

Depository system and depositories importance for various parties

Karamdeep Saini

Assistant Professor Institute of Law Kurukshetra University, Kurukshetra

Abstract

Over the past few years, capital market has shown rapid growth. This growth has been possible just because of various initiative has been taken by government of India who enacted various act from time to time in order to regulate the activity. So in this paper a biggest reform of capital market has been given due importance which is known as Depository system. Its essential pillars have been studied and depositories meaning and its importance have been taken into deep study.

INTRODUCTION

In earlier time Indian capital market had to face lot of problems because of manual and paper base settlement. Under this system, the clearing and settlement of transaction take place with the use of paper work. This system created lots of problems for various parties like purchaser or sellers. In order to remove such problem, script less trading which is known as paperless trading came into existence. Then the old system was exchanged with new as well as modern system of depositories. This new system can be understood with the help of depositories system who are the major players of working of depositories. Its role towards investors, issue, countries is also playing its significant role to create its importance among masses.

Literature review

B hari babu and B.K Surya Praksha Rao, have concluded from their study that role and growth of capital market has been successful because of adoption of depository system adoption

Dr. Pawan Verma, Dr Shiv Ram Singh Jhajharia have examined the depositories role in indian capital market growth and progress

Shashi K.Gupta, Rosy Joshi have concluded that depository is very important pillar of depositories system. It leads to serve the best towards various party

Statement of problem

Indian capital market growth is essential for country proper mobilization of financial resources. This mobilization work flawless with the help of depository system too..So What does depository system stands for is being taken into consideration? What is the role and importance of depositories to various party is also taken as part of such study.

Objective

- ★ To study the present depositories system with help of its constituents

- ★ Legal framework of depositories
- ★ study the importance of depositories for various parties

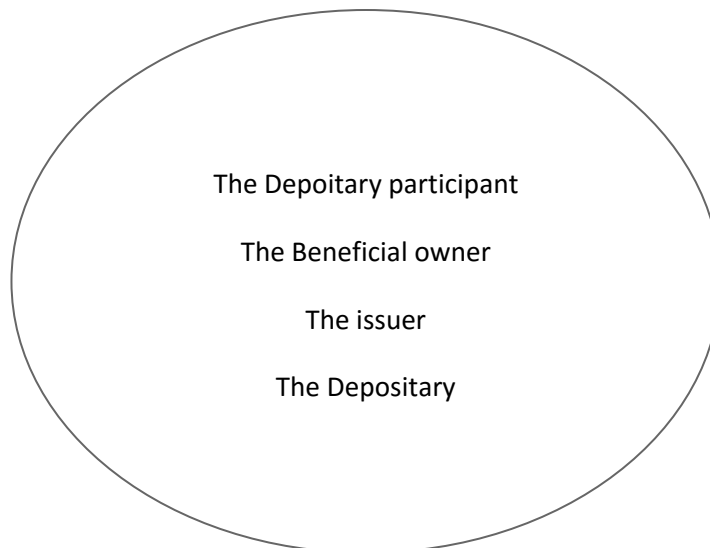
Research Methodology

This study is descriptive in nature various magazines, journals, books,

Analysis and interpretation

1. Present depositories system with help of its constituents

world wide web link has been studied in order to study the depositories system and function of depositories for various parties.



DEP OSIT ORY PARTICIPANT

A participant is an agent of the depository. Agents can be a financial institutions, bank custodian, clearing corporation. He functions as a bridge between the depository and the beneficial owners. He maintains the ownership records of every beneficial owner in book entry form. Both the depository and the participant have to be registered with the Securities and Exchange Board of India.

SEBI grants necessary approval for the same only on the satisfaction of the condition that adequate systems and safeguards are available in such companies in order to ensure against manipulation of records and transactions

Beneficial owner

Beneficial owner means a person whose name is recorded as such with a depository. A beneficial owner is the real owner of the

securities who has lodged his securities with the depository in the form of book entry. He has all the rights and liabilities associated with the securities

The Issuer

The issuer is the company which issues the security. It maintains a register for recording the names of the registered owners of securities, the depositories. These issuers send a list of shareholders, who opt for the depository system, to the depositories. Only those issuer company can enter into agreement with depositories which have been declared as eligible to hold security in demat form.

The depositories

It is a system whereby the transfer and settlement of scrips take place not through the traditional method of transfer deeds and physical delivery of scrips but through the modern system of effecting transfer of ownership of securities by means of book entry on the ledgers or the depository without the physical movement of scrips. The new system, thus, eliminates paper work, facilitates automatic and transparent trading in scrips, shortens the settlement period and ultimately contributes to the liquidity of investment in securities. This system is also known as 'scrip less trading system'.

At present there are two depositories which are working NSDL The National Securities Depository Ltd (NSDL) and the Central Depository Services India Ltd (CDSL)

3. LEGAL FRAMEWORK

The depositories in India are regulated under the following legal framework:

- The Depositories Act, 1996
 - SEBI (Depositories and Participants) Regulations, 1996
 - Companies Act, 1956
 - Securities and Exchange Board of India Act, 1992
 - Prevention of Money Laundering Act, 2002
- Apart from the above-mentioned Acts and Regulations, following govern the business and operations of a depository.
- Bye Laws of the depository
 - Operating Instructions of the depository

A depository has to be a company registered under the Companies Act, 1956 with minimum net worth of rupees one hundred cores and has to be registered with SEBI. The depository cannot start its business unless it obtains a Certificate of Commencement of Business from SEBI. The byelaws of the depository also require prior approval from SEBI. Section 25 of the Depositories Act, 1996 empowers SEBI to frame regulations inter alia with regard to the following aspects:

- The form in which record is to be maintained
- Certificate of commencement of business shall be issued.
- The manner in which the certificate of security shall be surrendered.

- The manner of creating pledge and hypothecation of securities.
- The eligibility criteria for admission of securities in the depository
Further, Section 26 of the Depositories Act, 1996 requires the depository to frame Bye Laws, among others, on the following aspects:
 - The eligibility criteria for admission and removal of securities in the depository
 - The conditions subject to which the securities will be dealt with or withdrawn from a Depository
 - The eligibility criteria for admission, suspension and expulsion of any person as a participant.
- The manner and procedure for dematerialization of securities
- Inter se rights and obligations among the depository, issuer, company and beneficial owners.
- Manner of furnishing information to SEBI
- The procedure for resolving disputes involving depository, issuer, company, or a beneficial owner
- Internal control standards including procedure for auditing reviewing and monitoring

Penalties

Any person who is required under this act or rules or regulations or bye laws made there under, shall be punishable to a penalty of one lakh rupees for each day during which such failure continues or once crore rupees whichever is less.

- Penalties for failure to furnish information, return etc.
- Penalty for failure to enter into an agreement.
- Penalty for failure to redress investor's grievances.
- Penalty for delay in dematerialization or issue of certificate of securities.
- Penalty for failure to reconcile records.
- Penalty for failure to comply with directions issued by board under section 19 of the act
- Penalty for convention where no separate penalty has been provided

Advantages of depositories for various parties

Advantages to investor

1. Quick transfer of funds and securities

Every investors wants to gain an opportunity of earning the profit. In paper trading it took lot of time which was related with three to four months for purchasing the security and its registration with registrar. so here there is no need to send it to the company registrar for registration

2. Elimination of all risks associated with physical certificates

There are numerous risk which is associated with the physical certificate like theft, loss in transit, or loss of certificate during moment through registrar. But in depositories case there is no problem regarding cost of obtaining duplicate certificates

3. No stamp duty

It is the major advantage of depositories that no stamp duty has to be paid on it ,but in case of physical transfers of share, a stamp duty of 0.5% was payable on transfer on share.

4. Reduction in brokerage

Investors are having this benefit in dual sense,first when they deal in dematerialized securities they are relieved from botheration of handling large volume of papers.It also reduces the back office cost which leads to reduction of brokerage charges of 0.25% to 0.50%

Advantages to issuer

- ★ Whenever a issuer company wans to make public issue it leads to saving in cost
- ★ Foreign investors can be easily attracted without incurring any cost of issuance in overseas market
- ★ Earlier issuer company had to incur cost of registration and its transfer of share.This cost is also reduced which were done on part of issuer

Advantages to intermediaries

- It leads to less risk of bad delivery of securities
- ★ Faster settlement can be made .
- Various chances of forgery, loss in transit, theft, counterfeit certificates has been reduced.

Advantages to the country

- ★ A country gets chance of earning foreign exchange because an investor can invest their money in offshore fund with such a wonderful system of depository
- ★ Capita market growth can be made possible with the help of depositories because it has become very easy for an investor to invest in share because there are so many depositories participants which are providing dematerialization of share services
- ★ It leads to competition of such level that domestic companies have to do that much improvement in standard which can make it stand at par with international competitiveness.

Conclusion

In brief it can be said that every economy wants to grow, wants to develop on its various parameter. Depositories has been a very crucial step on the part of capital market reform. This system has got its recognition among the various parties because of its significance. If the proper investor education is being imparted, online connectivity is being supported properly, cohesiveness is being made on the part of NSDL and CDSL, depositories can be able



to stand on the international ground. overall its impact can be observed on the trading also and it will directly lead to employment .

References

<https://www.google.co.in/search?q=conclusion+of+depositories&oq=conclusion+of+depositories&aqs=chrome..69i57&client=ms-android-motorola&sourceid=chrome-mobile&ie=UTF-8>

<https://www.google.co.in/search?client=ms-android-motorola&q=suggestion+of+depository+system&sa=X&ved=2ahUKEwjvtiIwvjZAhUFtI8KHWayAncQ1QIoAHoECAAQAQ>

Dr. Rajnikant Kumar (2016), “Role of National Securities Depository Limited (NSDL) in Growth of Indian Capital Market”, International Journal of Multidisciplinary Advanced Research Trends, Volume III, Issue 1(1), 2016, pp 85-108.