more companies that often use questionable, even illegal means to achieve their ends. According to the finance minister, the strengthening of SEBI and enhancing penalties for irregularities would deter evaders and improve the confidence of investors in the capital market. The SEBI Act has been amended to further strengthen the regulator. The expectation is that a strong regulator and enhancing the penalty limits would deter evaders and bolster the confidence of investors. Apart from the market regulations, investors' community

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\* A.B. Vajpayee, "Securities Market Awareness Campaign", Mumbai, January 2003.

should expect the minimum rate of return and capital in all times from the free pricing mode of offering securities. The regulator and corporates must do some basic protection measures for protecting the investors in form of return on investment and invested amount in the corporates.

## Conclusion

The securities market operations promote the economic growth of the country. More efficient is the securities market, the greater is the promotion effect on economic growth. It is, therefore, necessary to ensure that securities market operations are more efficient, transparent and safe. In this context, the investors need protection from the various malpractices and unfair practices made by the corporates and intermediaries. As the individual investors' community and the investment avenues are on the rise, it is interesting to know how the investors shall be protected through various legislations. Securities market in general are to be regulated to improve the market operations in fair dealings and easy to access the market by corporates and investors. The present positive attitude of investors is heartening though investor sentiments have been shaken by the various scandals. Even though, there are various opportunities available for investment, investors are scared of investing in corporates. In this situation, the individual investors' protection becomes necessary to sustain the economic development of all countries. To achieve the desired level of economic growth is dependent upon investors' protection availability of the concerned country.

Globally, there is increased evidence to suggest that investor protection has assumed an important role in the economic development of a country. Integrity of the financial markets and economic well being of the country depend on corporate accountability and investor confidence. The global concern to make capital markets safer, transparent, strengthening financial system and managing the crisis cannot be quickly fixed. But they add up to a stronger system. Globally, many countries have undergone investors' confidence crisis in different aspects. The global evidence suggests that every time there is stock market crisis, money pours into bank deposits. Again with economic recovery in the country, the funds are diverted to the markets. Investors panic when markets slide. It is important for investors to realize that returns on equities are cyclical in nature and also, market moves up and down with time. Understanding market and being patient while market is going down is important while investing in equities. The revival of investors' protection in the corporate securities market is necessary to make market more efficient by means of converting savings to investment. If the investors have not been protected properly by means of rate of return and capital, the corporates will not be able to collect the funds from the market with cheap rate and effectively in future days. For gaining the confidence of investors in the securities market there is a need to provide an adequate rate of return and fair operating efficiency of corporates in the securities market, then the investors lure back to market. This can be done by a series of systematic measures which would build their confidence in the systems and processes and protect the interest of investors.

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