SECURITIES AND EXCHANGE BOARD OF INDIA

Effectiveness of SEBI's Complaints Redress System (SCORES) in India*

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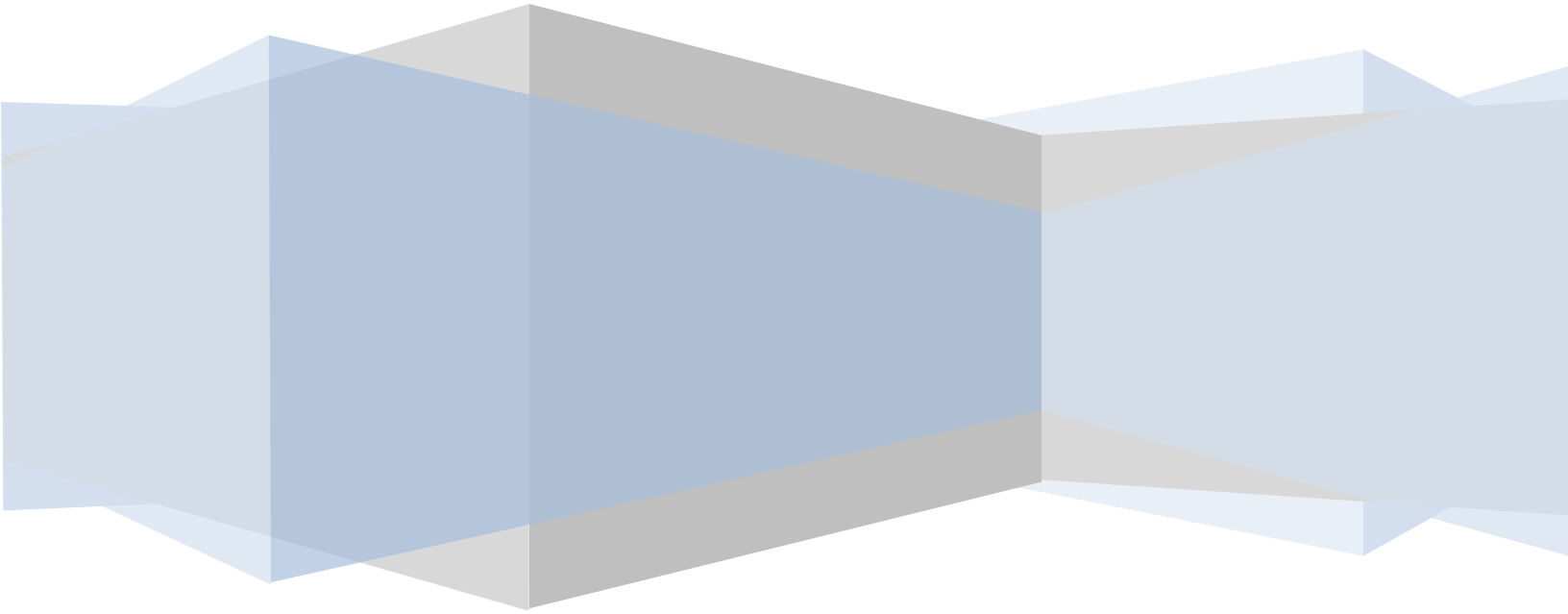


***These are the personal views of the authors and not that of SEBI.**

Abstract

A dynamic and efficient capital market is a vital and indispensable part of a nation's financial infrastructure. Indian stock market is the fourth best-performing market in the world. Retail investors account for nearly 97 per cent of total investors in Indian mutual funds accounting for nearly 47 million investor accounts. Resolution of securities market dispute could result in lowering the cost of equity/capital in the country. Secondly, dispute resolution platform provide a feedback mechanism of the regulation in the securities industry- which regulation is working, not working but needs fine-tuning. It is in this context, we examine the role and efficacy of SEBI's SCORES securities dispute resolution system using the widely used three attributes of a good dispute resolution system: accessibility, efficiency and fairness

As far as the first criteria are concerned- accessibility to investors- SCORES fare very well. It is overzealous in accepting customer complaints. On the flip side, given the overtly inclusiveness of the SCORES system, it has the potential to create a number of "hard-to-solve" cases with weak information set which can impact adversely the reputation of the regulator. SEBI's SCORES model is a unique model and could be characterised as 'advocacy model' with investors interest in the forefront.

As far as the second attribute is concerned, viz., efficiency, SCORES system also fares favourably. The redressal rate at 96 per cent in recent years is one of the highest among regulators world-wide. Similarly, the time taken also scores positively (less than a year). Most of the cases get resolved in the initial stages itself. To improve the redressal rate further, it is recommended that an active mediation role as opposed to conciliation rule may be played by the regulator. This could further improve the redressal rate and satisfaction rate of investors.

In terms of the fairness issue, the extant literature discusses the proposition that it is the "haves" with enhanced access to resources and their repeat plays that make them more successful in the court systems. Using the complainants' success rate as a metric, we found that arbitration system for NSE's success rate to be around 46 per cent and the customer satisfaction is around 54 per cent. It would be interesting to examine how the complainants' success rate varies over organizational settings and how these are shaped by the relative experience and resources of parties to dispute. In this regard, it is recommended that the SCORES system monitor repeat players (RP) who tend to "play for rules" to the disadvantage of individuals as 'one shooters' (OSs).

SEBI should consider extending the mediation and arbitration model prevalent among broking community to the company level (primary and secondary market) so similar benefits could accrue to the investor community.

Lastly, it is important to discuss the communication strategy of SEBI. Reputation of the regulator is a public good and the communication strategy is crucial in building the reputation of the regulator. The literature on the central banks' communication strategy suggest limited transparency arguing that release of information about the problems to segments of the financial system may potentially be harmful as it can trigger a run on the financial system. In contrast, no comment or silence could be interpreted as an acknowledgement of guilt. In the case of SCORES, the good record has hardly been noticed in the market rather the market has been focusing on the bad news. The extant literature has suggested that if an agency enjoys good reputation it can afford to keep silent since most of the criticism will not tarnish that reputation. SEBI has built a good reputation in recent years in the securities market but the fact that the good

news about SEBI performance in securities dispute resolution is not getting across the market it is important to have a balanced approach. In this regard, the role of social media could be useful. Social media could be used extensively in investor education and communicating the good news about the regulator. This requires a re-evaluation of the current strategy.

Keywords: Securities dispute settlement, SCORES, India.

INTRODUCTION

A dynamic and efficient capital market is a vital and indispensable part of a nation's financial infrastructure. Capital market provide direct finance to the corporate sector. Indian capital market comprising of equity, debt and derivatives market has witnessed tremendous growth in the last three decades. With massive flow of funds into the capital market especially from foreign institutional investors to Indian capital market, Indian stock market is the fourth best-performing market in the world[1]. Retail investors account for nearly 97 per cent of total investors in Indian mutual funds accounting for nearly 47 million investor accounts (IMF, 2013). There are also about 3,191 brokers authorized to trade in 9 Indian stock exchanges, 195 merchant bankers, 188 portfolio managers and market capitalization of 5624 listed companies in Bombay Stock Exchange accounts for 80.2 per cent of India's GDP in 2014-15 (SEBI, 2015). Securities market globally is characterized by asymmetric information between the provider of funds (investors) and the receiver of funds (firms). The asymmetric information theory provides the analytical framework on the information asymmetry between insiders (firms and intermediaries) and investors and its consequences (Jensen and Meckling, 1976; Leland and Pyle, 1977; Stiglitz and Weiss, 1981; Myers and Majluf 1984).The seller (receiver) of funds along with financial intermediaries knows more about the sale item (securities) than the buyer (investor). So the buyer (investor) would be taking a risk buying these items- the risk exposure that exists before the money is lent (adverse selection) and the risk after the transaction (moral hazard). Academic

[1] See Economist, June 7-13,2014, p.81.

literature has referred to as the "promoters problem"- the risk that the corporate issuers will sell bad securities to the public (investors) (Mahoney, 1995).

Academic studies has shown that Indian capital market has a relatively higher cost of capital than other developed countries after accounting for risk (Hail and Leuz, 2006, Gray *et al*., 2013). The future of Indian capital market depends on how the retail investor who are generally unsophisticated – individuals and households- participate in the market and how their interests are protected and enforced by regulator(s). Most brokers-advisors live up to the fiduciary duty to their clients, but a few "bad apples" can bring bad name to the capital market. As market competition increase in capital market and these markets become complex, it become impossible for companies to compete successfully unless they pay attention to service quality, customer value and customer feedback/complaints (Zeithaml *et al*., 1996). Companies could consider customer complaints as a center of cost or as an opportunity for learning (Vos *et al*., 2008). Investors whose money has been compromised by error or wrongdoing by market participants expect the system of complaint handling and redress to be accessible, efficient and fair (equity) (Ali, 2013). This is crucial in not only reducing cost of capital in India but enhance retail investor participation and conduct of capital market activities in an efficient manner.

The need to protect investors is universally recognized. But there is a considerable difference within the academic literature on how to protect investors and resolve disputes in the securities market. On the one hand, there is academic work based on the works of Coase (1960) and Stigler (1964) which argues that private enforcement of investor protection via both disclosure and private liability rules instead of regulatory interventions (Jackson and Roe, 2009). La Porta *et al.,* (2006) argue that disclosure obligations liability standards and private enforcements are insufficient to evoke honesty from issuers. La Porta *et al.,* (2006) argue for

public enforcement as it is (a) independent (b) can introduce regulations for market participants (c) secure information from issuers and market participants and (d) impose sanctions. It is in this context, one has to view the dispute resolutions system in the securities industry. World-wide if investor and issuers/distributors of securities is not able to resolve their disputes directly, it is often referred to a third-party who is either a self-regulatory organization (SRO) or a regulator. The third-party mechanisms often involve institutional mechanisms to resolve disputes through conciliation (bringing parties together and encourages them to find a mutual acceptable resolution), mediation (neutral mediator becomes directly involved in the negotiations and can propose a resolution) and/or arbitration (an independent panel or individual hears the facts and reaches a decision).

Globally, disputes between consumers and firms especially with regard to financial issues are not resolved through litigation. Over the last several decades, various alternative dispute resolution (ADR) have evolved. The intuitional financial dispute resolution, globally has followed two basic models- arbitration and ombudsman model (Senevirtne, 1994; James, 2002; Alpert, 2008, James, 2002; Ali, 2013). Some countries have a single regulator and grievance mechanism for the entire financial sector (like UK, Canada, Australia etc) but in others (like US and India), there is a separate consumer dispute resolution mechanism for securities market. In the United States, the dominant model of dispute resolution in the securities market is the binding arbitration model which requires customers to arbitrate securities law claims rather than sue in federal courts (Alpert, 2009). The extant literature cites the main virtue of the binding arbitration model as expediency, flexibility, low cost and confidentiality (Ali, 2013). In U.S. SEC refers itself as a “law enforcement agency” and has an aggressive enforcement model. It settles 90 per cent of its cases prior to litigation (Carvajal and Eilliott, 2007, 2009). Arbitration is

a way of resolving disputes outside the court system. In recent years, many contracts have included a 'pre-dispute arbitration clause' stating that either party can require that disputes that may arise about that product or service be resolved through arbitration instead of the court system. Where such a clause exists, either side can generally block lawsuits, including class actions, from proceeding in court. But critics of the arbitration model have pointed out the limitations of the model. They point out the oppressive clauses such as class action waivers, inconvenient venue selection, cost-shifting provisions and process limitations tilt the balance of the process against the investors and consumers (Gross, 2010, Scott and Silverman, 2013). Besides, there are criticism of pro-industry bias at forums sponsored by self-regulatory organizations (SRO) like FINRA of United States (Masucci, 2009). In 2008, the U.S. SEC was accused for "sleeping in the switch" - for failing to detect the Madoff fraud (estimated at US$50 billion). The U.S. SEC has been accused of missing numerous red flags and ignoring tips on Madoff's alleged fraud, including complaints by Harry Markopolos, a financial analyst, who sent detailed documents to the U.S. SEC, arguing that Madoff's fund was fraudulent. Such reputational damage is one of the main concerns of regulators and dispute resolution agencies.

The Ombudsman model embraces the entire financial market and is popular in countries like United Kingdom, Canada, Australia etc., which favours informal suasion and investor education and sometimes referred to as the 'light touch' model (Langevoort, 2009). In U.K, the ombudsman model initially developed as a joint undertaking among three insurers in the United Kingdom. This has subsequently subsumed into the Financial Ombudsman Service (FOS) which is an independent government entity tasked with the resolution of financial complaints. The FOS attempts to conciliate resolutions of consumers' complaints with their financial service provides. If it fails to conciliate, FOS (like the arbitration model) can issue binding awards compelling

firms to pay up to £100,000 in compensation to consumers in a single case. But in terms of finality of disputes, arbitration model scores well while in other aspects like rates of voluntary settlement, support among consumers, consumer groups, industry and academics, the Ombudsman model enjoys remarkable support (Schwarez, 2009). The main distinguishing feature of Ombudsman model is that it combines various ADR strategies like internal complaint handling by firms, state-provided complaint conciliation and arbitration into a single scheme (Schwarez, 2009). . The Ombudsman model fares highly in terms of "reasonable fairness" and empirical evidence shows that is likely to favour the "have-nots" as compared to "haves"- government units, large businesses, high socio-economic groups etc. (Galanter, 1974, Songer and Sheehan, 1992; Songer, Sheehan and Hair, 1999; Wheeler et al., 1987, Gilad, 2010). There is also literature which shows that there are hardly any statistical difference between these models of dispute settlement in terms of usage, settlement rate, level of satisfaction (Ali, 2012).

In India like other developed and emerging market economies, the financial distribution (including capital market products), and the distributor is the agent of both the product provider and customer. This poses a number of potential conflict of interest and very often leaves substantial dispute with regard product contracts and services associated with them. This is so because of the nature of the distribution model for financial (capital market) products/services where the financial intermediary sells to the consumer but is remunerated by the manufacturer of the product (Khorana *et al*., 2009). More often very few of the financial intermediary (broker-dealers) view customer complaint are desirable and provides the first opportunity to review and assess the facts that gave rise to such complaints (Donovan, 2004). If one uses this opportunity effectively, this could lead to early resolution of valid claims which can lead to reduction in disputes and litigation which can reduce the firm's overall litigation expense and redeem their

reputation. Companies often use delay, selectivity and priority as strategies to deal with customer complaints. More often, regulatory agencies (like SEBI) is often called up to deal with investor complaints. In that process, they are confronted with maintaining a delicate balance between claims of overly lenient versus excessive regulations and this involves preserving 'organisational reputations' (Gilad, 2013). Their decision-making process and output are more often influenced by considerations of preserving or enhancing the reputation of the third-party.

SEBI's SCORES system is one of the unique mechanism for investors (could be christened as 'advocacy model' to address their complaints regarding capital market complaints. It is a hybrid system with emphasis on 'investor advocacy' as it is more inclusive than the U.K. Ombudsman model and US binding arbitration model due to the following reasons. Firstly, it is open scheme where the investor can directly approach SEBI before exhausting other bilateral redressal avenues. Secondly, it has *no* time restrictions or statutes of limitation. The number of complaints received in SEBI's investor redressal system decreased from a peak of 584,662 in 1993-94 to 33,550 in 2013-14 which could be interpreted as a testimony to investor's faith in SEBI as a 'fair and just' arbitrator in the capital market in India (SEBI, 2000, 2013). Moreover, the number of actionable pending grievance in SEBI's SCORES system has also decreased from 49,113 in 2008-09 to 9,147 in 2013-14 which indicates the timeliness of disposal of customer grievances. The redressal rate has further improved from 21.6per cent in 1991-92 to 95.5 per cent in 2013-14. The in-house customer satisfaction surveys done by SEBI shows at various times show a satisfaction rate of around 54 per cent. But the cumulative grievance pending as at the end of 2013-24 at 9,147 continues to be a threat to its reputation risk. The present study looks at the various facets of its investor redressal system in India taking similar experiences in other countries (especially in United States, United Kingdom, China, South Africa, Singapore and

Hong Kong) taking into consideration the attributes of a good third-party dispute resolution system which is adequately discussed in the literature. In the design and development of third-party dispute resolution mechanism, the general principle of rule of law provides the foundation for dispute settlement. The common attributes of a good dispute resolution system recommended by experts include 'accessibility, efficiency and fairness' (Ali, 2013). The main aim of the present study is to examine the effectiveness of SEBI's SCORE system from these ideals. The study is divided into five sections: Chapter II reviews the customer grievance settlement model and develops the analytical framework for studying dispute settlement system of securities in India. Chapter III reviews securities dispute settlement in U.S, U.K., China, South Africa, Singapore and Hong Kong. Chapter IV conducts the empirical examination of securities dispute settlement system (SCORES) with a comparative analysis of similar institutions in banking, insurance and pension areas in India. Chapter V summarises the main conclusions and policy recommendations.

CHAPTER II

REVIEW OF LITERATURFE AND THEORETICAL FRAMEWORK

This chapter reviews the review of literature on the subject of third-party consumer complaint settlement and develops the analytical foundation for the conduct of study of SCORES- the investor complaint redressal system in India administered by the regulator (Securities and Exchange Board of India). The review is divided into three sections: section 1 reviews the literature on customer complaining behavior. Section 2 scans the literature on third-party consumer (investor) redressal system and Section 3 develops the analytical framework for the conduct of the study.

2.1: Customer-complaining behavior:

The theoretical literature is rich in the area of customer complaining behavior. The standard analytical framework is to treat customer complaining behavior as a post-purchase phenomenon (Hirschman, 1970; Day and Landon, 1977; Richins, 1983, 1987; Singh, 1988; Stephens, 2000). The Goods-Dominant (GD) and Service-Dominant (SD) logical models is the standard model in the literature to analyse customer complaints. These models emphasise goods/service quality as a mechanism for higher level of customer retention and prospective profits for the companies. These models were framed in the context of profit-maximising behavior of companies but is of little relevance to SEBI's customer complaint management system (SCORES) which is an elevated system of complaint redressal system. Nevertheless it provides a framework for understanding the proximate determinants of customer complaints so that it could be addressed at the company level itself (like recruiting the right representative for customer complaints, upfront and on-going training, regular communication with the client).

Hirshman's (1970) theory of exit, voice and loyalty was one of the first attempt at modelling customer complaining behavior. According to Hirshman (1970), the customer has three options of complaining: (a) voice a complaint to the seller or a third party; (b) exit the relationship with the seller through switching; or (c) take no action (loyalty). Huefer and Hunt (2000) extended the Hirschman's complaint model and included retaliation as an additional behavioral outcome. Day and Landon's (1977) model distinguished between 'take no action' and 'take some action'. If the action is taken, it is sub-divided into 'private actions' (such as decisions to make no further purchases, warning to friends or ceasing to patronize) and 'public actions' (such as seeking redress from the seller, complaints to consumer affairs, regulators or legal action). Singh (1988)included 'no complaint' under the category of 'voice response'.

All these models focus on activities after the purchase episode. The second common determinant is dissatisfaction. Dissatisfaction is defined as a customer experience. Most often, complaints do not always stem from dissatisfaction and dissatisfaction does not always lead to complaining behavior. Studies have shown that personality-related variables represent almost half of the total complaint responses (Davidson and Dacin, 1977). Thus complaining behavior appears to be more complex than a simple reaction to post-purchase dissatisfaction. The complaining behavior is experiential and is uniquely determined by the complainer. It is complex and it is not a linear extension of the existing complaint understanding.

The literature has also separated private action from public action. In the past, when a customer experienced an unfavourable service experience, he or she talked to a relatively few people. In contrast with the advent of internet and social media the number of people available

for negative communication has increased substantially. Hence it is impossible to separate concepts of private action and public action.

In the literature, several authors (Zairi, 2000a & b; Johnston et al., 2002) have provided their views on the key elements of a good compliant management which could be summarized into four categories:

1.*Complaint-soliciting culture*: Good service organisations take complaints seriously. They solicit, listen and resolve complaints fast.

2. *Easily understood and accessed complaint procedures*: Complainants should clearly understand what they should do to register a complaint and staff should clearly understand what they should do to respond. Procedures should be easy for the complainant to access.

3. *Process simplicity*: For the customer, a single point of contact should be sufficient to register the complaint. Staff should be empowered to resolve the complaint. Customers do not want to hear, I will have to ask my manager and get back to you. The complainant should be kept informed of progress of resolving the complaint.

4. *Systematic follow-up:* Organisations should have follow-up procedures to check whether customers to see if the resolution was satisfactory.

2.2: Third-party complaint redressal system

Most disputes are often not solved bilaterally and often referred to third-party resolution mechanism . They often involve third-party like Ombudsman or regulator (like SEC). Third-party mechanisms use the services of unbiased individuals or panels to resolve disputes. This often involves conciliation, mediation and arbitration. *Conciliation* brings parties together and encourages them to find a mutually acceptable resolution to the dispute. In *mediation*, the neutral mediator is actively involved in negotiation between the parties and can propose a resolution, but cannot dictate a settlement of the dispute. Under arbitration, an independent individual or panel hears the facts of both sides of dispute and reaches a decision

2.3: Analytical Framework

The theory of asymmetric information provides the analytical framework for understanding the disputes in securities market (Leland and Pyle, 1977; Stiglitz and Weiss, 1981; Myers and Majluf, 1984). There is considerable information asymmetry between the provider of funds (investors) and receiver of funds (firms and intermediaries). The seller of funds knows about the sale item than the buyer (investor). So the buyer (investor) would be taking a risk buying these items – the risk exposure that exists before the money is lent or invested (adverse selection) and the risk after the transaction (moral hazard). Academic literature has referred to this problem as the 'promoter's problem'- the risk that corporate issuers will sell bad securities to the public (Mahoney, 1995). In such a scenario, dispute involving securities are bound to arise and considerable difference of views exists on how to protect the investor (provider of funds).

But there is a considerable difference within the academic literature on how to protect investors and resolve disputes in securities industry. On the one hand, there is academic work based on the works of Coase (1960) and Stigler (1964) which argues that private enforcement of investor protection via both disclosure and private liability rules instead of regulatory interventions (Jackson and Roe, 2009). La Porta et al., (2006) argue that disclosure obligations liability standards and private enforcements are insufficient to evoke honesty from issuers. La Porta et al., (2006) argue for public enforcement as it is (a) independent (b) can introduce regulations for market participants (c) secure information from issuers and market participants and (d) impose sanctions. It is in this context, one has to view the dispute resolutions system in the securities industry. World-wide if investor and issuers/distributors of securities is not able to resolve their disputes directly, it is often referred to a third-party who is either a self-regulatory

organization (SRO) or a regulator. The third-party mechanisms often involve institutional mechanisms to resolve disputes through conciliation (bringing parties together and encourages them to find a mutual acceptable resolution), mediation (neutral mediator becomes directly involved in the negotiations and can propose a resolution) and/or arbitration (an independent panel or individual hears the facts and reaches a decision).

There is various institutional mechanism which has developed over time for dispute settlement in consumer space and in particular in securities market (Ali, 2013). The overriding consideration of this literature is that adversarial strategies like litigation tend to favour "haves"(large business, high economic status groups) than 'have nots' (Galanter, 1974). Hence attempt has been made to devise informal dispute resolution mechanisms which are more democratic and equitable. The two standard institutional models available for dispute resolution in the securities market is the ombudsman and arbitration models. Investors whose money has been compromised by error or wrongdoing by market participants expect the system of complaint handling and redress to be accessible, efficient and fair (equity) (Ali, 2013). An understanding of the dynamics of these dispute resolution mechanisms could provide valuable insight into the SEBI's SCORES compliant management system. The study adopts both qualitative and quantitative data collection methods for conducting the research. In the first stage, we conduct a peer evaluation of similar systems in other developed countries which can throw light on 'best practice complaint management systems'. The countries which are considered in the peer group are (United States, U.K, China, South Africa, Singapore and Hong Kong etc.). Along with comparative country analysis, we compare SCORES with similar institutional mechanism in India in the area of banking, insurance and pension funds. The comparative analysis will follow the following structures: (a) organizational structures, (b)

complaint processing map, (c) criteria, (d) recording analysis and decisions and (e.) communication. Information about their systems is available in public domain. In the second stage, we examine based on data available with SEBI's SCORES system how the system fare in both in the area of (a) brokers and (b) company with respect to criteria of accessibility, efficiency and fairness. Data for last two years is focused more for this investigation. In the third stage, we adopt an ethnographic approach which involves structured and unstructured interviews with officials of SEBI. The outcome variables considered in the study include (a) level of usage, (b) the settlement rate , (c) the level of satisfaction.

CHAPTER III

SECURITIES DISPUTE SETTLEMENT- COUNTRY STUDIES

As discussed in the preceding sections, the financial dispute resolution system globally is based on the arbitration model (US) or the ombudsman model (United Kingdom, Australia, Canada etc). This section reviews the financial dispute resolution system in various countries (United States, United Kingdom, China, South Africa, Singapore and Hong Kong with emphasis on the securities dispute resolution process/model. We first discuss the US model.

3.1. Financial Dispute Resolution in United States

The U.S. securities and futures market are very complex. The U.S equity market continue to be the largest in the world. At the end of 2013, there are 5,655 issuers listed on the three largest exchanges (NYSE and NASDAQ) with a total market capitalization of approximately 150 per cent of GDP (IMF, 2015).

United States has a number of programs for resolution of consumer financial disputes. These include private arbitration, court-based programs for credit card and bank loan complaints. In the securities market, in U.S, the dominant forum for dispute resolution between the brokers and investors is binding arbitration which requires customers to arbitrate securities law claims rather than sue in federal courts (Alpert, 2009; Langevoort, D.C, 2009, Ali, 2013).

In United States, two federal agencies, the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC) , share the primary responsibility for theregulation and supervision of the U.S. securities and derivatives markets. Broadly speaking, the SEC is in charge of the regulation and supervision of securities markets and single security

basedoptions, futures and swaps markets. The CFTC is responsible for the regulation and supervision of futures, options and swaps markets (except for narrow-based security indices), exercising its authority primarily under the Commodity Exchange Act (CEA).The SEC's and CFTC's mandates were expanded as a result of the enactment of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Dodd-Frank Act brought hedge fund managers and municipal advisors under the jurisdiction of the SEC.

In U.S, the Securities Act of 1933 (Securities Act), commonly known as the "Blue Sky Laws" and the Securities and Exchange Act of 1934 (Exchange Act) provide the statutory framework governing securities transactions in U.S. The Securities Act which among other things set down the rules mandating public disclosure of information to investors in securities while the Securities Act which established the Securities and Exchange Commission, governs securities already issued and includes the laws barring insider trading. Besides two key pieces of legislation, the Investment Advisers Act of 1940 and the Investment Company Act of 1940 provide the legal framework for prosecuting fraud money managers- mutual funds, hedge funds and investment managers. The broad coverage of the Exchange Act also governs securities exchanges, over-the-counter markets, broker-dealers and securities associations. Firms, exchanges, associations and individuals must register with the SEC and wherever applicable with a self-regulatory organization (SRO). Broker-dealers must register with an SRO before transacting in securities or participating in a securities exchange. As a result, broker-dealers are subject to authority of SROs as well as SEC. State securities regulators coexist with federal regulators; they maintain responsibility for issuances that are conducted at the state level only[2].

[2]Based on the thresholds established under the Dodd-Frank Act, the registration and supervision of investment advisors with portfolios of $100 million or less is now the responsibility of the state regulators.

The mission of the SEC is to protect investors; maintain fair, orderly and efficient markets; and facilitate capital formation. The agency's functional responsibilities areorganized into four divisions and 19 offices, each of which is headquartered in Washington, DC. The SEC's approximately 3,500 staff is located in Washington, DC and across 11 regional officeslocated in New York, Boston, Philadelphia, Atlanta, Chicago, Miami, Fort Worth, Denver, SaltLake City, Los Angeles, and San Francisco. The SEC has approximately 1,300 employees in Enforcement, including attorneys, accountants and other professionals who investigate and prosecute violation of the federal

The SEC is an operationally independent federal agency headed by a bipartisan five-member commission, comprised of the chairman and four commissioners, who are appointed by the President and confirmed by the Senate for staggered five-year terms. By law, no more than three of the commissioners may belong to the same political party. The SEC's budget is part of the federal budget that is prepared by the President and submitted to Congress annually. The budget is subject to review and recommendation at several levels, including House and Senate committees and must be adopted by Congress annually. The budget has not kept pace with the growth in the securities market. Presently, in light of the events in the financial markets over the past year, the SEC, the Administration, and U.S. Congress are reexamining the SEC's need for more resources. The SEC chairman, in her recent appropriations testimony, presented the SEC's fiscal 2010 budget request with specific reference to the need for additional resources to match significant growth in the size and complexity of the securities industry.

The Financial Industry Regulatory Authority (FINRA) is the largest SRO in United States which was formed with the consolidation of National Association of Securities Dealers (NASD) and the member regulation, enforcement and arbitration functions of New York Stock Exchange.

FINRA is subject to SEC oversight. In U.S, SEC focuses on anti-fraud enforcement while FINRA deals with the matters of negligence and unprofessional conduct falling short of fraud. FINRA Dispute Resolution investigates complaints against brokerage firms and their employees. It conducts enforcement actions against the parties who violate statutory provisions or SEC or FINRA rules. Disciplinary actions can lead to fines, suspensions, expulsion from the securities industry or referral to the SEC federal or state enforcement agencies.

SEC operates the securities complaints and enforcement tips system. It is an escalated grievance settlement mechanism- investors are encouraged to directly deal with the person or company including the compliance department of the company concerned. If not satisfied, they can approach one of the following offices- the SRO- Financial Industry Regulatory Authority (FINRA), SEC's Office of Investor Education and Advocacy or the state's securities administrator. The complaints and tips are sourced through the online forms or in written form to their Washington Address. The complaints received in the Office of Investor Education and Advocacy are enforced through Division of Enforcement of SEC. Time restrictions called "statues of limitations" apply for most of the complaints and vary from state to state. Federal securities law generally require that you bring a court action within two years of the date that one have discovered the wrongdoing, but in no case later than five years from the wrongdoing actually occurred.

SEC generally encourages mediation before going into arbitration; mediation is generally faster and saves time and money. If the complaint relate to a brokerage account, the complaint would have generally agreed to the binding arbitration system. The legal basis for the binding arbitration system can be found in client's (investors) agreeing at the account opening agreement stage to the arbitration provision to settle any controversy arising out of their account. This

provision was tested in various courts of law regarding its legal validity. In a landmark case in 1987, the Court in *Shearson/American Express vs McMahon* ruled the legal validity of the arbitration system as a matter of public policy. The court observed that the arbitration system as opposed to the courtroom situation is simple, informal and expeditious. Generally, one cannot pursue an issue through arbitration if it is more than six years old. The FINRA dispute resolution system which came into existence since 2007 with the merger of regulatory function of NASD and the New York Stock Exchange (NYSE) handles more than 95 per cent of the cases (Gross, 2008). FINRA is registered with SEC and in the arbitration process is guided by Federal Arbitration Act's (FAA[3]) provisions. Since SEC has oversight over FINRA Dispute Resolution, the US courts has found the arbitration proceedings to be "fair" (Gross, 2008).

Table 3.1 reports ten most reported ten complaints during 2012-2014. During the last two years the most important complaint relate to advance fee fraud, followed by manipulation of security prices followed by account administration and processing. In 2012 following the Madoff scandal , Ponzi scheme related complaints reached a peak of 4063 complaints; this moderated substantially in subsequent years.

[3] FAA governs virtually every arbitration clause arising out of commercial transactions including securities transactions and is applicable in both state and federal courts and it preempts any conflicting state law (Gill, 2008).

Table 3.1: The Most Common Complaint at SEC-2012-2014

	Complaint type	2012		2013		2014	
		Nos	Rank	Nos	Rank	Nos	Rank
1	Advance fee fraud	1122	[2]	1091	[1]	937	[1]
2	Manipulation of securities/prices	1083	[3]	1023	[2]	803	[2]
3	Accounting administration and processing (maintenance including a/c closing and redemption issues)	683	[4]	655	[3]	678	[3]
4	Accounting administration and processing (matters relating to daily activity in an account)	663	[5]	583	[4]	536	[4]
5	Ponzi/pyramid scheme	4063	[1]	442	[6]	450	[5]
6	Trading suspension/trading halts	n/a	n/a	263	n/a	357	[6]
7	Retirement or 401(k) plans			454	[5]	348	[7]
8	Transfer of account	426	[7]	387	[8]	312	[8]
9	General allegations of fraud (issuer)	451	[6]	327	[9]	307	[9]
10	Theft/forgery (matters not involving registered representatives or investment advisors)	n/a	n/a	246	n/a	286	[10]

Note: Figures in square brackets is rank in respective years; n/a refers to not available.
Source: SEC –Annual Report (Various issues).

As far disputes investigated by SEC itself through its Enforcement Division, the most important issue relate to market manipulation, insider trading, securities offering and issuer reporting and disclosure (Table 3.2).

Table 3.2: SEC Enforcement Cases by Type of Action

	Type of Action	FY2010	FY2011	FY2012	FY2013	FY2014
1.	Market Manipulation	34	35	46	50	63
2.	Insider Trading	53	57	58	44	52
3.	Securities offering	144	123	89	103	81
4.	Issuer reporting and disclosure	126	89	79	68	99

Source: SEC Annual Report (Various Issues).

On an yearly basis, the amount of disgorgement ordered varied between $1.82 billion in 2010 to $2.26 billion in 2013. Similarly, the penalties ordered comes to an average of $1 billion (Table 3.3).

Table 3.3:Sanctions Ordered in SEC Enforcement Actions

Fiscal Year	Disgorgement ordered	Penalties ordered	Officer and Director Bars	Trading Suspension
2010	$1.82 billion	$1.03 billion	71	254
2011	$1.878 billion	$928 million	82	276
2012	$2.083 billion	$1.021 billion	120	651
2013	$2.257 billion	$1.167 billion	81	371
2014	$2.788 billion	$1.378 billion	57	589

Source: SEC- Annual Report (Various issues).

The most important characteristic of securities dispute resolution system based on arbitration system is the efficiency and finality. This model does not favour extensive judicial review. The most important criticism of compulsory arbitration model is the "fairness" issue. Investor advocates have generally complained that the system was "unfair" and biased towards the industry. Critics also note that SEC oversight does not appear to prevent unfairness in the securities arbitration. But the main advantage of the system is the efficiency and finality of the arbitration model.

3.2: United Kingdom

The United Kingdom hosts one of the two largest financial sectors in the world. It is a global hub for financial services ranging (in securities markets) from the largest global investment and universal banks to very small investment advisers. London is an important center for issuance and trading of international sovereign bonds; 30 percent of the $2.4 trillion in bonds issued in 2009 were issued in London, with 70 percent of total turnover in the international market taking place in London, mainly in the OTC market. The London Exchange is a leading platform for on-exchange bond trading, trading £4.7 trillion in bonds during 2010. London hosts several important on-exchange derivatives markets, including NYSE-LIFFE trading key financial and agricultural futures and options; ICE Futures Europe, which supports the market for several key oil and gas futures as well as clearing for over-the-counter trading in CDS and other derivatives; and the London Metal Exchange, which trades futures and options on metals.

The financial sector is regulated by the U.K. FSA, an integrated regulator with responsibility for regulation and supervision of the full range of financial services. The FSA was created in 2000 under the Financial Markets Services Act (FMSA), which remains the key piece of legislation in establishing the FSA's authority and responsibilities. The FSA has developed a handbook containing most of the rules relevant to regulated entities.

The FSA is funded through the levy of fees on regulated industry. This is done on a costrecovery basis. The Annual Funding Requirement (AFR) is determined by the FSA by evaluating the resource needs of its various work streams for the year to come. The AFR is allocated across "fee blocks," which represent the regulated business activities that regulated entities are permitted to undertake, e.g., deposit taking, insurance, and asset management. The allocation of aggregated costs is done with a view to reflecting the varying risks these sectors

pose to the FSA's statutory objectives. Recovery of the allocated costs from the regulated entities within the fee blocks is determined based on the size of the permitted business the regulated entities undertake in the fee-block.

Customer complaints:

For investor complaints, the core arrangement is the Financial Ombudsman Service (FOS) based on the Scandanavian model. The FOS is established (by the FSA) as the corporate body for operating the Ombudsman Scheme set out in the FSMA. The scheme provides for disputes to be resolved quickly by an independent person for complaints relating to financial services (including investment services). By design, FOS dispute resolution system is free and accessible to the complainants (James, 2002; Alpert, 2008) The FOS has powers to require information and to determine monetary awards. For complaints about the FSA's exercise of its function, the FSA has established a complaints handling system in accordance with the FSMA requirements.

The funding of FOS comprises annual fees (or general levy) on firms subject to the FOS's jurisdictions and case fees (users pay) levied upon the financial institution for each complaint handled by the FOS. Fifty per cent of the budget is raised by the general levy which is allocated between the industry blocks according to the work generated each industry block. This is in accordance with the funding rule that the FSA adopts. The cost of each industry block will then be divided among the individual firms with the amount of work conducted. The case fee covers the remaining 50 per cent of the annual budget. It is a flat rate per case. The case fee is determined by the estimated cases that the FOS will be handling at the start of the year. The Chairman and Chief Ombudsman of FOS must report to the FSA annually on the discharge of its

respective functions. Since the FOS is a body corporate body, it does not have direct accountability to Parliament. Its accountability is exclusively to the FSA.

Eligible complainants include not only private consumers but also small businesses, trusts and charities with annual turnovers of less than £ 1 million. It operates a stringent eight-week period for internal resolution of complaints. Consumers are required to exhaust this avenue before turning to the FOS. If the complainant directly approach FOS, the complaint is referred to the business. Majority of cases are resolved via conciliation and informal adjudication; formal ombudsman determination is only less than 10 per cent of disputes resolved (See table 3.4). FOS determinations and procedures are exposed to judicial review.

Table 3.4: Trends in FOS Complaints, Redressal-2001-2008.

Year	Complaints received	Cases resolved	Mediation/ Conciliation	Case-handler adjudication	Mediation plus conciliation and case handler adj.	Ombudsman determination
2000-01	31,347	28,400	40%	40%	80%	20%
2001-02	43,330	39,194	45%	40%	85%	15%
2002-03	62,170	56,549	40%	49%	91%	11%
2003-04	97,901	76,704	42%	50%	92%	8%
2004-05	110,963	90,908	55%	38%	93%	7%
2005-06	112,923	119,432			92%	8%
2006-07	94,392	111,673			94%	6%
2007-08	123,089	99,699			90%	10%

Source: Morris (2008), p.789.

3.3: China

China's has one of the highest savings rate in the world- around 50 per cent of GDP in recent years; its savings rate surpasses investment rate. Urban household savings rate is also 30 per cent in recent years. Its rising foreign currency reserves (around $ 5 trillion) is also the largest in the world. Research has shown that China's households save to meet a multiplicity of needs—pensions, health expenditures, purchase of durables and real estate, and to insure against income volatility (Kuijs, 2006; Horioka and Wan, 2007; Chamon and Prasad,2008;Christadoro and Merconi, 2012).

China's securities market is the outcome of the economic transformation of China in 1978 from socialist and planned economy to a market-based economy. In the 1980s, the government and enterprises began to issue government and enterprise bond. Beginning in 1984, joint stock companies were established and shares were issued to the public. In 1990, Shanghai Stock Exchange (SSE[4]) was established and Shenzhen Stock Exchange (ShSE[5]) in 1991. Since the late 1990s, the investment fund industry started taking roots in the country which was boosted further by the Security Investment Fund Law in 2003. . China has a large retail investor base - the number of individual securities accounts is around 170 million accounts. There were 167 futures companies, with total assets of US$3 billion.

A sectoral approach to regulation applies in China, under which the People's Bank of China (PBC) is responsible for overall monetary policy and systemic stability, the China Banking Regulatory Commission (CBRC) regulates banking and banking institutions, the China

[4] The Shanghai Stock Exchange (SSE) was established in 1990. As at the end of 2009, SSE had a total of 870 listed companies, 1,351 listed stocks with US$2.78 trillion market capitalization, and US$5.22 trillion stock turnover. It has 107 securities firm members and 7 domestic and overseas special members. Securities listed on SSE are traded through an electronic bidding system with automatic price matching according to price and time priority through the SSE's mainframe.

[5] The Shenzhen Stock Exchange (ShSE) was also founded in 1991, and has a Main Board, small- and medium-sized enterprises (SME) Board, Growth Enterprise Board (GEB) and the stock transfer agent system.

Insurance Regulatory Commission (CIRC) regulates insurance and insurance companies, and the China Securities Regulatory Commission (CSRC) regulates the securities and futures markets and participants. Where banking and insurance institutions engage in securities type activities, such as establishing and distributing wealth management products, the CBRC and CIRC have corresponding regulatory authority. The CSRC is wholly funded from the Central Government budget.

The CSRC was established in October 1992 on the lines of SEC of U.S and it performs centralized supervision and regulation of the securities and futures markets on the Chinese mainland. There are various levels of law making within China. The highest level are laws developed by the National People's Congress (NPC) or its Standing Committee (SC), which include the Securities Law and the Fund Law. At the next level there are Administrative Regulations promulgated by the SC subject to the Constitution and other laws. At a third level, there are rules and regulations developed and promulgated by the CSRC in accordance with (and subordinate to) the laws and regulations of the SC.

There are two stock exchanges in China performing self-regulatory functions, the SSE and the ShSE. SRO is critical components of the regulatory system. To supplement the regulatory activities of the CSRC, SROs including the stock and futures exchanges, China Securities Depository and Clearing Corporation Limited (SD&C), Securities Association of China (SAC), China Futures Association (CFA) are responsible for self-regulation and frontline supervision over securities/futures trading activities of their members or listed companies. In addition, the National Association of Financial Market Institutional Investors (NAFMII) was established in 2007 to oversee the trading of fixed term instruments through the inter-bank

lending and bond market. The SROs are subject to appropriate authorization and oversight arrangements exercised by the CSRC.

In China, in the early 1990 securities market regulations were ad-hoc. The 1986 General Principles of Civil Law (GPCL) of People's Republic of China provides the foundation of general law and principles dealing with all kinds of civil and commercial cases including securities disputes (Zhu, 2007, 2009). After the establishment of the Shanghai and Shenzhen Stock Exchanges in 1990 and 1991 respectively and the promulgation of the Company Law in 1993, China commenced drafting its securities laws, leading to the enactment of the Securities Law in 1998, which was later amended in 2005. In 1997, the first securities investment fund regulation was approved by the State Council and promulgated by the State Council Securities Committee. In response to the substantial growth of the securities investment fund market since the late 1990s, the securities investment fund regulations, which were originally issued in 1997, were upgraded and incorporated in the 2003 Securities Investment Fund Law. Presently, the 2005 Securities Law and the 2003 Securities Investment Fund Law stand as the two prominent securities laws enacted by the Standing Committee of the National People's Congress (Zhu, 2007, 2009).

The legal basis of investor complaint handling was initiated in 2004 by the Legal Affairs Office of the State Council (SC) and CSRC when they jointly issued a notice on the arbitration of securities and future contractual disputes. The choice of arbitration model based on SEC was guided by the advantages of arbitration model i.e., expediency, flexibility, low cost and confidentiality. In terms of scope, the 2004 notification covers a wide range of securities and futures contracts. Second, the 2004 notification mandates all securities and future contracts include an arbitration clause and parties have a right to choose an arbitration organization (Zhu,

2009). The umbrella organization which provides expertise and logistics is the China International Economic and Trade Arbitration Commission (CIETAC) which established its Financial Arbitration Rules on 8 May 2003.

The basis of arbitration in China (mostly labour contracts) was based on *Regulation on Economic Contracts Arbitration* of the PRC issued in August 1983. Under this act, if following an arbitration, a party refused to accept the award, that party would be entitled to challenge such award before a People's court within 15 days of its receipt. If after fifteen days, neither party has failed to file a law suit then arbitral award would be binding. But the new Arbitration Law which became effective on September 1, 1995 removed such legal recourse and provided finality to the decisions of the arbitration award in China (Tao, 2008). In China, there is also statute of limitation for cases (governed by 1986 GPCL) which in normal circumstances is two years. The calculation of two years starts when the entitled person know or should have know that his/her rights had been infringed upon. There is an extension of six months if there are obstacles that make it impossible to pursue claims.

The CSRC has established complaint recording and handling procedures pursuant to regulations issued by the SC on complaint handling to ensure that complaints are referred to the relevant operational staff and can be taken into account in planning their inspection work. Under these procedures all complaints regardless of how they are received are referred to a specific Division of the General Office of the CSRC and specific departments in the regional offices. If the complaint is within the CSRC's responsibilities it is referred to the relevant operational department for action and response within 60 days. The period can be extended for complex matters but the extension is not for more than 30 days.

Under the regulation of CSRC, Securities Association of China (SAC) performs the function of mediation for disputes related to securities related disputes (Ali and Huang, 2012). The arbitration tribunal generally comprise of one or three arbitrators. The rules require that all arbitrators to be appointed within ten working days after the parties have received the notice of arbitration. Arbitration does not necessarily require hearings and is normally based on written submissions. In case a hearing is required the parties have to notified ten working days prior to hearing. Normally, arbitration proceedings is completed within forty-five days of the formation of the arbitration tribunal. The main aim of the arbitration system is to find quick resolution with flexibility for proceedings. But mediation continues to be main form of dispute resolution in China today and even popular from the time of Mao (Lubman, 1967, 1997).

In 2008 the CSRC received 4,402 letters, 1,577 personal interviews and answered 13,400 calls. In 2009 these figures were 3,216, 1,072 and 10,248 respectively. The complaints related to matters such as listed companies, securities companies, fund companies, illegal securities trading and delisted companies. The level of inquiries and complaints received from the public seems small compared to the size of the market and the increase in the number of securities accounts in China. Some commentators have attributed the small size of complaints in securities market to the coercive nature of the securities dispute settlement and the fact that State continues to hold majority of ownership of these securities firms which makes a decision against these entities unlikely (Clarke, 2003). Some critics also attribute the low complaint rate to powerlessness and disillusionment with the system of grievance redressal (Clarke, 2003).

3.4: South Africa

The Financial Services Board (FSB) was established in 1990 regulates and supervises the non-bank part of the financial services industry in South Africa. The securities regulatory and

supervisory responsibilities in South Africa are divided among several public authorities and market infrastructures. While the FSB is responsible for supervising collective investment scheme (CIS) managers and exchanges, the supervisory responsibility for market intermediaries is divided between the FSB and the Johannesburg Stock Exchange (JSE). The FSB has no role in issuer supervision, which is undertaken by the JSE for listed companies and by the Department of Trade and Industry's (DTI) CIPC for unlisted companies. Audit oversight is the responsibility of IRBA. The functions and powers of the FSB and the Registrar are set out in the Financial Services Board Act (FSB Act) and in various sectoral Acts, such as the Financial Markets Act (FMA) and the Collective Investment Schemes Control Act (CISCA). The FSB has broad regulatory authority over the JSE, (including SAFCOM, its clearance and settlement subsidiary), Strate, financial advisors and intermediaries (FAIS), collective investment scheme (CIS) operators, pension funds and insurance companies. The South African Reserve Bank (SARB) overseas the banking system and has limited securities supervisory responsibilities. Banks have to be authorized as financial services providers (FSPs), if they provide financial services requiring a license under the Financial Advisory and Intermediary Services Act (FAIS Act). In such cases the supervisory responsibilities are divided between the FSB and SARB, with the FSB being responsible for supervising and enforcing compliance with the FAIS Act.

JSE Limited (previously the JSE Securities Exchange and the Johannesburg Stock Exchange) is the largest stock exchange in Africa; it is the 19th largest equity market in the world, with a market capitalization equivalent to 200 percent of GDP. As of 2013, there are 389 firms listed in JSE with a market capitalization of $1,015 billion which is 292 per cent of GDP. Similarly, there are 133 bond issues in 2013 with a market capitalization of $188 billion which is 54 per cent of GDP. JSE is a public company listed on the JSE main list. SAFCOM, a wholly-

owned subsidiary of the JSE, clears JSE derivatives transactions. The JSE manages the pre-settlement process for equities trades. Settlement of equity and bond trades takes place at Strate that is also the CSD for both markets. Strate is jointly owned by the JSE (44.6 percent) and the four largest South African banks each owning 12–15 percent. The JSE also operates as the national derivatives exchange and, following the merger with BESA, a bond trading exchange. The equity market is readily accessible to nonresidents, in particular following the "head of terms" agreement between the Johannesburg and the London Stock Exchange of 2002. The JSE uses the London Stock Exchange (LSE) trading system.

The fund management industry is significant with assets under management (AUM) reaching ZAR 1.5 trillion (USD 161 billion) at the end of 2013. These AUM were managed by 48 fund managers in a total of 1,084 portfolios. Money market funds (MMFs) play an important role at 17 percent of total AUM in local CIS. In addition, unregulated hedge funds manage approximately USD 10 billion of assets, primarily in trusts and partnerships. All public companies in South Africa are required to prepare IFRS compliant financial statements. The JSE has a process in place to review the listed company financial statements to ensure accounting standards are met.

In South Africa, the securities disputes are settled either at the company level and if escalated at stock exchange level. The JSE assumes a larger role in securities dispute settlement.

3.5: Singapore

Monetary Authority of Singapore (MAS) is the regulator for capital market activities in Singapore; it is also the central bank. The principal legislative acts governing the structure and conduct of securities markets and their participants are the Securities and Futures Act (SFA) and

the Financial Advisors Act (FAA). MAS' responsibilities, powers and authority over capital market activities are set out in detail in the SFA, the FAA, and the respective subsidiary legislation. The FAA sets out the regulatory framework for financial advisers and their representatives.

MAS relies on approved exchanges to conduct market surveillance and it expects them to exercise responsibilities in respect to the conduct of the market and their members and enforce their rules to set standards and promote investor protection. These responsibilities are set out in law and MAS monitors their compliance with these obligations.

There are three stock exchanges. These are the Singapore Exchange Securities Trading Limited (SGX-ST), Singapore Exchange Derivatives Trading Limited (SGX-DT), and Singapore Mercantile Exchange Pte. Ltd. (SMX).They operate as self-regulatory organizations (SROs). All three are supported by their respective clearing and settlement facilities. SGX-ST and SGX-DT are wholly owned subsidiaries of Singapore Exchange Limited (SGX). SGX is listed on SGX-ST. SGX-ST and SGXDT have a total of seven securities, 19 derivatives, and 22 securities and derivatives members while there are seven clearing members of SMX and over 50 trading members including proprietary members).Only the three approved exchanges perform SRO functions in Singapore; SGX-ST, SGXDT and SMX. The Securities and Futures (Corporate Governance of approved exchanges, Designated Clearing Houses and Approved Holding Companies) Regulations 2005, apply to them.

Compared to the funds under management on a discretionary basis in Singapore the assets under management (AUM) for collective investment schemes (CIS) managed in Singapore is small: S$28 billion versus S$727 billion (in 2010 according to an MAS survey). There are also 4049 Restricted Schemes notified to MAS with total AUM of S$24.8 billion (end-2012). Of

these, 400 schemes have been identified as hedge funds and S$4.6 billion in overseas schemes offered only to institutional investors. Only 30 of these Restricted Schemes are managed in Singapore. Of the 4,049 schemes, 400 (AUM S$2.65 billion) are identified as hedge funds; 99 (S$1.2 billion) are money market funds. S$60.9 billion in AUM defined by MAS as hedge funds are managed in Singapore. These include CIS, (S$29.4 billion), closed end funds (S$25.6 billion) and segregated investment mandates. Of these S$468 million (11 schemes) are CIS which are also offered to and managed for accredited investors in Singapore. A further S$2.186 billion (389 schemes) in hedge funds classified as CIS are offered in Singapore to accredited investors. All closed end funds constituted on or after July 1, 2013 will be classified and regulated as CIS.

Complaints handling

In Singapore, there is a separate dispute resolution mechanism for banking and insurance sector, but not for its capital markets (Ali, S, 2013). The lack of separate investor dispute resolution in Singapore is that the number of complaints in securities market is small and that it would be more cost effective to leverage the resources of the existing system. In May 2004, the MAS formed an Integration Steering Committee to facilitate the integration of dispute settlement schemes for the Singapore's financial sector which was finally launched on end-August 2005. The Financial Industry Disputes Resolution Centre (FIDReC) was set up as an independent company; it is the only institution approved by MAS; it covers disputes in the entire financial sector – banks, finance companies, life insurers, general insurers, capital market licensees, financial advisors etc. All financial institutions is given opportunity to settle the dispute before FIDReC proceeds with the case; consumers who approach FIDReC without first attempting to resolve the financial institution is referred back to the institution. There is a three-stage process in the settlement of disputes by FIDReC. In the first stage, Counselling Services assists in the

preliminary review. After preliminary review, the consumer is allowed to proceed with formal complaint and the case officer will try to mediate. Cases which cannot be resolved through mediation will go to a panel of adjudicators who will decide in favour of either the consumer or the financial institution. The maximum compensation is capped at S$100,000 (against insurance companies) and S$50,000 for all other disputes. If the decision of the adjudicator is not accept, parties can pursue the case in courts. There is fees for adjudication- the consumer pays S$250 per claim and the financial institution pays S$500 per claim. If the consumer is successful in the adjudication then consumer would be refunded S$200 per claim.

The public can complain to MAS in writing, by telephone and via the MAS website. Complaints are initially collated by the Consumer Issues Division (CSI) which is MAS' frontline for managing consumer complaints against financial institutions. CSI works with relevant supervisory departments (departments) within the MAS to respond to consumers who have issues with, or complaints against financial institutions. The process includes: Review of consumers' complaints CSI reviews consumers' complaints and refers them to the relevant supervisory departments when there are alleged breaches of regulations or industry codes. The respective departments may then follow-up with regulatory and enforcement actions. For other complaints, CSI monitors the financial institutions' response to consumers and works with departments to address the issues where necessary. Follow-up actions could include working through industry associations to enhance industry practices, implementing initiatives to inform consumers of their rights and responsibilities, stepping up financial education, and issuing consumer alerts. For issues that do not strictly come under MAS' ambit, CSI alerts line departments if an issue is wide-spread (possibly of systemic concern) or raises concerns on possible: operational risk in the specific financial institution; social issues and unfair practices;

and reputational issues for MAS or the industry. Responding to consumers CSI explains MAS' role and what it can, and cannot do, in its reply to consumers. CSI also advises consumers to go to the financial institution in question first. This approach also allows the financial institution an opportunity to address the consumers' issues.

When a dispute cannot be resolved, the consumer can approach the Financial Industry Dispute Resolution Center (FIDReC). If the decision at FIDReC is not satisfactory to the consumer, he is free to pursue other options, including taking legal action. Where matters indicate a possible need for MAS to take action the supervisory departments will investigate into the issues. MAS collates complaints by industry sector rather than by market or product. In 2012, it received 1,131 complaints about banks, 471 about insurance companies, 117 about capital market services licensees, and 26 about licensed financial advisors.

3.6:Hong Kong

Hong Kong Special Administrative Region (SAR)'s is a significant international financial center. Hong Kong has one of the world's most active and liquid securities markets; it has no control over capital movements nor capital gains or dividend income tax. Hong Kong's stock market is the second largest in Asia and sixth largest in the world. As of end 2013, there were 1,643 companies listed on the Hong Kong Exchanges with a total market capitalisation of US$ 3,101 billion. Hong Kong's financial markets in particular securities market are characterized by high levels of participation by retail investors (Ali and Da Roza, 2012).

Hong Kong's financial regulatory framework has a "three tier system". Under the first tier, the Financial Secretary is responsible for overall policy and the Financial Services and the Treasury Bureau ('FSTB') is responsible for translating policies into regulation. Under the

second tier, specialist regulatory agencies are responsible for regulation and supervision of financial services business. This tier includes the Hong Kong Monetary Authority ('HKMA' – regulating banking and banks), the Securities and Futures Commission ('SFC' – regulating the securities and futures markets), the Office of the Commissioner of Insurance ('OCI' – regulating insurance business), and the Mandatory Provident Fund Schemes Authority ('MPFA' – regulating the pensions industry). Under the third tier, self-regulatory organizations are responsible for oversight of the activities of their members, albeit under the supervision of the relevant specialist regulatory agency and, increasingly pursuant to legislation (Arner et al., 2010).

The HKMA performs the functions of both central bank and regulator. As a result of the 1987 market crisis, the Securities Review Committee known as "Davison Report", was commissioned to develop a plan to upgrade Hong Kong's securities market infrastructure . Following the recommendations of the Davison Report, the SFC was established on 1 May 1989 under the *Securities and Futures Commission (SFC).* The main objectives of the SFC are to maintain and promote the fairness, efficiency, competitiveness, transparency and orderliness of the industry; provide protection to the investing public; minimize crime and misconduct in the industry; and reduce systemic risks in the industry

Its growth is linked to a considerable degree with the growth of the Mainland Chinese economy and developments in Mainland China has a sizeable impact on Hong Kong SAR. Hong Kong over the years had used mediation to resolve disputes in construction and commercial disputes; they moved from 'evaluation-type' mediation to 'facilitative-type' mediation (Kumaraswamy and Soo, 2010). Since 1994, the Hong Kong Mediation Council (HKMC) a division of Hong Kong International Mediation Council (HKIMA) has been operating in Hong

Kong with around 300 accredited mediators. On April 2, 2009, the Civil Justice Reform (CJR) which came into effect encouraged use of mediation emphasizing cost effectiveness, avoidance of delays, fairness, the facilitation of settlements and fair employment of courts' resources (Soo et al., 2010). Courts are permitted to adversely take into account a party's refusal to mediate without a reasonable explanation lest they could be penalized by Courts for legal costs.

In Hong Kong, in addition to mediation, arbitration is another alternative to litigation which are final and binding on both sides. Hong Kong International Arbitration Centre (HKIAC) was established in 1985 to assist disputing parties to solve their disputes by arbitration and by other means of dispute resolution. It was established by a group of businesses and professionals in Hong Kong to be the focus for Asia of dispute resolution. It has been funded by the business community, and by the Hong Kong Government and attracts around 600 cases annually (Soo et al., 2010).

The major test of mediation and arbitration in Hong Kong occurred at the end of 2008, when Hong Kong experienced the effects of global financial crisis. The impact of global financial crisis happened in the form of collapse of Lehman Brothers group in 2008. Investors in Hong Kong lost billions of dollars as they had invested in the Mini-bonds, the complex structured financial products linked to the failed Lehman Brothers. Lehman structured many of the instruments and provided a sophisticated guarantee through a swap. For retail investors the risks of having securities held by people in one jurisdiction sold by companies operating in another jurisdiction that may have assets in yet another and come under multiple regulators looks complex to gauge[6].

In Hong Kong, more than 43,700 individual investors purchased approximately HK$ 20 billion worth of the Lehman Mini-bonds. This led to widespread protests by investors and

[6] http://www.economist.com/node/18486397 (accessed on July, 24,2015).

picketing by investors carrying placards with "devil bank" or similar slogans. The Lehman Mini-bonds episode exposed the regulatory weakness in the financial market. Hong Kong Monetary Authority (HKMA), the central bank, itself received more than 21,000 complaints in 2008 relating to Lehman Mini-bonds; SFC received around 8,900 complaints in respect of mis-selling of Lehman Mini-bonds (Ali, 2013). In the case of Lehman Mini-bonds, the main problem for retail investors was the difficulty of obtaining information concerning the issuers and key counterparties involved in the structured financial products. Moreover, HKMA does not have the power to arbitrate or intervene in customer disputes or require banks to pay compensation. It has a limited role in monitoring the handling of customer complaints by banks; HKMA's follows up with complaints that raise supervisory complaints. On the other hand, SFC receives complaints from investors about unlicensed activities, misconduct by its licenses, unauthorised products and so on. SFC has an internal Complaint Control Committee which conducts assessment of complaints to determine whether or not they warrant further action. SFC Code of Conduct for Licensed Persons require that securities companies have a complaint-handling mechanism and that it be handled in a timely and appropriate manner. SFC is not empowered to order wrongdoers to pay compensation to complainants.

In response to Mini-bonds episode, the HKMA announced a mediation and arbitration scheme administered by HKIMA for complaints in respect of Lehman related investment products distributed by banks. This scheme was purely voluntary and hence the consent of both the complainants and the relevant bank were required. As of end-December 2009, sixty eight cases went through mediation with sixty-seven achieving settlement. Thirty seven cases were settled by direct negotiations. Banks pursued cases in courts to go after the Lehman estate which turn led further settlement in March 28, 2011 provides most of the retail investors in these

structured products with a 70-93% recovery rate on their initial investment; an additional payment pushes the recovery range up to 85-96.5 per cent[7]. The inquiry into the sale of Mini-bonds prompted the Hong Kong Monetary Authority, to propose that lenders physically separate deposit-taking and investment businesses at their branches.

In response to Lehman Brothers episode a centralised dispute resolution scheme for the financial industry called the Financial Dispute Resolution Centre (FDRC) was established in 2012. Entities licensed by or registered with the SFC (other than credit rating agencies) have also been required to participate in the dispute settlement process administered by the Financial Dispute Resolution Centre Limited. Similarly, Hong Kong Monetary Authority (HKMA) has imposed a similar requirement on Hong Kong-licensed banks and registered deposit-taking companies.

Conclusions:

This chapter reviews the contrasting securities dispute resolution system available world-wide- in United States, United Kingdom, Singapore, Hong Kong and China. United States, Singapore and China have different versions of the arbitration system, while United Kingdom has depended on Ombudsman scheme for settlement of securities disputes. The compulsory arbitration system exhibits evidence of efficiency and finality in dispute settlement, while the Ombudsman model is remarkably productive and cost efficient (in terms of case fees). But it suffers from lack of finality in dispute resolution. The Hong Kong experience especially with regard to Lehman Mini-bonds episode brings out the regulatory loopholes in addressing investor complaints. With some delicate balancing and bringing consent of both the parties, Hong Kong was able to come out of Lehman Mini-Bonds episode with some resolution to investor complaints.

[7] http://www.economist.com/node/18486397 (Accessed on July 25,2015).

CHAPTER IV

INDIA'S FINANCIAL SECTOR COMPLAINT MANAGEMENT SYSTEM-– A CRITICAL EVALUATION

In this chapter, we examine the customer complaint system in the field of banking (RBI Ombudsman Scheme), securities market (SEBI's SCORES system), insurance (IRDA) and pension funds (PFRDA).

4.1: RBI Banking Ombudsman Scheme(BOS)

The Reserve Bank of India (RBI) Banking Ombudsman Scheme (BOS) was introduced in 1995 continues with aim of imparting a cost-free alternative consumer dispute redressal mechanism in the banking industry. It receives complaints handled by the offices of Banking Ombudsmen (OBOs) across the country; the scheme is implemented through 15 offices of Banking Ombudsmen situated across the country. On average, BOS receive annually 70,000 plus complaints and the major category of complainants are individual bank customers. The Scheme is oriented towards this vulnerable group of bank customers for whom approaching other fora is difficult and cost-prohibitive. The Scheme is applicable to Scheduled Commercial Banks, Regional Rural Banks and Scheduled Urban Cooperative Banks.

The RBI, bank ombudsman scheme (BOS) is an escalated complaint handling scheme; it requires that the complainant first approaches his bank for resolution of his grievance. The bank-branch is the first nodal point for the customer for resolution of grievance; if he/she is not satisfied with bank's resolution or there is no response from the bank within one month from the date of his complaint, he can approach the banking ombudsman (BO). The Scheme specifies 27 grounds of complaint under which a complaint can be lodged with the BOS. These grounds

cover deficiencies in almost any banking service including credit cards, ATM and internet banking, non-adherence to the provisions of the Fair Practices Code for lenders or the Code of Bank's commitment to Customers issued by the Banking Codes and Standards Board of India (BCSBI).

The complaint resolution mechanism under the BOS is simple and hassle-free. There are no multiple forms, no fees to be paid. Complaint can be lodged on a plain paper and sent through post/Fax/courier. For net-savvy bank customers the complaint can be sent through e-mail or lodged through online complaint form kept on the web site of the RBI. The proportion of non-maintainable complaints received at the OBOs is relatively very high. These are the complaints where the complainant has not followed the procedure laid down in the Scheme for filing the complaint or those complaints which are not covered under the grounds of complaints laid down in the Scheme. One of the reasons attributed to this feature is lack of awareness about the applicability and provisions of the Scheme among bank customers.

Fifteen OBOs covering 29 States and 7 Union Territories, handle the complaints received from bank customers regarding deficiency in banking services under the various grounds of complaints specified in the BOS. During the year 2013-14, OBOs received 76,573 complaints (Table 4.1). Comparative position of complaints received during the last three years in given in Table 4.1.

Table 4.1 - Number of complaints received by the BOS in India- 2012-14

	2011-12	2012-13	2013-14
No. of OBOs	15	15	15
Complaints received during the year	72,889	70,541	76,573

Source: Reserve Bank of India, Annual Report on Banking Ombudsman Scheme 2013-14. https://rbi.org.in/Scripts/PublicationsView.aspx?id=16204#A5 (Accessed on July 26,2015).

Table 4.2 reports the profile of customer complaints under RBI ombudsman scheme during 2012-14. On an average around 72,000 complaints are received and complaints disposed is also of the same magnitude. Only 6 per cent of the complaints are pending each year and this has come down to 4 per cent in 2013-14; of which only 3 per cent is pending for less than one month.

Table 4.2: Profile of customer complaints handled by the RBI OBOs-2012-14.

A. Complaint Characteristics			
Particulars	2011-12	2012-13	2013-14
Complaints brought forward from the previous year	4,617	4,642	5,479
Complaints received	72,889	70,541	76,573
Total No. of complaints handled	77,506	75,183	82,052
Complaints disposed	72,864	69,704	78,745
Complaints pending at the end of the year	4,642(6.0%)	5,479(7%)	3,307(4%)
B. Age of Pending Complaints			
	2011-12	2012-13	2013-14
Complaints Pending for less than one month	2,681(3.0%)	3,281(4.4%)	2,432(3.0%)
Complaints Pending for one to two months	1655(2.1%)	1675(2.0%)	838(1.0%)
Complaints Pending for two to three months	277(0.35)	492(0.6%)	36(0.04%)
Complaints Pending for more than three months	9(0.01%)	31(0.04%)	1(0.001%)
Appeals pending at beginning of the year	0	13	0
Appeals Received	47	52	107
Total no. of Appeals	47	65	107
Appeal Disposed	34	65	77
Appeals pending at the end of the year	13	Nil	30
Representations to review the decision of BOs	304	308	531

Note: Figures in bracket indicate % age to total complaints of respective years.
Source: Reserve Bank of India, Annual Report on Banking Ombudsman Scheme 2013-14.

An analysis of the source of complaints remained heavily skewed towards customers from metro / urban areas in RBI banking ombudsman scheme (Table 4.3). Complaints from urban and metro areas accounted for about 71 per cent of the total complaints received which shows that the spread of the BOS is still confined to urban and metro areas. Year-on year basis, there is a marginal increase of 1 per cent in number of complaints received from rural areas which is a welcome development.

Table 4.3: Population group-wise distribution of complaints received in OBS in India

Population Group	No of complaints received during			% increase decrease (+ / -)
	2011-12	2012-13	2013-14	
Rural	8,190(11%)	8,598(12%)	9,927(13%)	(1%)
Semi Urban	11,982(16%)	10,868(16%)	12,314(16%)	(0)
Urban	24,565(34%)	24,246(34%)	25,448(33%)	(-1%)
Metropolitan	28,152(39%)	26,829(38%)	28,884(38%)	(0%)
Total	72889	70541	76573	

Source: Reserve Bank of India, Annual Report on Banking Ombudsman Scheme 2013-14.

The abovementioned analysis of customer complaints with regard to banking services is quite substantial (70,000 plus) given the fact these are complaints which could not be resolved at the branch and bank level and also after accounting for substantial non-maintainable complaints. But a substantial portion of complaints are resolved and only 6 per cent of the complaints are outstanding. The RBI Ombudsman scheme has the positive virtue as it is almost free for customers.

4.2: SEBI's SCORES system

In India, the regulation and supervision of the securities market in India is mainly a responsibility of the Securities and Exchange Board of India (SEBI). SEBI has been set up under the Securities and Exchange Board of India Act, 1992 (SEBI Act), with a mandate to protect the interest of investors, to regulate and to promote the development of the securities market. The responsibilities of SEBI have been stated by law, and they stem from various statutes, in particular (i) the SEBI Act; (ii) the Securities Contract (Regulation) Act, 1956 (SC(R) Act); (iii) the Depositories Act,1996; and (iv) and the Companies Act, 2013 in respect of listed companies and companies proposed to be listed on the Recognized Stock Exchanges (RSEs). There are 9 RSEs; however, equity markets listing and secondary market trading are concentrated in the BSE and the NSE. Both RSEs operate anonymous order driven systems and settlement takes place on a t+2 basis. Based in all such statutes SEBI regulates the public offering of equity, debt and asset backed securities, as well as collective investment schemes (CIS) and the trading of securities and derivatives in recognized stock exchanges (RSEs). Finally it regulates and supervises all intermediaries in the securities market as well as infrastructures providers, including exchanges, central clearing counterparties and central securities depositories.

The Ministry of Corporate Affairs (MCA) and the Reserve Bank of India (RBI) have certain responsibilities in the regulation and supervision of securities markets. SEBI reviews prospectus of listed issuers and regulate listed companies in respect of issue, transfer of securities and non-payment of dividend. The MCA has authority to register and regulate all companies (except, listed companies in respect of issue, transfer and nonpayment of dividend), and it is currently the main authority in charge of reviewing the annual financial reports (including financial statements) that all companies, including listed issuers, are required to submit pursuant

to the Companies Act. The RBI has regulatory responsibility over contracts on government securities, gold related securities and money market securities and securities derived from those securities and repo contracts in debt securities. However, the execution of those contracts on exchanges is under the responsibility of SEBI.

The RSEs play a key role in self-regulation. In India, RSEs are the listing authorities, and thus are in charge of monitoring issuers' compliance with disclosure obligations. Under the listing agreement, they also operate as the primary regulator and supervisor for brokers. Finally they are in charge of real time surveillance of the markets that they operate. In practice such functions have mainly rested in the two nationwide RSEs, the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE). SEBI has established several mechanisms to ensure robust oversight of the RSEs in the discharge of their self-regulatory functions. Such mechanisms include periodic reporting, as well as regular meetings on market developments, and annual on-site inspections.

Equity markets in India have achieved an important size relative to GDP. As of March 2015, there were 5,688 listed companies in the BSE, and market capitalization amounted to roughly 80.2 percent of GDP but is still concentrated. New listings continued to take place. 90 IPOs have taken place during 2013-14 and 88 in 2014-15. Private sector companies represented the bulk of new listed companies and IPOs.

Retail investors represented roughly 97.4 percent of total investors' accounts; however, they held only 45.1 percent of the assets under management (AUM). Corporations and other institutions on the other hand represented roughly 1 percent of total investors but held 50.2 percent of AUM. Foreign investors approximated to 2 percent of total accounts and hold 4.5 percent of AUM. As of June 2015, there were 3191 brokers authorized to trade on an RSE.

The majority of the brokers are licensed in both the NSE and the BSE. As per the Indian legal system, brokers can take the legal form of a corporation or can be individuals. In practice, however corporate brokers constitute 89 percent of brokers at the NSE and 85 percent at the BSE. For 2013-14, the top 10 brokers represented roughly 25 percent of annual cash market turnover at both the NSE and the BSE. Many brokers engage in proprietary trading. For 2013-14 proprietary trading represented roughly 23 percent and 21 percent of the annual cash market turnover for the NSE and the BSE respectively. As per information provided by SEBI, brokers fund their proprietary trading activities mostly with own funds, and leverage is not common. In addition there were 195 merchant bankers and three underwriters registered with SEBI. There were also 188 portfolio managers registered with SEBI. As of March 2015, AUM by portfolio managers amounted to ₹ 9,27,385 crore compared to ₹ 7,68,326 crore as of March 2014.

Securities Complaint System

Compared to RBI Bank Ombudsman Scheme SEBI's securities complaint management system is investor centered and SEBI acts more or less as an 'investor-advocate'. It is the first line complaint management system as it entertains complaints directly from investors with no time-bar. SEBI operated the securities customer complaint system since 1992-92 which was renamed as the SCOREs system with the complete automation in 2011-12. The SCORES system now in force can handle complaints so that via website, investors will be able to check the status of their complaints, including any action requested by SEBI or the RSEs.

A unique feature of the SCORE's system is that it is a first level customer redressal system (it entertains grievances directly from the customers without even without the

complainant seeking redressal of their complaints with the corresponding broker or company). It could be termed as *'investor advocate'* model with SEBI assuming the role of defender of investor. Recently, it has barred five companies from accessing capital market for failing to resolve investor grievances[8]. Secondly, unlike SEC operated customer grievance mechanism there is no time bar for complaints- even complaints which are normally time-barred (more than 6 years old) are entertained. Thirdly, the arbitration system which it oversees is exchange based (RSE). There is no arbitration system for complaints related to companies. Fourthly, if parties are not satisfied with the arbitration award, it can seek redressal in court of law. So judged in terms of accessibility of investors, SEBI's SCORES system scores highly as it is the only unique model where securities investors are not constrained in any form; investors can approach SEBI complaint system irrespective whether they have an escalated grievance or not or whether the complaint is time-barred or not.

SEBI has required both issuers and intermediaries to have in place mechanisms to address investors' complaints. Thus, when complaints are received directly at SEBI, SEBI routes them to the corresponding intermediary. Intermediaries are required to inform SEBI the way they dealt with the complaints and it is expected that they will be dealt with within 30 days. In the case of brokers, SEBI also received reports from the RSEs. Through such reports SEBI can identify the brokers that concentrate most complaints, as well as whether there are recurrent topics. Table 4.4 reports the trends in Securities grievances received and redressed by SEBI during 1992-2014. Although the number of complaints has shown a substantial increase since 1991-92, itreached a peak of 584,662 complaints in 1994-95, the number of complaints in recent years has come down to 30,000 to 56,000 range (Table 4.4). Nearly one-half of the complaints

[8] http://www.thehindu.com/business/Industry/sebi-bars-5-firms-from-markets-in-investor-grievances-case/article7444088.ece?ref=sliderNews (accessed on July 20, 2015).

received in SCORES system according to scrutiny do not have merit and returned to investors. Of the remaining the grievances redressed has also increased in recent years. Consequently, the number of pending grievances has also come down to 9,147 in 2013-14 (Table 4.5).

Table 4.4: Trends in Securities Grievances Received and Redressed by SEBI-1992-2014

Financial Year	Grievances Received		Grievances Redressed	
	Year wise	Cumulative	Year wise	Cumulative
1991-92	1,87,944	18,794	4,061	4,061
1992-93	1,10,317	1,29,111	22,946	27,007
1993-94	5,84,662	7,13,773	3,39,517	3,66,524
1994-95	5,16,080	12,29,853	3,51,842	7,18,366
1995-96	3,76,478	16,06,331	3,15,652	10,34,018
1996-97	2,17,394	18,23,725	4,31,865	14,65,883
1997-98	5,11,507	23,35,232	6,76,555	21,42,438
1998-99	99,132	24,34,364	1,27,227	22,69,665
1999-00	98,605	25,32,969	1,46,553	24,16,218
2000-01	96,913	26,29,882	85,583	25,01,801
2001-02	81,600	27,11,482	70,328	25,72,129
2002-03	37,434	27,48,916	38,972	26,11,101
2003-04	36,744	27,85,660	21,531	26,32,632
2004-05	54,435	28,40,095	53,361	26,85,993
2005-06	40,485	28,80,580	37,067	27,23,060
2006-07	26,473	25,62,047	17,899	23,95,895
2007-08	54,933	26,16,980	31,676	24,27,571
2008-09	57,580	26,74,560	75,989	25,03,560
2009-10	32,335	27,06,895	42,742	25,46,302
2010-11	56,670	27,63,565	66,552	26,12,854
2011-12	46,548	28,10,113	53,841	26,66,695
2012-13	42,411	28,52,524	54,852	27,21,547
2013-14	33,550	28,86,074	35,299	27,56,846

Source: SEBI.

Table 4.5: Securities Grievances Pending with SEBI- 2006-07 to 2013-14.

Year	Grievances pending (cumulative)
2006-07	1,66,152
2007-08	56,055
2008-09	49,113
2009-10	37,880
2010-11	28,653
2011-12	23,725
2012-13	11,410
2013-14	9,147

Source : SEBI.

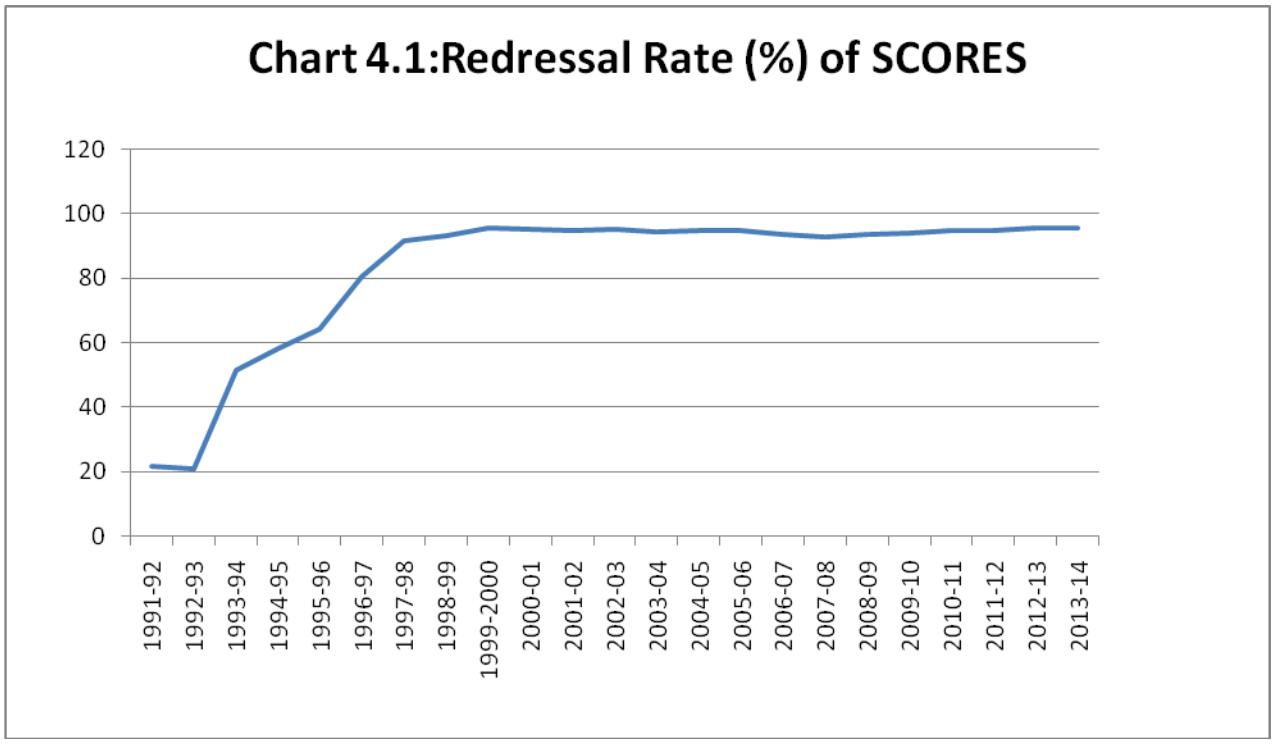
SEBI does not have the authority to settle monetary disputes but can impose disciplinary actions on issuers and/or securities intermediaries if the laws and regulations have been breached. As per the RSEs by-laws brokers have to abide by system of arbitration. Thus, if an investor is not satisfied with the way an intermediary has dealt with a complaint, it can go to mediation and then to arbitration. The arbitration system of the RSEs has worked well; and that cases are usually completed within six months. The redressal rate of SCORES system is impressive in recent years with the rate reaching almost 96 per cent in 2013-14 (Chart 4.1). The remaining 4 per cent of unresolved complaints represent a challenge to the SCORES system as good news of almost 96 per cent redressal is rarely mirrored in the public domain and it is very often the pending cases which is reflected in the media and public discussion. An analysis of the pending cases in 2014 shows that nearly 50 per cent of them relate to multiple allegations (like Refund/Allotment/ Dividend/Transfer/ Bonus/Rights/ Redemption/Interest) (Table 4.6) The second most important issue is broker related (unauthorized trading, fees etc). The multiple complaint nature of these dispute makes dispute resolution very hard to crack (mission impossible!).

Table 4.6: Details of Complaints Received, Disposed and Pending in 2014 in SCORES System.

Sr No	Category	Complaints Received	Complaints Disposed	Pending Actionable
1	Alternative Investment Funds (AIF)	2	4	0
2	Bankers to an Issue	72	59	21
3	Buy back of securities	58	63	8
4	Collective Investment Schemes	2,713	631	2,316
5	Corporate Governance/Listing Conditions	764	672	218
6	Credit Rating Agencies	12	11	1
7	Custodians of Securities	5	9	1
8	Debenture Trustees	84	58	26
9	Delisting of securities	491	516	20
10	Depository	125	132	4
11	Depository Participants	2,100	1,998	277
12	Fake and Forged	0	0	0
13	Foreign Institutional Investors	0	2	0
14	Insider Trading	137	145	1
15	Investment Adviser	380	294	86
16	KYC Registration Agency (KRA)	51	54	3
17	Price/Market Manipulation	445	479	1
18	Merchant Bankers	64	86	8
19	Minimum Public Shareholding	23	39	2
20	Mutual Funds	2,501	3,021	325
21	Others	3,036	3,068	27
22	Portfolio Managers	149	154	15
23	Prelisting/Offer Document (Shares)	376	358	181
24	Prelisting /Offer Document (Debentures & Bonds)	82	88	8
25	Refund/Allotment/ Dividend/Transfer/ Bonus/Rights/ Redemption/Interest	10,510	11,302	5,260
26	Registrars to an Issue / Share Transfer Agent	2,007	1,929	357
27	Stock Brokers	10,012	8,309	1,590
28	Stock Exchanges	471	506	23
29	Sub-brokers	24	17	8
30	Takeover/Restructuring	109	93	52
31	Underwriters	1	1	0
32	Venture Capital Funds	71	70	18
	Total No. of Complaints	36,875	34,168	10,857

Source: SEBI.

Appendix Table 4.1 lists some of the major items where there is considerable complaints pending (item 25 in Table 4.6 for last three years). As seen in Appendix Table 4.1 the major outstanding issue is non-receipt of dividend and non-receipt of share transfer. The third major outstanding item is endorsement, consolidation and splitting of shares.



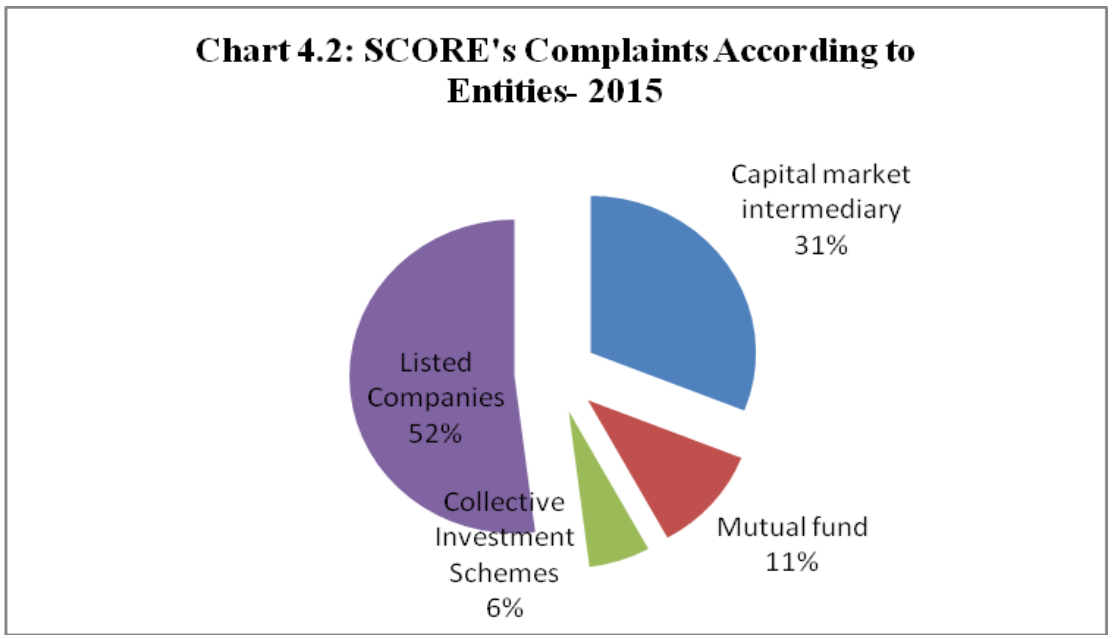
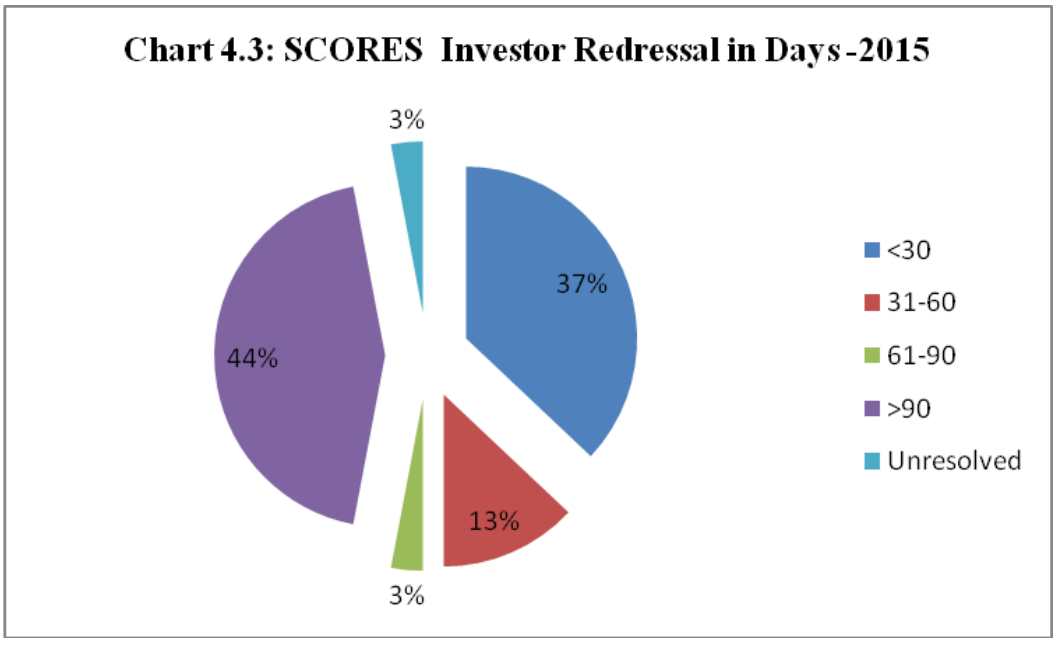


Chart 4.2 displays the distribution of complaints in SCORES for 2015; nearly 52 per cent is related to companies and the remaining 48 per cent relate to various intermediaries. Among the capital market intermediaries, brokers (capital market intermediary) accounts for 31 per cent, mutual fund 11 per cent and collective investment schemes the remaining 6 per cent. SCORES has an effective mediation and arbitration scheme (non-binding) among capital market intermediaries. But with regard to company related issues (primary and secondary market) such a system is absent and this is the major segment with regard to customer complaints.

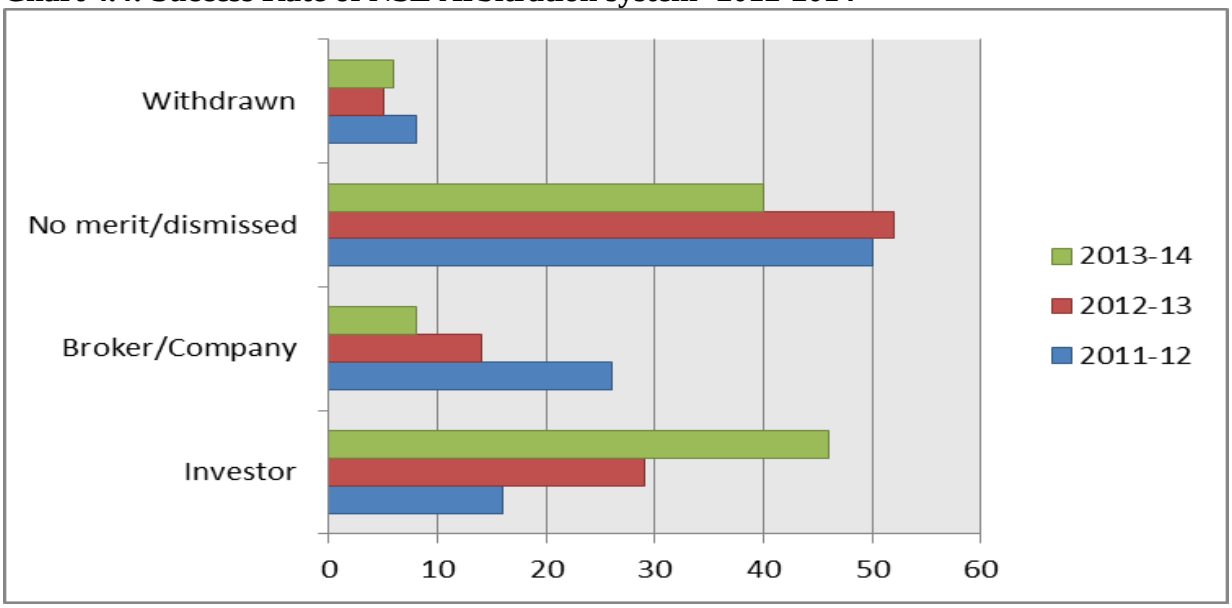
As far efficiency is concerned, SCORES system also fares favourably. The redressal rate at 96 per cent in recent years is one of the highest among regulators world-wide and India (comparable to RBI Ombudsman scheme). Nearly 53 per cent of the complaints get resolved within 90 days (See Chart 4.3).

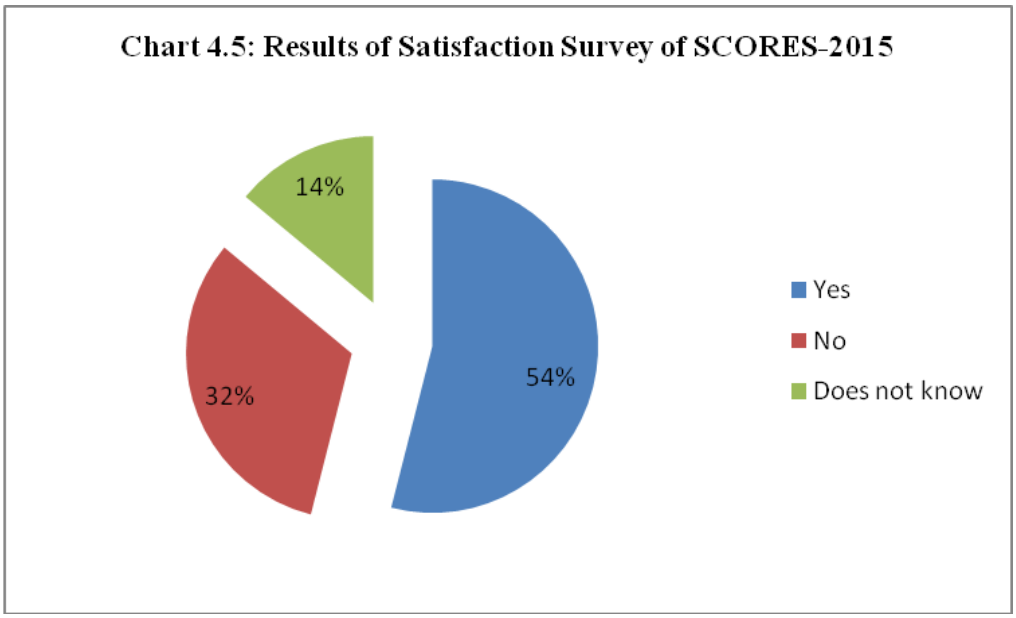


As far as fairness issue is concerned, we look at two metric which could be considered as proxies of fairness – success rate of complaints and investor satisfaction (based on surveys). As

per NSE data on investor redressal for 2012-2014 nearly one-half of the total complaints are treated as having no merit and returned to investors(Chart 4.4). Of the total complaints (including complaints which do not merit a case), the success rate of investors has improved dramatically – from 16 per cent in 2011-12 to 46 per cent in 2013-14 (Chart 4.4). Complaint resolution in favour of brokers/complaints, on the other hand, decreased from 25 per cent in 2011-12 to 8 per cent in 2011-12. The number of complaints withdrawn is only very small (5 to 8 per cent) during 2012-14. Chart 4.5 reports results of satisfaction survey of SCORES users in 2015 and these indicate that the level of satisfaction is 54 per cent.

Chart 4.4: Success Rate of NSE Arbitration system- 2012-2014





4.3 Pension Fund Regulatory and Development Authority (PFRDA)

National Pension System (NPS) which is administered and regulated by Pension Fund Regulatory and Development Authority (PFRDA) was created by an Act of Parliament. Besides the NPS, some mutual funds and insurance companies also offer Pension plan or retirement plan, which are not under the jurisdiction of PFRDA. Apart from this the normal retirement plan options include EPFO, Retirement gratuity etc. is offered by employers to their workers and employees. Pension Policy in India has traditionally been based on the employment contracts/ service conditions and financed through employer and employee participation. As a result, the coverage has been restricted to the organized sector. Around 2.96 crore people are employed in organized sectors, which is around 8 percent of the main workforce of the country. The Indian old age income security system can be classified as follows(i) Civil Service Schemes ii) Employee's Provident Fund Organization Schemes (EPFO) iii) Occupational Pension Schemes, iv) Public Provident Fund (PPF) v) Indira Gandhi National Old Age Pension Scheme (IGNOAPS) . The Pension Fund Regulatory & Development Authority Act was passed on 19th

September, 2013 and the same was notified on 1st February, 2014. PFRDA is regulating NPS, subscribed by employees of Govt. of India, State Governments and by employees of private institutions/organizations & unorganized sectors.

PFRDA has a multi-layered Grievance Redressal Mechanism centralised at Central Recordkeeping Agency (CRA). This is easily accessible, simple, quick, fair, responsive and effective. Subscribers have the option of registering grievance/complaints through call Centre/ Interactive Voice Response System (IVR), web based interface, physical forms. Subscriber can check the status of the grievance at the CRA website www.cra-nsdl.co.in for the grievances logged in through Central Grievance Monitoring System (CGMS) maintained by CRA, or through the Call Centre by mentioning the token number. Subscriber can also raise a reminder through any one of the modes mentioned above by specifying the original token number issued. If subscriber does not receive any response within thirty (30) days or is not satisfied with the resolution by CRA, subscriber can apply to the Grievance Redressal Cell (GRC) of PFRDA. The grievances are also being entertained directly by PFRDA at the Grievance Redressal Cell (GRC) of PFRDA. The PFRDA complaint redressal system is relatively efficient; as on March 31, 2014, PFRDA received around 584 grievances of which 583 was resolved and only one was pending. A comparative position of complaint redressal system in PFRDA and IRDA is given in Table 4.7.

Table 4.7: Customer Complaint Redressal System in PGRDA and IRDA

Particulars	**PFRDA**	**IRDA**
First Level of complaint	Complaint made to central recordkeeping agency (CRA). Complaints can be made via the call centre/IVRS or online at cra-nsdl.co.in or through physical form.	Complaints may be made to IRDA through Paper, voice, email at IRDA Grievance Call centre or through online at IGMS portal (seems similar to SCORES)
Processing	Alert goes to respective entity	Alert sent to insurer
Timeline for redressal	30 days	30 days

Status of complaints	Can be viewed at website or through the call centre/IVRS; reminder option also available	Can be tracked at IGMS portal
Complaints directly to regulator	Only when not satisfied with CRA resoltion or deadline for resolution not adhered to	If insurer doesn't resolve the complain satisfactorily, sent to Ombudsman/Consumer Forum/Civil Court
Time Limit for approaching Ombudsman	If the subscriber is not satisfied with the resolution provided by National Pension System trust, he may appeal to the Ombudsman; the details are however not available.	Within one year of the rejection by the insurer of the representation of the complainant or the Insurer's final reply to the representation, the Ombudsman may be approached
Maximum Limit for dispute under Ombudman		20 lakh

4.4:Insurance Regulatory and Development Authority (IRDA)

In India presently (end March 2014) there are 53 insurance companies operating in India; of which 24 are in the life insurance business and 28 are in non-life insurance business; GIC is the sole national reinsurer. Of the 53 companies presently in operation, eight are in the public sector - two are specialized insurers, namely ECGC and AIC, one in life insurance namely LIC, four in non-life insurance and one in reinsurance. The remaining forty five companies are in the private sector. The number of complaints in insurance industry is substantial; in life-insurance during 2013-14 around 374,620 complaints were recorded to IRDA; in the non-life insurance 63,335 complaints were filed.

IRDA do not adjudicate complaints rather it has set up institutional mechanism for customers to record complaint with it and it facilitates (through Consumer Affairs Department) redressal of grievances at the insurance company level. Grievance Redressal Guidelines of IRDA mandate that all insurers should have a Board approved grievance redressal policy, designate a Grievance Redressal Officer at the senior management level at the Head Office/Corporate Office/Principal Office and a Grievance Redressal Officer at every other office and constitute a

policyholder protection committee as per the corporate governance guidelines for receiving and analyzing reports relating to grievances. The guidelines mandate each insurer to put in place automated systems for online registration and tracking of complaints as well as systems of receiving grievances by call or emails and integrate these systems with IRDA. Further, the guidelines contain timelines for various activities relating to grievances like acknowledgement, redressal, closure etc.

In order to provide alternative channels to receive complaints against insurers, IRDA has set up IRDA Grievance Call Centre (IGCC) which receives and registers complaints through a toll free number and also furnishes the status of resolution. IRDA has also put in place the Integrated Grievance Management System (IGMS) as an online system for grievance management that not only offers a gateway for registering and tracking grievances online but also as an industry-wide grievance repository for IRDA to monitor disposal of grievances by insurance companies. IGCC has an interface with IGMS; and through IGMS, IRDA has an interface with grievance systems of insurers The department receives complaints against life and non-life insurance companies from prospects and policyholders; and takes up these grievances with insurers for resolution if already received by insurer.

Prospects and policyholders are advised to first to file complaints with the respective insurance companies. If the insurance companies do not attend to the complaints within the stipulated turnaround time of 15 days or the complainant is not happy with the resolution, he/she may escalate the complaint to IRDA.IRDA facilitates resolution through review/re-examination by taking up the matter with the insurance companies. However, IRDA does not investigate into or adjudicate upon each complaint received or escalated to IRDA. In case the complainants are

not satisfied with the resolution, they may have to take up the matter for adjudication by the insurance ombudsman or court.

Table 4.8: Status of Grievances- Life and Non-Life in India During 2013-14.

Sector	Outstanding as on end March 2013	Grievances report during 2013-14	Grievances resolved during 2013-14	Outstanding Grievances as on end-March 2014
Life Insurers				
LIC	544	85,284	85,828	0
Private	680	2,89,336	2,88,836	1180
Total	1,224	3,74,620	3,74,664	1180
Non-Life Insurers				
Public	1,107	17,658	18,083	682
Private	128	45,677	45,653	152
Total	1,235	63,335	63,736	834

Source: IRDA Annual report 2013-14, p.7374.

The number of complaints in the insurance sector (life and non-life sections) is considerably large (around 438,000) of which around 85.5 per cent is in life-insurance sector (Table 4.8). But the number of grievances resolved is also higher. As on 31st March, 2014, there were 1180 complaints pending resolution by life insurance companies. During the year 2013-14, the life insurance industry received 3,74,620 complaints out of which 85,284 complaints related to LIC and 289336 complaints related to private sector life insurers. During 2013-14, the insurance companies resolved 99.69 per cent of the complaints handled. While the private life insurers resolved 99.83 per cent of the complaints registered, LIC resolved 100 per cent of the complaints as a result of which there were no complaints of LIC pending as on end-March 2014.

Consumer Affairs Department is also actively engaged in consumer education with a view to building awareness campaigns by IRDA are carried out through all possible channels including print and electronic media.

Conclusions:

This chapter examines the performances of SCORES system in relation to grievance system in banking (RBI Ombudsman scheme), insurance and pension funds schemes in India. The level of customer complaints in SEBI's SORES is the highest – around 2.8 million (2886074), followed by insurance sector (438,155), banking (72,000) and pension funds (583). All the regulators (RBI, SEBI, IRDA and PGRDA) have a two-pronged strategy- client education and active grievance management (which are at the branch or company level). SCORES system which is 'advocacy model' has met most of the criterion of a good customer grievance settlement system- accessibility, efficiency and fairness. It needs to develop an equally efficient mediation and arbitration system presently available at the broker-level to the company level. It has recently used its regulatory power to punish five companies for failure to redress customer complaints which could send a strong signal to errant companies.

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CHAPTER V

CONCLUDING OBSERVATIONS

A dynamic and efficient capital market is a vital and indispensable part of a nation's financial infrastructure. Capital market provide direct finance to the corporate sector. Indian capital market comprising of equity, debt and derivatives market has witnessed tremendous growth in the last three decades. With massive flow of funds into the capital market especially from foreign institutional investors to Indian capital market, Indian stock market is the fourth best-performing market in the world. Retail investors account for nearly 97 per cent of total investors in Indian mutual funds accounting for nearly 47 million investor accounts.

Securities market globally is characterized by asymmetric information between the provider of funds (investors) and the receiver of funds (firms). The seller (receiver) of funds along with financial intermediaries knows more about the sale item (securities) than the buyer (investor). So the buyer (investor) would be taking a risk buying these items- the risk exposure that exists before the money is lent (adverse selection) and the risk after the transaction (moral hazard). Academic literature has referred to as the 'promoters problem'- the risk that the corporate issuers will sell bad securities to the public (investors). This analytical framework provided the framework for understanding why disputes arise in securities market and the need to resolve these disputes efficiently and fairly. Resolution of securities market dispute could result in lowering the cost of equity/capital in the country. Secondly, dispute resolution platform provide a feedback mechanism of the regulation in the securities industry- which regulation is working, not working but needs fine-tuning.

One of the basic question regarding securities dispute is why is direct negotiation between parties not feasible. The behavioral finance literature provides answer to these questions. According to Robert Mnookin (1993) there are four categories of barriers to direct negotiation: (1) strategic barriers arising out of game theory and economic analysis, (2) principal-agent problems, (3) cognitive barriers and (4) reactive devaluation (the tendency of people to discount the statements and proposals of those with whom they are in conflict). It is in this context, there is a role for dispute resolution by a third-party who is neutral. The natural candidate who satisfies the criterion of a neutrality is the regulator of the securities industry. World-wide there are two models of securities dispute resolution- arbitration model of SEC and Ombudsman model of United Kingdom (which countries like Canada, Australia, Hong Kong, Japan has embraced). The extant literature cites three attributes of a good dispute resolution system: accessibility, efficiency and fairness (Ali, 2013). It is on this basis, we evaluate the SCORES system in India.

As far as the first criteria are concerned- accessibility to investors- SCORES fare very well. It has an open customer complaints recording system (not constrained by time or whether the complaint is escalated or not). It is a first level of redressal system- it accepts complaints even before there is an opportunity for the parties to redress their grievances among themselves. With the web-based complaint seeking platform which came into existence in 2011-12, the SCORES is very investor friendly; it also adopts complaints in the non-electronic format as well. It also conducts investment education throughout the country about the rights and responsibilities of investors. This is all the more important as the Indian brokerage system includes brokerage entities, sub-brokers and other authorized entities. On the flip side, given the overtly

inclusiveness of the SCORES system, it has the potential to create a number of 'hard-to-solve' cases with weak information set which can impact adversely the reputation of the regulator.

As far as the second attribute is concerned, viz., efficiency, SCORES system also fares favourably. The redressal rate at 96 per cent in recent years is one of the highest among regulators world-wide. Similarly, the time taken also scores positively (less than a year). Most of the cases get resolved in the initial stages itself. To improve the redressal rate further, it is recommended that an active mediation role as opposed to conciliation rule may be played by the regulator. This could further improve the redressal rate and satisfaction rate of investors.

In terms of the fairness issue, the extant literature discusses the proposition that it is the 'haves' with enhanced access to resources and their repeat plays that make them more successful in the court systems. There is limited research in this area and available evidence based on Ombudsman system using the complainants' success rate has shown that this rate varies between 16 per cent to 46 per cent. We conducted a similar exercise for 2014 using the arbitration system for BSE and NSE and found that success rate is around 49 per cent. It would be interesting to examine how the complainants' success rate varies over organizational settings and how these are shaped by the relative experience and resources of parties to dispute. In this regard, it is recommended that the SCORES system monitor repeat players (RP) who tend to 'play for rules' to the disadvantage of individuals as 'one shooters' (OSs). Judged by another metric, the satisfaction surveys conducted by SEBI shows that it is around 60 per cent. In order to bring credibility to this process, it is recommended that the satisfaction surveys be administered by an independent party.

Presently, under SEBI's SCORES system, mediation and arbitration is confined only to the broker-related issues. There is no mediation and arbitration at the company level which are related to primary and secondary market issues. Presently SCORES depend on the companies themselves to resolve the issues which are monitored by SEBI. Lately they have barred companies not responding to investor complaints from accessing capital market; recently it has barred five firms from accessing capital market further for failing to attend to investor grievances[9]. SEBI might consider bringing a mediation and arbitration system as it is present the broker category also to the company level.

Communication strategy is crucial in building the reputation of the regulator. In the case of SCORES, the good record has hardly been noticed in the market rather the market has been focusing on the bad news. The extant literature has suggested that if an agency enjoys good reputation it can afford to keep silent since most of the criticism will not tarnish that reputation. SEBI has built a good reputation in recent years in the securities market but the fact that the good news about SEBI performance in securities dispute resolution is not getting across the market it is important to have a balanced approach. In this regard, the role of social media could be useful.

With the imminent addition of various Forward Markets Commission's (commodity exchanges) into the regulatory portfolio of SEBI, it is quite possible that the magnitude of complaints could escalate and it is recommended that SEBI be pro-active and undertake a detailed study of the likely source of dispute so that its staff and institutional mechanism can handle prospective disputes involving commodity exchanges which has semi-urban and rural clientele.

[9] http://www.thehindu.com/business/Economy/sebi-bans-suspended-cos-from-raising-fresh-funds-pledging/article7444217.ece (acessed on July 26,2015).

Lastly, it is important to discuss the communication strategy of SEBI. Reputation of the regulator is a public good and the communication strategy is crucial in building the reputation of the regulator. The literature on the central banks' communication strategy suggest limited transparency arguing that release of information about the problems to segments of the financial system may potentially be harmful as it can trigger a run on the financial system. In contrast, no comment or silence could be interpreted as an acknowledgement of guilt.. SEBI has built a good reputation in recent years in the securities market and the natural recommendation from this literature is to keep silent. But the fact that the good news about SEBI performance in securities dispute resolution is not getting across the market it is important to have a balanced approach. In this regard, the role of social media could be useful. Social media could be used extensively in investor education and communicating the good news about the regulator. This requires a re-evaluation of the current strategy. Moreover, SEBI should consider outsourcing the satisfaction surveys to credible and independent third-parties so that outcome of satisfaction surveys become more credible.

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Appendix 4.1: Major Category of Pending Complaints with SCORES in 2012-14 (Nos)

	Nature of complaint	2012	2013	2014
1.	Non-receipt of dividend……..	892	1051	618
2.	Non-receipt of Share certificate……..	73	49	89
3.	Non-receipt of interest on securities……	83	126	59
4.	Endorsement/Consolidation/Share splits…….	129	148	125
5.	Non-receipt of share transfer……..	679	599	433

Note: Data relate to calendar year (January to December)
Source: SEBI.