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Access to capital for domestic companies, investors is our key guiding principle

MS Sahoo, secretary, Institute of Company Secretaries of India, also heads the committee reviewing the regulations for external commercial borrowings

Written by [Arup Roychoudhury](#)

March 13, 2014 05:08 IST

MS Sahoo, secretary, Institute of Company Secretaries of India, also heads the committee reviewing the regulations for external commercial borrowings (ECBs). Sahoo, a former member of Sebi, told Arup Roychoudhury in an interview that his panel will look at many capital market regulations over the coming months to reduce regulatory oversight and provide investors with a fair regime .

Your panel looked at overhauling the ADR/GDR scheme in the past. Now you are critically examining ECB norms. What are the principles guiding the work of the committee?

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First, domestic firms should have access to capital and financial services on terms that match those abroad so that there is fair competition. Second, the investors ? domestic and foreign ? should have a level playing field in terms of access to capital markets subject to the partial capital control regime in vogue. Third, there should not be any regulatory intervention that can distort the freedom of choice of the firms and investors unless there is likelihood or evidence of [market](#) failure. Fourth, the remedy for misuse of any mode of access or participation should not be its prohibition. The solution lies in addressing the misuse by upgrading capability to prevent, detect and penalise the misuse.

What other responsibilities has the committee been tasked with?

Our committee has been asked to look at regulations (or the absence of that) with regard to Indian depository receipts (IDRs), direct listing of Indian companies, dual listing of Indian companies, residence-based taxation vis-a-vis source-based taxation and relationship between authorities in Indian and foreign jurisdictions.

We haven't yet started discussing them yet so I cannot comment at this stage. But the principles guiding us would most likely be the same ? a level playing field.

How does one improve the confidence of investors in securities markets?


First, investors should know how to invest. Second, market participants must disclose to investors everything about the products they offer. Third, investors should have the reassurance that only fit and proper persons have been allowed to participate in the market. Fourth, if at all investors lose [money](#) due to fraud or systemic failure, they are indemnified. The attempt should be to improve the quality of these measures and removing unregulated segments of market which have been the bane of our extant regulatory architecture.

In today's age, how important is regulation for professions like company secretaries, chartered accountants and auditors?

There is an increasing organisation of economic activity. We have over 10 lakh companies and 10 lakh not-for-profit organisations. The state does not and cannot have capacity to exercise oversight on this burgeoning number. It is increasingly using professionals on its behalf to exercise oversight on these organisations. Generally, the professions start with self-regulatory and gradually move to an external, statutory regulation. For example, there are statutory bodies like the Institute of Company Secretaries of [India](#) which is responsible for regulation of company secretaries.

How does the new Companies Act impact company secretaries? Would it enhance the scope of the profession in coming years?

It will have a profound impact as it enhances the accountability of various professionals and explicitly delineates their duties and responsibilities. As the law would evolve continuously and consequently, every company secretary will



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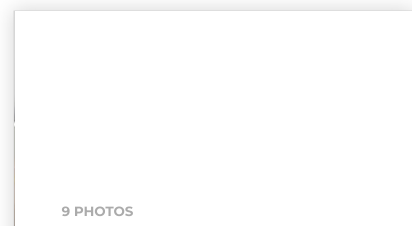
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NSE	BSE	Nifty 50	▼
Top Performing Indices			
Top Gainers			
Top Losers			
Name	LTP	Chg	
Nifty 50	23,432.70 AD Ratio: 0.66	-100.00 -0.42%	
Nifty Bank	50,341.60 AD Ratio: 2.25	162.05 0.32%	
Nifty Next 50	67,417.40 AD Ratio: 0.63	8.75 0.01%	
Nifty 100	24,278.20 AD Ratio: 0.64	-87.85 -0.36%	
Nifty 200	13,181.05 AD Ratio: 0.67	-39.35 -0.30%	

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have to be always on the learning curve. As regards scope, the law may assign certain responsibilities to a profession, but its role depends on its core competence and values.

However, the enhanced responsibilities and accountability in the new law has transited company secretaries in to governance professionals.

When there is increased media coverage and public awareness about cases of wrongdoing at a corporate level, where does a company secretary come in to ensure that fair practices are being followed?

Under the Companies Act, 2013, a company secretary is a key managerial personnel who reports to the board about compliance with the provisions of all applicable laws for the company. They can help in putting systems in place for compliance with relevant laws as well as various disclosures required under the company law and securities laws.

This would reduce the scope for wrongdoing drastically. He can't rule out wrongdoing, but given his proximity to the company's board and enhanced role under the new company law, a company secretary is best placed to blow the whistle on such matters.

Besides, if a company secretary is a party to any wrongdoing, he incurs liability both under the general laws of the land as well as the Company Secretaries Act, 1980.

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