



NIFTY PERFORMANCE
Nifty 50
₹25198.7 -81.15 -0.32%

SENSEX PERFORMANCE
BSE Sensex
₹82352.64 -202.8 -0.25%

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KYC vs KYP

The authorities find great solace in KYC, know your client. The clients, however, find solace in KYP, know your product and know your participant.

Written by MS Sahoo

November 7, 2011 05:52 IST

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The authorities find great solace in KYC, know your client. The clients, however, find solace in KYP, know your product and know your participant. There is an elaborate arrangement to enforce KYC, while there is not even talk of KYP in the Indian financial market. The retail, mostly financially illiterate, client struggles to undertake KYP, while products and participants get more and more complex day by day. There are many ways to address this issue. The most obvious one is: spread financial literacy. But, the most effective one is: make available a cadre of competent, responsible professionals who can help clients undertake effective KYP. Given the role of such professionals, who are generally referred to as investment advisers, in the financial well-being of retail clients, modern financial markets register and regulate them. Sebi's recent concept paper on the subject, though late in the day, is therefore welcome.

The four financial regulators, namely [RBI](#), [Sebi](#), [Irra](#) and [PFRDA](#), have earmarked jurisdictions. While they are bound by the limits of their respective jurisdictions, the business is not. An investment adviser, for example, renders advice on products across jurisdictions. He holistically assesses the needs of a client and the suitability of all financial products across jurisdictions before recommending a product. If he limits his assessment to the products in the jurisdiction of A, the client may miss out a better product which is in the jurisdiction of B. It is, therefore, not possible to render and regulate jurisdiction-wise investment advice. It is difficult for a regulator to lay down standards for investment advice across jurisdictions. It is not practical for all four regulators to simultaneously register and regulate the same person as an investment adviser. The resolution lies in unified regulation of investment advisers by a statutory institute.

Distribution and advice are generally offered together as a composite service. There is hardly a person who only distributes financial products and does not advise clients on those products and vice versa. A variety of conflicts of interests is inherent in this model. First, as distributor, he is an agent of the product provider, and as adviser, he is an agent of the client. Thus, he serves simultaneously two principals who generally have conflicting objectives. The

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Delhi Transport Minister hails premium bus initiative as key to tackling pollution

Roadways September 4, 2024 17:35 IST

Delhi Transport Minister Kailash Gahlot praised the government's app-based premium bus aggregator scheme as a crucial move in the fight against pollution. The scheme, which allows for dynamic fares and digital ticketing, aims to reduce reliance on private vehicles and promote ...

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interests of one principal may take precedence over those of another, depending on the importance of the principal to his business. Second, while advice is totally unregulated, distribution is not. There are rules from respective regulators with respect to origination, including distribution, of products and product distributors. As a result, while an adviser is theoretically allowed to advise on all financial products, he can distribute only those products which he is authorised to. This obviously prompts the adviser to recommend those products that are available with him even if those are not most suitable for the client. Third, it is not uncommon for a person to deal simultaneously in many competing products. In such a case, he would naturally recommend those products which maximise his incentives. He may even exploit regulatory arbitrage and push those products where regulatory compliance is minimal. This calls for segregation of distribution from investment advice, though the nature and phasing of segregation need to be carefully calibrated. While regulation of distribution, which is a product feature, ought to be left to respective product regulators, investment advice needs unified regulation.

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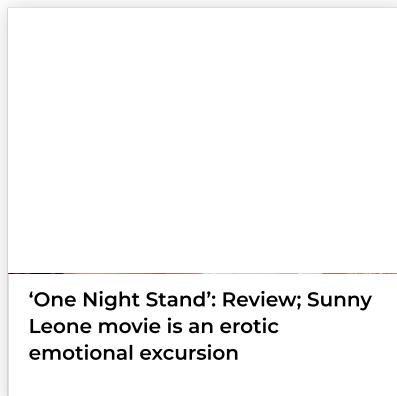
Investment advisers typically recommend investment products, usually securities, for investment by clients. This is why the Sebi Act empowers Sebi to register and regulate investment advisers. However, they recommend and clients invest in all kinds of financial products such as securities, [fixed deposits](#), insurance, annuities, [pension](#), etc. They, at times, go beyond financial products. They also recommend disinvestments/negative investments in the form of disposal of existing investment products or credits. They recommend not only the products, but also the product providers as well as the channel of investment in those products. Thus, the investment advice is practically financial advice and, therefore, what is required is regulation of financial advisers, rather than investment advisers. Financial advice should mean any explicit or implicit recommendation, either directly or through the media, (i) to acquire, liquidate or continue to hold any product in the portfolio and/ or (ii) to use, discontinue or continue to use any service, in the financial [market](#).

Given the twin responsibility of development and regulation of the profession of financial advisers who can help clients undertake effective KYP across the entire financial market, it is necessary to establish a statutory body by the name ?Institute of Financial Advisers of India (IFI)?. The institute shall have two broad activities, namely, (a) development of appropriate courses that a person must complete to be eligible for registration as a financial adviser, and (b) registration and regulation of financial advisers. It shall also provide continuing professional education to update the knowledge of financial

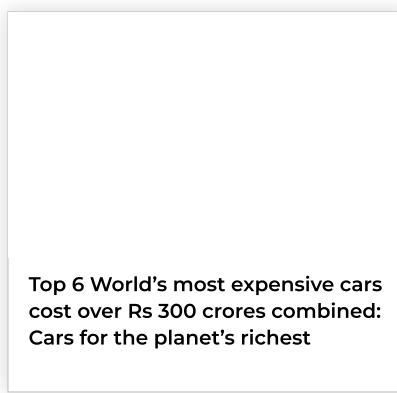
Name	LTP	Chg
Nifty 50	25,198.70 AD Ratio: 0.61	-81.15 -0.32%
Nifty Bank	51,400.25 AD Ratio: 0.22	-288.85 -0.56%
Nifty Next 50	75,450.55 AD Ratio: 1.20	36.90 0.05%
Nifty 100	26,275.75 AD Ratio: 0.89	-65.95 -0.25%
Nifty 200	14,293.85 AD Ratio: 0.87	-32.95 -0.23%

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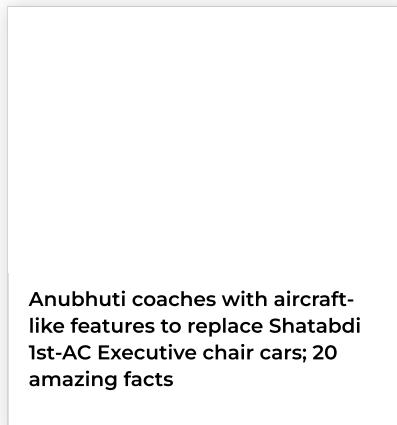
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advisers and exercise oversight over them to ensure orderly growth of a responsible profession. On and from a particular date, no person shall act as a financial adviser unless he has a certificate of registration from the IFAI.

The author is a Mumbai-based advocate and a former whole-time member of Sebi

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4 SEP, 2024

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