



Seventh Meeting of the International Advisory Board of SEBI

The seventh meeting of the International Advisory Board (IAB) of the Securities and Exchange Board of India (SEBI) was held on January 13 & 14, 2017. The following major issues were *inter alia* discussed during the meeting:

i. Issues and Developments in Corporate Governance

The IAB took note of the recent developments on Corporate Governance related issues in India. The IAB made following observations in this context:

- It has to be realized that good corporate governance is about helping the company achieve its objectives, implement its corporate strategy, while keeping the interest of various stakeholders in mind.
- A matrix of expertise may be introduced to make the board diverse, balanced and in tune with the requirements for the effective functioning of the company.
- There has to be transparency in Board appointments and removal process and similar requirements need to be prescribed at both stages.
- Audit committee should also focus on forward looking risk assessment in addition to retrospective evaluation.

The IAB also deliberated on Board Evaluation as applicable to listed companies in respect of role of the Nomination and Remuneration Committee (NRC), role of Independent Directors, evaluation of Independent directors, disclosure requirements, etc. The IAB also took note of the global practices and made the following observations in this regard:

- Board evaluation is a very important element in corporate governance.
- The process of evaluation of the performance of the Board has to go beyond a box-ticking exercise. The process has to be conducive to the growth of the company and can differ from company to company.
- The best evaluation is actually an exercise in self evaluation of the company's own performance and effectiveness in terms of its mission, financial returns, strategy, business model and social responsibility, and in this context whether the standards expected from the Board are being realized.
- It would be a good practice if the result of the evaluation of the board as a whole is disclosed to the shareholders.
- There is a felt need that the Boards of the companies are educated about the evaluation process. In this context, the IAB also took note of the recent Guidance Note issued by SEBI to the listed entities.

ii. Migration from Commission Based to Fee Based Advisory Model

The IAB took note of the extant framework for investment advisory business in India including role of mutual fund distributors and regulatory arbitrage between the investment advisor and mutual fund distributor providing advice. The board also took note of the international regulatory developments aimed at addressing inherent conflicts of interest and introduction of more transparency in relation to inducement and commissions received by financial advisers and distributors in jurisdictions like Australia, United Kingdom, USA, Canada, European Union and Singapore. The IAB also deliberated on Robo Advisory. The IAB advised that fee for advice is the journey which needs to be completed. The IAB however advised that the proposed migration needs to be calibrated. The IAB

made the following observations in this regard:

- Commission based as well as fee based approach to investment advisory can co-exist for the time being. The transition from commission to a fee based approach has to be gradual. Such transition has to happen in tandem across regulatory segments to have uniformity in regulatory stringency across competing segments like securities market, insurance and pension businesses.
- Regulators need to keep in mind the financial viability and the business model of the advisory business. Proper due diligence before transition in regulatory regime is essential.
- Distinction between retail and sophisticated investors should be clear. There is a felt need for greater awareness among investors on cost of commission versus fees based advisory.
- More transparency is required on distributors' commission in all financial products.
- Before undertaking any effective steps, SEBI may consider undertaking a study of migration to fee-based advisory model under RDR, FOFA and robo-advisory models.
- Promote ETF investments as they entail low investment management costs.

iii. New Practices to Strengthen Indian Fund Industry - Passporting of Funds

The IAB deliberated on how the framework of passporting of investment funds works, their benefits to the investors, industry and economy. In this context, the IAB referred to the global practices with regard to passporting of funds, viz. Undertaking for Collective Investments in Transferrable Securities (UCITS) in Europe; ASEAN Fund Passport Framework; Asia Region Fund Passporting (ARFP) and made the following observation:

- Relative size of the country and that of the markets matter in passporting – passporting is more beneficial to smaller markets and there is need to study the above passport arrangements in detail.
- SEBI may also explore some alternative framework like mutual recognition and regulatory equivalence for cross-jurisdictional investment flow.
- Given the Indians have the talent to manage international funds, India may focus on manufacturing and managing cross-country financial assets locally with the help of overseas advice and passporting of such funds all over the world.

iv. Internationalization of Indian Securities Market

The IAB deliberated on the pros and cons of internationalization of securities market as also certain aspects like framework for product innovation and risk management etc. and whether the current stage of development and maturity of the Indian markets support internationalization of domestic securities market. Taking note of the framework for International Financial Service Centre (IFSC) in India, the IAB also deliberated whether the GIFT IFSC may be a substitute for Internationalization of Indian Securities Markets. In this context, the IAB discussed the extent of liberalization, safeguards and regulatory architecture essential to the internationalization of securities markets based on the experiences of other International Financial Centers.

On these aspects, IAB has made the following suggestions:

- Capital control liberalization is a pre-condition to facilitate internationalization of domestic financial markets. This liberalization hinges on the presence of robust financial institutions domestically.
- Market for International Financial Centre (IFC) is very competitive and therefore, IFC needs to specialize itself in a particular area for its success.
- Competition however should not lead to a lax regulatory regime so as to avoid subsequent crisis.
- Creation of IFC and internationalization of domestic market need to progress in tandem so as to ensure a calibrated development of both. Thus, an IFC cannot grow in isolation from the domestic markets.

v. Crowd funding Framework

Taking note of the Consultation Paper on 'Crowd-funding in India' brought out by SEBI in June 2014, the IAB took note of international regulatory developments on crowd-funding with regard to investors, issuers and crowd-funding platforms in jurisdictions like USA, UK, France, New Zealand, Singapore, Australia, Malaysia, Japan and China. The IAB deliberated whether India is ready to initiate securities based Crowd funding also keeping in view the recent developments in the Indian FinTech space (UPI, UID, Payment banks etc.) and other aspects relating to operations and regulations of crowd-funding in India.

The IAB made following suggestion in this regard:

- Innovation has to be allowed as long as the same is not illegal in any way. The idea here would be to ensure that one has to be seen tough but at the same time as open to innovations. Regulators can play facilitative role.
- Crowd funding, as a trend globally, is still at its beta-testing stage, where the investors and the issuers need to learn quickly what works and what does not. Appropriate systems and processes should be put in place.
- One of the issues in crowd funding is the determination of the authorities to enforce and discipline the rules of the game. The question one has to ask is if one can regulate crowd funding without crippling innovation.

vi. Open-house Session on Challenges Facing Securities Markets

In this session there was exchange of ideas among IAB members on various important challenges faced by various securities markets jurisdictions. Some of the important issues highlighted during this discussion included cyber-security issues, cross-border as well as internal competitiveness among market infrastructure institutions, shrinking of public markets, emergence of dark pools, non-bank transfer of money, growing importance of social media, etc.

SEBI had constituted the IAB in September, 2011, as part of the measures initiated by SEBI to respond to the challenges arising out of the global financial crisis. The role of IAB is to guide SEBI with its advice on future direction for the organization, taking into account relevant global experiences, emerging challenges and latest developments in the regulatory space.

Meetings of IAB are organized by SEBI in India. Its previous six meetings were held in January 2012, November 2012, November 2013, July 2014, May 2015 and December 2015.

The current Members of the IAB, in addition to Chairman, SEBI are Ms. Jane Diplock, Prof. Colin Mayer, Mr. Blair Pickerell and Dr. Andrew Sheng (arranged alphabetically by their surnames).

Ms. Diplock is presently an Independent Director of Singapore Exchange Limited, Australian Financial Services Group Pty Limited, International Integrated Reporting Committee Board and Member of Public Interest Oversight Board (PIOB). She is also the former Chairman of both the Executive Committee of IOSCO and of the New Zealand Securities Commission.

Prof. Mayer is the Peter Moores Professor of Management Studies at Saïd Business School, and the former Peter Moores Dean of the School between 2006 and 2011. He is an expert on all aspects of corporate finance, governance and taxation, the regulation of financial institutions and the role of the corporation in contemporary society. He has served on the editorial boards of several leading academic journals and assisted in establishing prestigious networks of economics, law and finance academics in Europe at the Centre for Economic Policy Research and the European Corporate Governance Institute.

Mr. Pickerell has been a leader in the Asian investment management industry for the past 30 years. He is Chairman, Asia of Nikko Asset Management Co. Prior to this, Pickerell was Chief Executive of [Morgan Stanley](#) Investment Management for three years. Before that he was Chief Executive, Asia Pacific, of HSBC Asset Management Ltd. and Chairman of Jardine Fleming Funds (now JP Morgan Funds).

Dr. Sheng, the former Chairman of the Securities and Futures Commission of Hong Kong, is well known in global financial circles as a former central banker and financial regulator in Asia and a commentator on global finance. As President of the Fung Global Institute, Dr. Sheng is responsible for its operations and for driving its research agenda and thought leadership. He is also the Chief Adviser to the China Banking Regulatory Commission and a Board Member of the Qatar Financial Centre Regulatory Authority.

Mr. S. Raman and Mr. G. Mahalingam - Whole Time Members of SEBI, and the Executive Directors of SEBI also participated in the deliberations.

Mumbai

January 14, 2017
