

An Insight into the Legislative Reforms for the Development of Bangladesh Stock Market

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Abstract

Stock markets have a vital role to play in the economic development of a country. An efficient stock market helps to allocate financial resources to businesses efficiently. Businesses in turn use the capital to grow, generate employment and contribute to the national development. As a result, productivity improves and the overall economy benefits. Ensuring economic growth and development is a primary objective of all countries. Economists traditionally have looked at capital, labour and technology as the major factors driving economic growth. The long-term financing should be ensured through the country's stock market considering the interest of the economy. In Bangladesh, stock market, however, could not keep pace with the country's robust economic growth mainly because of the reluctance of the larger companies to be listed and give the people opportunity to invest in worthy firms. Gross domestic product (GDP) growth in Bangladesh has averaged 7.0 per cent in the last decade, but the growth of market capitalization is not in line with it. The healthy economic growth of Bangladesh has been lauded in international forums, but the stock market does not reflect the same. Over the last five decades, the journey of the Bangladesh stock market has not been smooth. The market remains at a nascent stage, with little or no diversified scope, dominated by retail investors lacking financial literacy.

Stock markets around the globe are vital in determining transparency and efficiency for an economy. In the last two decades, the stock market of Bangladesh has undergone a drastic change. This calls for more stringent and vigilant regulation in Bangladesh. From the review of past studies on Bangladesh Stock Market, there appears to be a little or no outstanding research work on legal aspects of Bangladesh Stock Market. So, the title of the present study is "An Insight into the Legislative Reforms for the Development of Bangladesh Stock Market".

This thesis is an attempt to study how the Bangladesh stock market has been developing during the last three decades. The development of stock market has been studied from the view point of the pertinent institutions which have been contributing to the development of the stock market.

The stock market in Bangladesh is governed by certain Acts, Rules and Regulations. Major regulatory authorities of Bangladesh capital market consist of Bangladesh Securities and Exchange Commission [formerly Controller of Capital Issues (CCI)], Registrar of Joint Stock Companies and Firms (RJSC), Dhaka Stock Exchange Limited (DSE) and Chittagong Stock Exchange Limited (CSE).

It is observed that Bangladesh securities market has failed to achieve any significant growth since its inception in 1954. This stagnation is attributable to a number of factors that include, *inter alia*, the existence of weak legal and regulatory frameworks, the absence of active market professionals, the predominance of individual investors, and a serious dearth of foreign and institutional investors. Legal and regulatory weaknesses are considered to have critically hindered the market's potential growth. Some important laws are outdated, and the regulator has introduced some unrealistic reforms over the years. Most of the reforms accomplished concentrating on incentives to investors and issuers alike, but nothing significant has been done for investors' protection.

This study scrutinizes the Acts, Rules and Regulations and attempts to identify the loopholes therein and the roles of regulators behind the recent stock market crash and recommends for some inevitable legislative reforms for the development of Bangladesh stock market.

To pursue the research goal, necessary information and data have been collected both from primary and secondary sources. Besides, diverse methodologies have been used to materialize the objectives of the study. Different analytical and empirical approaches have been explored for examining the existing legal frameworks, identifying the gaps and problems and providing suggestive measures thereto.

In analytical study both qualitative and quantitative explorations are attempted. For suggesting the legislative reforms for the development of the Bangladesh stock market, it mainly focuses on qualitative analysis through relevant information, data, expert interview, and structured questionnaire. Besides, quantitative techniques are used to analyze Bangladesh stock market data from 1993 to 2020. For providing additional insight into the study; questionnaire survey and empirical analysis have also been conducted. To collect primary information, a well-structured questionnaire is used for data collection. The survey schedule contains both close-ended and open-ended questionnaires. The set of questionnaires was administered to individuals pertinent to the Bangladesh stock market. For the survey, only 20 capital market pertinent experts have been restricted due to the COVID 19 pandemic.

After collecting the questionnaires, the information on different aspects was systematically tabulated for analysis. Information was analyzed through tables and frequency distributions. The collected data were entered and analyzed using Statistical Package for Social Science (SPSS). Because of the fact that the samples were not random, statistical test could not be performed to test hypotheses. Therefore, findings have been presented on the basis of the analysis of data supported by tables and graphs.

The regulatory move to control the situation was very slow. The regulatory authority took time to realize the possible impact of index crash on the entire economy. In late December 1996, the BSEC constituted an Inquiry Committee to investigate into the irregularities of stock market activities during July 1996 to November 1996.

In March 1997, the Inquiry Committee prepared a lengthy report identifying a number of companies being in breach of specific provisions of securities market regulation and commented that such companies were guilty of fraudulent acts in relation to securities trading. The Inquiry Committee also identified some of the country's biggest brokers who were apparently involved in market manipulation. However, it is unfortunate that the Inquiry Committee Report failed to address the regulatory aspects in a comprehensive way.

The Bangladesh stock market again saw an upsetting scenario in 2010 that was very similar to that one in 1996. There were allegations about capacity issues in the BSEC, internal control lapses and even moral turpitude of their staff. The government has taken cognizance, under unwavering public pressure, the Bangladesh Securities and Exchange Commission formed a four-member Inquiry probe committee under Section 21 of the Securities and Exchange Commission Ordinance, 1969 on January 26, 2011, to investigate share market scam. The appointments came as the government moved to establish order in the country's two bourses. The probe body was entrusted with 11 tasks that include finding

out if any individual or group which had influenced the market or taken any undue advantages. The probe body's report has identified a few individual suspects by name. The committee found various irregularities, including the existence of omnibus accounts, which allowed some market players to make exorbitant profits at the expense of the retail investors. The report ended with recommendations to reform the BSEC drastically and asked the government to publish the names of the influential players and to remain cognizant in countering their influences. However, the then Finance Minister Abul Maal Abdul Muhith stated that the State would neither disclose the names of the accused officially nor take punitive measures without further investigation. Although no dates for fresh probes have been declared. Later, the report was published under the direction of Hon'ble High Court Division after omitting the name of the culprits. The paramount causes identified by the Inquiry Committee are massive irregularities and immorality, involvement of stakeholders in unethical activities of direct listing in primary issue, revaluation of the share, placement to special person/organizations at face value or lower value etc., influencing the secondary market in circular trading, block trading, unusual transaction, etc. by a concerted group of persons/ organizations, irregularities or inconsistencies in issuance of stock share against right share, preference share, IPO-repeat-IPO, unrealized profit and in giving validation unethical works and negligence etc.

The noteworthy recommendations of the inquiry committee were: to remove the involved officials, reformation of SEC, Stock Exchange Demutualization by preparing and implanting 'Demutualization Plan'; Co-ordination between Stock Exchange and BSEC; Financing by the bank in capital market; Bringing transparency in non-transparent in omnibus accounts; Prohibiting share transaction of government and concerned officers; Fixation of share value by fixed price procedure and book building procedure, Controlling serial trading and manipulation; Introducing uniformities of face value of share; Bringing fairness in issuance of right share/preference share; Strict monitoring and effective measures by Government etc.

The debacle of 1996 and 2010-11 was a massive regulatory failure. BSEC lacks quality, professional manpower, competent accountants, financial analysts and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of coordination between the Ministry of Finance, Bangladesh Bank, Securities and Exchange Commission and other related organizations. This isolation of BSEC was, perhaps, a crucial factor for the regulatory failure in 2011. It is unfortunate that since the establishment of the Securities and Exchange Commission in 1993, the stock market has crashed twice. On both occasions, thousands of small and inexperienced investors lost everything they had. The stock market crash is not something unique and it happened in many other countries. But market collapses in other countries were normally linked to some internal or external economic shock or global recession. In the case of Bangladesh, it has not been so. Both the crashes were neither due to external economic factors nor internal economic malfunctions. These crashes were the results of poor governance, unbridled manipulations, undue influences, and unlimited greed.

From the sequence of analysis of findings of the survey on the existing enactments and legislative reforms of Bangladesh stock market, presumption cannot be denied that growth of the stock market depends upon economic, political, stock market Acts, Rules and Regulations, the legal framework in a country and the legal stability that the Government

can provide to the stock markets. Thus stock market development and ensuring stock market legal stability are correlated.

Stock markets function in a regulatory regime and it is important that the regulators are professional, efficient and transparent. BSEC as the apex regulator for the stock market is yet to develop as an efficient watchdog competent to discharge its most important responsibilities of protecting the interest of the investors. BSEC lacks qualified professional manpower, competent accountants, financial analysts and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of co-ordination among the Ministry of Finance, Bangladesh Bank, Securities and Exchange Commission, Insurance Development and Regulatory Authority, National Board of Revenue and other related organizations. Swift IPO approval process and proper stock valuation of BSEC for IPO offerings hinder the supply of securities in the Bangladesh stock market. The major perpetrators behind stock market scams of 1996 and 2010 have not been specified by BSEC after stock market scams. The Book Building System and Price discovery System failed to protect the stock market scams in 2010.

Stock Exchanges of Bangladesh i.e. DSE and CSE also failed to discharge their duties and take prompt initiatives for the protection of the investors. Information asymmetry and agency problems create hurdles in the development of Bangladesh equity-based stock market. Weak governance in listed companies and market intermediaries are also prevailing. Most of the IPOs were oversubscribed. Stock exchanges of Bangladesh are facing the problem of insufficient adaptation of technology advancements. From stock market scam inquiry reports, in many instances it is reflected that annual reports of the listed companies do not depict a proper representation of business reality. At present stock exchange members of Bangladesh can also act as the director of the corporation.

Besides, Lack of market-based financing for easy availability of bank-based financing due to huge number of banks and their aggressive lending initiatives discourages converting private limited companies to a public limited company. Absence of professional asset/fund managers, institutional investors, and asset management companies is prevailing in Bangladesh. Syndication of institutional investors and brokerage houses is also hindering the development of the stock market in Bangladesh. Further, Dominant presence of poorly knowledgeable retail investors, lack of capacity in terms of awareness, knowledge and legal system, myopic investment mindset of the investors and irrational investment behavior of the general investors are prevailing in Bangladesh stock market. According to suggestion of Inquiry Report headed by Khandaker Ibrahim Khaled, the Supreme Court has given a direction to the Government to conduct further inquiry on the said scams to identify the real perpetrators behind those market manipulations to bring them under prosecution.

The problems exist in the bottle-neck of the systems, loopholes in the laws and policy of the country and delay in, or even not being disposal of, the securities related cases. The crooks have been let to go off the hook again and again, and have naturally been encouraged to play the same game. There are some common inherent shortcomings of all these laws are lack of proper execution of the capital market regulations, deficient penalty, ineffective fine recovery system, no direct access to justice, absence of permanent prosecution unit, tribunal lacking cognizance power on complaint, want of original jurisdiction of tribunal, the comfortable savior of good faith clause, lacking special prosecution team, disregarding equality before law and equal protection of law, abuse of

the defence ‘due diligence and without knowledge’ etc. Besides, there are vital specific loopholes in the legislations mentioned above. BSEC, not being participatory authority representing major regulatory bodies, faulty appointment procedure and tenure thereof, absence of concrete guidelines, weakness in kerb market regulating laws, incomprehensive provision for unclaimed dividend, and prohibition on buy-back of shares are some of paramount specific limitations of stock market legislations. Unexpected delay in the disposal of stock market related cases hinders the end of justice denying fundamental rights of speedy trial as ensured in the Constitution of Bangladesh. The delegated legislations made by the Commission are frequently changed that makes many contradictions and creates confusions. The role of Registrar of Joint Stock under the Companies Act, 1994 and the Financial Reporting Council under the Financial Reporting Act, 2015 are not proactive and vigilant enough to attract the worthy company to invest in stock market.

By considering the observation and analysis of identified pertinent shortcomings in the thesis, necessary regulatory and legislative reforms of Bangladesh stock market have been tried to be recommended for a strong and steady stock market in Bangladesh. To overcome those difficulties and challenges, some effective recommendations have been produced on the basis of the evidence and illustrations available in the thesis for regulatory and legislative reforms of Bangladesh stock market.

After all, the analysis of the Acts, Rules and Regulations, identification of the loopholes therein and scrutinizing the roles of regulators behind the recent stock market crash and recommendation for the legislative reforms for the development of Bangladesh stock market are sure to assist the policy makers and legislators to update the relevant laws, investigation of share scam cases and the matters ancillary thereto in need of the socio-economic perspective of the 21st century.

DECLARATION

I do hereby declare that this thesis titled “**An Insight into the Legislative Reforms for the Development of Bangladesh Stock Market**” submitted to the Department of Law, the University of Dhaka in requirements for the degree of Doctor of Philosophy (Ph.D) in Law, has been prepared by me under the supervision of Professor Dr. Md. Rahmat Ullah, Department of Law, University of Dhaka.

I further affirm that this thesis comprises only my original work and the plagiarism has been checked by the Librarian of Dhaka University Library by using software (Annexure-II). Furthermore, due acknowledgment has been made in the text to all other materials used.

No part of this work has been used for the award of any other degree.

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LIST OF ACRONYMS

ACC= Anti Corruption Commission/Anti Corruption Commission of Bangladesh
ADB=Asian Development Bank
AGM = Annual general meeting
BAPLC = Bangladesh Association of Public Listed Companies
BASEL = A Global regulatory framework for more resilient banks and Banking system
BB = Bangladesh Bank
BO = Beneficiary Owners
BICM =Bangladesh Institute of Capital Market
BSEC = Bangladesh Security and Exchange Commission
CASPI = CSE all share price index
CCI Act = Capital Issues Act, 1947 (Continuance of Control) Act, 1947 (XXIX of 1947)
CSCX = CSE selective categories index
CSE = Chittagong Stock Exchange
CDBL= Central Depository of Bangladesh Limited
CEO = Chief Executive Officer
CPD = Centre for Policy Dialogue
CRR = Cash Reserve Ratio
DSE = Dhaka Stock Exchange Limited
DGEN= DSE General Index
DVP = delivery versus payment
EPS = Earnings per share
FDI = Foreign direct investment
FBCCI = Federation of Bangladesh Chambers of Commerce and Industry
ICAB= Institute of Chartered Accountants of Bangladesh
ICB= Investment Corporation of Bangladesh
ICMAB=Institute of Cost and Management Accounts of Bangladesh
ICSB = Institute of Chartered Secretaries of Bangladesh
Inquiry Committee Report 1996 = Investigation Report of the Capital Market Inquiry Committee, 1996
Inquiry Committee Report 2011 = Investigation Report of the Capital Market Inquiry Committee, 2011 (Report submitted on 31 March, 2011)
IMF=International Monetary Fund
IPO= Initial Public Offering
KYC= Know-your-customer
MC = Market Capitalization
MoF =Ministry of Finance
NAV = Net asset value
NBFi= Non-bank Financial Institution
NBR=National Board of Revenue
NSD= National Savings Bond
OTC= Over the Counter
P/E Ratio = Price/Earnings Ratio
SEBI=Securities and Exchange Board of India
SEC = Securities and Exchange Commission of Bangladesh
SEC = Bangladesh Security and Exchange commission
SLR = Statutory Liquidity Ratio
SMS= Short Message Service
TIN=Tax Identification Number
WB=The World Bank

Chapter-1

Introduction

1.1 Background of the Study

The stock market consists of the stock exchanges, listed companies, and stockholders; its function is to facilitate share trading. The stock market creates channels to connect different market participants. Through these channels, the stock market performs the critical role of capital resource allocator. Observing the practices of stock markets, we find that sometimes, the stock market allocates capital resources inefficiently and in such a situation, the rate of expansion of the economy suffers. An allocation efficient stock market should allocate capital resources into the most productive sectors as soon as possible. The allocation efficiency of a stock market should consist of both internal efficiency and external efficiency, in other words, operational efficiency and communicative efficiency.¹

Stock market includes all organized markets and institutions such as commercial banks, discount houses, stock exchanges, investment corporations, etc. dealing in securities, long-term loans, mortgages, and time and savings deposits. The narrow and most commonly used definition of stock market includes all organized markets where stocks and bonds are bought and sold using the service of broker, dealers, and underwriters. Broadly, stock market comprises two segments: the non-securities segment and the securities segment. The non-securities segment comprises banks & financial institutions. The securities segment operates through the primary and secondary markets.²

¹ Saloni Gupta, *Stock Market in India: Working and Reforms* (New Century Publications 2010) 1.

² Tanbir Ahmed Chowdhury, 'Stock Market Behavior in Bangladesh' (2005) 3(1& 2) *Journal of Business Studies, Journal of the School of Business, Bangladesh Open University* 34.

The stock market represents the deep end of the financial system, the deeper the system, the greater its stability and resilience. Unique combinations of circumstances related to macro-economic and sectorial developments supported by the right policy mixes, appropriate legal, regulatory, and supervisory frameworks can accelerate the developments of stock markets. The objective of regulation of stock markets is to achieve the goal of fiscal policy in general. Apart from the macro policy of contributing to the development of the national economy through harmonization with monetary policy, securities policy dealing with securities houses and markets, generally pursue three broad objectives i.e. firstly, to improve the efficiency of securities markets, secondly, to ensure the financial stability and soundness of the financial system and thirdly, to maintain an adequate level of investors' protection.

Stock markets worldwide are a proven resource for companies to mobilize financial assets from the investing public most cost-effectively either by issuing debt i.e. selling bonds or debentures or equity i.e. preferred stocks or by offering common shares to enable them to execute large scale projects and implement long-range growth strategies. The potential benefit of mobilizing stock markets is big, but the challenges are also enormous.

Presently stock markets are some of the most important parts of the global economy. Countries around the world often depend on stock markets for their economic growth. However, stock markets are a relatively new phenomenon. They have not always played an important role in global economics. Buying and selling stocks has been around for centuries – and certain elements have been around even longer than that. The history of the stock market is founded on an age-old practice of wanting to invest in an enterprise and make money off its performance, and today, that is no different.³

³ Farahnaz Zarrin, 'The Structural Evolution of Stock Exchanges' (2016) 118 *Market Pulse* 17.

The stock market in Bangladesh is governed by certain Acts, Rules, and Regulations. Major regulatory authorities of Bangladesh capital market consist of Bangladesh Securities and Exchange Commission (BSEC) [formerly Controller of Capital Issues (CCI)], Registrar of Joint Stock Companies and Firms (RJSC), Dhaka Stock Exchange Limited (DSE), and Chittagong Stock Exchange Limited (CSE).

The Bangladesh securities market has failed to achieve any significant growth since its inception in 1954. This stagnation is attributable to several factors that include, *inter alia*, the existence of weak legal and regulatory frameworks, the absence of active market professionals, the predominance of individual investors, and a serious dearth of foreign and institutional investors. Legal and regulatory weaknesses are considered to have critically hindered the market's potential growth. Some important laws are outdated, and the regulator has introduced some unrealistic reforms over the years. Most of the reforms accomplished concentrating on incentives to investors and issuers alike, but nothing significant has been done for investors' protection.⁴

An organized stock exchange in this territory (Pre-Bangladesh Period) was established in 1954. The market continued to operate until early 1971 when trading in securities came to a complete halt following the declaration of war of liberation against the then *de facto* colonial power, West Pakistan (*de jure*, federal Pakistan). Although the operation of the market was restored in 1976, and it remains in its infancy to date.⁵

The stock market failed to grow to a reasonable extent for various reasons; most importantly for the weakness in its legal and regulatory framework, the introduction of reforms unsuitable to and unwarranted for the need of the market, the regulatory

⁴ S M Solaiman, 'Recent Reforms and the Development of the Securities Market in Bangladesh - A Critique' (2006) 41(3) *Journal of Asian and African Studies* 195.

⁵ *ibid*196.

concentration on attracting the investing public through offering pecuniary incentives and cutting interest rates on fixed income-saving bonds and bank deposits, and the introduction of the disclosure regime through discarding the previous merit regulation. The reforms accomplished thus far demonstrate that offering incentives and cutting interest rates in a bid to entice the public to invest in securities have given misplaced emphasis at a crucial time when the market was seriously in need of measures for investors' protection.⁶

Although the stock market came into being in the middle of the 1950s, no significant market reforms took place until the middle of the 1970s. In the 1980s, the government paid attention to bringing about some reforms with a view to developing this market. During the last two decades, the government unsuccessfully attempted to revamp the market. The market had been growing gradually from the early 1980s to 1996, but an unprecedented share scam damaged investors' confidence and the investors have stayed away from the market. As a result, the market has been performing poorly and governmental authorities are striving in vain to bring investors back to the market.⁷ The Capital Market in Bangladesh is small and yet to surge off its past inactivity which resulted from the nationalization of industries⁸ and adoption of socialism as one of the state principles by the Bangladesh Government in the immediate aftermath of independence in 1972.⁹

⁶ S M Solaiman, 'Recent Reforms and the Development of the Securities Market in Bangladesh - A Critique' (2006) 41(3) *Journal of Asian and African Studies* 196.

⁷ *ibid.*

⁸ Bangladesh Industrial Enterprises (Nationalisation) Order 1972 (Bangladesh) Preamble, Article 4(1) < <http://bdlaws.minlaw.gov.bd/act-details-378.html#:~:text=>

⁹ Constitution of the People's Republic of Bangladesh (Bangladesh) Article 8(1) < <http://bdlaws.minlaw.gov.bd/act-367/Section-24556.html> >.

The stock market remains closed from 1972 to 1975 and was reopened to the investors in 1976. Dhaka Stock Exchange (DSE) resumed trading activities on August 16, 1976. DSE was established with the broad objectives to provide a marketplace along with facilities for bringing together buyers and sellers'. DSE was established with the broad objectives to provide a marketplace along with facilities for bringing together buyers and sellers' securities, to promote equitable principles of trade to reflect the market price of securities, and to protect the interest of investors'.¹⁰

When the stock market was opened in 1976 only nine companies, which escaped the nationalization order for being owned by foreigners, offered to be enlisted with DSE. In 1995, a second bourse, the Chittagong Stock Exchange (CSE) was established on 1st April 1995 as a company limited by guarantee and as a not-for-profit organization. Initially, the founding members were 70 which were gradually increased to 148. CSE was established with the broad objectives to create an effective, efficient and transparent market atmosphere of international standard to save and invest in Bangladesh to facilitate the competent entrepreneurs to raise funds and accelerate industrial growth for the overall benefit of the economy. Since then, CSE revolutionized the entire capital market of Bangladesh. It spearheaded many rules and regulations, implemented automation, innovated new concepts, and led the whole capital market as the vanguard of development.¹¹

To promote investor's confidence in the stock market, the necessary structural and infrastructural development and credible enforcement of securities law for a period of

¹⁰ Dhaka Stock Exchange, *Fact Book* (1984) 15.

¹¹ Chittagong Stock Exchange '*Information Memorandum for Strategic Partner Updated up to December 30, 2020*' 21.

few years are required. Black letter laws alone would not be sufficient to attract market-shy investors to assume further risks in the market.¹²

Bangladesh securities market experienced the worst turmoil in 1996. Until mid-1996, the Bangladesh securities market failed to attract investors, both local and international. However, between July and mid-November 1996, both Dhaka and Chittagong Stock Exchanges experienced an unprecedented bullish run.¹³

During this period, market capitalization went up by 265% and the average daily turnover increased by over 1000%. There were about 192 securities listed with both the stock exchanges at that time. According to the official record, the price index at DSE increased by 281%, and at CSE increased by 258%. Then the bubble burst: share prices of both the stock exchanges dropped by 25% from their peak in mid-November. It was reported that outside in the 'kerb (informal) market' the prices went down further.¹⁴

The regulatory move to control the situation was very slow. The regulatory authority took time to realize the possible impact of the index crash on the entire economy. In late December 1996, the BSEC constituted an Inquiry Committee to investigate the irregularities of stock market activities from July 1996 to November 1996.¹⁵

In March 1997, the Inquiry Committee submitted a detailed report identifying several companies being in breach of specific provisions of securities market regulation and commented that such companies were guilty of fraudulent securities trading. The Inquiry Committee also detected some of the country biggest brokers who were

¹² S M Solaiman, 'Investor protection in a disclosure regime: an international and comparative perspective on initial public offerings in the Bangladesh securities market' (Ph. D. thesis, University of Wollongong, Australia 2003) 395.

¹³ Tureen Afroz, 'Index crash of 1996: A case of regulatory failure' *The Daily Star*, (Dhaka 7 October 2006) <<https://www.thedailystar.net/law/2006/10/01/fmr.htm>> accessed 12 December 2020.

¹⁴ *ibid.*

¹⁵ *ibid.*

involved in market manipulation. Based upon the Inquiry Committee Report, the BSEC was granted warrants of arrest against 32 people in 7 brokerage firms and 8 Division of the Supreme Court of Bangladesh.¹⁶

The BSEC also filed 15 share-scam cases in the High Court Division. However, it is unfortunate that the Report of the Inquiry Committee failed to address comprehensively the regulatory aspects. The said Report merely served two purposes: (a) it identified some of the market manipulators involved in many fraudulent activities during the alleged period; and (b) it brought into light the irregularities involved in the day-to-day operation of the stock exchanges. The Report, however, completely ignored the role that should have been played by the BSEC as a regulatory body to handle the crisis.¹⁷

The stock market in Bangladesh has further fronted an upsetting scenario in 2010 that resembles to that of in 1996. Frustrated investors came down on streets in protest on December 20, 2010, when the most dramatic fall occurred in the stock market of its 55-year history. The DSE General Index dropped by 551 points or 6.72%. Again, on January 20, 2011, the index fell within 5 minutes of the trading operations in the two bourses by 600 points; and the panic deepened.¹⁸

There have been allegations from people on the street, civil society, and media that a notorious price manipulation had been perpetrated by some biggies and the much-talked -about "cartel." panic spread among the investors and the concerned of the two bourses and BSEC. The "book building" process was suspended for those companies, having rather weak fundamentals, getting very high share premiums.¹⁹

¹⁶ Tureen Afroz, 'Index crash of 1996: A case of regulatory failure' *The Daily Star*, (Dhaka 7 October 2006) <<https://www.thedailystar.net/law/2006/10/01/fmr.htm>> accessed 12 December 2020.

¹⁷ *ibid.*

¹⁸ Mamun Rashid, 'Let capital market run on its own' *The Daily Star*, (Dhaka 26 January 2011) <<https://www.thedailystar.net/news-detail-171505>> accessed 9 December 2020.

¹⁹ *ibid.*

The process has been used by issuers in a coalition with groups of institutional investors to raise the price of securities artificially beyond the fundamentals. The high premium charged on shares affect the retail investors who subscribe to the shares at a high price and face a deflated price upon listing. The process is said to be similar to the much-criticized direct listing method, which had been scrapped for private companies the year's before.²⁰

There are further allegations against BSEC and even the two bourses for frequent shifts in their position with Bangladesh Bank being indifferent to those market fallouts.²¹

Lately, there has been a large influx of retail investors to the bourses; hence the market has become almost retail-driven. Investors, without bothering much about underlying fundamentals, went on a buying spree with "share prices to go higher" expectations. Access to quality and credible corporate information is still a major issue in the market.²²

Though a handful of institutional investors may enjoy certain benefits, nothing exists for retail investors. Numerous investors are unaware of trading the companies' shares. Most importantly, the ignorance of these investors about the genuine information reportedly contributed to such mishaps. While market analysts were okay with corrections in the market, especially for shares with weak fundamentals, it is not desirable to happen at the cost of only retail investors.²³

²⁰ Mamun Rashid, 'Let capital market run on its own' *The Daily Star*, (Dhaka 26 January 2011) <<https://www.thedailystar.net/news-detail-171505>> accessed 9 December 2020.

²¹ *ibid.*

²² *ibid.*

²³ *ibid.*

There were much talked accusations about capacity issues in the BSEC, internal control lapses, and even moral turpitude of their staffs. Reportedly, there was no coordination between the various regulatory bodies, mainly Bangladesh Bank and BSEC.²⁴

The government has taken cognizance under unwavering public pressure. The BSEC, the entrusted body to regulate the share market and to ensure fair dealing, formed a four-member 'Enquiry Probe Committee' under Section 21 of the Securities and Exchange Commission Ordinance, 1969 on January 26, 2011 to investigate share market scam. The appointments came as the government moved to establish order in the country's two bourses. The Probe Body was entrusted with 11 tasks including finding out the individuals or groups taking undue advantages through influencing the market.²⁵

The much-hyped report of the committee to investigate the stock market collapse was submitted to the government on April 7, 2011. The probe body in its report observed that unscrupulous market operators had pocketed nearly Tk. 200 billion of general investors' money and a substantial part of this amount had also been moved out of the country. But such figures are still more of a guesstimate, for it is difficult to ascertain the actual amount.

The methods that the crooks used to cheat investors, as identified by the Probe Committee, are asset revaluation, change of face value, direct listing, book building, pre-placement, bonus share issue, etc. These are very much in line with the public perception of the latest stock market crash.²⁶

²⁴ Mamun Rashid, 'Let capital market run on its own' *The Daily Star*, (Dhaka 26 January 2011) <<https://www.thedailystar.net/news-detail-171505>> accessed 9 December 2020.

²⁵ Editorial, 'Probe body report on stock market scam' *The Financial Express*, (Dhaka 10 April 2011).

²⁶ *ibid.*

The Probe Body's report has identified a few suspected individuals by name. But it is quite specific, as the media reports indicate, about the role played by a few top officials of the capital market regulator - the Bangladesh Securities and Exchange Commission - who were instrumental in making the schemes of the stock market crooks a success. However, blaming the BSEC alone would be unfair since other concerned, despite having enough indications of market manipulation, did fail to take action in time. The probe body mentioned in its report the names of several individuals as suspects and certainly not yet accused - who were involved in the recent stock market scam.²⁷

There is no denying that the failure to punish those responsible for the 1996 scam has encouraged the repetition of a similar felony but on a much greater scale this time. Letting the crooks go off the hook again would be tantamount to giving them free rein. So, the government must identify the real culprits and punish them following the law of the land. At the same time, with due earnestness, the government should recast the BSEC thoroughly since the development of the stock market depends largely on its performance. The probe body has also laid special emphasis on the BSEC reorganization.²⁸

Regulatory frameworks are still weak. Many aberrations are taking place every day which is knocking the ordinary investors down. Even many small investors reportedly committed suicide due to huge losses.²⁹

Some entrepreneurs play the foul game while trying to misrepresenting the value of the shares of their companies. Stocks are routinely coming to the market at an

²⁷ Editorial, 'Probe body report on stock market scam' *The Financial Express*, (Dhaka 10 April 2011).

²⁸ *ibid.*

²⁹ Staff Correspondent Chittagong, 'Another share investor takes his life', *The Daily Star* (Dhaka 3 February 2012) <<https://www.thedaily star.net/news-detail-221010>> accessed 22 February, 2020.

overvalued rate. This should at once be stopped. All regulators should be aware while they oversee the market as well as permit fresh capital issues.³⁰

If the investors are driven out of the market, it will take a long time to bring them back. And the economy will lose the opportunity to transform into a higher economic growth path.³¹

It may be mentioned that former Honorable Finance Minister Mr. Abul Mal Abdul Muhith on 27th February 2011 told the Parliament (House of the Nation) that there is no law in the country to punish those responsible for share market bungle.³²

The Laws, Rules, and Regulations governing the BSEC and the Stock Exchanges affairs require amendments in many aspects to bring back the investors' confidence and discipline in the capital market as well as to allow a comprehensive mechanism (not a vested quarter) to run and manage the affairs of the stock markets.³³

Because of the above discussion and observation, the situation warrants a detailed examination of the stock market Acts, Rules and Regulations in Bangladesh and pointing out drawbacks in the system. This study is an attempt to that end.

1.2 Statement of the Problem

Capital markets have a huge role to play in the economic development of a country. Efficient factors such as capital, labor, and technology are the major factors driving economic growth. Long-term financing in the capital market helps to allocate financial resources to businesses efficiently. Businesses, in turn, use the capital to grow, generate employment and contribute to national development. As a result, productivity improves, and the overall economic benefits. Ensuring economic growth

³⁰ A Ahmed, 'In quest of Capital' *The Daily Star*, (Dhaka 4 April 2011).

³¹ *ibid.*

³² *The Daily Sun*, (Dhaka 27 February 2011).

³³ Justice Md Rezaul Hasan, 'Reducing the rate of Bank interest to single-digit: Role of the Capital Market as Catalyst' (2019) 71 *Dhaka Law Report (DLR) Journal* 19.

and development is a primary objective of all countries. Economists traditionally have looked at to be ensured through the country's capital market considering the interest of the economy.³⁴

In Bangladesh, the capital market, however, could not keep pace with the country's robust economic growth mainly because of the reluctance of the big companies to be listed and give the people the opportunity to invest in worthy firms. Bangladesh's gross domestic product (GDP) growth has averaged 7.0 percent in the last decade, but the growth of market capitalization is not on par with it. Healthy economic growth in Bangladesh has been lauded in international forums, but this growth is not reflected in the stock market.³⁵

Over the last six-and-a-half decades, the journey of the Bangladesh capital market has not been smooth. The market remains at a nascent stage. It is, with little or no diversification, dominated by retail investors having lack financial literacy.³⁶

After two major stock market crashes took place in 1996 and 2010-2011, a prolonged bearish trend has been witnessed throughout the last decade. With the setbacks strongly impacting the market, the capital market of Bangladesh has gone through several reforms and the enactment of new laws, rules and regulations.³⁷

Stock Markets around the globe are vital in determining transparency and efficiency in an economy. In the last two decades, the stock market of Bangladesh has undergone drastic changes. The present situation calls for more stringent and vigilant regulation in Bangladesh. From the review of previous studies on the Bangladesh

³⁴ Babul Barman, 'When sluggish stock market bearish economic growth' *The Financial Express*, (Dhaka 23 November 2020) <<https://today.thefinancialexpress.com.bd/27th-anniversary-issue-2/when-sluggish-stock-market-belies-economic-growth-1606041083>> accessed 10 December 2020.

³⁵ *ibid.*

³⁶ *ibid.*

³⁷ *ibid.*

Stock Market, there are very few or no comprehensive research works on legal aspects of the Bangladesh Stock Market. So, the problem of the present study is "An Insight into the Legislative Reforms for the Development of Bangladesh Stock Market".

1.3 Significance of the Study

The government initiated a massive reform program involving the regulator, stock exchanges, intermediary industries, policies, and regulations related to the market. Both stock exchanges of the country have been demutualized, separating their operations and ownership. Despite the stock market experiencing many reforms, leading conglomerates are yet to come forward. These companies are less interested to share the ownership of the entities with the public and abide by Rules and Regulations of the securities law.³⁸

The market capitalization is approximately US\$ 40 billion, which is nearly 13 percent of the country's gross domestic product (GDP) as of September 30, 2020, and 34 percent at its peak time. In FY 2009-2010, the year that saw the market indices skyrocket without valid reasons. The ratio had been decreasing over the years suggesting a lack of listing of large corporations and multinational companies in the market. Consequently, investors have lost confidence in investing in the country's capital market.³⁹

Generally, in Bangladesh financing for commercial purposes is obtained by borrowing mainly from the non-security segments (e.g., from banks and financial institutions) rather than issuing financial claims i.e., debt and equity in the security

³⁸ Babul Barman, 'When sluggish stock market bearish economic growth' *The Financial Express*, (Dhaka 23 November 2020) <<https://today.thefinancialexpress.com.bd/27th-anniversary-issue-2/when-sluggish-stock-market-belies-economic-growth-1606041083>> accessed 10 December 2020.

³⁹ *ibid.*

segment. It is observed that institutional investors constitute a very large segment of the potential demand for stock market securities, but they are unwilling to invest in these securities due to lack of securities in terms of both quantity and quality, and organizational and legal restrictions on security investment by regulatory authority, although it was revealed that the officials of institutional investors have reasonable ability to analyze information for making a good investment in the stock market.

The ratio of DSE market capitalization to GDP is the lowest among the emerging Asia-Pacific countries. Among other countries in the region, the market cap to GDP ratio is 17 percent in Sri Lanka, 35 percent in Indonesia, 60 percent in the Philippines, 81 percent in India, 85 percent in Thailand, 111 percent in Malaysia, 124 percent in Japan, 172 percent in Singapore and 207 percent in Taiwan as of September 30, 2020.⁴⁰

Market capitalization, or market cap, is calculated by multiplying the total number of a company's outstanding shares with the current market price of shares. The ratio of market-cap to GDP on the DSE was 25 percent in 2013, 24 percent in 2014, 21 percent in 2015, 20 percent in 2016, 22 percent in 2017, 17 percent in 2018 and 14 percent in 2019, the DSE data showed.⁴¹

Stock market regulations determine the rights and obligations of stock market participants and stakeholders. Different regulatory environments may result in different capital and stock market imperfections e.g., effective prohibition of insider trading may ruin the ability of the price mechanism to aggregate and transmit insider knowledge, whereas anti- takeover regulations eliminate the disciplinary effects of an active market for corporate control. Bangladesh still follows the hybrid system of

⁴⁰ Babul Barman, 'When sluggish stock market bearish economic growth' *The Financial Express*, (Dhaka 23 November 2020) <<https://today.thefinancialexpress.com.bd/27th-anniversary-issue-2/when-sluggish-stock-market-belies-economic-growth-1606041083>> accessed 10 December 2020.

⁴¹ *ibid.*

legal system inherited from the British administration. Currently, the Companies Act of 1994 is the law that governs the incorporated domestic corporations and institutions. The other significant laws which have an important role in governing the corporate sectors are Securities and Exchange Ordinance 1969, Bangladesh Bank Order 1972, Bank Companies Act 1991, Financial Institutions Act 1993, Bangladesh Securities and Exchange Commission Act 1993, and the Bankruptcy Act 1997.

The regulatory system of the Bangladesh stock market is in a process of change with the inclusion of new Acts, rules, and regulations over the relative position and strictly delineated functions of various types of stock market regulatory bodies. Since the Bangladesh stock market is experiencing various developments in different aspects, a study in the proposed line will benefit the sound development of stock market regulatory systems and the development of the Bangladesh stock market as a whole.

1.4 Objectives of the Study

1.4.1 General objective

This study will attempt to analyze the existing Acts, Rules, and Regulations and also try to identify the lacuna and loopholes in the existing framework and structure. It will also shed light on the roles, if any, and the responsibilities of regulators behind the recent stock market crash and will recommend the legislative reforms for the development of the Bangladesh stock market.

1.4.2 Specific objectives

The specific objectives of the study are as follows:

- (i) to appraise the relevant Acts, Rules, and Regulations of the stock market of Bangladesh;
- (ii) to examine the role associated with stock market regulatory bodies of Bangladesh;

- (iii) to identify the loopholes in those Acts, Rules, and Regulations relating to the stock market;
- (iv) to find out the consequences of those loopholes in the stock market;
and
- (v) to recommend reformative measures for the development of –
 - (i) stock market,
 - (ii) regulatory bodies, and
 - (iii) legislative reforms.

1.5 Hypothesis

To achieve the above-mentioned objectives of the study, the following hypotheses have been developed:

The growth of the stock market depends upon the economy, political strategy, the Acts, Rules and Regulations related to the stock market, the legal framework in a country, and the legal stability that the Government can provide to the stock markets. Thus, stock market development and ensuring stock market legal stability are correlated.

- There is a significant association between the Acts, Rules and Regulations related to the stock market and the stock market development.
- There is a significant association between proper implementation of stock market Acts, Rules and Regulations, and stock market stability.

1.6 Scope of the Study

This research encompasses loopholes in the legal framework of Stock Market and comprehensive legislative reforms for the Development of Bangladesh Stock Market.

In this study, after throughout discussion on evolution of stock market with ups and down, and analysing the role of stock market regulatory bodies, diverse efforts have

been invested to identify the loopholes in the legal framework of Stock Market responsible for alleged irregularities in the market, experiencing from different stock market-related research studies and survey findings, with a view to recommending comprehensive legislative reforms for the development of Bangladesh stock market. To achieve the goal of the study, emphasis given on scrutinizing relevant Acts, Rules, and Regulations of the stock market of Bangladesh. Moreover, a throughout Survey have been conducted with diverse Questionnaire to justify this empirical research.

1.7 Sources of Data

To achieve the objectives of the study, necessary information and data have been collected both from primary and secondary sources. Primary insights have been provided by consulting and interviewing stock market pertinent experts to record their views and opinions. Company Annual Reports, Government publications, Stock Exchange Bulletins, and Annual Reports, and relevant articles, research papers, journals, magazines and literature in this context have also ominously been consulted as secondary sources. The sources used in this study are limited to the period from 1993 to 2020.

1.8 Methodology of the study

Diverse methodologies have been used to materialize the objectives of the study. Different analytical and empirical approaches have been explored for examining the existing legal frameworks, identifying the gaps and problems and providing suggestive measures thereto.

1.8.1 Analytical Methods and Techniques

This research conducts both qualitative and quantitative exploration:

- (a) Qualitative analysis: This study tries to examine the legislative reforms for the development of the Bangladesh stock market. It focuses more on qualitative

analysis through relevant information, data, expert interview, and structured questionnaire.

(b) Quantitative Analysis: This study applies quantitative techniques to analyze Bangladesh stock market data from 1993 to 2020.

1.8.2 Empirical Methods and Techniques

For providing additional insight into the study, questionnaire survey and empirical analysis have also been conducted.

To collect primary information, a well-structured questionnaire is used for data collection (**Annexure I**). The survey schedule contains both close-ended and open-ended questionnaires. The set of questionnaires was administrated to individuals pertinent to the Bangladesh stock market. For the survey, 20 capital market pertinent experts were selected. Some difficulties were faced in surveying due to the COVID 19 pandemic. The survey was conducted from February 2020 to September 2020.

The selection of respondents is as follows:

Bangladesh Securities and Exchange Commission (BSEC)	: 4
Dhaka Stock Exchange Limited (DSE)	: 3
Chittagong Stock Exchange Limited (CSE)	: 2
Merchant Banks / Securities Firm	: 2
University Professors and Capital Market Researchers	: 5
Banker	: 2
General Investors	: 2
<hr/>	
Total Sample	: 20

Some difficulties were faced in surveying due to the COVID 19 pandemic. 20 individual respondents were approached for the collection of data but 2 respondents declined to respond due to personal reasons. Hence, finally, the total sample stood at 18. A well-structured questionnaire is used for data collection. The survey/interview schedule contains both close-ended and open-ended questionnaires.

1.8.2.1 Scaling Techniques Used

In the summated rate scale, Likert scaling⁴² was used in the study. Likert scales are commonly used in attitudinal measurements. This type of scale usually uses a five-point scale ranging from excellent, very good, good, average, needs to improve. Any number of a point from three to ten may be used as variants of the Likert scale, however, in this study, five degrees ranging from five to one has been used.

1.8.2.2 Period of Survey

The survey was conducted from February 2020 to September 2020. During the survey time, the respondents' convenience in filling up the questionnaire was keenly observed. At the end of the survey, only eighteen respondents filled the questionnaire accurately, and therefore, the number of respondents for the pilot study was confined to eighteen.

1.8.2.3 Method of Survey Analysis

When the questionnaires were collected, the information on different aspects was systematically tabulated for analysis. Information was analyzed through tables and frequency distribution. The collected data were entered and analyzed using Statistical Package for Social Science (SPSS). Because the samples were not random, the

⁴² 5-Point Likert Scale. In: Preedy V.R., Watson R.R. (eds) *Handbook of Disease Burdens and Quality of Life Measures*. Springer, New York, NY (2010) <https://doi.org/10.1007/978-0-387-78665-0_6363> accessed 16 October 2020.

statistical test could not be performed to test any hypotheses. Therefore, findings have been presented based on the analysis of data supported by tables.

1.9 Limitations of the Study

This study will mainly appraise the regulatory structure and legal framework of the Bangladesh stock market. The study has some limitations including the following:

- (i) This study does not focus on the analysis of the debt market. The study focuses on the analysis of the stock market only.
- (ii) This study does not appraise the non-security segment of the stock market.

1.10 Chaptering Schemes

To achieve the objectives of the study and keep pace with the foregoing background, the study is divided into seven chapters.

Chapter-1 gives an introduction containing an overview of the background of the study. This chapter also provides the objectives of the study, the scope, and methodology of the study, the rationale of the study, and the limitations of the study.

Chapter-2 provides the review which was conducted on different stock market-related research studies undertaken in Bangladesh.

Chapter-3 analyses the role of different stock market regulatory bodies in Bangladesh. In this chapter, the activities of Registrar of Joint Stock Companies and Firms (RJSC), Financial Reporting Council (FRC), Controller of Capital Issues (CCI), Bangladesh Securities and Exchange Commission (BSEC), Dhaka Stock Exchange (DSE), Chittagong Stock Exchange (CSE) and Central Depository System have been analyzed.

Chapter- 4 appries various Stock Market Acts, Rules, Regulations and landmark case-laws of Bangladesh and tries to find out the loopholes in those Acts, Rules and Regulations. An attempt has also been made to identify the weakness of the legal framework.

Chapter-5 shows the findings of the survey on the Acts, Rules, and Regulations related to the stock market of Bangladesh for the recommendation for legislative reforms of the Bangladesh stock market.

In Chapter-6, recommendations are made for regulatory and legislative reforms for the Bangladesh stock market.

Finally, in Chapter-7, the Study is concluded with a conclusion note designating brief overview and final outcomes of the whole research.

Chapter-2

Review of Literature

2.1. Introduction

The stock market is considered one of the most significant financial institutions that create avenues for companies to raise required financing from surplus units to deficit units by exploring the security of financial markets. Moreover, for accelerating the economic wheel of a country, efficient capital and stock market are considered as an integral part of the country's economy. It is observed that without the existence of efficient capital and stock market the acceleration of economic development may be vulnerable. By channelizing long-term funds to the deficit unit stock market play a vital role in enhancing the overall economic development of a country.

It is suggested that well-functioning and developed stock markets augments the process of economic development, efficient welfare through different ways such as encouraging savings, drawing more savers and users into the investment process, drawing more institutions into the intermediation process, helping mobilization of nonfinancial resources, attracting external resources, discipline sick organization and investments.¹ But the effect of the stock market on the market value of the firm, the existence, compliance, and enforcement of regulatory issues, and the role of regulators remains elusive despite much research over the past few decades.

¹ Tanbir Ahmed Chowdhury, 'Stock Market Behaviour in Bangladesh' (2005) 3(1& 2) *Journal of Business Studies, Journal of the School of Business, Bangladesh Open University* 34.

2.2 Review of Literature on the Bangladesh Stock Market

It is observed that previous studies related to the stock market are diverse. Moreover, it is revealed that there are different approaches and studies for examining the role of the stock market and the regulatory issues. The first broad approach is studies related to stock market performance and efficiency, the second approach is related to the efficiency of the stock exchanges, and the third approach is related to the regulatory issues, stock market anomalies, and investors' protection.

RFC Dobbs and TM Koller observed that the most common approach to measuring a company's stock market performance is to calculate its total returns to shareholders (TRS) over time. Companies that consistently meet high-performance standards can thus find it hard to deliver high TRS: the market may think that management is doing an outstanding job, but this belief has already been factored into share prices. They argued that one way to understand the problem is by way of analogy with a treadmill whose speed represents the expectations of future performance implicit in a company's share price. If managers exceed them, the market not only raises the share price but also accelerates the treadmill.²

M Farid Ahmed stated that to the extent Bangladesh has a choice; attempts need to be aimed at fostering a bank-based system as the theoretical and empirical reasoning suggests. Despite its significant merits, it is also not desirable to ignore the various limitations of the country's crisis-ridden banking operations, pressures for internal efficiency, and non-interference by political quarters to ensure efficient use of funds. He also mentioned, the point is not to say that the stock market in Bangladesh is irrelevant. Rather, we would like to argue that very often stock markets have been

² RFC Dobbs and TM Koller, 'The Expectations Treadmill' (1998) *Mckinsey Quarterly*, Vol. I.

Overemphasized to the extent of its limitations have not been duly recognized. His argument is, that in the context of present socioeconomic conditions, stock markets are unlikely to serve as a source of necessary long-term funds solving the problems of savings mobilization, investment, and growth. It is conceivable that the development of close relationships between banks and industries as a means of promoting is unavoidable. We have noted the desirability of direct financing through stock markets, but it seems more desirable to emphasize indirect financing through financial intermediaries until a later stage of development of the country. It does not mean ignoring the equity segment of the financial system, but the emphasis needs to be given for the development of conducive environment within which the flaws of the market could be mitigated and the likely exposure of investors to various market abuses including market manipulation could be reduced.³

HU Ahmed and QA Samad observed that the stakeholders of the stock markets in Bangladesh are trying their best to make the better infrastructure of stock markets in comparison to other stock markets in Asian nations. To bring the stock market in an operational and informational order, two stock markets have been set up in Bangladesh of which the Dhaka Stock Exchange is one. Consequently, the traders of the markets are estimating indices such as price per share, price earnings ratio, the current market price of the share, etc. mainly to know whether the markets are running efficiently.⁴

³ M Farid Ahmed, *Emerging Stock Market and the Economy: The Case of Bangladesh*, (2000) The Research Institute of Southeast Asia, Faculty of Economics, Nagasaki University 64, 65.

⁴ HU Ahmed and QA Samad, 'Performance Level of Dhaka Stock Market: A Quantitative Analysis' (2008) 3(1), *Daffodil International University Journal of Business and Economics* 1.

In a recent study, Sunjida Haque and Tanbir Ahmed Chowdhury have tried to find out the impact of COVID-19 on the stock markets of Bangladesh. Their study attempts to reveal the efficacy of the government's initiatives and their negative aspect towards some investors. This study also lays out the interpretation of government responses to COVID-19 and its aftermath to the investors and the stock market itself. Though there are some arguments, the initiatives taken by the new Bangladesh Securities and Exchange Commission committee might upturn the bourses after a long time.⁵

Tanbir Ahmed Chowdhury, Kashfia Ahmed and A A Mahboob Uddin Chowdhury in their study observed that Chittagong Stock Exchange (CSE) is one of the most vibrant stock exchanges in the South Asia region. CSE pioneered state of art of automated trading systems in the Bangladesh capital market. During the last two decades, CSE has played a vital role in the economic development of the country. From the sequence of our analysis, it is reflected that the number of listed issues, market capitalization, issued capital, total turnover in value and volume, the number of initial public offerings, all share price indexes of CSE have increased from the previous year almost in every instance. We have calculated 9 trend equations. Among them 8 are positive. We also calculated the square of the correlation coefficient for all the trend equations. Among them, a square of the correlation coefficient of six equations is closer or more than 0.50. It indicates that the prospect of CSE is bright. We are quite optimistic that if the suggested measures are implemented then the activities of CSE will get a boost.⁶

⁵ Sunjida Haque and Tanbir Ahmed Chowdhury, "IMPACT OF COVID-19 IN BANGLADESH STOCK MARKET", *Asian Finance & Banking Review*, Vol. 4, No. 2; 2020 ISSN 2576-1161 E-ISSN 2576-1188 Published by CRIBFB, USA] <file:///C:/Users/MUC%20Sir/Downloads/896-Article%20Text-1297-1-10-20201126.pdf>.

⁶ Tanbir Ahmed Chowdhury, Kashfia Ahmed and Dr. A A Mahboob Uddin Chowdhury "An Analysis of the Growth of Chittagong Stock Exchange", *Journal of Finance and Banking*, Volume-9, Number1, June 2011, pp.85-98.

S M Shafiul Alam and Shah Md. Saiful Hoque examined the relationship between stock prices as a whole and economic growth in the context of Bangladesh. Three distinct analyses were conducted. However, although liquid equity markets imply more investment, new equity sales is not the only source of finance for this increased investment. Many of the corporate capital creations are financed by retained earnings and bank loans. Greater stock market liquidity in developing countries is linked to a rise in the amount of capital raised. Stock markets tend to complement not replace – bank lending and bond issues. Given the important role, well-functioning stock markets seem to play in economic growth. Legal, regulatory, accounting, tax, and supervisory systems influence stock market liquidity to a large extent. The efficiency of trading systems determines the ease and confidence with which investors can buy and sell their shares. And the macroeconomic and political environments affect market liquidity.⁷

The available information suggests that policymakers should remove impediments to tax, legal and regulatory barriers to stock market development. But there is not strong evidence to support interventionist policies like tax incentives that artificially boost the stock market size and activity.⁸

Md Toufique Hossain observed that in the last two decades Bangladesh stock market experienced two different bubble-burst episodes respectively in 1996 and 2010. On both occasions, the bubbles have made the stock market crash in the history of the Bangladesh Capital market. The stock market crashes not only hurt the economy but also ruined the socio-economic structure. During the 2010 bubble burst episode many

⁷ S M Shafiul Alam and Shah Md. Saiful Hoque, 'Stock Market and Economic Advancement: A case on Dhaka Stock Exchange' (2010) 68(39) *The Bangladesh Accountant, Quarterly Journal of the Institute of Chartered Accountants of Bangladesh* 8, 9.

⁸ *ibid.*

small investors lost the last penny they saved, as around 3.3 million small investors were affected when the market crashed in 2010-11. In the previous market crash in 1996 in Bangladesh about 3.0 million investors were affected. It is important to note that the market crash hit the livelihood of around 10 million Bangladeshis who were dependent on them. Those affected families were left, paupers.⁹

Mohammad Saleh Jahur stated that the stock market in Bangladesh has undergone a sea change in technology to make the market modern and thereby give a pace to the risk management system. Technological change in the modus operandi of the stock market has brought it at par with the international stock market community. This change has also caused an unexpected degree of systematic risk which calls for effective regulatory and administrative measures in place. The transparent, vibrant, and efficient stock market is necessary to provide an avenue for the development of savings and also to prop up the primary market, to mobilize savings for investments needed for capital formation and economic growth.¹⁰

Additional insight regarding the market crashes of Bangladesh stock market conducted by Shigeru Uchida, Sarwar Uddin Ahmed, and Md. Zahidul Islam and it was pointed out that the investors had positive expectations regarding the economy and the capital market from the newly elected government of 2009. These expectations were used by some big investors as they poured a significant volume of funds to set an initial bullish trend in the market. Without realizing this as a trap,

⁹ Md. Toufique Hossain, (2016) 'Two Bubble and Burst Episodes: -An Empirical Study in the Prospect of Bangladesh Economy and Stock Market' *October – December 2016 The Bangladesh Accountant, The Institute of Chartered Accountants of Bangladesh (ICAB)* 90.

¹⁰ Mohammad Saleh Jahur, 'Management of Stock Market Risk-Implication for Regulators and Stock Exchanges' (2008) Third Quarter, *Portfolio, Chittagong Stock Exchange Quarterly Bulletin*,14.

small investors flocked into the market with whatever funds they accumulated. Once the stock price heaved sky high without any relation to the fundamentals the manipulators sold their shares and got out of the market. This left the small investors helpless only to see their investment becoming worthless. In this case, regulators took some sporadic measures to stabilize the market; however, these had only created temporary bumps in the stock index curve and failed to prevent the ultimate crash of the Bangladesh stock market.¹¹

In another study, S M Solaiman argued that the Bangladesh securities market, despite its operation over a century, remains in its embryonic form. Various factors such as weaknesses in the legal and regulatory regime, widespread corporate malpractice, lack of active and competent market intermediaries and professionals, and a serious dearth of institutional investors have impeded the growth of the market.¹²

Mamun Rashid in his study mentioned that the capital market is the engine of growth for an economy, and performs a critical role in acting as an intermediary between savers and companies seeking additional financing for business expansion. Vibrant capital is likely to support a robust economy. While lending by commercial banks provides valuable initial support for corporate growth, a developed stock market is an important prerequisite for moving into a more mature growth phase with more sophisticated conglomerates. Today, with a \$67 billion economy and per capita income of roughly \$500, Bangladesh should focus on improving governance and developing advanced market products, such as derivatives, swaps, etc.¹³

¹¹ Shigeru Uchida, Sarwar Uddin Ahmed and Md. Zahidul Islam, 'Stock Market Crashes: Reasons and Implications' (2012) 91 (4) *KEIEI to KEIZAI, Nagasaki University, Japan*, 59, 62.

¹² S M Solaiman, 'Securities Markets in Bangladesh: A Critical Appraisal of its Growth since its Inception in 1954' (2005) *Savings and Development* Vol. 29, No. 2 (Giordano Dell-Amore Foundation) 169 <<https://www.jstor.org/stable/25830893>> accessed October 25, 2020.

¹³ Mamun Rashid, (2008), 'The Potential of the Bangladesh capital market our financial future', Fourth Quarter, *Portfolio, Chittagong Stock Exchange Quarterly Bulletin*.

He also observed that it is noteworthy that some of the leading global investment banks have been identified as a key investment opportunity. However, the capital market in Bangladesh is still underdeveloped and its development is imperative for the full realization of the country's development potential. It is encouraging to see that the capital market of Bangladesh is growing, albeit at a slower pace than many would like, with market development still at a nascent stage.¹⁴

S A Khan observed that the securities market of the country represents the capital market in any country. Unfortunately, in Bangladesh, the capital market activities were vested with the banking sectors vis-à-vis a few state-owned commercial and development banks that used to extend targeted loans at concessional rates of interest. Because of inherent structural deficiencies, such credit programs resulted in inefficient and corrupt practices as well as huge bad debts over the years. Such bad loans made these financial institutions operationally as well as financially distressed over the years.¹⁵

In Another study M I Islam stated that the capital market is beneficial for the entrepreneurial classes not merely because it provides access to surplus savings of investors, including many small ones, but also because they do not incur fixed repayment obligations, as is the case with bank financing. Besides, an orderly and transparent capital market enables the small savers to participate in the fruits of economic development. The capital market is yet to play its potential role in Bangladesh.¹⁶

¹⁴ *ibid.*

¹⁵ S A Khan, 'Development of Capital Market through Debt Instruments (Bonds): A General Review' (2007) 22(12) *Monthly Review, Dhaka Stock Exchange Limited* 112.

¹⁶ M I Islam, 'Some Reflection on Bangladesh Capital Market' (2005) *Special issue is published by International Chamber of Commerce Bangladesh on the occasion of the Regional Seminar on Capital Market Development: Asian Experiences held in Dhaka*,11.

In another study, Md Nannu Mian pointed out that despite the presence of structured and strong regulatory authorities, surveillance activities of BSEC and DSE, and electronic settlement of shares, it is to be emphatically noted that the capital market had the bitter experience of a nightmarish economic explosion in late 2010 and early 2011 and the regulatory bodies are still in the failure doldrums' zone to regulate the capital market of Bangladesh through a good number of laws are in force to regulate the functioning of the stock market mechanisms.¹⁷

In a study of Asian Development Bank conducted by Syed Ali-Mumtaz H Shahid, it was identified that the introduction of a real-time state-of-the-art market surveillance system at BSEC directly addressed one of the key impediments to Bangladesh's capital market development by detecting the kind of trading irregularities and market abuses that had led to the stock market crisis of 2010. The enforcement capacity by BSEC was significantly enhanced through the creation of a capital market tribunal to expedite the resolution of securities cases pending in the court system in Bangladesh. Approximately 366 BSEC cases, which include 15 cases brought as a result of the stock market crisis of 1996, are pending in various courts.¹⁸

M Zahir mentioned that the Securities and Exchange Commission Act of 1993 has created the Securities and Exchange Commission which oversees issues of capital, and has its primary purpose to protect the public in corporate investments. It has been given extensive powers to make rules and regulations. Its responsibilities include those of the Controller of Capital Issues under the Acts of 1947 and 1969.¹⁹

¹⁷ Md. Nannu Mian, 'Regulatory Environment of Capital Market: A Study in Bangladesh' (2015), *Journal of Business Administration and Education*, (ISSN 2201-2958 Volume 7, Number 2) 196.

¹⁸ Syed Ali-Mumtaz H. Shah, 'Capital Market Development in Bangladesh: A Sector Reform Perspective' (2016) 48 *ADB South Asia Working Paper Series* 4.

¹⁹ M Zahir, *Company and Securities Laws*, (3rd edn, The University Press Limited, Revised and Expanded, 2015) 5.

M Zahir also mentioned that the Acts, Rules and Regulations relating to securities and share markets in Bangladesh are new in practice and have come to be noticed only after the great turmoil in the share market in 1996 and the action taken by the Securities and Exchange Commission against some persons alleging that they contravened the laws relating to the conduct of the share markets. The basic laws that cover the field are the Securities and Exchange Ordinance 1969 and the Securities and Exchange Commission Act of 1993. Rules and Regulations have been framed under these laws.²⁰ He further more mentioned that there has been only one major judicial decision on the working of these laws and this relates to the preliminary procedure to be followed by the Securities and Exchange Commission before filing a criminal action for violation of the provisions of the Securities and Exchange Ordinance.²¹

It is observed that Ahsan Habib accurately summed up in one word that M Khairul Hossain's nine-year-long tenure as the Chairman of the BSEC would be indulgent. So, arguably, the blame for the terrible low confidence in the country's bourse lies squarely on his shoulders. In the past nine years, opportunistic companies were given the free reign to get listed, raise funds and then disappear into thin air in a few years. Take the case of C&A Textile, which in 2015 had raised Tk. 150 crores from the stock market. Two years later, the textile maker had shut its factory and stopped publishing financial statements, leaving the investors ruing the loss of at least Tk. 150 crore.²²

²⁰ *ibid.*

²¹ *ibid* 257.

²² Ahsan Habib, 'He served for nine years as BSEC chief. His report card? Abysmal', *The Daily Star*, (Dhaka 17 May 2020), <<https://www.thedailystar.net/business/news/he-served-nine-years-bsec-chief-his-report-card-abysmal-1903258>> accessed 12 June 2020.

Ahsan Habib also mentioned that the whole commission devoted all its energy in making phone calls to institutional investors, merchant bankers, and stockbrokers not to dispose of their stakes to pull up the index. This is not the commission's job as per the SEC Ordinance 1969.²³

In a study, M Zahir stated that the stock markets of Bangladesh have grown considerably since a couple of years ago. Nevertheless, the size of the capital market is comparatively insignificant in comparison to other Asian markets. The securities market in Bangladesh has been facing a short supply of security despite the increase of newly listed companies in the Dhaka Stock Exchange (DSE) in recent times. A large number of them are oversubscribed, which indicates high demand for new issues. The actual status of the stock market of Bangladesh is comparatively lower than the world markets at least in terms of market capitalization and turnover ratios. The stock market of Bangladesh has grown steadily, the size of, which is small and insignificant, compared to other Asian countries. Moreover, the turnover ratio is very insignificant in Bangladesh. Therefore, a slim market having an insignificant market capitalization ratio and a low level of liquidity can categorize Bangladesh's capital market.²⁴

M Farid Ahmed argued that in recent years optimism about an expeditious upgrading of the equity segment of capital markets of Bangladesh has been observed among some quarters. This may, perhaps, originate mainly from the persistent accumulation of bank deposits and heavy oversubscription rate of corporate securities over the past year.²⁵

²³ Ibid.

²⁴ Ibid (n19) 257.

²⁵ M Farid Ahmed, *Emerging Stock Market and the Economy: The Case of Bangladesh*, (2000) The Research Institute of Southeast Asia, Faculty of Economics, Nagasaki University 124.

About investors, confidence assessment S M Solaiman observed that the lack of public confidence has been identified as the main problem prevailing in the Bangladesh securities market. It is contended that the lack of adequate investors' protection resulting from the weak legal and regulatory framework constitutes the root cause of the problem.²⁶

Despite the importance of investor protection for the development of capital markets, laws dealing with this protection in the Bangladesh market have never been studied extensively. Perhaps, due to the absence of legal literature on this area, the authorities concerned have endeavored in vain to attract investment by offering incentives to investors and issuers in the market.²⁷

In another study, Tanbir Ahmed Chowdhury mentioned that Bangladesh Securities & Exchange Commission should create a proper and conducive atmosphere required for raising money from the capital market. The atmosphere includes the rules, regulations, trade practices, customs, and relations among institutions, brokers, investors, and companies. It shall endeavor to restore the trust of investors and particularly safeguard the interest of the small investors. This can be achieved by meeting the needs of the persons connected with the securities market and establishing proper coordination among the three main groups directly connected with its operations namely, investors, corporate sector, and intermediaries.²⁸

²⁶ S M Solaiman, 'Investor protection in a disclosure regime: an international and comparative perspective on initial public offerings in the Bangladesh securities market' (Ph. D. thesis, University of Wollongong, Australia 2003) 70.

²⁷ *ibid.*

²⁸ Tanbir Ahmed Chowdhury, 'Capital Market Regulatory Institutions In Bangladesh' *Journal of Islamic University Studies, Kushtia* (1998).

Concerning stock trading, M Farid Ahmed highlighted that DSE brokers are allegedly taking an unnecessarily long time to execute the order, which often goes against the interest of the investors. The stock markets in Bangladesh predominantly operate through agents without any responsible market makers. The members of the DSE do not operate margin accounts for general investors.²⁹

Regarding the stock market's regulatory, control and other related issues Tanbir Ahmed Chowdhury and A A Mahboob Uddin Chowdhury stated that it is observed that due to lack of regulatory control over the stock market insider trading, fraudulent deals, and suspended payments became a regular feature in Bangladesh stock market at the time of Controller of Capital Issues (CCI). To bring back discipline in the Bangladesh stock market, the Securities and Exchange Commission (SEC) replaced the CCI with effect from June 9, 1993.³⁰

2.3 Concluding Remarks

It is observed from the above discussion that the stock market of Bangladesh has gone through the trial and error phase. The volatility of the stock market of Bangladesh is an abnormal phenomenon and such volatility tends to create economic instability. In the state of market growth, the role of regulators has been questioned in two accounts. Firstly, whether regulators act promptly to address the volatility of the capital market and secondly, whether frequent changes in regulators' decisions contribute a negative impact on the sustainable development of the market.

²⁹ M Farid Ahmed, *Capital Market and Institutions in Bangladesh: Some implications of Japanese experience* (Ashgate Publishing Ltd, England 1997) 112.

³⁰ Tanbir Ahmed Chowdhury and A A Mahboob Uddin Chowdhury, 'Role of Securities and Exchange Board of India (SEBI) In the Development of Indian Capital Market: Lessons for Bangladesh'(1997)XVII(2) *Journal of Business Studies, University of Dhaka*.

Again, as volatility raises many questions on the regulatory capability of the Bangladesh Securities Exchange Commission, it is unknown whether the stock market fluctuation is due to regulatory failure or due to irrational behaviours of investors. It is necessary to determine the main reasons for the stock market crash in Bangladesh and the roles of the regulators. Eventually, some guidelines will be recommended for better regulations to strengthen the Stock market of Bangladesh.

Chapter-3

An Overview of the Institutions of Bangladesh Stock Market

3.1 An Overview of Bangladesh Stock Market

The stock markets of Bangladesh as elsewhere are governed by certain Acts, rules and regulations. Major regulatory authorities of Bangladesh stock market consist of Bangladesh Securities and Exchange Commission (BSEC), Registrar of Joint Stock Companies and Firms (RJSC), Dhaka Stock Exchange Limited (DSE) and Chittagong Stock Exchange Limited (CSE). BSEC is under the Ministry of Finance and RJSC is under the Ministry of Commerce. On the other hand, DSE and CSE are corporate bodies under the Companies Act 1994. The RJSC partially implements the Companies Act, 1994. The BSEC has been constituted to foster a well-functioning capital market including taking over the responsibility of the Controller of Capital Issues. The objectives and goals of regulatory framework of the securities market are broadly as follows:

- To ensure proper issue of capital particularly of marketable securities;
- To enhance the efficiency of the securities market;
- To prepare guidelines and formulate policies of adequate disclosure;
- To ensure and maintain stability and soundness of the financial system;
- To protect interest of the investors in securities;
- To promote development and maintenance of fair stock market;
- To regulate the securities market;
- To ensure proper issuance and compliance of law.

The above objectives aim at achieving protection of the investors and maintenance of equity, safety and transparency of the securities market.

3.2 Registrar of Joint Stock Companies and Firms (RJSC)

The Registrar of Joint Stock Companies and Firms is under the Ministry of Commerce. RJSC is the sole authority which facilitates formation of companies etc.; and keeps track of all ownership related issues as prescribed by the laws in Bangladesh. The RJSC partially implements the Companies Act, 1994. The RJSC administers the registration of Companies as specified in Companies Act 1994.¹ RJSC also implements the following aspects of Companies Act 1994:²

- The constitution and incorporation of companies;
- The share capital of a company;
- Shareholders' rights and obligations;
- Debenture issued by companies;
- The power to investigate on company's affairs;
- The winding up and liquidation of companies;
- The contents of prospectus.

New companies may file its Memorandum and Articles of Association with the Registrar of RJSC who, after assuring that all requirements have been met, issues a certificate of incorporation.³

Every company with issued share capital must keep a list update at least annually, showing its members and the number of shares held. Presumably the Registrar inspects the information filed with him.⁴

In accordance with the Companies Act 1994, a private company is one that limits the number of its members to 50, restricts the right to transfer shares, and does not invite

¹ Companies Act 1994 (Bangladesh), s 2(s) <<http://bdlaws.minlaw.gov.bd/>>.

² <<http://app.roc.gov.bd:7781/>> accessed 15 July 2020.

³ *ibid.*

⁴ *ibid.*

the public to subscribe to the shares or debentures of the company. If a company has more than 50 members, it must be public and permit the transfer of its shares. A private company must have at least two members while a company with at least seven members may be a public company. A public company must, at the time of its Annual Meeting, provide each shareholder with a Balance Sheet and Profit & Loss Account, as well as a report with respect to the statement of the company's affairs, including the amount of dividends to be paid and the amount to be carried to the reserve fund.⁵

3.3 Controller of Capital Issues (CCI)

Till 1993 in Bangladesh, capital issues had been controlled under the Capital Issues (Continuance of Control) Act 1947 (CCI Act).⁶ The CCI Act states that no security may be offered to the public without the consent of the Government. Subscribing to issues not approved by the Controller of Capital Issues (CCI) was prohibited. The activities of the DSE and all industrial investment in the country are governed by the CCI Act which was first formulated by the British, during world war-II to channelize investment into war related industries. However, this had created some problems for the entrepreneurs and needed to be amended to suit the needs of the investors.⁷

In order to obtain the approval of the CCI, a company needs to file an application with such information as to its business, capital structure, value of offerings, categories of

⁵ Companies Act 1994 (Bangladesh), ss 2(c), 2(q), 2(r), 5, 81, 183,184, 185.

⁶ Capital Issues (Continuance of Control) Act 1947 (Bangladesh).

[Capital Issues (Continuance of Control) Act, 1947 (XXIX of 1947) was repealed by Section 11 of the Securities and Exchange (Amendment) Ordinance, 1993 (Ordinance No. 4 of 1993) on 3rd May 1993]

⁷ M Farid Ahmed, '*Stock Market Behavior in Bangladesh*' (Bureau of Business Research, University of Dhaka 1992) 12.

ownership, objectives of the issue, cost of the projects, financing arrangements, dividends and market prices etc. The CCI reviewed the application to determine other things, that the project was an approved investment, was viable and that the sponsors had a sufficient stock in it.⁸

3.3.3 Causes of Failure of CCI

Some drawbacks in the system of CCI are analyzed under the following:

- (i) The Controller of Capital Issues (CCI) was a Joint Secretary in the Ministry of Finance, who also served as head of the Investment Board. This combination of varied functions made it very difficult for the controller to exercise close control over corporate issuance practices.⁹
- (ii) During the period of CCI's the irregularities took place in the matter of the non-allotment of stocks in the stipulated time as prescribed by law, extraordinary lengthy time was taken in the issuance of stocks, certificates in time etc. But regarding these irregularities of the capital market CCI did not take any corrective measures in time.¹⁰
- (iii) Another problem is the overlapping jurisdiction of different regulatory bodies. A good example of such overlapping can be seen in Section 11(8) of the Investment Board Act 1989. There the Board has given powers under the CCI Act. This power is originally vested with the CCI. It needs to be seen if such dual responsibility within the Government creates hindrance and confusion in the process of development of capital market.¹¹

⁸ M Farid Ahmed, '*Stock Market Behavior in Bangladesh*' (Bureau of Business Research, University of Dhaka 1992) 15.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ Investment Board Act 1989 (Bangladesh), s11(8).

(iv) Many public limited companies not holding regular annual general meetings did neither pay dividends nor publish financial statements in time. An examination of the Dhaka Stock Exchange (DSE) Review (1990 – 1993) gives the statistics, that among the total number of companies listed with DSE 41%, 42%, 46% and 82% companies did not declare dividend in the year 1990, 1991, 1992 and 1993 respectively.¹² Out of 125 listed companies 17 companies did not hold annual general meetings in 1990 and 57 companies in 1991.¹³ These aspects go against the principle of investor's protection. It was not the inadequacy of CCI regulation but lack of proper execution of the regulatory framework.

The regulatory system during CCI period was insufficient to maintain proper watch on the capital market. It was proved over time that the provisions of the CCI Act were totally inadequate to regulate the growing dimension of stock market activity. Due to the lack of institutional control over stock markets, insider trading, fraudulent deals and suspended payments became regular features in security dealings shaking investor's confidence, under these circumstances, there arose a need to constitute a larger body, which can act as a unifying force in bringing together the scattered legislation and offer better protection to Bangladesh stock investor. In order to bring back discipline, the President of Bangladesh accordingly Promulgates Securities and Exchange Commission Ordinance 1993 (SEC Ordinance 1993).¹⁴ Thereafter, repealing SEC Ordinance 1993, the Government thought to enact the Securities and Exchange Commission Act 1993 (SEC Act 1993).¹⁵

¹² Compiled from Dhaka Stock Exchange (DSE) Review (1990, 1991, 1992 and 1993).

¹³ Compiled from Dhaka Stock Exchange (DSE) Review (1990 & 1991).

¹⁴ Securities and Exchange Commission Ordinance 1993 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>

¹⁵ Securities and Exchange Commission Act 1993 (Bangladesh),s 27<<http://bdlaws.minlaw.gov.bd/>>

In pursuance of the provisions of the SEC Act 1993 the Securities and Exchange Commission commenced its activities with effect from 8th June 1993.¹⁶ In addition to that the Capital Issues (Continuance of Control) Act 1947 was repealed by the Securities and Exchange (Amendment) Ordinance 1993 on 3rd May 1993.¹⁷

3.4 Bangladesh Securities and Exchange Commission (BSEC)

In Bangladesh, the need for establishing an independent and statutory agency for monitoring and supervising the functions of the securities markets both at primary level and also at secondary level was felt. To fulfill this need the Controller of Capital Issues (CCI) was abolished and the Securities and Exchange Commission (BSEC) has been formed to supervise the securities market of Bangladesh on 8th June 1993 under the Securities and Exchange Commission Act 1993 and it commenced its full-scale activities on 14th November 1993.¹⁸

Through an amendment [by the Securities and Exchange Commission (Amendment) Act, 2012 (Act No. 45 of 2012)]¹⁹ of the Securities and Exchange Commission Act, 1993, on December 10, 2012, the name (short title) of the Act ("Securities and Exchange Commission Act, 1993") has been changed as "Bangladesh Securities and Exchange Commission Act, 1993" and then its name has been changed as "Bangladesh Securities and Exchange Commission" (BSEC) from previous "Securities and Exchange Commission" (SEC).²⁰ The Commission consists of a Chairman and four full time Commissioners to be appointed by the Government for a period of three years as per law, and the terms of their service are determined by the government. The Chairman is the Chief Executive Officer of the Commission.²¹

¹⁶ Securities and Exchange Commission Act 1993 (Bangladesh), s3 <<http://bdlaws.minlaw.gov.bd/>>

¹⁷ Securities and Exchange (Amendment) Ordinance 1993 (Bangladesh), s 11

¹⁸ Securities and Exchange Commission Act 1993 (Bangladesh).

¹⁹ Securities and Exchange Commission (Amendment) Act 2012 (Bangladesh), s8.

²⁰ *ibid*, s5, 6(a), 7.

²¹ Bangladesh Securities and Exchange Commission Act 1993 (Bangladesh), s5.

The Commission has overall responsibility to formulate securities legislation and to administer as well. The Commission is a statutory body and attached to the Ministry of Finance.²²

The main objectives of BSEC are (i) to protect interest of investors in securities; (ii) to develop securities market; (iii) to ensure proper issuance of securities and compliance of law relating to securities.²³

The objectives of the BSEC are to develop the securities markets and to frame necessary Rules and Regulations of capital markets and issues and dealings in securities with a view to providing for protection of investors. After establishment of the BSEC, development of legal infrastructure in the capital market, introduction of automated trading system for securities transaction, deposit and transfer of securities electronically through establishment of Central Depository Bangladesh Limited (CDBL), opportunity of getting current market price of securities and index information through website etc.²⁴

BSEC supervises and monitors the listed companies after issuance of shares through initial public offering in line with the securities laws. BSEC also examines appointment of auditors by the issuer company as per securities laws and compliance with the conditions of corporate governance guidelines including examination of the annual report & annual audited financial statements and periodical financial

²² Annual Report (2016 -2017), *Bangladesh Securities and Exchange Commission*,1.

²³ *ibid*,13.

²⁴ Annual Report (2010-2011), *Bangladesh Securities and Exchange Commission*,4.

statements (Quarterly), monitors the proper utilization of capital raised through initial public offering (IPO) & rights share issue, ensures proper disclosures in the financial statements as well as in the corporate governance among the issuer companies listed in the stock exchanges as a part of its supervision.²⁵

BSEC has taken effort in strictly supervising the compliance of various stock market Acts, rules and regulations. Many companies were required to explain various violations or face prosecution. These included the failure of holding Annual General Meetings, delay in payment of dividends; delay in issuance of allotment letters and security certificates, delay in registration of transfer of securities and delay in refund of over subscription. The penalties ranged from imposition of fines to warnings.²⁶

BSEC examined various component of the financial statement of listed companies. Many companies modified financial statements or provided additional financial information as suggested by the commission. This has largely helped in developing transparency and accountability of the listed companies.²⁷

One of the prime responsibilities of the BSEC is to protect the interest of the investors. In this regard, the BSEC is working hard all the way to ensure a fair and transparent capital market in place. Measures are being taken to advise investors to avoid rumor based investment so that they can invest their hard earned saving in expectation to get risk adjusted highest return. Besides, the precondition of investment in the capital market is to keep patience. The BSEC is trying to ensure the access of all concerned to reliable financial disclosure. Efforts are being taken to reduce the information asymmetry.²⁸

²⁵ Annual Report (2018-2019), *Bangladesh Securities and Exchange Commission*, 56.

²⁶ *ibid* 12, 91.

²⁷ *ibid* 67.

²⁸ *ibid* 9, 13.

BSEC has been pursuing relentless endeavor in order to make the capital market more dynamic and vibrant by framing necessary rules and regulations, amending the existing ones, strengthening the stock exchanges and bringing back the confidence of the investors. All out efforts are being made for discharging the duties and responsibilities bestowed upon the BSEC for making the capital market more disciplined, transparent, accountable, effective and a source of long term financing. It is believed that the capital market will be able to make significant contribution to the economy through industrialization, infrastructure development, employment creation and poverty alleviation if uninterrupted supply of good securities to the market continues and greater participation of both institutional and individual investors is ensured.²⁹

3.4.1 Role of the BSEC for the Development of Bangladesh Stock Market

From the previous analysis it is reflected that BSEC has a lot of responsibilities to ensure well regulated, transparent, investors' friendly atmosphere in the stock market. The key measures taken by BSEC relating to Primary Market and Secondary Market are discussed below:

3.4.2.1 Over-the-Counter (OTC) market

Over-the-Counter (OTC) means the facilities provided by an exchange for the purpose of buying or selling of unlisted or delisted securities from the stock exchanges. The OTC market provides an alternative to stock exchange listing for securities of issuers that either choose not to be listed on Stock Exchange or not to meet the relevant listing requirements. In the OTC market, trading takes place outside the trading system of the stock exchange for the approved non-listed securities without

²⁹Annual Report (2016-2017), *Bangladesh Securities and Exchange Commission*,5-6,13.

intermediaries through mutual understanding. Delisted securities and approved non-listed securities may be traded in OTC market. Under the SEC (Over-the-Counter) Rules 2001³⁰, OTC market was established in DSE and CSE on 6th September, 2009 and 4 July 2004 respectively.³¹

The total number of securities stood at DSE stood at 64 under OTC facility as on 30th June 2020.³² A public limited company issued securities but not offered for public subscription is an unlisted security is eligible for OTC facilities at CSE. The total number of securities stood at 49 under OTC facility as on 28th June 2020.³³ Securities are traded without intermediaries through mutual understanding in the OTC Market, which are outside the stock exchanges. Settlement procedure of the OTC market is similar to the public market.

3.4.2.2 Book Building Method

In the 80's, book building method was first introduced in the US and Canada, and later this method has been adopted in India, Sri Lanka, Pakistan and in many developed and developing countries for valuation of IPO share price. In Bangladesh, the book building method has been introduced since March 11, 2009 through a gazette notification (SEC/CMRRCD/2008-186/Admin/03-29) as an alternative method for IPO share pricing which is likely to attract companies with good fundamentals to be listed in the stock exchanges.³⁴ Under book building method³⁵, a company needs to raise from the market at least 10% of its paid-up capital (including intended offer) or Tk. 15 crore at par value, whichever is higher.³⁶

³⁰ Annual Report (2018-2019), *Bangladesh Securities and Exchange Commission*, 25.

³¹ *ibid.*

³² Annual Report (2019-2020), *Bangladesh Securities and Exchange Commission*, 94-96.

³³ *ibid.*, 97, 98.

³⁴ Annual Report (2008-2009), *Bangladesh Securities and Exchange Commission*, 18.

³⁵ *Bangladesh Securities and Exchange Commission (Public Issue) Rules 2015*, r2(b) .

³⁶ *ibid.*, r3(2)(a).

The company has to be in commercial operation for the last three years with at least two years in profit, no accumulated loss, would have to be audited by the listed auditor of the BSEC at least for the last financial year and it would have record of holding AGMs regularly.³⁷

Upon approval of the Commission, any company fulfilling above-mentioned criteria can raise capital from the market through book building method. Following market crash in 2011, the method was suspended for that year due to massive allegation on misuse of its process. After about two years of suspension, the method was resumed in a modified form in 2014. Only six companies got listed in the DSE under this method up to November 2017.³⁸

3.4.2.3 Corporate Governance Guidelines (CGG) 2018

Corporate Governance (CG) is a very important issue for the stock market. The Commission issued Corporate Governance Guidelines 2018 with necessary amendment of Corporate Governance Guidelines 2012.³⁹

Corporate Governance is not only a set of laws, policies and procedures. CG is a practice by which the institutions and business enterprises are directed, administered and controlled. It also includes the interrelationship of the stakeholders, i.e., shareholders, management, the board of directors, employees, suppliers, customers, banks and other lenders, regulators, the environment and the community and so on. Good Corporate Governance is the reflection of the efforts as to how dearly a corporate aims to achieve its objective.⁴⁰

³⁷ *ibid*, r4(a)(b).

³⁸ Md. Bokhtiar Hasan, 'Whether book building method in stock market?' *The Financial Express* (Dhaka 7 December, 2017 < <http://epaper.thefinancialexpress.com.bd/?archive=yes&research>> accessed 12 March 2020.

³⁹ Notification No. BSEC/CMRRCD/20 06-158/207/Admin/80 (3 June 2018), *Bangladesh Securities and Exchange Commission* < https://www.sec.gov.bd/slaws/Corporate_Governance_Code_10.06.2018.pdf> accessed 20 May 2020.

⁴⁰ M. Farhad Hussain, (2018), *Editorial, The Bangladesh Accountant, January - March 2014*, 2.

Swapan Kumar Bala mentioned that there are significant reforms and revisions in the 2018 Corporate Governance Code (CGC) over the 2012 Corporate Governance Guidelines.⁴¹

Bala further mentioned that if a listed company complies with the conditions contained in the new CGC by heart, then the operations and management of the company is expected to stand on the four pillars of corporate good governance: fairness, accountability, transparency, and responsibility. Consequently, the company's sustainable development will have a solid footing as well as the corporate image will be enhanced as an outcome of improved governance. If all the listed companies comply with the new CGC not for any fear of regulatory enforcement, rather as a longstanding practice of voluntary compliance with laws and regulations of the land.⁴²

3.4.2.4 Asset Management Company

The Asset Management Company (AMC) plays a key role in the running of mutual fund and operates under the supervision and guidance of the trustees. An AMC's income comes from the management fees, it charges for the schemes it manages. The management fees, is calculated as a percentage of net assets managed. An AMC has to employ people and bear all the establishment costs that are related to its activity, such as for the premises, furniture, computers and other assets, etc. So long as the income through management fees covers its expenses, an AMC is economically viable.⁴³

⁴¹ Swapan Kumar Bala, 'Corporate Governance Code 2018 in Bangladesh: Reforms and Revisions', (2018) *Dhaka Stock Exchange Monthly Review, June Issue 2018*, 24.

⁴² *ibid* 25.

⁴³ Market Pulse *LankaBangla Securities Limited* (February 2019, Issue 145) 19.

In order to play effective role at increasing supply of good securities, the BSEC during the FY 2019-2020 issued 5 Asset Management Registration Certificates in favor of 5 AMC⁴⁴ under the BSEC (Mutual Fund) Rules 2001.⁴⁵ Up to June 2020, the total numbers of Asset Management Companies stands at 46.⁴⁶

3.4.2.5 Merchant Bank

As intermediaries, merchant banks play indispensable role in the securities market. Merchant bank carries out issue management, underwriting and portfolio management functions.⁴⁷ According to Annual Report 2019-2020 of the BSEC up to June 2020, the BSEC issued registration certificates in favor of 62 companies to act as merchant bankers⁴⁸ under the BSEC (Merchant Banker and Portfolio Manager) Rules 1996.⁴⁹

3.4.2.6 Mutual Funds

A mutual fund is a trust that pools the savings of a number of investors who share a common financial goal. The money collected is then invested in capital market instruments such as shares, debentures and other securities. The combined holdings of shares, debentures and securities and assets the fund owns are known as its portfolio. Thus, the fund is owned jointly by all of the unit holders. The income earned through these investments and the capital appreciation realized is shared by them in proportion to the number of units owned by them. Mutual fund is the most suitable investment for the common man as it offers an opportunity to invest in a diversified, professionally managed basket of securities at a relatively low cost.⁵⁰

⁴⁴ Annual Report (2019 -2020), *Bangladesh Securities and Exchange Commission*, 61.

⁴⁵ <https://www.sec.gov.bd/lbook/F-20_2015.pdf> accessed 17 July 2020.

⁴⁶ Annual Report (n 44) 108.

⁴⁷ Annual Report (2010 -2011), *Bangladesh Securities and Exchange Commission*, 34.

⁴⁸ *Annual Report* (n 44) 108.

⁴⁹ Securities and Exchange Commission (Merchant Banker and Portfolio Manager) Rules 1996, (r 3A) <https://www.sec.gov.bd/lbook/F-17_2015.pdf> accessed 18 July 2020.

⁵⁰ Market Pulse (n 43), 19.

In Bangladesh mutual funds are governed by BSEC (Mutual Fund) Rules 2001.⁵¹ The Bangladesh Mutual Fund industry mainly consists of open-end and closed end funds. The open-end mutual fund sector has progressed a lot in the last five years and closed-end mutual funds to have tenures of maximum 10 years. As of February 2019, the market capitalization of the closed-end mutual funds stood around BDT 35262 million which is 0.98% of the total market capitalization. Mutual fund sector ranks 13th of total market capitalization as of February 2019.⁵²

It is important to choose high performing mutual funds for investment that implies choosing the right asset management companies or eligible fund managers. Another drawback of investing in a mutual fund is that mutual funds often provide reinvestment units instead of dividends, which hamper the primary appeal of mutual funds, the possibility of consistent income. Furthermore, mutual funds do not clearly state or maintain dividend policy in our country. Their reporting standard and transparency are usually of very poor quality. Moreover, there is no specific performance benchmark for the mutual fund industry in our country. All these drawbacks of mutual funds are reducible through good governance, regulations and establishment of a competitive environment for the mutual fund industry.⁵³

3.4.2.7 Credit Rating Company

Credit rating plays an important role by helping investors in taking investment decision. Credit rating reflects the strength of a company including company's financial status and management efficiency. In Bangladesh, rating is compulsory for

⁵¹ Securities and Exchange Commission (Mutual Fund) Rules 2001 <https://www.sec.gov.bd/lbook/F-20_2015.pdf> accessed 26 July 2020.

⁵² Market Pulse, *LankaBangla Securities Limited* (February 2019, Issue 145), 36, 50.

⁵³ *ibid*, 49.

issuance of debt instruments through public offering, issuance of rights shares and issuance of shares at premium.⁵⁴ The BSEC up to June 2020, issued registration certificate in favor of 8 Credit Rating Company including 1 SME credit rating company to operate as credit rating agencies under the Credit Rating Companies Rules, 1996.⁵⁵

The BSEC directed credit rating companies to comply with the code of conduct prepared by International Organization of Securities Commissions (IOSCO) to carry out rating activities with transparency and impeccable judgment.⁵⁶

3.4.2.8 Grouping of Listed Scripts

BSEC played a dominant role in enacting and amending market Rules and Regulations all through the year, most of which produced a positive impact on the markets. Amongst them the most notable are the changes in the settlement regulations in both the exchanges of the country. Grouping all the listed companies on their merit into five distinct categories and implementing different settlement modes of transaction in those shares have been very innovative. Brokers that used to manipulate on the weak and ordinary scripts are now unable to do so because of the trade-for-trade settlement of those shares. Investors are becoming more and more knowledgeable about the fundamentals of the companies they are investing in. Listed securities are categorized into “A”, “B”, “Z”, “N” and “G” based on disbursement of dividend, profitability, commercial operation, holding of AGM, demand of securities and accumulated loss exceeding paid-up capital etc. This categorization helps investors to know the qualities of securities before making investment decision.⁵⁷

⁵⁴ Annual Report (2019 -2020), *Bangladesh Securities and Exchange Commission*, 108.

⁵⁵ Credit Rating Companies Rules, 1996 < https://www.sec.gov.bd/lbook/F-03_2015.pdf> accessed 27 July 2020.

⁵⁶ Annual Report (2010-11), *Bangladesh Securities and Exchange Commission*, 35.

⁵⁷ Annual Report (2018 -2019), *Bangladesh Securities and Exchange Commission*, 25.

“A-category companies” means companies which are regular in holding the annual general meetings and have declared dividend at the rate of ten percent or more in the last English calendar year.⁵⁸

“B-category companies” means companies which are regular in holding the annual general meetings but have failed to declare dividend at least at the rate of ten percent in the last English calendar year.⁵⁹

“G-category Companies” means green-field companies’ shares of which are listed with the DSE before the company goes into commercial operation and prior to listing the said company declares the year of first declaration of dividend.⁶⁰

“N-category Companies” means newly listed companies except green-field companies which shall be transferred to other categories in accordance with their first dividend declaration and respective compliance after listing of their shares.⁶¹

“Z-category Companies” means companies which have failed to hold the annual general meeting when due or have failed to declare any dividend based on annual performance or which are not in operation continuously for more than six months or whose accumulated loss after adjustment of revenue reserve, if any, exceeds its paid up capital.⁶²

During the FY 2019-2020 number of “A” category companies has decreased, “B” and “Z” category companies have increased compared to FY 2005-2006, which can be seen in the following table:⁶³

⁵⁸ Market Pulse *LankaBangla Securities Limited* (January 2016, Issue108) 25.

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ Annual Report (2019 -2020), *Bangladesh Securities and Exchange Commission*, 30.

Table: Relating to Grouping of Listed Scripts (Category of Companies)⁶⁴

Name of the category	Number of Companies FY 2005-2006	Number of Companies FY 2017-2018	Number of Companies FY 2018-2019	Number of Companies FY 2019-2020
1	2	3	4	5
“A” category	140	275	271	259
“B” category	36	19	36	48
“G” category	1	0	0	0
“N” category	-	- 3	7	2
“Z” category	92	46	41	51

3.4.2.9 Price Sensitive Information and the Circuit Breaker

BSEC tightened the existing circuit breaker rule by withdrawing the free limit of price fluctuation for three days in case of price sensitive information by the listed companies and for non-trading of any scripts for 30 consecutive market day's.⁶⁵

Standard upward and downward price change limits (circuit breakers) based on previous day's close price are as follows:

There will be no circuit breaker for any newly listed company for the first 2 (two) consecutive trading days instead of the first 5 consecutive trading days. From the 3rd day, below mentioned circuit breaker will be applicable.⁶⁶

Price limits	Current price change limits
Up to 200	10.00%
>200 to 500	8.75%
>500 to 1000	7.50%
>1000 to 2000	6.25%
>2000 to > 5000	5.00%
>5000	3.75%

For transparency in the capital market price sensitive information meeting will be held at the end of transaction period or holiday, in this regard a notification issued on September 27, 2009. The notification assisted to prevent rumor of insider and other investors to influence price at the transaction period in the capital market.⁶⁷

⁶⁴ ibid, 31.

⁶⁵ Order No.BSEC/CMRRCD/2001-07/229, 14 November 2019 <https://www.sec.gov.bd/slaws/Order_14.11.2019.pdf>.

⁶⁶ Market Pulse *LankaBangla Securities Limited* (January 2016, Issue108) 31.

⁶⁷ Annual Report (2018 -2019), *Bangladesh Securities and Exchange Commission*, 36.

3.4.2.10 Members' Margin

Both DSE and CSE adopted the Trading Right Entitlement Certificate (TREC) Holder's Margin Regulations 2013 as per the advice of BSEC to protect the risk of the exchange in case of members' default in settling transactions as per rules.⁶⁸

In exercise of the powers conferred by Section 34 of the Securities and Exchange Ordinance 1969 and read with Section 23 of the Exchanges Demutualization Act 2013, the DSE and CSE respectively makes DSE (Trading Right Entitlement Certificate) Regulations 2013⁶⁹ and CSE (Trading Right Entitlement Certificate) Regulations 2013.⁷⁰

Margin is the amount of equity that the members are provided at the time of borrowing for investment in stock market. This is in fact a fundamental requirement of any exchange to cover its risk exposure against member's default, which should have been in practice much earlier.

3.4.2.11 Investment Protection Fund

As practiced in many exchanges all over the world, to protect the interest of the investors, 'Investors' Protection Fund' has been created in 1999 in both the stock exchanges under Dhaka/Chittagong Stock Exchanges Investors Protection Fund Regulations.⁷¹

If any stock broker is declared insolvent by the court or itself, or if any other reason causes stock broker business to be wound up resulting in failure to pay the clients' money, related stock exchange takes initiative to compensate the investors from the

⁶⁸ Annual Report, (2018 -2019), *Bangladesh Securities and Exchange Commission*, 49.

⁶⁹ Dhaka Stock Exchange (TREC Holder's Margin) Regulations, 2013, <https://www.dpp.gov.bd/upload_file/gazettes/9798_28609.pdf>.

⁷⁰ Chittagong Stock Exchange (TREC Holder's Margin) Regulations, 2013, <[https://www.cse.com.bd /upload_trading/TREC_Holder%E2%80%99s_Margin_Regulations_2013.pdf](https://www.cse.com.bd/upload_trading/TREC_Holder%E2%80%99s_Margin_Regulations_2013.pdf)>

⁷¹ Annual Report, (2018 -2019), *Bangladesh Securities and Exchange Commission*, 26.

fund. As on 30 June 2020, deposited amount of money in the Investors Protection Fund of DSE is Tk. 133,205,077.00 and CSE is Tk. 2,35,09,117.00.⁷²

3.5.1 Institutions in the Bangladesh Stock Market

The stock market of Bangladesh is an emerging market. The role of the stock market in economic development of a country is widespread. Although its role is increasing gradually in our country, its potential is to be utilized fully. The stock market has created opportunity of investment for investors as well as providing long-term finance to industrial development. As a result, GDP growth, employment generation and social development are enhanced. Dhaka Stock Exchange Limited (DSE), Chittagong Stock Exchange Limited (CSE), Central Depository Bangladesh Limited (CDBL), Bangladesh Institute of Capital Market (BICM), Stock-dealer/stock-broker, Merchant Banker, Asset Management Company, Credit Rating Company etc. are the institutions that contribute to the development of the Bangladesh stock market. In this section the overall performance of the institutions working in the Bangladesh stock market have analyzed.

3.5.2 Dhaka Stock Exchange Limited (DSE)

The Dhaka Stock Exchange Limited is the prime bourse of the country. DSE was established as East Pakistan Stock Exchange Association Ltd on April 28, 1954. Formal trading of the bourse began in 1956. The service on the stock exchange continued uninterrupted until 1971. The trading was suspended during the liberation war in 1971. Trading on DSE resumed in 1976 with change in economic policy of the government. Since then, the stock exchange continued its journey and development activities.⁷³

⁷² Annual Report, (2019 -2020), *Bangladesh Securities and Exchange Commission*, 31.

⁷³ Annual Report, (2018 -2019), *Dhaka Stock Exchange Limited*, 11, 12, 13.

Being an Exchange and Self-Regulatory Organization (SRO) DSE is guided by the DSE (Board and Administration) Regulations 2013, Demutualization Scheme, Articles of Association of DSE, Exchanges Demutualization Act 2013, Companies Act 1994 and other Acts, rules, regulations and guidelines of the Government, BSEC and DSE.⁷⁴

The Board of Directors of DSE has been constituted as per provisions of the DSE (Board and Administration) Regulations 2013. The Board has total 13 members of which 7 (seven) are Independent Directors, 5 (five) are Shareholder Directors including 1 (one) from Strategic Investors and Managing Director as the ex-officio member of the Board with voting rights.⁷⁵

In compliance with the Exchanges Demutualization Act 2013, Share Purchase Agreement was executed between DSE and the consortium of Shenzhen Stock Exchange and Shanghai Stock Exchange, the Strategic Investors of DSE on May 14 2018. DSE Shares were transferred to the Strategic Investors on September 4, 2018 and the representative of the consortium, Mr. Xie Wenhai included as a member of the Board of DSE on the same day. DSE, with the relentless initiatives and association of strategic investors, is thriving to be a leading Exchange in this region.⁷⁶

The total number of listed securities of the DSE stood at 597 at the end of December 2020. Among listed securities, there were 329 companies, 37 mutual funds, 221 government bonds, 8 debentures and 2 corporate bonds. The number of companies consists of 30 banks, 23 financial Institutions, 49 insurance companies and 227 others

⁷⁴ Annual Report, (2019 -2020), Dhaka Stock Exchange Limited, 66.

⁷⁵ ibid 67, 68.

⁷⁶ ibid 15.

companies and total turnover value of traded shares was BDT 215.88 billion during December 2020.⁷⁷ DSE Broad Index (DSEX) stood at 5402.07 points at the end of December 2020 and the market capitalization of DSE stood at BDT 4482.30 billion at the end of December 2020.⁷⁸

3.5.2.1 Rules and Regulations of the DSE

During the last three decades DSE has formulated many new capital market rules and regulations. The major Rules and Regulations notified by DSE are:

- (1) DSE (Administration of Trading Right Entitlement Certificate) Regulations 2020⁷⁹ by repealing the previous DSE (Trading Right Entitlement Certificate) Regulations 2013⁸⁰
- (2) DSE (Listing) Regulations 2015⁸¹ by repealing the previous “Listing Regulations of the DSE” and “DSE (Direct Listing) Regulations 2006”⁸²
- (3) DSE (Settlement of Transactions) Regulations 2013⁸³ by repealing the previous Settlement of Stock Exchange Transaction Regulations 1998⁸⁴
- (4) DSE (Settlement Guarantee Fund) Regulations 2013⁸⁵
- (5) DSE (Short-Sale) (Repeal) Regulations 2019 by repealing the previous Dhaka Stock Exchange (Short-Sale) Regulations 2006⁸⁶
- (6) DSE Automated Trading Regulations 1999⁸⁷

⁷⁷ Capital Market Development in Bangladesh: December, 2020 *Research Department, Bangladesh Bank*, 3.

⁷⁸ *ibid*, 3.

⁷⁹ <https://www.dsebd.org/assets/pdf/trecregulations_2020.pdf>.

⁸⁰ <<https://www.dsebd.org/assets/pdf/TRECREgulations2013.pdf>>.

⁸¹ <https://www.dsebd.org/assets/pdf/listing_reg_2015.pdf>.

⁸² <https://www.dsebd.org/assets/pdf/listing_reg%20Repealed.pdf>.

⁸³ <<https://www.dsebd.org/assets/pdf/SettlementRegulations2013.pdf>>.

⁸⁴ <https://www.dsebd.org/assets/pdf/set_stock.pdf>.

⁸⁵ <<https://www.dsebd.org/assets/pdf/SGF-7082014130507.pdf>> .

⁸⁶ <<https://www.dsebd.org/assets/pdf/shortSaleReg.pdf>>.

⁸⁷ <https://www.dsebd.org/assets/pdf/auto_trade.pdf>.

(7) DSE (Investors' Protection Fund Regulations) 2014⁸⁸ by repealing the previous DSE Investors' Protection Fund Regulations 1999⁸⁹

(8) Margin Rules 1999⁹⁰

(9) DSE (TREC Holder's Margin) Regulations 2013⁹¹ by repealing the Dhaka Stock Exchange (Member's Margin) Regulations 2000⁹²

(10) DSE (Board and Administration) Regulations 2013⁹³ by repealing the Dhaka Stock Exchange (Board and Administration) Regulations 2000⁹⁴

3.5.3 Chittagong Stock Exchange Limited (CSE)

Chittagong Stock Exchange Limited was formed and registered under the Companies Act 1994 on 1 April 1995 as a Public Company Limited by guarantee. The Exchange was a non-profit organization until 20 November 2013.⁹⁵ CSE became demutualized on 21 November 2013 under the Exchanges Demutualization Act 2013 and transformed into a Public Company Limited by shares (a for-profit company) accordingly.⁹⁶ Being an Exchange and Self-Regulatory Organization (SRO) CSE is guided by the CSE (Board and Administration) Regulations 2013, Demutualization Scheme, Articles of Association of CSE, Exchanges Demutualization Act 2013, Companies Act 1994 and other Acts, rules, regulations and guidelines of the Government, BSEC and CSE.⁹⁷

⁸⁸ <https://www.dsebd.org/assets/pdf/ipf_2014.pdf>.

⁸⁹ <https://www.dsebd.org/assets/pdf/inv_prot.pdf>

⁹⁰ <https://www.dsebd.org/assets/pdf/margin_rules.pdf>.

⁹¹ <<https://www.dsebd.org/assets/pdf/TRECHoldersMarginRegulations2013.pdf>>.

⁹² <https://www.dsebd.org/assets/pdf/members_margin.pdf>.

⁹³ <<https://www.dsebd.org/assets/pdf/BoardandAdminRegulations2013.pdf>>.

⁹⁴ <https://www.dsebd.org/assets/pdf/board_admin.pdf>.

⁹⁵ *Annual Report*, (2020), Chittagong Stock Exchange Limited, 106.

⁹⁶ *ibid.*

⁹⁷ *ibid.*

The Board of Directors of CSE has been constituted as per provisions of the CSE (Board and Administration) Regulations, 2013. The Board has total 13 members of which 7 (seven) are Independent Directors, 5 (five) are Shareholder Directors including 1 (one) from Strategic Investors and Managing Director as the ex-officio member of the Board with voting rights.⁹⁸

CSE is searching for Strategic Investors in pursuance with the Exchanges Demutualization Act 2013. CSE has offered to and contacted a number of local and foreign institutions to become strategic investors by taking shares of CSE. However, some local as well as foreign institutions have shown their interest and informed that they are working with the CSE's proposal. Meantime, BSEC extended the deadline to the CSE to find strategic investor to December 2022.⁹⁹

The total number of listed securities in CSE stood at 338 at the end of December 2020 and total turnover value of traded shares was BDT 9.18 billion during December 2020. The market capitalization of CSE stood at BDT 3754.95 billion at the end of December 2020 and all Share Price Index of CSE stood at 15592.92 points at the end of December 2020.¹⁰⁰

3.5.3.1 Rules and Regulations of the Chittagong Stock Exchange (CSE)

During the last three decades Chittagong Stock Exchange has formulated many new capital market rules and regulations. The major Rules and Regulations notified by CSE are:

(1) CSE (Listing) Regulations 2015¹⁰¹

⁹⁸ Annual Report, (2020), *Chittagong Stock Exchange Limited*,49.

⁹⁹ *ibid*,24.

¹⁰⁰ 'Capital Market Development in Bangladesh' *Research Department, Bangladesh Bank*, (December 2020)5.

¹⁰¹ <[https://www.cse.com.bd/upload_listing/Chittagong_Stock_Exchange_\(Listing\)_Regulations,2015.pdf](https://www.cse.com.bd/upload_listing/Chittagong_Stock_Exchange_(Listing)_Regulations,2015.pdf)>.

- (2) CSE (Listing of Small Capital Companies) Regulations 2019¹⁰²
- (3) CSE (Administration of Trading Right Entitlement Certificate) Regulations 2020 by repealing the previous CSE (Trading Right Entitlement Certificate) Regulations 2013¹⁰³
- (4) CSE (TREC Holder's Margin) Regulations 2013 by repealing the previous CSE (Member's Margin) Regulations 2000¹⁰⁴
- (5) CSE (Internet Based Trading Services) Regulations 2002¹⁰⁵
- (6) CSE (Settlement Guarantee Fund) Regulations 2013¹⁰⁶
- (7) CSE (Settlement of Transactions) Regulations 2013¹⁰⁷
- (8) CSE Demutualization Scheme 2013¹⁰⁸

3.5.4 Central Depository System (CDS)

Under CDS, the depository company undertakes deposit and safe custody of share certificates, transfer of ownership rights and stock exchange settlement through a computerized book entry process on the accounts of participants who will deposit securities with the depository company.

By virtue of the intrinsic features of the system, CDS can help to eliminate almost all the problems associated with the conventional system. The depository provides following direct and indirect benefits which will justify the need for establishment of CDS in Bangladesh:

¹⁰² <https://www.cse.com.bd/upload_listing/31742_59890.pdf>.

¹⁰³ <https://www.cse.com.bd/upload_trading/TREC_Regulations_2020_CSE.pdf>.

¹⁰⁴ <https://www.cse.com.bd/upload_trading/TREC_Holder%E2%80%99s_Margin_Regulations_2013.pdf>.

¹⁰⁵ <https://www.cse.com.bd/upload_trading/Internaet_Based_Trading_Services_Regulations_2002.pdf>.

¹⁰⁶ <https://www.cse.com.bd/upload_csettlement/Settlement_Guarantee_Fund_Regulations_2013.pdf>.

¹⁰⁷ <https://www.cse.com.bd/upload_csettlement/Settlement_of_Transactions_Regulations_2013.pdf>.

¹⁰⁸ <https://www.cse.com.bd/upload_demutualization/CSE_Demutualization_Scheme.pdf>.

- (a) This system rides the capital market of all the paper related hazards.
- (b) There is a constant threat of fake certificates. Under depository system, all stocks within the depository are good stock thereby elements bad stock deliveries.
- (c) It eliminates all risks associated with physical certificates such as loss, theft, mutilation etc.
- (d) The need to sign transfer instrument, widely known as Form-117, disappears as trades are settled by book entry transfer. Settlements are, therefore, not delayed for signature verification.
- (e) The conventional procedure takes inordinately long time. But it is script less trading, the pay-in and pay-out of securities and fund are deposited on the same day without delay thereby increase the liquidity of stock with the investors and investors get legal ownership of stock immediately.
- (f) The investors will get periodic status report on their holding and transactions, thereby leading to better control.
- (g) In conventional system getting a duplicate certificate is so time consuming that investor are noticed to give up sheer frustration. It is CDS where the question of duplicate certificate does not arise.
- (h) There will be a massive reduction in terms of use of paper, record and maintenance. As a result, the share department of listed company will be downsized.
- (i) In a depository environment, all bonuses and rights are sent to an investor's transaction holding statement report very fast.
- (j) Foreign investors are familiar with depository and prefer to invest where they have been set up.

The investors, of course, shall keep in mind the cost associated with the custody charge, charge for opening an account, transfer transaction cost and dematerialization and dematerialization charges.

3.5.4.1 Central Depository System in Bangladesh

Introduction of depository system in Bangladesh through enactment of the Depositories Act 1999 is a remarkable event in the capital market of Bangladesh.¹⁰⁹ The Depositories Act 1999 lays down the formation of depositories and provides a legal framework for establishment of depositories in Bangladesh to record ownership details of securities in book entry form. By enacting the Depository Act on April 13, 1999, the Government of Bangladesh paved the way for setting up depositories in Bangladesh giving fully authority of granting registration, controlling etc. to the BSEC. The Depositories Act 1999 provides a legal basis for the regulation of depositories in Bangladesh. It gives regulatory responsibility to the BSEC and enables the commission to make regulations concerning the operation of the depository.

The BSEC has made the Depository Regulations 2000¹¹⁰ which set out the criteria for companies that wish to establish depository systems. The BSEC has also made the Depository (User) Regulations 2003¹¹¹ which is concerned with the organizations' that may become participants of the depository.

3.5.4.2 Central Depository Bangladesh Limited (CDBL)

Central Depository Bangladesh Limited (CDBL) is engaged in the operations of the Central Depository System (CDS), a major financial market infrastructure in Bangladesh established as a part and parcel of the overall financial sector reforms

¹⁰⁹ Depositories Act 1999 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

¹¹⁰ <https://www.sec.gov.bd/lbook/F-26_2015.pdf>.

¹¹¹ <https://www.sec.gov.bd/lbook/F-27_2015.pdf>.

initiative spearheaded by the Ministry of Finance. CDBL was incorporated on 20th August 2000 sponsored by the country's Nationalized Commercial Banks (NCBs), Investment Corporation of Bangladesh, Private Commercial Banks (PCBs), Foreign Banks, Merchant Banks, Publicly Listed Companies, Insurance Companies and DSE and CSE with the collaboration of the Asian Development Bank. The Company received registration from the BSEC on 11th September 2001 under Depositories Regulations 2000 and subsequently obtained business commencement certificate on 23rd December 2003 from the BSEC. The main objective of the Company is to assist listed companies in the handling of script-less delivery, settlement and transfer of ownership of securities through computerized book entry system.¹¹²

Legal basis for CDBL's operations is set out in the Depository Act 1999, Depository Regulations 2000, Depository (User) Regulations 2003 and the CDBL Bye Laws.¹¹³

3.5.4.3 Bangladesh Institute of Capital Market (BICM)

BICM was registered with the Registrar of Joint Stock Companies and Firms as per Section 28 of the Companies Act 1994, on 24th July 2008 with approval of the Trade Organization of the Ministry of Commerce. BICM started its journey with a vow "Effort, Education and Excellence". The main objective of BICM is to train up the capital market related parties about the technical and practical knowledge of capital market.¹¹⁴

BICM works as a catalyst for effective transparent and competitive capital market with the training of Securities Regulator, Stock Exchanges and market intermediary's related parties.

¹¹² Annual Report, (2020), *Central Depository Bangladesh Limited*, 3.

¹¹³ *ibid.*

¹¹⁴ Annual Report, (2018-2019), *Securities and Exchange Commission*, 24.

3.5.4.4 Financial Reporting Council (FRC)

The Financial Reporting Act 2015 got passed in the Parliament on 9th September 2015.¹¹⁵ The Act includes provisions for setting up an independent Financial Reporting Council (FRC). The FRC will be entrusted to ensure accountability and improve the performance of the professional accountants of Bangladesh. The FRC will be the sole watchdog to monitor the functions of auditors and ensure transparency and accountability in accounting and auditing of organizations including various government, autonomous and non-government institutions.¹¹⁶

Abu Ahmed observed that, according to provision of the Financial Reporting Act, at present investors will not have much to complain about as to what has been going wrong with the much-important aspect of the financial industry such as auditing standards. But passage of the Act is one thing, putting it in practice to attain the desired objectives is another thing. This Act has also paved the way for setting up an independent watchdog for the auditing industry which hitherto remained almost free to be overseen. FRC will replace any other regulator if there is any for the purpose. But the constitution of the FRC needs to be carried out carefully so that this body truly becomes independent, capable and willing to regulate the rogue auditors. Nowhere in the world, the auditors enjoy so much freedom as they enjoy here in Bangladesh. Too much freedom led them to remain above questioning.¹¹⁷

They signed many window-dressed financial reports which not only deceived stakeholders like crediting banks and stock investors but also deceived the tax authorities.¹¹⁸

¹¹⁵ Financial Reporting Act 2015 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

¹¹⁶ M Shaifur Rahman Mazumdar, 'Prospects and Challenges of Financing through Capital Market', (2018), *The Bangladesh Accountant* (January - March 2018),77.

¹¹⁷ Abu Ahmed 'Opinions & Comments on FRA' (2015) *The Cost And Management*, (November-December 2015), 36.

¹¹⁸ *ibid.*

3.5.4.5 Stock Market Debacle in Bangladesh and the responsibility of Institutions

Bangladesh securities market experienced turmoil in 1996 and 2010. Stock market pertinent authority failed to protect the stock market crash. The inquiry committee report and relevant researcher's views regarding the stock market debacles are analyzed by the researcher in the following section. Bangladesh securities market experienced the worst turmoil in 1996. Until mid-1996 Bangladesh securities market failed to attract investors, both local and international. However, between July and mid-November 1996, both DSE and CSE experienced an unprecedented bullish run. During this period, market capitalization went up by 265% and the average daily turnover increased by over 1000%. There were about 192 securities listed with both the stock exchanges at that time. According to the official record, price index at DSE increased by 281% and at CSE increased by 258%. Then the bubble burst: share prices of both the stock exchanges dropped by 25% from their peak in mid-November. It was reported that outside in the 'kerb (informal) market' the prices went down further.¹¹⁹ Due to turmoil placed in 2010 marginal investors lost almost everything they had. Even many small investors reportedly committed suicide due to huge losses.¹²⁰

3.5.4.6 Findings and Observations of Capital Market Inquiry Committee 1996

After the crash in 1996, on 26 December 1996, observing the adverse reaction among the investors for unusual and anomalous price instability in both bourses due to insider trading, fraudulent performances, non-transparency, and systemic deficiency and management inadequacies in the conduct of trade by the stock exchanges, the SEC

¹¹⁹ Tureen Afroz, 'Index crash of 1996: A case of regulatory failure' *The Daily Star*, (Dhaka 7 October 2006) <<https://www.thedailystar.net/law/2006/10/01/fmr.htm>> accessed 12 December 2020.

¹²⁰ Staff Correspondent Chittagong, 'Another share investor takes his life', *The Daily Star* (Dhaka 3 February 2012) <<https://www.thedaily star.net/news-detail-221010>> accessed 22 February, 2020.

decided to form an Inquiry Committee with three/four ??? members namely; Mirza Asaduzzaman Al-Farruq (Ex-Secretary, Ministry of Law and Parliamentary Affairs), Professor T M Zahurul Huq (At that time acting Chairman, Department of Economics, Dhaka University) and Maniruddin Ahmad (At that time acting Chairman, Bangladesh Jute Mills Corporation (BJMC)) headed by Professor Amirul Islam Chowdhury, then Vice-Chancellor of Jahangirnagar University. Mr. Ziaul Haque knondker, then General Manager of Bangladesh Shilpa Rin Shangsta (BSRS) acted as the Secretary to the Committee. The Committee was given 3 months for submitting report. However, additional four days was taken for report submission.¹²¹

The Committee after careful deliberation based on available data, information and document deals with selected most relevant listed companies, brokers, dealers and institutions responsible for the debacle. However, this has not constrained in explaining the debacle of the share market and identifying persons responsible for it. Due to time constraints, unavailability of ready data and non-co-operation of the concerned persons, the Committee depending on available data, information and document could go into the utmost relevant listed companies, brokers, dealers etc. responsible for the upheaval. The committee framed different sets of questionnaires for interviewing purpose. Moreover, the committee invited submission on share market situation through both print and electronic media. However, limited number of received submissions were critically analysed. Further the Committee visited and met various relevant persons of concerned stakeholders of the share market including the Commission, both Stock Exchanges, brokers and companies.¹²²

¹²¹ Capital Market Inquiry Committee Report 1996 (herein after referred as 'Inquiry Report 1996') 2.

¹²² ibid

As an outcome, the committee identified fictitious quotation, false and misleading appearance, and fraudulent transaction in security without any return to beneficiaries and inducing its purchase by other or depressing its price as means of the manipulation. DVP mechanism was one of the main vehicles of manipulation. Basically, DVP device was introduced by the member-brokers. However, it was used DSE and CSE member-brokers used for reportedly bigger fake deals between themselves to impress the market about the rising trend during the upsurge of share trade. Unfortunately, DSE authorities ignored these fake deals of DVP. Though there is scarcity of conclusive evidences, circumstantial evidences create the presumption of the incidence of fake and unsettled DVP deals. Not following the usual practice of settlement, presumption is created in favor of such purposively fake deals for manipulation. Besides raising the share price, this fake use of DVP creates scope to make money by members without investment.¹²³

For example, FPIs, holding big allocation of shares through the IPOs, usually used the DVP system to sell their shares in big lots in the rising market. The local member-brokers persuaded the FPIs to effect payments beyond usual T+4 period. These arrangements helped the buyer-broker to sell these shares at higher prices to different local clients and procure funds to pay for the deals with the FPIs. However, it was observed that most of the DVP deals during the share scam period were not settled even long after it was due. But the same brokers graciously took deferred deliveries during rising prices. These behavior identical to breach of contract and eased manipulation.¹²⁴

¹²³ Inquiry Report 1996,27.

¹²⁴ *ibid.*

Further, Spreading of rumours amongst prospective investors was also an aiding tools in manipulating the share prices. The brokers, agents and in some cases employees of the connected companies were involved in exhibiting bright future expansions thereof. Reportedly that some of the broker-members created factions and made preplanned transactions on the floor to create artificial crisis resulting in short supply of those shares. In fact, these were done to allure the innocent investors to purchase these ostensibly profitable uncommon shares. Some sponsors colluded with the member-brokers to make series of artificial deals to show high demand.¹²⁵

Forward deals are though prohibited on the floor of the stock exchanges, some activists of the share markets entered into forward deals during the turmoil. Presumably these forward deals were mostly not materialized but for consumption in the scuttlebutt. During this peak period a forewarning of an imminent crash by the experts, everybody became concerned and rushed to their gains and minimize their losses. The floor and the street were flooded with sellers. The start of a big slide began. In fact, manipulations were pursued by the vested groups during the upward journey of the prices of shares. The sliding down of the share prices was a natural corollary. It is obvious that the prices of the shares ultimately have to settle at a level which its fundamentals suggest. The authorities for taking much time in deciding to allow these stuck-up shares, free from application of circuit-breaker temporarily on the DSE floor, all share price index of DSE did not reflect the actual position.¹²⁶

As per DSE record available through SEC the total value of trading in DSE during July-November 1996 was Tk. 2495 crore only. Out of this DVP transaction was Taka

¹²⁵ Inquiry Report 1996,28.

¹²⁶ *ibid*,29.

742 crore including foreign DVP through Bank Indosuez and Standard Chartered Bank amounting to Taka 560 crore.¹²⁷

The Committee listed the names of companies for trading in shares in violation of the relevant provisions and, their market prices on different dates. Shine Pukur Holding limited appears to be one of the companies having large volume in trading. The company has a paid up capital of Tk. 252 crore with 2.52 crore share of Taka 100.00 each. It noteworthy that most of the foreign DVP sales of this share could not be directly traced in DSE record. Form the analysis of details of purchases and sales it revealed that main parties either as buyer or seller were Shine Pukur Holdings sister concerns and associates namely Beximco Investment Company Ltd., New Dhaka industries, Satkhira Fisheries, Bakhkhali Fisheries, Mrittika Ltd. Among the few individuals buyer/seller, some are likely to be Beximco Group employee benami shareholders. In the absence of detail records of buyers and sellers, a comprehensive analysis as has been done in case of Doha Securities could not be made in case of other major parties. Almost all relevant persons, on interview with the Committee, expressed their opinion that at the peak time some major shareholders, some associates having large share and some sales department ran directly and indirectly in a big way in the trade of Shine Pukur Share and some other shares of the group. They added some brokers, some big shareholders and some group employee were active outside DSE. From the analysis it seems that management of the company was pursuing a policy of inducing public interest in Shine Pukur share through media advertisement as announcement of the company later on. It may be mentioned that a portion of the note sheets and related correspondence in SEC with the company are reportedly missing from the SEC file.¹²⁸

¹²⁷ Inquiry Report 1996,30.

¹²⁸ *ibid*,31.

It is evident from further analysis that the malpractice were resorted to in this case also. Additionally, it appeared that the management of the company has a tendency to deviate more from Rules/Regulations/procedure than to follow it strictly. These come within the mischief under Section 17 of the Securities and Exchange Ordinance 1969. The Inquiry Committee was also convinced from facts and circumstances that Beximco Pharmaceuticals Limited, Olympic Industries, Chittagong Cement Clinker & Grinding Company Limited, Aman Sea Foods Limited, Rupon Oil and Feeds Limited, CHIC TEX Limited, Apex Food Limited, Mark Shilpa and Engineering Limited and Excelsior Shoes Limited comes within the mischief under Section 17 of the Securities and Exchange Ordinance, 1969.¹²⁹

It has been to the notice of the Committee during the interview that the following companies also resorted malpractice for raising prices. The names of the companies are Alltex, Wonderland Toys, Kay and Que, Quasem Dry Cells, Tripti Industries Limited, Tulip Dairy, AMCL, Ashraf Textile, Padma Textile, Monno Fabric, ACI Limited, Beximco Infusion, Squire Pharma, Eastern Housing, Confidence Cement, Prime Textile, Meghna Cement. Howladar PVC, Ambee Pharma, Milon Tannery, Bangladesh Luggage, Aramit etc.¹³⁰

The Inquiry Committee also observed that Mr. Imtiyaz Hussain then Chairman of the DSE, First Capital Securities Limited, SES Company, Premium Securities, HMMMS and Associates, Securities Consultants Limited and Doha Securities dealing indicates manipulation within the meaning of Section 17 of the Securities and Exchange Ordinance, 1969.¹³¹

¹²⁹ Inquiry Report 1996,31-36.

¹³⁰ *ibid*,36.

¹³¹ *ibid*,37-40.

After Scrutinizing papers, information and opinions of interviewees, the Committee identified a few more controversial brokers manipulating the price of shares in respective period of this disaster. Amongst them, the influential ones were Mr. Shakil Rizvi, Kazi Enayetur Rahman, Mr. Khurshid Alam and Mr. Rakibur Rahman. This, however, needs detail scrutiny and investigation.¹³²

Based upon the Inquiry Committee Report, the BSEC obtained warrants of arrest against 32 people in 7 brokerage firms and 8 listed companies. The BSEC also filed 15 share-scam cases in the High Court Division of the Supreme Court of Bangladesh.¹³³

In pursuance of the report of enquiry, the BSEC lodged a total of 15 criminal cases in 1997 against some companies, their directors and others for the violation of Section 17 of the Securities and Exchange Ordinance 1969.¹³⁴

Tureen Afroz observed that, the 1996 index crash was caused by the failure of a number of regulatory institutions. However, it is unfortunate that the Inquiry Committee Report failed to address the regulatory aspects in a comprehensive way. The said Report served two purposes: (a) it identified some of the market manipulators involved in many fraudulent activities during the period in question; and (b) it brought into light the irregularities involved in the day-to-day operation of the stock exchanges. The Report, however, completely ignored the role that should have been played by the SEC as a regulatory body to handle the crisis. During June-November, 1996 the two stock exchanges were aware of many irregularities and malpractices that took place at the exchanges. However, the exchanges remained

¹³² Inquiry Report 1996,41.

¹³³ ¹¹⁹ Tureen Afroz, 'Index crash of 1996: A case of regulatory failure' *The Daily Star*, (Dhaka 7 October 2006) <<https://www.thedailystar.net/law/2006/10/01/fmr.htm>> accessed 12 December 2020.

¹³⁴ S M Solaiman, 'Securities Market In Bangladesh: A Critical Appraisal Of Its Growth Since Its Inception In 1954' (2005) 29 (2) *Savings and Development Journal* Article 180.

indifferent towards regulating and/or banning such activities. According to the records, the exchanges, even though were experiencing sharp increase of prices in most of their listed shares, they did not take any action to investigate or control the situation.¹³⁵

Tureen Afroz further observed that, the trading procedure at both the stock exchanges was susceptible to fraudulent misuse by vested quarter. The Delivery Versus Payment System (DVP) of trading method at the stock exchanges allowed the buyers/seller of the share to settle the transactions directly between them and without involving the stock exchanges. This system was misused by many brokers/dealers to show artificial trading so that the investors would be induced to buy and demand more shares. Also, the usual practice of T+4 settlement procedure was not followed at the Dhaka Stock Exchange. Forward deals, though forbidden under law, took place in the exchanges at very high prices.¹³⁶

Tureen Afroz further mentioned that both the BSEC and the stock exchanges were inactive to apply any enforcement mechanism against fraudulent activities and malpractices in 1996. It is stated that such failure of the BSEC and the stock exchanges to actively enforce their regulatory power has made the market vulnerable to manipulation and finally to crash.¹³⁷

Due to share scam in 1996 the poor, greedy uninformed middle class discovered that the major portion of their life savings has been wiped away. At the end of December 1996, the stock market regulatory authority came with the opinion that recent unusual and abnormal price fluctuation in the DSE lead to strong reactions among the small investors. There has been general allegation by the investors that there has been some

¹³⁵ Tureen Afroz, 'Index crash of 1996: A case of regulatory failure' *The Daily Star*, (Dhaka 7 October 2006) <<https://www.thedailystar.net/law/2006/10/01/fmr.htm>> accessed 12 December 2020.

¹³⁶ *ibid.*

¹³⁷ *ibid.*

fraudulent acts and insider trading. This may have contributed to the abnormal fluctuation in the prices of transparency, systemic deficiency and management inadequacies in the conduct of trade by the stock Exchanges.¹³⁸

3.5.4.7 Findings and Observations of Capital Market Inquiry Committee 2011

In order to enquire into the unusual up-down trends of the capital market since December 2010, a national inquiry team was formed on 26.01.2011. The committee was formed to investigate the stock market crash on 24 January 2011, with former Bangladesh Bank Deputy Governor Khondoker Ibrahim Khaled heading the four-man high-powered committee. The committee has submitted its report to the Government on 31.03.2011.¹³⁹

The committee provided their findings after three months. It identified an array of chicanery performed by some 60 influential individuals that resulted in the recent market crash. The committee interviewed all members of both the DSE and CSE, and consulted journalists and analysts before presenting their report. The committee found various irregularities, including the existence of omnibus accounts, that allowed some market players to make exorbitant profits at the expense of the retail investors. Among the 60 identified primarily included the Chairman of Beximco and the mastermind of the 1996 market crash Mr. Salman F Rahman, former DSE president Mr. Rakibur Rahman, SEC chairman Mr. Ziaul Haque Khandaker, SEC member Mr. Mansur Alam and BNP politician Mr. Mosaddek Ali Falu. The report mentioned that pro-government business tycoons, including Mr. Salman F Rahman, and Mr. Rakibur Rahman, exerted influence within the BSEC by influencing the appointment of its

¹³⁸ Tanbir Ahmed Chowdhury, (2010), 'Stock Market Behavior of Bangladesh', *University Grants Commission of Bangladesh*.

¹³⁹ Investigation Report of the Capital Market Inquiry Committee 2011 (herein after referred as 'Inquiry Report 2011') (Report submitted on 31March 2011),1<[https://mof.gov. bd/ en/ budget/ share/ report.pdf](https://mof.gov.bd/en/budget/share/report.pdf)>.

members. The report ended with recommendations to reform the BSEC drastically and asked the government to publish the names of the influential players and to remain cognizant in countering their influences. The report resulted in the dismissal of BSEC chairman Mr. Ziaul Haque Khandaker along with other BSEC members accused. However, the then Finance Minister AMA Muhith stated that the State would neither disclose the names of the accused officially nor take punitive measures without further investigation, although no dates for fresh probe have been declared. Later, the report was published under the direction of Hon'ble High Court Division after omitting the name of culprits.¹⁴⁰

3.5.4.7.1 In Chapter VIII of the Inquiry Committee Report 2011 (herein after referred as "Inquiry Report 2011") the Committee are illustrated the following specific information about Corruption and special observation thereon¹⁴¹:

Information on immorality:

Upon examination of massive irregularities and immorality in the capital market and involvement of huge transaction with such irregularities and immorality, the inquiry committee has held with the inference that there exists corruption in the process. To determine corruption by investigating one after another transaction is quite time consuming. Though it is not impossible to uncover the overall picture of corruption by investigating the overall transactions, a few years of action plan is required to do it. In these circumstances, the inquiry committee decided to examine transactions of a few samples of accounts. There may or may not be corruption in such small number of samples, because there is no corruption at all accounts. But after examination, the committee has found that corruption is proved within such a few numbers of samples.

¹⁴⁰ <<https://mof.gov.bd/en/budget/share/report.pdf>>. <2011 Bangladesh share market scam–Wiki Visually https://wikivisually.com/wiki/2011_Bangladesh_share_market_scam>.

¹⁴¹ Inquiry Report 2011, 113

The information found as indicator of corruption is stated herewith. If the BSEC acquires capability after reformation, it can carry out examination of doubtful transaction by same process.¹⁴²

Corruption Scenario No -1: The inquiry committee came to know that Mr. Anwarul Kabir Bhuiyan, Executive Director, BSEC operates four BO accounts in the name of his wife Roksana Akhter, description of which is stated below:¹⁴³

Table-2 (Description of BO accounts operates by Rukhsana Akhtar, wife of Mr. Anwarul Kabir Bhuiyan, Executive Director, BSEC)¹⁴⁴

Name of Broker	BO Account No.	Type of Account	Bank Account
Al-Arafah Islami Bank Ltd.	1204290020296278	Margin	Standard Chartered Bank, Sheraton Branch, Account No. 182728915-01
BLI Securities Ltd	1201500004804543	Margin	-do-
Lanka Bangla Finance	1201830004804543	Cash	-do-
NBL Securities Ltd	1203980023518770	Margin	NBL, Dilkusha Branch A/C No. 0234186705

For Corruption Scenario No-1 the statement of the inquiry committee is as follows:

As per the office order of SEC, Memo No. SEC/Administration/53.00/2001-2002-2212, dated: 11 April 2010, “*No officer or employee of the SEC can transect, or engage in transaction of, securities in primary or secondary market in his/her own name or in the name of his/her spouse, parents, children and dependents.*” It is to be noted that the office order was issued under the signature of Mr. Anwarul Kabir Bhuiyan.

Rukhsana Akhtar, wife of Mr. Anwarul Kabir Bhuiyan, has transected shares of several companies in each of the four aforesaid brokerage houses. Company-wise transaction information table are illustrated below.¹⁴⁵

¹⁴² Inquiry Report 2011, 113.

¹⁴³ ibid .

¹⁴⁴ ibid .

¹⁴⁵ ibid .

Table of Share Transactions by Rukhsana Akhtar, wife of Mr. Anwarul Kabir Bhuiyan, Executive Director of SEC Duration: From January, 2009 to December, 2010¹⁴⁶

Table-3.1 (Share Transactions by Rukhsana Akhtar, Al-Arafah Islami Bank Limited, BO ID 1204290020296278)¹⁴⁷

Name of Companies	Buying Price (In Lakh Taka)	Selling Price (In Lakh Taka)
Titas Gas	131.82	132.10
Summit Power	71.14	72.31
Lanka Bangla Finance	152.46	158.82
Aftab Auto	100.20	107.84
Others	500.00 (approximately)	540.00 (approximately)

Table-3.2 (Share Transactions by Rukhsana Akhtar, Lanka Bangla Securities Limited, BO ID 1201830004804543)¹⁴⁸

Name of Companies	Buying Price (In Lakh Taka)	Selling Price (In Lakh Taka)
Lanka Bangla Finance	300.38	312.98
Summit Power	149.24	20.69
Titas Gas	49.24	45.54
Others	115.00 (approximately)	12.00 (approximately)

Table-3.3 (Share Transactions by Rukhsana Akhtar, BLI Securities Limited, BO ID 1201500004804543)¹⁴⁹

Name of Companies	Buying Price (In Lakh Taka)	Selling Price (In Lakh Taka)
Bexfarma	4.27	4.98

Table-3.4 (Share Transactions by Rukhsana Akhtar, NBL Securities Limited, BO ID 1203980023518770)¹⁵⁰

Name of Companies	Buying Price (In Lakh Taka)	Selling Price (In Lakh Taka)
Bextex	93.42	93.61
Jamuna Oil	227.13	215.00 (approximately)
Lanka Bangla Finance	16.00	7.88
Others	170.00 (approximately)	180.00 (approximately)

To maintain four accounts in the name of wife is directly violation of BSEC's Office Order. Besides, a huge amount of transactions has been made in those BO accounts. The inquiry committee suggested that the Government Intelligence Branch may investigate the matter.¹⁵¹

¹⁴⁶ Inquiry Report 2011, 114.

¹⁴⁷ ibid.

¹⁴⁸ ibid.

¹⁴⁹ ibid.

¹⁵⁰ ibid.

¹⁵¹ ibid.

Corruption Scenario No -2: The person responsible in the present case is Mr. Kafil Uddin Ahmed Chowdhury. He was the Deputy General Manager of the Investment Corporation of Bangladesh (ICB) at the time of occurrence. After being promoted as General Manager on 22/3/2011, he joined in the Bangladesh House Building Finance Corporation (HBFC). He transacted shares through the accounts of his wife, Farjana Akhter and his wife's brother, Monsur Billah. The transactions have been made through omnibus accounts of IDLC Finance Limited. Both of them have opened accounts in IFIC Bank. Farjana Akhter and Kafil Uddin Chowdhury's joint account No. is 1001-280669-111 (IFIC Bank, Motijheel Branch) and Monsur Billah's account number is 1001-113239-001 (IFIC Motijheel).¹⁵²

Monsur Billah deposited Taka 72,00,000 in IFIC Bank account through check No. 2056699 from his share account on 22-3-2010, and withdrawing that money on 24-3-2010 made two FDR in NCC Bank at Matijheel Branch- (1) Taka 36,00,000 in the name of Kafil Uddin Ahmed Chowdhury (FDR No. 0002-0330033082 and (2) Taka 36,00,000 in the name of Farjana Akhter (FDR No. 0002-0330033073). That is, a 'dummy account' in the name of Monsur Billah and the real beneficiaries are Kafil Uddin Chowdhury and his wife Farjana Akhter.¹⁵³

Similarly, on 24/2/2010, Monsur Billah deposited Taka 70,00,000 through Check Nos. 2056093 and 2056087, and on 25/2/2010 after withdrawing Taka 80,00,000 from the same account, made 2 FDRs of Taka forty lakh each, total Taka 80,00,000 in the name of Farjana Akhter in IFIC Bank at its Matijheel Branch (FDR No. 1057367 and 1057368).¹⁵⁴

¹⁵² Inquiry Report 2011,115.

¹⁵³ ibid.

¹⁵⁴ ibid.

In the same process, in March 2010, the money from Farjana Akhter's investor account in IDLC Finance Limited. was exchanged and a total of Taka 1 crore was deposited in three fixed deposits made in the name of her husband, Kafil Uddin Ahmed Chowdhury in Jamuna Bank and Exim Bank and Taka 60 lakh was deposited into two FDRs in the name of Farjana Akhter in NCC Bank at Motijheel Branch (Exim Bank, Khatunganj Branch, 3 FDR NOs. 0004-24100020641, 0004-24100020664 and 0004-24100020670; Jamuna Bank, Dhanmondi Branch, FDR No. 0011-0330036328 in the name of Kafil Uddin Ahmed Chowdhury. In the name of Farjana Akhter, NCC Bank, Motijheel Branch, two FDR Nos. 0002-033003282 and 0002-0330032841).¹⁵⁵

Thus, only within two months, FDRs of Taka 3 crore were made in the names of Kafil Uddin Chowdhury and his wife Farjana Akhter and Taka 14 lakh was also deposited in their accounts. That is, he earned in two months over Taka 3 crore. The two tables of audit are ascribed below. Much more money has entered into Securities Company through the channel of Bank.¹⁵⁶

Table-4.1 [Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Broker: - IDLC Finance Limited, Name of the Investor: - Monsur Billah, Name of the Bank: - IFIC Bank Limited, Motijheel Branch, Account Number: - 1001 – 113239 - 001]¹⁵⁷

¹⁵⁵ Inquiry Report 2011,115.

¹⁵⁶ *ibid.*

¹⁵⁷ Inquiry Report 2011, 116.

Table-4.1

[Statement of Deposit and Withdrawal of Fund (Layer-Final), IFIC Bank Limited,
Motijheel Branch, Account Number:- 1001-113239-001] ¹⁵⁸

Name of the Investor	Date	Cheque No.	Deposited Amount (Tk.)	Withdrawal Date	Withdrawal Amount(Tk.)	Name of Payee	Remarks
Monsur Billah	22.03.2010	2056699	7,200,000.00				
				24.03.2010	3,600,000.00	Kafiluddin Ahmed Chowdhury	FDR with NCC Bank Motijheel Branch, Dhaka
				24.03.2010	3,600,000.00	Farjana Akhter	FDR with NCC Bank Motijheel Branch, Dhaka
	24.02.2010	2056093	3,500,000.00				
	24.02.2010	2056087	3,500,000.00				
				25.02.2010	4,000,000.00	Farjana Akhter	FDR with NCC Bank Motijheel Branch, Dhaka
				25.02.2010	4,000,000.00	Farjana Akhter	FDR with NCC Bank Motijheel Branch, Dhaka
	18.01.2010	2007058	3,000,000.00				
				19.01.2010	3,000,000.00	Farjana Akhter	Link with layer-02
	19.11.2009	2005822	1,400,000.00				
				24.11.2009	1,000,000.00	Mahmood Hassan	Link with layer-02
				24.11.2009	400,000.00	Farjana Akhter	Link with layer-02
	09.09.2009	1919179	4,000,000.00				
	09.09.2009	1919197	3,500,000.00				
				13.09.2009	5,050,000.00	Bangladesh Mutual Securities Ltd.	
				13.09.2009	2,300,000.00	Bangladesh Mutual Securities Ltd.	
	01.09.2009	1919027	2,000,000.00				
	01.09.2009	1919034	1,500,000.00				
	01.09.2009	1919039	1,500,000.00				
				08.09.2009	2,500,000.00	Bangladesh Mutual Securities Ltd.	
				08.09.2009	2,500,000.00	Bangladesh Mutual Securities Ltd.	

Table-4.2 [Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Broker: - IDLC Finance Limited, Name of the Investor: - Farjana Akhter, Name of the Bank: - IFIC Bank Limited, Motijheel Branch, Account Number: - 1001-280669-111, Name of the Account Holder: - Farjana Akhter and Kafil Uddin A. Chowdhury] ¹⁵⁹

¹⁵⁸ Inquiry Report 2011,116.

¹⁵⁹ ibid.

Table-4.2

[Statement of Deposit and Withdrawal of Fund (Layer-Final), IFIC Bank Limited,
Motijheel Branch, Account Number: - 1001-280669-111]¹⁶⁰

Name of the Investor	Date	Cheque No.	Deposited Amount (Tk.)	Withdrawal Date	Withdrawal Amount(Tk.)	Name of Payee	Remarks
Farjana Akhter	30.03.2010	2056902	1,000,000.00	04.04.2010	500,000.00	Prime Bank Portfolio A/c	
				04.04.2010	500,000.00	Prime Bank Portfolio A/c	
	28.03.2010	2056590	5,000,000.00				
	23.03.2010	2056677	5,000,000.00				
				24.03.2010	5,000,000.00	Kafiluddin Ahmed Chowdhury	FDR with EXIM Bank, Khatungonj Br.
				24.03.2010	2,500,000.00	Kafiluddin Ahmed Chowdhury	FDR with Jamuna Bank Dhanmondi Br.
				24.03.2010	2,500,000.00	Kafiluddin Ahmed Chowdhury	FDR with Jamuna Bank Dhanmondi Br. Dhaka
	14.03.2010	2056502	2,500,000.00				
	14.03.2010	2056507	2,500,000.00				
				15.03.2010	3,000,000.00	Farjana Akhter	FDR with NCC Bank Motijheel Br. Dhaka
				15.03.2010	3,000,000.00	Farjana Akhter	FDR with NCC Bank Motijheel Br. Dhaka
	17.12.2009	2006357	100,000.00				
	22.11.2009	2005805	1,600,000.00				
	09.09.2009	1919183	2,200,000.00				
				17.09.2009	3,500,000.00	IDLC Finance Ltd. Portfolio A/C	

Mr. Kafil Uddin was summoned to address the committee on March 24, 2011 at 5 pm. He appeared before the committee and said that he had made a profit by selling the mutual fund's placement at face value. He does not feel guilty about the work. He said that almost all the officers and employees of ICB transact shares. After being asked if the service rules permit officials to carry out share business, he replied that he did not know and never read the service rules. He thinks that it is legal to do business in the name of wife and brother-in-law. He did not answer to the question as to why the money derived from share trading of his wife and brother-in-law was made FDR in his own name. He claimed that income tax had been paid.¹⁶¹

¹⁶⁰ Inquiry Report 2011, 116-117.

¹⁶¹ Inquiry Report 2011, 117.

How a DGM (ICB) saves so much money in two months can be examined. According to the inquiry committee, (a) since he is currently the General Manager of HBFC, the Ministry of Finance may institute a departmental proceeding against him; (b) the matter may be referred to the Anti-Corruption Commission.¹⁶²

Corruption Scenario No-3: Md. Abdus Salam trades shares in Lanka Bangla Finance Limited through an omnibus (shadow) account. He maintains the account No. 0216-01-0000330 in the main branch of Basic Bank Limited.¹⁶³

He deposited Taka 1,39,80,000 on 13/4/2010 through check Nos. 8783807 and 878306, and withdrawing money from that account on 15/4/2010, gave Taka 2 crore to the GMG airlines Limited by means of Pay-order. Probably, this money might have been given to GMG Company for placement, although GMG has not yet got IPO approval. Questions have been raised in the concerned persons and civil society about the revaluation of GMG Airlines' assets, share pricing, placement, IPO, etc., so the inquiry committee thinks that the matter could be investigated in detail after the BSEC is reconstituted. The case may be used as a small clue to the full investigation. Investigation information's are ascribed in the Table below.¹⁶⁴

Table-5 [Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Broker:- Lanka Bangla Finance Limited, Name of the Investor:- Md. Abdus Salam, Name of the Bank:- BASIC Bank Limited, Main Branch, Account Number:- 0216-01-0000330, Name of the Account Holder:- Md. Abdus Salam]¹⁶⁵

¹⁶² Inquiry Report 2011, 117.

¹⁶³ ibid.

¹⁶⁴ ibid.

¹⁶⁵ Inquiry Report 2011, 118.

Table 5

[Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Bank: -
BASIC Bank Limited, Main Branch, Account Number: - 0216-01- 0000330]¹⁶⁶

Name of the Investor	Date	Cheque No.	Deposited Amount (Tk.)	Withdrawal Date	Withdrawal Amount(Tk.)	Name of Payee	Remarks
Md. Abdus Salam	13.04.2010	8783807	3,980,000.00				
	13.04.2010	8783806	10,000,000.00				
				15.04.2010	20,000,232.00	Yourself for Pay order	In favour of GMG Airlines Ltd.

Information Scenario: Investor Mrs. Shamima Sharif traded through Lanka Bangla Finance Limited on February 4, 10 and 16 in 2010 and on October 5 in 2010 and withdrew cash Taka 1.52 crore through account No. 4402001333 of Commercial Bank of Seylon and entered into SAR Security and Lanka Bangla Security. Shamima Sharif 's husband is a member of DSE. It is identified as suspicious. BSEC can inquire into the matter. It may be sent to Bangladesh Bank to see whether it will be considered as money laundering to withdraw Taka 1.52 crore in cash which shown in the Table as under.¹⁶⁷

Table-6 [Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Broker: - Lanka Bangla Finance Limited, Name of the Investor:- Mrs. Shamima Sharif, Name of the Bank:- Commercial Bank of Seylon, Corporate Branch, Account Number:- 8802001333, Name of the Account Holder:- Mrs. Shamima Sharif]¹⁶⁸

¹⁶⁶ Inquiry Report 2011, 118.

¹⁶⁷ ibid.

¹⁶⁸ ibid.

Table-6

[Statement of Deposit and Withdrawal of Fund (Layer-Final), Name of the Bank:- Commercial Bank of Seylon, Corporate Branch, Account Number:- 8802001333]¹⁶⁹

Name of the Investor	Date	Cheque No.	Deposited Amount (Tk.)	Withdrawal Date	Withdrawal Amount(Tk.)	Name of Payee	Remarks
Mrs. Shamima Sharif	5/10/2010	9188259	7,000,000.00				
				07/10/2010	3,825,000.00	SAR Securities Ltd.	
				10/10/2010	250,000.00		
				27/10/2010	3,110,000.00		
	04/02/2010	8578391	3,300,000.00				
				04/02/2010	810,000.00	Cash	
	10/02/2010	8604090	1,100,000.00				
				11/02/2010	2,250,000.00	SAR Securities Ltd.	
	16/02/2010	8629720	5,500,000.00				
				18/02/2010	2,800,000.00	SAR Securities Ltd.	
				22/02/2010	725,000.00	Cash	
				28/02/2010	1,500,000.00	SAR Securities Ltd.	

3.5.4.7.2 Identified Reasons for Failure and Suggested Recommendations

As per the Inquiry Committee Report 2011, the main responsibilities for failure and suggested recommendation are as follows:

(i) **Main responsibilities for failure of Stock Market Debacle in 2010:**

It is appeared by examining the reasons for ups and downs, and jump and collapse of the Stock Market during two years of 2009-2010 that, (a) many people including the Issuer, Issue Manager, Valuer, Auditor, Dealer-Broker are involved in unethical activities of direct listing in primary issue, revaluation of the share, misuse of the book-building process, placement is given to special person/organizations at face value or lower value, etc. (b) Limited persons/ organizations including dealer-broker, investors are involved in circular trading, block trading, unusual transaction, etc. in the secondary market. (c) Irregularities or inconsistencies are there in issuance of stock share against right share, preference share, IPO-repeat-IPO, unrealized profit. (d) Apart from these, it is

¹⁶⁹ Inquiry Report 2011, 118.

mentioned in Chapter-VI¹⁷⁰ of the Inquiry Committee Report 2011 by examining different activities of the BSEC that there are many irregularities, giving validation unethically and negligence.¹⁷¹

The Inquiry Committee opined that if the BSEC exercises its due diligence, conducts examination professionally and does not give validation of inconsistencies or irregularities, the Stock Market would not collapse. So, BSEC has to take the main responsibility of the failure.¹⁷²

Recommendations of the inquiry committee: The main player behind the validation process of irregular activities is BSEC Member Mr. Mansur Alam. As any approval is not final without the consent and favour of the Chairman, so the Chairman and the BSEC Member Mr. Mansur Alam are both responsible. Two Executive Directors Mr. Anwarul Kabir Bhuiyan and Mr. ATM Tariquzzaman also did wrong by assisting these two officers. Many officers of the BSEC took advantage and assisted in the irregular activities done by those four executive members. Thus, it is necessary to remove Mr. Ziaul Haque Khandaker, Chairman, Mr. Anwarul Kabir Bhuiyan, Executive Member and Mr. ATM Tariquzzaman from the BSEC, and extensive investigation is necessary for Mr. Mansur Alam with them.¹⁷³

(ii) **Proposed reformation for BSEC by the inquiry committee:**

Background: (a) The image of the BSEC is seriously damaged due to collapse of the Stock Market by the recent activities of the BSEC, despite controlling authority it was regulated by the market players and giving validation of the

¹⁷⁰ Inquiry Report 2011, 50.

¹⁷¹ Inquiry Report 2011,133.

¹⁷² ibid.

¹⁷³ ibid.

irregular activities by conspiracy, and weakness and negligence to control the market. The situation reached at such level where people dare to disobey the legal order of the commission. For example, when the Inquiry Committee sent an officer to examine the document of Prime Bank Investment Limited with the approval of the BSEC on 21/3/2011, the CEO Mr. Sheikh Mortuza of the company did not give permission to him to enter into the office. On the next day 22/3/2011 BSEC sent him again with a phone call, Sheikh Mortuza again prevented him entering into the office. The committee also observed more one or two events. To recover the image of the damaging BSEC, its reformation is necessary. (b) The Stock Market is expended. The Commission has no manpower to monitor and control the market. In addition, stagnant situation is created due to loss of the morale of the officers. (c) As there are no qualified accountant, financial analyst and expert, and thus, the examination is not done professionally. The decision-making process is prevalent in non-transparent way (d) The salary structure does not attract the officers rather leads to corruption.¹⁷⁴

Recommendations for SEC: (a) As the image of the present top most officers is in lowest level, so reformation of BSEC by them is not possible. The reformation should start with the appointment of honest person as Chairman along with other top most officers by removing the responsible officers. (b) After emergency appointment for this time, in future the government will appoint the Chairman and members from the list prepared by a high-level Search Committee. The Search Committee will prepare a panel of three persons against each post; the Search Committee will have power to enlist the eligible persons with their consent from the persons who have not applied for these posts. (c) The

¹⁷⁴ Inquiry Report 2011,133.

Commission may consist of five members including the Chairman. They may be from chartered/cost accountants, legal experts, banker, professor of Accounting/Finance of University and learned and successful person (Administrator/ Manager/ General). (d) After reconstituting the Commission with the Chairman and members, it will prepare a "BSEC Restructuring Plan" and present it for approval of the government. There must be a strong Inspection Department in Restructuring Plan. Apart from this, there should be a "Stock Market Regulation Administration Department." The Inspection Department will inspect regularly (all dealer- broker houses, merchant bankers, asset management companies etc.). Regulation Administration Department will impose penalty if there is violation. This is not a legal department rather it is an execution department of law. (e) Other matters of the reform will be revealed by specification and 'Job Description' for every desk. (f) There should be a suitable salary structure in the agenda.¹⁷⁵

(iii) **Stock Exchange Demutualization:**

Background: Demutualization is the term used to describe the transition from a mutual association of exchange members operating on a not-for-profit basis to a limited liability, for-profit company, accountable to shareholders. Essentially, demutualization separates ownership (and voting rights) from the right of access to trading. (a) Dhaka Stock Exchange (DSE) and Chittagong Stock Exchange (CSE) are two stock markets of Bangladesh. Though SEC is the main controller, these two Exchanges are the primary controller of the capital markets. In this sense, there should be an impartial controlling body for the stock exchanges. (b)

¹⁷⁵ Inquiry Report 2011,133-134.

the Board of Directors of the two Stock Exchanges consist of twenty-five members, twelve are elected by the dealer-broker, twelve are nominated and the remaining one is the Chief Executive officer. In reality, the elected directors run the administration, because the nominated members have shown less interest and involvement. As a result, those who are player of the capital markets, are in the controlling position. The conflict of interest sometimes makes its controlling role ineffective. (c) For this reason, the meaning of demutualization comes forward. The meaning of demutualization is that by separating the activities of the controlee from the controller empower the controlling administration to exercise the 'role of game' impartially over the players and keep away from the influence of the players. (d) The Mumbai Stock Exchange is demutualized by the pressure of the government; it is under process in Pakistan. (f) It is appeared that there is a huge support and demand for demutualization whilst the Inquiry Committee discussed with the capital market relevant persons and organizations and civil societies, though the stand of the players is weak. (g) DSE has formed a committee to examine the matter of demutualization of its own initiative (h) The members are main owner of the DSE, and, they have the power. So they will vest their power to the administration willingly is not a usual thinking. For that the Indian government creates pressure on the Mumbai Stock Exchange by forming National Stock Exchange. Time will speak whether the Committee of the DSE will bring a result or not.¹⁷⁶

¹⁷⁶ Inquiry Report 2011, 134.

Recommendations of the inquiry committee: (a) Though DSE has formed Demutualization Committee, there is no time limit (which is usual). The government may advise the DSE to limit three months to submit report by the Committee. (b) The government will take necessary steps by examining the progress report. (c) If the recommendations of the Committee and the stand of the DSE are not satisfactory, the government may take assistance from the World Bank or other international organizations to prepare 'Demutualization Plan'. After approval of the Plan the government may appoint administrator in the DSE to implement it. (d) After execution of demutualization as per implementation schedule, the administration will declare election according to the memorandum of the DSE and reconstitute the DSE and he will then quit the office. (e) As there is conflict of interest and difficult, so the government may form a 'Demutualization Implementation Monitoring Cell'. The Cell may work in the SEC¹⁷⁷

(iv) **Co-ordination between Stock Exchange and BSEC:**

Background: (a) BSEC and two Stock Exchanges both exercise controlling activities. DSE/CSE is primary regulator and BSEC is the main regulator. That's way there is overlapping among their activities, because they are not yet rationalized (b) The Inquiry Committee observed that there is Surveillance Department both in DSE and BSEC and they do the same work. The Surveillance Department of DSE has done some work. The Surveillance of BSEC is weak. There is no coordination between them (c) The Inquiry Committee also observed that the Listing

¹⁷⁷ Inquiry Report 2011, 135.

Committee of DSE and CSE as a primary regulator examine the application for enlistment sufficiently and made adverse comment on many companies, but BSEC ignores them and made the two Stock Exchange listed them without giving any reason.¹⁷⁸

Recommendations of the inquiry committee: (a) A Study team may be formed which will identify the overlapping activities and gray areas of the Stock Exchange and BSEC and specify the list of activities. (b) Inquiry Committee is of opinion that full time surveillance should be vested with the Stock Exchange if so the surveillance department of the DSE and CSE is to be strengthened. Manpower should be increased; procedure should be modernized. Power should be given to take immediate action by identifying the unusual transaction in the market. (c) The Surveillance Department of the BSEC should be reformed and converted into Inspection Department. Regular inspection procedure of all organizations will be introduced. (d) Company listing is the act of the Exchange. The BSEC may raise question as to the listing report but cannot ignore them.¹⁷⁹

(v) **Financing by the bank in capital Market:**

Background: It is universally recognized to separate capital market from the money market. The concept of 'Absolute Separation' follows Basel Principle. Because, Capital Market is for investment of capital. The depositor does not give permission to the bank to invest deposited money in the capital market. The client will invest his own money to the capital market if necessary. But investment of money of the client in the capital market without his consent is unethical. (b) That's why the amount of investment in the capital market

¹⁷⁸ Inquiry Report 2011, 135.

¹⁷⁹ *ibid.*

by the bank is determined as per equity of the bank (that means capital of the owner) in the banking law of India and that of Pakistan. Not with the liability of the depositor or bank. But in Section 26(2) of the Bank Companies Act 1991 there is provision for liabilities of Bank that means there is provision for 10% investment of the total deposits in the capital market. (c) Thus, the big loans of the bank come into the capital market, to increase liquidity, to increase the usual value of the share. Even problems are created in the money market. (d) The Inquiry Committee observes that if this is not rectified serious crises will be created in both capital market and money market in future and the economy of the country will be endangered. In Bangladesh the Basel Accords are a series of three sequential banking regulation agreements (Basel I, II, and III) set by the Basel Committee on Bank Supervision (BCBS). The Committee provides recommendations on banking and financial regulations, specifically, concerning capital risk, market risk, and operational risk.¹⁸⁰

Recommendations of the inquiry committee: (a) Following the experience of neighboring countries including India, Pakistan, Sri Lanka and implementing Basel Principle, Section 26(2) of the Bank Companies Act 1991 should immediately be amended and fix the investment made by bank in the capital market as part of the capital of the bank (TEAR-1) and Stop amalgamation/merger with the deposit. (b) The banks which made investment in the capital market in 2009 and 2010 violating the law and helped in the jumping, action should be taken against them by the Bangladesh Bank. (c) The illegal intrusion (never expected) of banks in the capital market should seriously be

¹⁸⁰ Inquiry Report 2011, 135-136.

monitored and prevented by the Bangladesh Bank to control abnormal capital risk, market risk, and operational risk of stock market and banks.¹⁸¹

(vi) **Procedure pre-IPO and at IPO:**

Background: (a) Transparency in capital market is established in share abstinence and mechanization of Stock Exchange. But the steps before entering into the capital market are not transparent. Application for IPO is accepted despite there is no recommendation by the Listing Committee of the stock Exchange. In spite of the valuation of wealth is unusual, BSEC accept them without examination. There is no logic for determination of unusual Indicative value. (b) BSEC seems just for approval not for exercising the diligence. In fact, for this reason, there is huge inflation in the placement process in Pre-IPO/IPO stage and in the process of creation of ‘Kerb market in placement of Kerb market/commerce’. For that reason, due to shortage of money in the main capital market, the capital market is collapsed.¹⁸²

Recommendations of the inquiry committee: In order to bring transparency in Pre-IPO/IPO process, code of conduct should be made and implemented. BSEC will make the code of conduct. The code of conduct should be published and implementation activities should be transparent.¹⁸³

¹⁸¹ Inquiry Report 2011,136.

¹⁸² *ibid.*

¹⁸³ *ibid.*

(vii) **Placement Commerce /Kerb market:**

Background: (a) It is revealed in the public option that placement becomes a pandemic. In most cases the permission of placement is at lower value than the value of IPO. As a result, it is appeared that there is influence of placement of the influential persons. (b) There is no code of conduct for BSEC for placement. (c) Public participation is for public offer. But participation of people becomes decreasing due to Placement. (d) Eight companies offer convertible preference share during two years 2009-2010, in which average 69% was placement (the highest 100% is for Agni System and lowest 58.7% is for Peoples Leasing. In this situation public participation becomes limited. (f) Giving more space for placement and by limiting public participation in primary leads to placement business. It is comparable with Kerb market. Non-transparency is at highest level.¹⁸⁴

Recommendations of the inquiry committee: (a) Placement Procedure will be prepared after consultation with civil society, people's representatives, and capital market concerns. The reconstituted BSEC will do this job. (b) The copy of the allotment of placement will be given to the BSEC. (c) The allotment letter will not be transferable. The purchase price of the placement against the allotment letter will be deposited in the BO account, and share will be issued against it. The allotment letter will be a kind of warrant and after conversion into share, the share of the private placement shall be locked in at least for one year, because its value is less than the value of IPO. (d) The Kerb market of the private placement will be

¹⁸⁴ Inquiry Report 2011,136.

stopped after detailed examination with further procedure. (e) Placement should not be more than 25% of the share price of the IPO. (f) IPO is oversubscribed 23 times in the present; thus IPO is unnecessary. (g) The BSEC will examine inclusively the source of money, nexus of the top listed 30 placement holder described in paragraph 8.2 of Chapter-VIII of the Inquiry Committee Report.¹⁸⁵

(viii) **Bring transparency in non-transparent in omnibus accounts:**

Background: (a) The legal explanation of omnibus account is given in Chapter-VI of the Inquiry Committee Report, where it is revealed that the process is not legal. (b) Behind every omnibus account run by CDBL, there are three to ten thousand illicit accounts in the book of every merchant bank. That means the total amount of 3-10 thousand go to BO account in the name of merchant bank. The individual account is not disclosed. It is appeared in the investigation of the Inquiry Committee those unethical transactions are there more in those accounts. (c) As it is mandatory that the share transaction is to be made through BO account, so the account kept by the merchant banker is kept away from the share transaction.¹⁸⁶

Recommendations of the inquiry committee: (a) Separate BO account will be opened for individual accounts which are behind the omnibus account. (b) The merchant banker may keep shadow account for their own convenient. (c) The merchant banker may, if necessary, have general lien over the share of the client, so that no hurdle is created in share transaction and the loan of the merchant banker is secured.¹⁸⁷

¹⁸⁵ Inquiry Report 2011,136..

¹⁸⁶ ibid.

¹⁸⁷ ibid Inquiry Report 2011,136-137.

(ix) **Share transaction of government and concerned officers:**

Background: (a) The tendency of share transaction in government officers and officers of the controlling body is increased. It is seen in the government office that they are busy in share trading leaving their jobs in their office. Therefore, the official jobs are hampered. (b) Though service rules prohibit but there is no implementation. The fact sheet 1 and 2 given in Chapter-VIII of the Inquiry Committee Report is the proof. There is strong prediction that there is same tendency in the Bangladesh Bank and BSEC. There is same tendency in the banks. Lack of implementation of service rules leads to violation of rules. (c) Placement given at lower price than the market price in the mutual fund and IPO including their cases give rise to a new form of bribery. It is used to make more profit by the favor of many others including unethical officers. There is public perception that the top-level officers hold placement in *benami*. It is also difficult to identify the *benami*. (d) As the government i.e., the influential section takes the advantage, so the controlling authorities are influenced by the controlees and it becomes ineffective. (e) Detailed information is there in Chapter-VIII of the Inquiry Committee Report.¹⁸⁸

Recommendations of the inquiry committee: (a) Share trading among the officers and employees of the BSEC, Dhaka and Chittagong Stock Exchange, Bangladesh Bank and Scheduled banks will be stopped. But they may invest in share. Prohibition will be included in the service rules and implement it. The officers cannot share transaction in his own name, in the name of his wife, children, brothers-sisters, and parent or in *benami*. (b) If it is proved provision will

¹⁸⁸ Inquiry Report 2011,137.

be there for deterrent penalties. (c) The officer of the merchant banker, asset management companies and broker-dealer companies will abide by the prohibition. (d) The officers of the government, semi-government and autonomous bodies may invest in share but cannot take placement and cannot share trading. Placement will be regarded as bribery. There will be a BO account for investment and will inform their own authorities as to BO account numbers including how much money is invested in share and it will be included in the income tax return.¹⁸⁹

(x) **Procedure of revaluation of the asset:**

Background: The companies make over value of their assets by taking the advantage of the weakness of the procedure of asset revaluation, which is not consistent with the actual value of the assets. (b) If NAV is counted on the basis of overvalued assets, the indicator will give wrong sign. (c) Many companies issue bonus share against unrealized gain of the value of the revalued assets of the company, which is not legal. Provisions are there in the revaluation of assets that provision against the deferred tax. (d) Provision against deferred tax is there in the revaluation of assts. But the revaluing companies do not follow this. (e) There are no certified surveyors (no institutes of surveyors). As per international rule-chartered accountant cannot audit and valuation at the same time.¹⁹⁰

Recommendations of the inquiry committee: (a) The chartered accountant will perform the duties of valuation until chartered Surveyors Institutes is established. Provided that there might be a separate chartered firm for the valuer and auditor of

¹⁸⁹ Inquiry Report 2011,137.

¹⁹⁰ Inquiry Report 2011,138.

the same company, in no case it may be one. (b) If any company submit its statement of revaluation of its assets to the BSEC, the BSEC may refuse to accept it if it is not satisfied.¹⁹¹

(xi) **Fixation of share value by fixed price procedure:**

Background: (a) Though fixation of share value by fixed price is practicable and there is scope for objectives. (b) There is provision in the law for 3 years income projection, which is questionable. (c) There is scope for consideration of the market value of similar stock of previous year, but there is no definition or explanation of similar stock.¹⁹²

Recommendations of the inquiry committee: (a) The basis of projected value of three years, assumption, procedure and valuation will be written down. It is not acceptable to the BSEC, it will be rejected. (b) Similar Stock should be defined. According to the Inquiry Committee the NAV application for a company, the NAV of the company will be within three times during consideration period and the PE ratio will not be more than 15, these companies will be regarded as similar stock, provided that the similar stock will have similar business. Whether the business is similar or not, this question will be decided by the SEC. (c) The BSEC will examine consciously the valuation of the asset.¹⁹³

(xii) **Fixation of share by book building procedure:**

Background: (a) It is revealed that fixation of higher value of share through book- building process is one of the major means for distortion of market. (b) By book-building method (direct listing, the indicative price of 10 taka share of

¹⁹¹ Inquiry Report 2011,138.

¹⁹² ibid.

¹⁹³ ibid.

KPCL is fixed 162 taka, on first day it's selling price was 194.25 taka and now (29.3.11) market value is 96.90 taka only that means it is decreased 97.35 taka from first selling price. By book-building method, the indicative price of 10 taka share of OCL is fixed 121.40 taka, on first day its selling price was 145 taka and now (29.3.11) market price is 109.10 taka that means it is decreased 36.90 taka from first market price. It is proved that the method of price fixation of the two companies was wrong. (c) If twisting is not committed in fixing valuation, the price is not decreased RAK companies is the proof. In the same method book-building the indicative value of 10 taka share of RAK Ceramics was fixed 40 taka, the selling price was 48 take and now (29.3.11) the selling price is 108.70 taka that means it is 60.70 higher than first price. (d) It is proved from the above three examples that if the issuer company and the issue manager are honest and professional, the value will not be distorted. But the issuer and issue manager may manipulate the price in the process. It is necessary to remove the weakness of the procedure.¹⁹⁴

Recommendations of the inquiry committee: (a) In order to prevent price distortion, provisions will be made that the companies which will bid the price, must purchase at least 10% share at the average weighed price proportionately. If there is no financial or stake liability, there is no obligation in fixation of valuation. There will be 180 days lock in the share purchased by the bidder.¹⁹⁵

¹⁹⁴ Inquiry Report 2011,138,139.

¹⁹⁵ ibid Inquiry Report 2011,139.

(xiii) **Test cases of high valuation of assets:**

Background: Due to asset valuation, the companies which NAV as per share is more than 100% are given below:¹⁹⁶

Name of companies	Taka per share (NAV)		
	Before revaluation	After revaluation	% change
Libra Infusion	438	15,667	3472%
Sonali Ash Industries	297	2,156	626%
Rahim Textile	127	785	518%
Bd Thai Aluminium	142	566	298%
Orion Infusion Ltd.	20	101	413%
Ocean Containers Ltd.	13	50	296%
Shinepukur Ceramics	12	26	120%
Eastern Insurance	151	309	104%

Recommendations: A committee consisting of 5 member-chartered accountants will examine the efficiency of revaluation of assets of the above mentioned 8 companies as a test case. If revaluation is proved faulty, penal measure will be taken against the higher valued companies, valuer and issue managers. If commission of illegal activities are not punished, the illegal activities will repeatedly be committed.¹⁹⁷

(xiv) **Corruption by controlling and concerned officers:**¹⁹⁸

Background: (a) Specific information is given as to transaction of huge number of shares through four accounts in the name of Rukhsana Akhtar, the wife of Executive Director Mr. Anwarul Kabir Bhuiyan, in Corruption Figure-1 in Chapter-VIII of the Inquiry Committee Report. (b) Specific information is given as to share transaction and placement acceptance in the name of Farjana Akhter,

¹⁹⁶ Inquiry Report 2011, 196.

¹⁹⁷ Inquiry Report 2011,197.

¹⁹⁸ ibid Inquiry Report 2011,198.

the wife of Mr. Kafil Uddin Ahmed Chowdhury and in the name of Monsur Billah, the brother-in-law of Mr. Kafil Uddin Ahmed Chowdhury, the then Deputy Managing Director of ICB (now Managing Director of House Building Finance Corporation). In The Corruption Figure-2 in Chapter VIII of the Inquiry Committee Report, the profit of transaction is kept as fixed deposit in the name of Kafil Uddin Ahmed Chowdhury, that information with number of FDR is given.(c) Specific information is given as to acceptance of placement share of around 12 crore take by the R.Y. Shamsar the CEO of AB investment limited in his own name in the information figure in Chapter-VIII of the Inquiry Committee Report. It is conflict of interest.¹⁹⁹

Recommendations: (a) As the first two persons are under the Ministry of Finance, so departmental proceedings should be taken against them,(b) To establish precedent, in addition to departmental proceeding, it should be sent to the Anti-corruption Commission.(c) Mr. R.Y. Shamsar should be removed from his office due to unethical activities done by taking placement share being as a CEO.²⁰⁰

(xv) **Serial trading and manipulation:**

Background: Information is given in Chapter 8.6 of Chapter-VIII of the Inquiry Committee Report as to artificial trading environment by bulk transaction among trading environment by bulk transaction among Mr. Sirajudhullah and associates, Yaqub Ali Khandokar and associates and Anwar Hossain Khan and associates.

(b) Information is given as to serial trading by Abu Sadat Md. Sayem and his

¹⁹⁹ Inquiry Report 2011,139, 140.

²⁰⁰ *ibid.*

brother Abdul Mobin Mollah in paragraph 8.7 of Chapter-VIII of the Inquiry Committee Report. (c) Information is given as to buying and selling, rigging and unethically value sensitize through six broker houses of Golam Mustafa in paragraph 8.8 of the Inquiry Committee Report.²⁰¹

Recommendations: Punitive action should be taken by the controlling body BSEC by investigating unethical activities. The manipulation described in paragraph 8.6 of Chapter-VIII of the Inquiry Committee Report is against the provisions of Section 17(e) of the Securities and Exchange Act.²⁰²

(xvi) **Uniformities of face value of share:**

Background: (a) It is shown in paragraph 8.9 of Chapter-VIII of the Inquiry Committee Report that due to stock split market deviation was committed 81.5%. (b) Concerned bodies and civil societies recommend to the Inquiry Committee for uniformities of value share, but there are different of opinion whether equal value is 100 taka or 10 taka. (c) Due to difference in face value the market players have great problem of perception, it is fact. It is a domestic problem. It is indecent when 100 taka share becomes 500 taka, but it negligible when 10 taka share becomes 50 taka. The ordinary buyer prefers to buy 50 taka share to 500 taka share, therefore, price is increased.²⁰³

Recommendations: As (a) many 100 taka shares converted into 10 taka shares in the mean time, and (b) it is easy for the small investor to buy 10 taka share, thus

²⁰¹ Inquiry Report 2011, 140.

²⁰² *ibid.*

²⁰³ *ibid.*

the Committee thinks that to make equal value, the other value will be converted into 10 taka. Initiative may be taken to encourage the listed companies which face value of share is not 10 taka to convert into their face value of share 10 taka by 2011.²⁰⁴

(xvii) **Unfairness in issuance of right Share/preference share:**

Background: (a) It is described in paragraph 8.10 of Chapter-VIII of the Inquiry Committee Report that in the case of issuance of right share the Confidence Cement issued 600% in premium, Bay Leasing 250% in premium, Eastern Insurance 200% in premium and the City Bank, Finix Finance and Asia Insurance each issued right share 100% in premium. The approval of BSEC is questionable. It is supposed that by the increase of share, the price may be decreased, but after issuance of right share price is increased. It is mysterious. (b) Convertible preference share was not available, but 8 companies have drawn around 1200 crore taka in preference share during two years of 2009-10 (detailed in paragraph 8.11 of Chapter-VIII of the Inquiry Committee Report). BEXIMCO Pharma has drawn 410 crore taka Summit Power has drawn 300 crore taka, Aftab Automobile has drawn 180 crore taka and Peoples Leasing has drawn 120 crore taka. (c) Many preference shares are floated for just 2/3 months. Precedent is there that there are just for one month. Conversion for short time is not usually seen in foreign country.²⁰⁵

Recommendations: As there was abnormality in the process of issuance of right/preference share and everything was done with approval of the BSEC, it may be looked into by investigation; action may be taken after identifying the

²⁰⁴ Inquiry Report 2011, 140.

²⁰⁵ *ibid.*

responsible officers. There should at least three years restriction on conversion/transfer of right share.²⁰⁶

(xviii) **Doubtful transaction of top players:**

Background: (a) It is appeared from the description in Chapter V of the Inquiry Committee Report that top listed persons who made transaction during the sensitive period are Golam Mustafa, Abu Sadat Md. Sayem, Yaqub Ali Khandaker, Sayed Sirajudullah, Md. Khaliluzzaman, Md. Shahidullah, Arifur Rahman, Soma Alam Rahman, etc. (b) The top listed companies are ICB, Frontier Fund (BERMUDA), Far East Islamic Life Insurance, AB Bank, South East Bank, Uttara Finance, National Bank, Primer Bank, etc.²⁰⁷

Recommendations: (a) The BSEC may conduct detailed investigation on the transaction of those persons and bodies. If there is violation of law, penal action should be taken. (b) The accounts should be under full time vigilance and BSEC must update the list regularly.²⁰⁸

(xix) **Manipulation in the omnibus accounts as shadow:**

Background: (a) Due to time constraint, the Inquiry Committee did not examine the millions of shadow accounts in the guise of omnibus account. It is revealed during examination of some accounts as sample collection (5.13 para of Chapter V of the Inquiry Committee Report) that there was no proper reflection of deposit

²⁰⁶ Inquiry Report 2011, 141.

²⁰⁷ *ibid.*

²⁰⁸ *ibid.*

withdraw in the shadow account of Alhaj Musaddeque Ali Falu, Unique Hotel and Resorts Ltd., Dr. H.B.M. Iqbal, Mustofa, Ahsan Iman, Yaqub Ali Khandaker, New England Equity Ltd., Md. Lutfor Rahman (Badol), Shoma Alam Rahman, etc (para 5.15 of Chapter V of the Inquiry Committee Report).²⁰⁹

Recommendations: (a) The reformed BSEC will take proper action after examination of shadow accounts in the guise of omnibus accounts. (b) Initiative will be taken immediately to convert these accounts into BO accounts. (c) If it is not possible to fix three month time for conversion of omnibus accounts into individual BO account, BSEC should close the omnibus accounts.²¹⁰

(xx) **Block Placement:**

Background: In Para 5.19 of Chapter V of the Inquiry Committee Report share of 19 crore taka was allotted to 19 persons in the two address, which is doubtful of block trading. (b) There is information to allocate huge amount of share in the name of Ahsan Imam, Soma Alam Rahman, Shamima Sharif, Lutfor Rahman Badol, Monsur Billah, etc.²¹¹

Recommendations: After reformation of BSEC will take detailed investigation on the basis of this information and to find out allotment by mutual compromise and to take punitive action.²¹²

(xxi) **Identified problems in case study:**

Background: Cases studies of 17 companies are presented in Chapter 7 of the Inquiry Committee Report. Most information is collected and presented within limitation comments are attached.²¹³

²⁰⁹ Inquiry Report 2011, 141.

²¹⁰ ibid.

²¹¹ Inquiry Report 2011, 142.

²¹² ibid.

²¹³ ibid.

Recommendations: It is necessary to identify who are responsible for irregularities, violation of laws and who are the responsible for controlling officers for the approval. The reconstituted BSEC may perform these functions.

It is necessary to identify the liabilities to impose penalty. The BSEC may form a commission to take action against the 17 cases.²¹⁴

(xxii) **Regular activities after inquiry:**

Background: Money of share transaction is forwarded by BO account, merchant banker account and bank account, etc. Sometimes en-cash is made. Bangladesh Bank is the controller of banks and BSEC is controller of other bodies. It is impossible to find out money without joint inspection and investigation. The Inquiry Committee, on its own initiative with the joint effort with Bangladesh Bank and Dhaka Stock Exchange, examined some sample accounts. Surprisingly, the information of corruption is found out in the few samples' examination, which are described in Chapter VIII and other Chapters of the Inquiry Committee Report. The Committee is confident that if joint investigation is continued, more corruption cases will be found out and transparency will be established.²¹⁵

Recommendation: A joint Inspection team may be formed with the member of BSEC, DSE, CSE, Bangladesh Bank and Detective Branch to continue joint investigation. Two Executive Directors (in addition to their duties) will be in leading position. These two persons will prepare inspection plan and the joint team will do work accordingly and give report them. Bangladesh Bank will

²¹⁴ Inquiry Report 2011, 142.

²¹⁵ *ibid.*

examine the source of money, where money goes and whether there is money laundering or not and, BSEC will see whether there are manipulations, unethical activities or violation of laws.²¹⁶

(xxiii) **Implementation monitoring:**

Background: (a) There is a question whether the report of the Inquiry Committee of 1996 share enquiry was implemented even whether they were considered. If actions were taken, situation would be different. (b) The present Committee has collected irregularities, examined samples despite there were limitation and made recommendations accordingly. There should be proper reflection of thereof.²¹⁷

Recommendation: After examination of the report especially the recommendations, which are accepted, an Implementation Monitoring Committee needs to be formed. This committee may be formed with the Secretary of the Banking Division as its Chair and the Chairman of the BSEC and two members. The committee will monitor the implementation on weekly basis in first three months, fortnightly basis for the next six months and monthly basis. This process will continue until it is fully implemented.²¹⁸

(xxiv) **Government should be cautious:**

Background: In the Inquiry Report of 1996 Mr. Imtiaz Hossain, Khurshed Alam, Salman F. Rahman, Enayetur Rahim, Rakibur Rahman, Shakil Rizvi, etc were in the list of suspicion. In the present enquiry among them there are huge suspicion as to the role of Mr. Salman F. Rahman , Rakibur Rahman and there is

²¹⁶ ibid.

²¹⁷ ibid Inquiry Report, 142.

²¹⁸ ibid.

same information. Many predict that these two persons had a great role to influence the BSEC. Many believe that Mr. Salman F. Rahman and Rakibur Rahman had a great persuasion and support to the appointment of the present BSEC Chairman Mr. Khandaker and reappointment of member Mansur Alam.

Mr. Salman F. Rahman pursued the Governor of Bangladesh for the non-transparent case of BD Thai Aluminium. Mr. Salman F. Rahman had involvement in JMJ, Unique Hotel case, etc. (Chapter VII, case 7.3 of the Inquiry Committee Report). The cases were non-transparent. These two persons had unwanted influence in the administration of BSEC. Thus, the image of the government was hampered.²¹⁹

Recommendations: The committee is of opinion that the high level of the government should be cautious about the influence of Mr. Salman F. Rahman and Rakibur Rahman in the transaction and administration in the capital market. If the market players influence over SEC, the SEC will be ineffective. Devastation will be repeated.²²⁰

(xxv) **Miscellaneous:**

- (a) Provisions should be made to give TIN when BO account is opened.
- (b) It should absolutely prohibit to appoint retired, resigned, otherwise removed or terminated officers of the BSEC in capital market relevant establishment or appoint as advisor, consultant or otherwise in part-time or full-time appointment and give consultation service in share issue or capital market. Because, they have chance in influence and there is conflict of interest. (There

²¹⁹ Inquiry Report, 2011, 143.

²²⁰ *ibid.*

is allegation that the former members of BSEC Mr. Shaheeb Alam influenced over the BSEC in the consultancy).

(c) Giving information to the companies as to the shareholding information of the listed companies on daily basis from the CDBL should be stopped. The CDBL and both Stock Exchanges should be more cautious about information keeping. Because, there is allegation of information leak out and the list of leaked out information came at the hand of the Inquiry Committee.

(d) In order to stop share trading on rumour and to give consultancy to the small investors, investment advisor registration system may be introduced.²²¹

The Commission has conducted enquiry regarding dishonest market players and investors in the market and taken necessary lawful action against them. Owing to criticism about omnibus account in the market, omnibus account for nondiscretionary investors has been closed. As a result, malpractice through omnibus account has been stopped. The Commission (BSEC) has issued a long-term policy regarding margin loan limit so that frequent changes in the limit may not create negative impact on the market.²²²

3.6 Concluding Remarks

The stock markets of Bangladesh as elsewhere are governed Major regulatory authorities of Bangladesh stock market consist of Bangladesh Securities and Exchange Commission, Registrar of Joint Stock Companies and Firms, Dhaka Stock Exchange Limited and Chittagong Stock Exchange Limited taking the responsibility of implementing certain Acts, rules and regulations. Besides, Central Depository Bangladesh Limited, Bangladesh Institute of Capital Market, Stock-dealer/stock-

²²¹ Inquiry Report,2011,143.

²²² *Annual Reports* (2012-2013), Bangladesh Securities and Exchange Commission, 5.

broker, Merchant Banker, Asset Management Company, and Credit Rating Company etc. are the institutions that contribute to the development of the Bangladesh stock market.

The debacle of 1996 and 2011 was basically a massive regulatory failure. BSEC lacks quality, professional manpower, competent accountants, financial analysts and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of co-ordination between the Ministry of Finance, Bangladesh Bank, Securities and Exchange Commission and other related organizations.

Bangladesh stock market experienced the first worst turmoil in 1996. The Inquiry Committee, 1996 prepared a lengthy report identifying a number of companies being in breach of specific provisions of securities market regulation and commented that such companies were guilty of fraudulent acts in relation to securities trading. The Enquiry Committee also identified some of the country's biggest brokers who were apparently involved in market manipulation. However, it is unfortunate that the Inquiry Committee Report failed to address the regulatory aspects in a comprehensive way. The Bangladesh stock market has again seen an upsetting scenario in 2010 that is very similar to the one in 1996. As it was recovering from that trough, it again dropped into the pit. In order to enquire into the un-usual up-down trends of the capital market since December 2010, a national inquiry team was formed on 26.01.2011. The committee was formed to investigate the stock market crash on 24 January 2011, with former Bangladesh Bank Deputy Governor Khondoker Ibrahim Khaled heading the four-man high-powered committee. The committee found various irregularities, including the existence of omnibus accounts, which allowed some market players to make exorbitant profits at the expense of the retail investors. The

report ended with recommendations to reform the BSEC drastically and asked the government to publish the names of the influential players and to remain cognizant in countering their influences. However, the then Finance Minister AMA Muhith stated that the State would neither disclose the names of the accused officially nor take punitive measures without further investigation, although no dates for fresh probes have been declared. Later, the report was published under the direction of Hon'ble High Court Division after omitting the name of culprits. The Inquiry Committee after identifying the paramount causes of the notorious scams, specifically proposed some noteworthy recommendations which are yet to be implemented for the sustainable development of stock market in Bangladesh.

Chapter 4

Appraisal of Acts, Rules, Regulations and Case Laws of Bangladesh

4.1 Existing Acts, Rules and Regulations relating to Stock Market

Laws relating to stock markets play an important role in the development of stock markets. Most of the stock market experts believe that ineffective stock market Acts, Rules and Regulations hampered the optimum growth of Bangladesh stock markets.

The Laws and Regulations relating to securities and share markets in Bangladesh are new in practice and have come to notice only after the great turmoil in the share market in 1996 and the measures taken by the Bangladesh Securities and Exchange Commission against some persons alleging that they contravened the laws relating to the conduct of the share markets.

The basic laws that cover the field are the Securities and Exchange Ordinance 1969,¹ Bangladesh Securities and Exchange Commission Act, 1993,² Depositories Act 1999,³ Companies Act 1994,⁴ Exchanges Demutualization Act 2013,⁵ and rules, regulations, bye-laws, order, directives, notification have been framed under these laws.

This chapter appraises the principal Laws (Acts, Ordinance etc.), subordinate legislation i.e. rules, regulations etc. and some landmark case-laws relating to Stock Market in Bangladesh.

¹ Securities and Exchange Ordinance 1969 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

² Bangladesh Securities and Exchange Commission Act 1993(Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

³ Depositories Act 1999 (Bangladesh)<<http://bdlaws.minlaw.gov.bd/>>.

⁴ Companies Act 1994 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

⁵ Exchanges Demutualization Act 2013 (Bangladesh)<<http://bdlaws.minlaw.gov.bd/>>.

4.1.1 Primary Legislations of Stock Market

The very relevant principal legislations relating to Stock Market are:

1. Securities Act 1920⁶
2. Securities and Exchange Ordinance 1969
3. Bangladesh Securities and Exchange Commission Act 1993
4. Companies Act 1994
5. Depositories Act 1999
6. Exchanges Demutualization Act 2013
7. Financial Reporting Act 2015⁷
8. Capital Issues (Continuance of Control) Act 1947⁸

4.1.2 Secondary Legislations of Stock Market⁹

On the other hand, the most relevant subordinate or delegated legislations relating to Stock Market are as follows:

1. Securities and Exchange Rules 1987
2. Securities and Exchange Commission (Meetings) Rules 1994
3. Securities and Exchange Commission (Appeal) Regulations 1995
4. Securities and Exchange Commission (Beneficial Business Prohibition) Rules 1995
5. Securities and Exchange Commission (prohibition of insider-trading) Regulations 1995

⁶ Securities Act 1920 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

⁷ Financial Reporting Act 2015 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

⁸ Capital Issues (Continuance of Control) Act, 1947 (XXIX of 1947) was repealed by Section 11 of the Securities and Exchange (Amendment) Ordinance, 1993 (Ordinance No. 4 of 1993) on 3rd May 1993. [It may be mentioned here that Section 11(c) of the Bangladesh Securities and Exchange Commission Act 1993 states that, all liabilities and responsibilities of the Government under the Capital Issues (Continuance of Control) Act, 1947 (XXIX of 1947) and the Securities and Exchange Ordinance, 1969 (XVII of 1969), hereinafter referred to as the said laws, shall be the liabilities and responsibilities of the Commission.]

⁹ <https://www.sec.gov.bd/lbook/F-02_2015.pdf>.

6. Securities and Exchange Commission (Merchant Banker and Portfolio Manager) Rules 1996
7. Credit Rating Companies Rules 1996
8. Margin Rules 1999
9. Depositories Regulations 2000
10. Securities and Exchange Commission (Market Making) Rules 2000
11. Securities and Exchange Commission (Stock-dealer, Stock-broker and Sub-Authorised Representative) Rules 2000
12. Securities and Exchange Commission (Mutual Fund) Rules 2001
13. Securities and Exchange Commission (Issue of Capital) Rules 2001
14. Securities and Exchange Commission (Over-the-Counter) Rules, 2001
15. Securities and Exchange Commission (Acquisition of Substantial Shares, Merger and Take-over) Rules 2002
16. Depository (User) Regulations, 2003
17. Securities and Exchange Commission (Security Custodial Services) Rules 2003
18. Securities and Exchange Commission (Asset Backed Security) Rules 2004
19. Securities and Exchange Commission (Rights Issue) Rules 2006
20. Securities and Exchange Commission (Private Placement of Debt Securities) Rules 2012
21. Bangladesh Securities and Exchange Commission (Research Analysis) Rules 2013
22. Stock Exchange (Investors' Protection Fund) Regulations 2014
23. Bangladesh Securities and Exchange Commission (Alternative Investment) Rules 2015
24. Bangladesh Securities and Exchange Commission (Public Issue) Rules 2015

25. Securities and Exchange Commission (Alternative Investment) Rules 2015
26. Bangladesh Securities and Exchange Commission (Exchange Traded Fund) Rules 2016
27. Bangladesh Securities and Exchange Commission (Development of Investors Education and Training) Rules 2016
28. Bangladesh Securities and Exchange Commission (Clearing and Settlement) Rules 2017
29. Bangladesh Securities and Exchange Commission (Qualified Investor offer by Small Capital Companies) Rules 2018
30. Bangladesh Securities and Exchange Commission (Exchange Traded Derivatives) Rules 2019
31. Bangladesh Securities and Exchange Commission (Short-Sale) Rules 2019
32. Bangladesh Securities and Exchange Commission (Risk Based Capital Adequacy) Rules 2019
33. Bangladesh Securities and Exchange Commission (Investment Sukuk) Rules 2019

4.2 Apprising Noteworthy Legislations of Stock Market

In the above sections almost all relevant primary and subordinate legislations relating to stock market in Bangladesh are mentioned. However, all legislations have not equal importance and significance that need to discuss and scrutinize in details. Some of the vital and noteworthy legislations are described hereafter for critical analysis.

4.2.1 Securities Act 1920

Securities law in Indian sub-continent commenced in 1913 as a part of commercial law. Sections 92-100 of the Companies Act 1913 deals with contents of prospectuses, procedure of filing and liability for statements provided therein. From the late 19th century through the mid-20th century there was a sound growth of stock exchanges in

this jurisdiction was seen in late nineteenth to mid-twenties. However, for a long period, no comprehensive regulatory control was established over the stock exchanges. In 1865, an Act (XXVIII) was enacted by the Mumbai Government for preventing speculative activities in the stock market. This Act is claimed to be the earliest legislation relating to the stock markets in this subcontinent. Later, in 1886 another Act (XIII) was enacted by the British Raj to regulate the Government securities. However, The Indian Securities Act 1920 was the first formal effort to regulate the overall securities market of this region effectually.¹⁰

The Securities Act 1920 enacted for the consolidation and amendment of the law relating to Government securities. Section 2(a) of this Act defines "Government security" as promissory notes (including treasury bills), stock-certificates, bearer bonds and all other securities issued by the Government in respect of any loan contracted either before or after the passing of this Act, but does not include a currency-note.

4.2.2 Securities and Exchange Ordinance 1969

The Securities and Exchange Ordinance 1969 (SEO, 1969) was enacted for protecting investors, providing regulations of capital markets and issue and dealings in securities etc. A vast amendment was brought in this Ordinance following the enactment of the Bangladesh Securities and Exchange Commission Act 1993.

¹⁰ Tureen Afroz, 'Securities markets in Bangladesh: Regulatory history until 1947', *The Daily Star*, (Dhaka, 5 August 2006).

4.2.2.1 Salient Features of the SEO, 1969

Section 2 of the Ordinance defines some relevant and unique terms for purpose of comprehensive understanding of this Ordinance. Section 2A of the SEO, 1969 deals with control over issue of capital and prohibits the companies in making an issue of capital, public offer for sale and renew or postpone the maturity or repayment date in Bangladesh without permission of the Commission (BSEC). Any company may issue capital beyond Bangladesh on approval of the BSEC.

Section 2B of the Ordinance provides provision for controlling over prospectus and other documents for subscription or offering for sale any securities publicly. Such prospectus and other documents must be submitted to the commission before its issuance for examination and on satisfaction, the commission shall permit such issuance upon certain terms and conditions.

Section 2C restricts the acceptance or giving any consideration for any securities for issue of capital in Bangladesh or elsewhere or proposal to do so without the assent or accord of the Commission.

In Section 2CC, by inserting a *non-obstante* clause, gives the Commission power to impose any condition as may be necessary overriding any law, Memorandum or Articles of Association of company or any consent or recognition accorded under Section 2A, 2B with retrospective effect.

Section 2D of SEO, 1969 highlights on the Commission's authority, through *the official Gazette*, exempt the compliance of Sections 2A, 2B and 2C and condone a contravention thereof.

Section 2E of the Ordinance empowers any officer authorised by the Commission may, for the propriety in an application for consent or recognition or for ascertaining the compliance of terms to call for such accounts, books, documents or other

information to be furnished as may be necessary. However, in complying requirement in Section 2E, it is prohibited under Section 2F to furnish any false or untrue particular having such knowledge or reasonable belief.

For using or utilizing the facilities or services of a Stock Exchange, a Stock Exchange must be registered under this Ordinance according to Section 3 of SEO, 1969. However, there are some mandatory requirements for the registration of Stock Exchanges as per Section 4 of the SEO, 1969 with a view of ensuring fair dealings and protecting investors. Upon fulfilment of the eligibility test and satisfaction of BSEC in favour of the trade interest as well as public interest, a certificate of registration may be granted to the stock exchange under Section 5. The application may be refused by giving an opportunity to be heard. However, under Section 7 of the Ordinance, the BSEC may cancel the registration or suspend for a period or supersede the governing body or Remove the director, officer or member, of the Stock Exchange, if BSEC satisfies that Stock Exchange has contravened any provision, or neglected or failed to fulfil with any requirement, of this ordinance, or of any rule, regulation or direction the protection of investors or ensuring fair dealings.

Section 17 of the SEO, 1969 restricts the sale or purchase of any security, directly or indirectly employing any device, scheme or artifice, any act, practice or course of business, intended or deemed to be a fraud or deceit upon any person or giving any suggestion or statements as a fact not believed to be true or omission to state a fact known or believed to be true or inducing by deceiving to do or omit to do anything or in any manner influencing or turning to his advantage. In addition, Section 18 of the SEO, 1969 prohibits providing any false or incorrect in any material particular in any required document, paper, account information or explanation with such knowledge or belief.

Section 22 of the SEO, 1969 gives the authority upon the BSEC to impose penalty for refusal or failure to furnish any document, paper or information or comply with any order or direction or contravention or non-compliance of the provision of this Ordinance with fine not exceeding one lakh taka and, in the case of a continuing default a further sum calculated at the rate of ten thousand taka for every day after such order during the refusal, failure or contravention continues. This Section also bars the prosecution in any court challenging the penalty order imposed under this Section. However, under Section 22A¹¹ an order of penalty imposed by the BSEC may be challenged by depositing an amount of 15% (fifteen percent) of such penalty in the BSEC.

Any offence under this Ordinance may be taken into cognizance by the Court under Section 25 on a report in writing of the facts stating the offence by an authorized officer of BSEC and only the Court of Sessions shall try such offences.

Section 25B(1)¹² stated the provision establishment of one or more Special Tribunal consisting of a Sessions Judge or Additional Sessions Judge to be appointed by the Government conferring the power of Court of Sessions under the Code of Criminal Procedure 1898. Further, the Court of Sessions is empowered to transfer, *-suomotu*, or upon an application by the Commission, any case to Special Tribunal during trial and the Tribunal shall try the case from such transferred. As per Section 25A¹³ burden of proof shifted on the person prosecuted for contravention of any provision to prove that he have not contravened the provision.

¹¹ Section 10 of the Securities and Exchange (Amendment) Act 2012<<http://bdlaws.minlaw.gov.bd/>>..

¹² Section 11 of the Act (n11) <<http://bdlaws.minlaw.gov.bd/>>.

¹³ Section 10 of the Act (n11) <<http://bdlaws.minlaw.gov.bd/>>.

4.2.2.2 Shortcomings of the Securities and Exchange Ordinance 1969

To make this Ordinance faultless, strong and effective piece of legislations, its shortcomings must be identified to find ways out thereof. Some of the limitations of this Ordinance are discussed in this section.

(i) Unfettered Power to Impose Conditions

In Section 2CC, by inserting a *non-obstante* clause, gives the Commission power to impose any condition as may be necessary overriding any law, Memorandum or Articles of Association of company or any consent or recognition accorded under Section 2A, 2B with retrospective effect. This is an arbitrary interference on the company matters by inserting the *non-obstante* clause which is a martial law concept. This Section further gives the retrospective effect to any order of Commission whether it is detrimental to anybody, violating the constitutional negation on *ex post facto legislation* as enshrined in Article 35 of the Constitution.

(ii) Insufficient Provisions to regulate Kerb Market

Section 2C of SEO, 1969 clearly prohibits unauthorized person to purchase or sell any securities. However, the existence of an unregulated kerb market in Dhaka has exacerbated the stock market manipulation and caused extensive damage to the overall capital market in 1996. In 1996 a sudden rise in the number of kerb operators i.e., wayside punters without any legal authority to trade in shares complicated the situation. A large section of the kerb operators, it is alleged, were actually financed and dictated by a group of share market tycoons who with the help of their hand-picked kerb operator raised the price of cretin share and off-loaded them at an unbelievably high premium. The more dangerous element embedded in the kerb market is fraud. An unscrupulous street person may bring a worthless security and try

to sell it as a genuine security. In 1996 BSEC failed to protect the investor's interest by strictly implementing the Section 2C of SEO, 1969.

Section 8 is the all-important Section forbidding transaction on any stock exchange of any business in securities without being a member thereof and none can transact a non-government security without being listed on the stock exchange. It is prohibited to be a dealer in a security listed on a stock exchange outside such stock exchange and one must be a member to act as a broker or a jobber for any security not listed on a stock exchange. A discounting of any security evidencing a loan shall not come within the ambit of restrictions in the Section. This Section prohibits the kerb marketing which has become now more famous for breach of the law than for its obeying. Outsiders have been active in dealing in securities outside the DSE and this unlisted marketing of securities contributed a big way in fuelling rumors and shooting the market up abnormally until it came down with a bang in 1996.

(iii) Incapability to Protect Investors

One of the important ways of investors' protection in the primary market is for ensuring full and fair disclosures to potential investors so that they can take informed decision. Prospectus is an invitation to prospective investors to subscribe for securities of a public company detailed in it. In order to get fair information about the public issue and its issuer, such full information must be provided in prospectus.

According to Section 2B, 2E and Section 18 of SEO, 1969, it is BSEC's duty and responsibility to ensure full and fair information for investor's protection and it was not discharged by BSEC in the recent past 2009-2010 and 1996. From the above analysis, BSEC failed to protect investor's interest by approving such prospectus, which goes against the interest of investors. It is also surprising why BSEC has not followed Section 2B, 2E and 18 of SEO, 1969 to protect the interest of investors.

(iv) Lack of Proper Execution of the Stock Market Regulations

According to Section 11(1), 11(2) of SEO, 1969 the required annual report and statements and other reports of every listed security shall be furnished to the Stock Exchange as well as the security holders and the BSEC. It is observed that many public limited companies, are not holding regular Annual General Meeting (AGM), paying dividends and publishing financial statements in time. These aspects go against BSEC regulation, for lack of proper execution of the stock market regulations.

(v) Inadequate Disclosure of Information

Information is vital in influencing the demands for securities. Investors expect interim and more accurate information on company performance. Both investors and officials of listed companies in Bangladesh were of the opinion that the disclosure of information by the enlisted companies was not adequate. In addition to that companies do not make timely disclosure of information. Even many companies violate the regulation to pay dividends within 60 days after holding AGM. Investors believe that there are widespread manipulations and malpractices in the accounts of listed companies and so in the conduct of stockbrokers.

(vi) Absence of Concrete Guidelines

Absence of concrete guidelines for prospectus preparation, IPO and premium pricing is also discouraging for the investors. Efficient and reliable brokerage houses have not yet developed for supporting and guiding the investors in taking right decision. Investors are not capable enough to analyse financial information. Thus, the investors in Bangladesh are exposed to high degree of risk in the face of frequent reported market manipulation and other abuses that make the elusive concept of business confidence. It seems from the above analysis that to provide authentic detailed

information regarding the IPO to the investor's, concrete revised guidelines for prospectus preparation and premium pricing are essential.

(vii) Deficient Penalty for Committing Fraudulent Actions

Section 24 of the Securities and Exchange Ordinance 1969 states that whoever contravenes the provision of Section 17 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to five lakh taka, or with both. At present situation, this penalty is not enough for perpetrators having financial strength. Besides, the greedy stock market culprit would be less afraid of this highest level of imprisonment and might not care for highest compensatory penalty without having any minimum punishment. Precedence may be taken from Money Laundering Prevention Act 2012¹⁴.

(viii) Ineffective Fine Recovery System

Section 14 and 22 (2) of the SEO, 1969 requires the BSEC to bring cases to recover short swing profits and Section 22 (2) prescribes to recover arrear fine in default of compliance of directives or provisions of SEO, 1969 as arrear of land revenue which is collected under the Public Demands Recovery Act 1913¹⁵ (PDR Act). However, the PDR Act has not proven an effective tool for recovery of fines. In short, it reveals that many cases are not heard because of failure of service or writs contesting the Court's jurisdiction. Recovery of fines sought by the BSEC is an abysmal 0.5 percent.¹⁶

Over the BSEC's most recent 5 year period it filed 140 cases under the PDR Act 1913 in which it demanded a cumulative total of BDT 1,400.58 (million) or \$18.09 million, but collected only approximately 0.5 percent of what it sought (BDT 7.1 million or \$.09 million). In only 3 cases was the full amount demanded paid and 74 percent of

¹⁴ Money Laundering Prevention Act 2012 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

¹⁵ Public Demands Recovery Act 1913 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

¹⁶ Source: BSEC Law Division

the cases (104 of the 140) were not heard. Based upon the data provided by the Legal Division in the above tables, it appears that the PDR Act, under which the General Certificate Court is established, has been ineffective in the role envisioned under the Ordinance, i.e., the forum where the BSEC can recover fines and penalties.¹⁷

(ix) No Direct Access to Justice

Section 25 of the SEO, 1969 bars cognizance of an offence under the Ordinance except on a report in writing by an officer authorized in this behalf by the BSEC. There is no permanent prosecution unit as prescribed in Anti-Corruption Commission Act 2004¹⁸ for filing a case and investigating thereof on complaint by any person or *suomotu*. So, the condition of written report by authorized officer for cognizance of an offence makes prosecution of the perpetrators lengthy, faulty and sometime avoided. As a result, victim's direct access to justice is denied.

(x) Tribunal Lacking Cognizance Power on Complaint

Section 25B of SEO, 1969 authorizes the Tribunal all powers of the Court of Sessions in trying the securities related cases when it is transferred by the Court of Sessions. So, this Tribunal is only court of trial having no cognizance power. Without having cognizance power on complaint, people is not guaranteed speedy prosecution and trial with a view to rendering speedy justice.

(xi) Want of Original Jurisdiction of Tribunal to Try

Section 25 of SEO, 1969 further restricts the trial of such offence without the Court of Sessions. Section 25B of SEO 1969 authorizes the Tribunal all powers of the Court of

¹⁷ Technical Assistance Consultant's Report, Bangladesh: Third Capital Market Development Program (CMDP III), Maryland, USA, September 2015, 24, 25.

¹⁸ Anti-Corruption Commission Act 2004 (Bangladesh) Sections 19-23 <<http://bdlaws.minlaw.gov.bd/>>.

Sessions in trying the securities related cases when it is transferred by the Court of Sessions. As there is no mandatory provision to transfer the cases to this Tribunal, few cases have been transferred and now it is reported that the Tribunal has no case to try. The Special Tribunal has started its judicial activities since 21 June, 2015 at the court located in 9th Floor of Bangladesh House Building Finance Corporation (BHBFC) Bhavan, Purana Paltan, Dhaka. By that time, 17 cases had been transferred from various courts of Metropolitan Sessions Court to Special Tribunal, out of which 10 cases had been postponed by the order of High Court Division of the Bangladesh Supreme Court. In June, 2015 seven cases were running at the Special Tribunal. Notable that except 17 cases, another 15 criminal cases were in process to be transferred to the Special Tribunal from Dhaka Sessions Court and Chief Metropolitan Magistrate Court.¹⁹ It is expected that, whereas the Special Tribunal starts its functions, disposal of the long pending securities related cases shall be expedited for bringing better discipline in the capital market of the country.

But unfortunately it is reported, there is zero triable case in the special tribunal for about 18 months due to non-transferring stock related cases by court of sessions and transferred cases are either disposed or pending in the apex court. As a complainant, the securities regulator should play dynamic part for transferring the cases from the HCD and lower court to the tribunal to keep it functional.²⁰

(xii) The Comfortable Savoir of Good Faith Clause

Section 30 of the SEO, 1969 provides immunity from the Acts of good faith. In order to ensure transparency and accountability of an institution/organization, it is necessary to make the persons responsible who are in the management of the

¹⁹ Sources: The Financial Express February 24 2020 and BSEC Law Division.

²⁰ *ibid.*

organization / institution for action done in good faith in their official capacity. If provisions are made in the law to immune those persons from criminal liability, impeachment or any other legal proceeding for those actions, it will hamper the transparency and accountability of the institution/organization. So Section 22 of the SEO, 1969 Act needs to be reformulated to shift the burden on the officer to prove his good faith in trial and not to exempt him from prosecution.

(xiii) Delay in Disposal for Lacking Own Prosecution Unit

BSEC has no own permanent prosecution unit as provided in Anti-Corruption Commission Act 2004. However, the Legal Services Department assists the lawyers appointed by the Commission to defend the court cases filed by BSEC or against BSEC, provides legal opinion on various issues sent by other departments of the BSEC. In addition it conducts certificate cases to recover penalty. According to Annual Report 2019-2020 of total cases pending in different Courts till June 2020 are given below tables and graph. In this financial year 6 cases filed by BSEC and 12 cases filed against BSEC. The status of the cases in different Courts is furnished below.

Cases filed by or against BSEC are pending in different courts during the financial year 2019- 2020:²¹

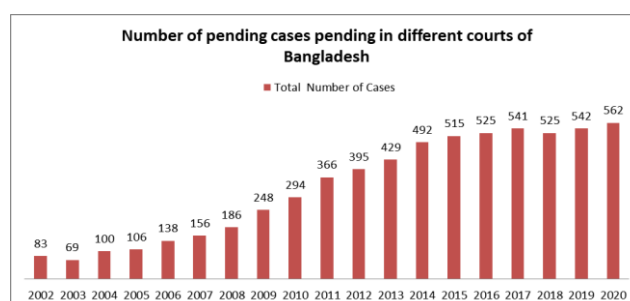
Cases filed by or against BSEC	Number of cases	Brief description
Cases filed by BSEC	6	6 Certificate case
Cases filed against BSEC	12	6 Writ Petitions, 5 Company Matters and 1 Financial Institutions Matters

²¹ Annual Reports (2019 -2020), *Bangladesh Securities and Exchange Commission*,102.

Number of Pending Cases in Different Courts ²²

Serial No	Name of the Court		Number of cases
1.	Supreme Court of Bangladesh	Appellate Division	13
		High Court Division	243
2.	BSEC Dhaka Special Tribunal, Court of Sessions		16
3.	Different Civil Courts in Dhaka		15
4.	CMM Court, Dhaka		03
5.	General Certificate Court, Dhaka		272
Total number of Cases:			562

Number of pending cases (Stock marker related) in different courts of Bangladesh (Year Wise): ²³



Because the Legal Affairs Department of the BSEC does not engage itself directly with the filing, investigation and prosecution process in the court, the investigation and prosecution of the respective case remains uncared and delayed by concerned authority and speedy justice is denied.

4.2.3 Bangladesh Securities and Exchange Commission Act 1993

The Laws and Regulations relating to securities and share markets in Bangladesh have come to be noticed only after the great turmoil in the share market in 1996 and the action taken by the BSEC against some persons alleging that they contravened the laws relating to the conduct of the share markets. The basic laws that cover the field,

²² Annual Reports (2019 -2020), *Bangladesh Securities and Exchange Commission*,102.

²³ *ibid.*

are the Securities and Exchange Ordinances 1969 and the Bangladesh Securities and Exchange Commission Act 1993 (BSEC Act 1993)²⁴ and the Rules and Regulations framed thereunder.

4.2.3.1 Basic Features of the BSEC Act 1993

(i) Establishment of the Commission

Section 3 of the BSEC Act 1993 provision to establish a Commission namely- Bangladesh Securities and Exchange Commission for implementing this Act having status of a statutory body, consisting of perpetual succession and a common seal, with legal personality.

(ii) Composition of the Commission

Section 5 of the BSEC Act, 1993 stipulates, that the Commission shall be constituted by permanent Chairman and four Commissioners appointed by the Government having qualification and experience on relevant fields preferably on companies and securities market or special knowledge in law, economics, accounting and any other discipline as it deems necessary.

(iii) Functions of the Commission

According to Section 8 of the BSEC Act, 1993 the prime duties and functions of the Commission are ensuring the appropriate issuance of securities, protecting the investors' interests and developing and regulating the capital market to discharge and such other inclusive activities mentioned in this Section.

²⁴ Bangladesh Securities and Exchange Commission Act 1993 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>

(iv) Mandatory Compliance of Registration certificate

According to Section 10 of the BSEC Act 1993 no stakeholders of security market can sell or deal in any security without compliance of the conditions of registration certificate granted by the Commission.

(v) Furnishing Different Statements and Reports to the Government

Section 15 of the BSEC Act 1993 stipulates to submit an annual report within sixty days at the end of every financial year to the Government and any other reports and statements as the Government requires. The Government shall cause the annual report to be laid before the Parliament, as soon as possible.

(vi) Conducting Investigation, Inquiry etc. and Exercising Civil Court Powers

Section 17A of the BSEC Act 1993 empowers the Commission to cause an investigation or inquiry against any person specified in Section 10(1). The investigation or inquiry body consisting of more than one person after such investigation or inquiry shall submit a report of inquiry to the Commission. Any person is bound to furnish necessary information and documents required by the investigation or inquiry body.

According to Section 17B for hearing on the inquiry report submitted under Section 17A, the Commission is empowered exercise the powers vested in a civil court in the matters of issuing summons for attendance and giving any information or producing any necessary documents.

(vii) Penal Provision and Mandatory Deposition of Fine

According to Section 18 of the BSEC Act 1993 provides penalty for contravening or intending to contravene or abetting to contravene any provision of this Act to be

punishable with rigorous imprisonment up-to five years or with fine at least five lac taka or with both.

The Commission (BSEC) may, after hearing the parties may give written warning or may fine of at least one lac taka, and, for concurring such failure a fine up-to ten thousand taka may be imposed for every day of such continued failure.

For appeal under Section 21(1) or any application for review under Section 21 (5) or any suit or legal proceeding instituted to any court against any fine imposed by the Commission under this Act or Rules, 15 (fifteen) percent of the fine must be deposited in the Commission. However, unrealized fine shall be recoverable as an arrear of land revenue.

(viii) Cognizance and Trial of offences

According to Section 19 of BSEC Act 1993, only Court of Sessions shall try any offence under this Act and cognizance of any offence shall not be taken under this Act without a written complaint by any person authorized by the Commission.

(ix) Liability of Offences by companies

Section 20 of BSEC Act 1993 provides that if a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention.

(x) Protection of Action Taken in Good Faith

Section 22 of BSEC Act 1993 exonerates the Government, or its employee or any Commissioner, employee of the Commission (BSEC) from liability of causing any damage to anyone by showing to do so in good faith.

(xi) Power to Exempt from Compliance of Registration Certificate

According to Section 22 the BSEC may exempt any person or organization from the compliance of Section 10(1) of this Act in the matter of selling and buying of the securities or any other matters ancillary therewith.

4.2.3.2 Identified Drawbacks of Bangladesh Securities and Exchange Commission Act 1993

To make this Act faultless, strong and effective piece of legislation, its shortcomings must be identified to find ways out thereof. Some of the limitations of this Act are discussed in this chapter.

(i) Commission Lacking Representations of Vital Regulatory Bodies

Section 5 of the BSEC Act 1993, the Commission lacks representations of vital regulatory bodies like; Bangladesh Bank, Financial Institution Division, and Anti-Corruption Commission etc. As a result checks and balances are not ensured in formation Commission.

(ii) Ineffective Appointment Procedure of the Commission

Regarding the work nature and responsibility of the commission, sole appointing authority vested in the government under Section 5 of the BSEC Act 1993 does not ensure enough transparency in appointment procedure without engaging any search commission or selection committee for this purpose.

(iii) Insufficient Penalty for Contravening Provisions

At present situation, this penalty imposed under Section 18 is not enough for perpetrators having financial strength. Besides, the greedy stock market culprit would be less afraid of this highest level of imprisonment and might not care for highest compensatory penalty without having any minimum punishment. Precedence may be taken from Money Laundering Prevention Act 2012.

(iv) No Direct Access to Justice

According to Section 19(2) of the BSEC Act 1993, mass people has no direct access to justice in prosecuting the stock market perpetrators. There is no prosecution unit as established in Anti-Corruption Commission Act 2004 for filing a case and investigating thereof on complaint by any person or *suomotu*. So, the condition of written report by authorized officer for cognizance of an offence makes prosecution of the perpetrators lengthy, faulty and sometime avoided. As a result, victim's direct access to justice is denied.

(v) Disregarding Equal Protection of Law

The provision of Section 19(2) of BSEC Act 1993 not only restricts the access to justice of the common people but also disregards the stipulation of equal protection of law guaranteed under the Constitution of Bangladesh.²⁵ The extent of access to justice has been explained in such a way that “access to justice” means an individual's access to court or a guarantee of legal representation. The redressal of the grievance for any offence under this Act is contingent on the sole will of the authorised officer whose actions also remain unaccountable under this law. In this regards, the litigants may face multiple discrimination while taking permission from the authorized officer and also in case of redressing their grievances before the Court. The constitutionally guaranteed right to fair trial of the aggrieved person may also be jeopardized by this provision.

²⁵ Constitution of the People's Republic of Bangladesh (Bangladesh) Article 27
<<http://bdlaws.minlaw.gov.bd/act-367/Section-24556.html>>.

(vi) Denying the Jurisdiction of the Tribunal

Section 19 of BSEC Act 1993 gives exclusive power to the Court of Sessions shall try any offence. This Act directly ignores the jurisdiction of Tribunal established under Section 25B of SEO, 1969 to try offences of security matters transferred by the Court of Sessions. It creates an inconsistency between Act and Ordinance in the matter of Tribunal's jurisdiction.

(vii) Abuse of the Defence 'Due Diligence and Without Knowledge'

Section 20 of BSEC Act 1993 provides that if a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention. In addition, if the company is corporate body, then in a criminal case only monetary penalty can be imposed against them. This provision confirms unjustified differential treatment to the companies and institutions going beyond the mandate of principle of equality before law and equal protection of law. The provision also allows the companies to justify any discriminatory practices committed by them on the basis of such vague grounds mentioned above.

It is mentionable that in the context of Bangladesh, companies and institutions are found to be the worst violators of the law. Nonetheless, those companies may avoid any punishment with the help of such saving clause. In addition, being unaccountable, such companies avail the opportunity of doing malpractices repeatedly.

(viii) Disadvantage of Good Faith Clause

Section 22 of the BSEC Act 1993 provides immunity from the acts of good faith. In order to ensure transparency and accountability of an organization or institution, it is necessary to make the persons responsible who are in the management of the

organization or institution for actions done in good faith in their official capacity. If provisions are made in the law to immune those persons from criminal liability, impeachment or any other legal proceeding for those actions, it will hamper the transparency and accountability of the organization or institution. So Section 22 of the BSEC Act needs to be reformulated.

4.2.4 Depositories Act 1999

Introduction of depository system in Bangladesh through enactment of the Depositories Act 1999²⁶ is remarkable in the capital market of Bangladesh. The Depositories Act 1999 (DP Act 1999) lays down the formation of depositories and provides a legal framework for establishment of depositories in Bangladesh to record ownership details of securities in book entry form.

By enacting the Depository Act on April 13, 1999, the Government of Bangladesh paved the way for setting up depositories in Bangladesh giving full authority of granting registration, controlling etc. to the BSEC.

4.2.4.1 Objectives of the Depositories Act 1999

The long awaited Depository Act has been passed into law by the national parliament on 5th April 1999 with a view to introducing the system of script less trading in the country. Establishing a depository has been one of the most talked-about issues in recent times in our capital market particularly after the share debacle in late 1996. After a good two and a half years, the issue has taken a legal shape which now permits the capital market operators to form a depository company to introduce script less trading.

²⁶ Depositories Act 1999 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

4.2.4.2 Basic Features of the Depositories Act 1999

(i) Defining Relevant Terms

Section 2 defines some unique and relevant terms for better understanding the text and purpose of this enactment. Some of those terminologies are "participant", "issuer", "bye-laws", "company register", "depository", "depository register", "direct account holder", "book entry", "eligible securities" etc.

(ii) Registration Procedures

Section 4 of the Depositories Act, deals with mandatory registration and its procedures. To carry on functions under this Act, a depository must be registered. Such application shall be submitted in the form and manner with fees complying other conditions and providing required information by the Commission for registration. However, the Commission may reject an application after giving a reasonable chance of being heard stating reasons thereof.

(iii) Introducing Depository System and Procedure thereof

Section 5 deals with introduction of depository system. Section 5(1) provides that every depository shall introduce and administer its own depository system in which or, as the case may be, by which- (a) account may be opened and maintained by the participant and the direct account holder and the ownership of securities deposited in the depository part of the company register may be recorded; (b) ownership of securities may be transferred from one account to another account; (c) facilities may be given for pledging and lending and borrowing of securities maintained in the account; (d) other facilities prescribed by regulations may be given. Section 5(2) states that all provisions under Section 5(1) shall be made in accordance with the conditions and method prescribed by regulations.

Section 7 exempts the application of Section 158 of the Companies Act in the matter of deposited securities with the depository. Section 8 deals with effectiveness of transfer of securities through book entry system register in accordance with the regulations.

Section 9 deals with securities to be maintained in the depository register. Section 9 (1) mandates some securities to be recorded in the depository register including securities eligible to be allotted and all additional allotted securities to account holders and the depository after being informed of entry record the name of the concerned allottee in the depository register.

Section 10 deals with transfer of securities. Section 10(1) ordains all eligible security to be transferred in the account of the depository. For transferring any security from the certificated part of the company register to its depository part, the security certificate must be submitted to the issuer as prescribed by regulations and the issuer substitute the name of the depository by cancelling the same and inform the depository as prescribed by regulations thereabout. As a result, the security shall be deposited in the account of the concerned account holder by the depository in the depository register.

(iv) Indemnification by Good Faith Clause

Section 12 of the Act 1999 exonerates the depository, or its employee or representative or any employee of the Commission from liability of causing any damage to anyone by showing that it is done in good faith and without any negligence.

(v) Power and Procedure of Inquiry

Section 13 confers on the Commission power of inquiry. The Commission may, by written order, cause an enquiry into any matter relating to depository or ancillary matters thereto either *suomoto* or upon complaint authorizing any person to conduct the same. The issuer, account holder, beneficiary owner or any other persons are duty bound to furnish all required information during enquiry. The enquirer shall have power of entry at any premise of the depository, issuer or enquired person for the purpose of the said enquiry.

(vi) Directive and Punitive Authority

Section 14 deals with power of the BSEC to issue certain orders or directions and penalty for breach thereof. On its satisfaction, the BSEC may issue any necessary order or direction to the depository, issuer etc. in the interest of investors or fair development of market or to prevent the detrimental activities thereto. On refusal or non-compliance with the order or direction, after giving an opportunity of being heard, a fine not exceeding ten lakh taka shall be ordered by the BSEC and for continuing a further fine up-to ten thousand taka for each day of such refusal or failure shall be paid. Unrealized fine shall be recoverable as arrear of land revenue.

(vii) Penalty for Contravening Provisions

According to Section 15 of the BSEC Act 1993 provides penalty for contravening or intending to contravene or abetting to contravene any provision of this Act to be punishable with rigorous imprisonment up-to five years or with fine or with both. If a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention.

However, Section 19 deals with Power to grant exemption in certain cases to specified person from compliance of specific provision for the mentioned period in consultation with the Government.

(viii) Cognizance of Offence and Jurisdiction to Try

Section 16 deals with Cognizance of offence and jurisdiction to try. The cognizance of an offence must be taken on written complaint by authorised officer on behalf of Commission. Only Court of Sessions is competent to try offences under this Act.

(ix) Authorising to Make Delegated Legislation

Section 17 deals with Power to make regulations. The Commission is delegated to enact regulations, in official gazette after publishing two widely circulated Bangla and English newspapers inviting opinion, advice or objection thereon giving specific time limitation. However, in appropriate case in the public interest, invitation of opinion, advice or objection may be skipped in consultation with the Government. Section 18 deals with empowered the depository to make bye-laws.

(x) Procedure of Taking over of Management

Section 22 deals with Taking over of management. On failure or negligence or engaging in any acts prejudicial to the state economy, the Commission may, after giving reasonable opportunity of being heard may take over the said depository for certain period mentioned in the order, and run its administration and management.

4.2.4.3 Limitations of Depository Act 1999

To make this Act faultless, strong and effective piece of legislation, its shortcomings must be identified to find ways out thereof. Some of the limitations of this Act are discussed in this chapter.

(i) Inadequate Penalty for Violating Provisions

At present situation, this penalty under Section 15(1) is not enough for perpetrators having financial strength. Besides, the greedy stock market culprits would be less afraid of this highest level of imprisonment and might not care for highest compensatory penalty without having any minimum punishment. Precedence may be taken from Money Laundering Prevention Act 2012.

(ii) No Direct Access to Justice

Section 16 bars the court shall take cognizance of an offence under this Act without written complaint by authorised officer on behalf of Commission. There is no prosecution team as prescribed in Anti-Corruption Commission Act 2004 for filing a case and investigating thereof on complaint by any person or *sou mote*. So, the condition of written report by authorized officer for cognizance of an offence makes prosecution of the perpetrators lengthy, faulty and sometime avoided. As a result, victim's direct access to justice is denied

(iii) Ignoring 'Equal Protection of Law'

The provision of Section 16 of the Act, not only restricts the access to justice of the common people but also disregards the stipulation of equal protection of law guaranteed under the Constitution of Bangladesh. The redressal of the grievance for any offence under this Act is contingent on the sole will of the authorised officer whose actions also remain unaccountable under this law. In this regards, the litigants may face multiple discrimination while taking permission from the authorized officer and also in case of redressing their grievances before the Court. The constitutionally guaranteed right to fair trial of the aggrieved person may also be jeopardized under this provision.

(iv) Negating the Jurisdiction of the Tribunal

Section 16 provides only the Court of Session shall try the said offences. This Act also directly ignores the jurisdiction of Tribunal established under Section 25B of SEO, 1969 to try offences of security matters transferred by the Court of Sessions. It creates an inconsistency between this Act and Ordinance in the matter of Tribunal's jurisdiction.

(v) Abuse of the Defence 'Due Diligence and Without Knowledge'

Section 15(2) states that If a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention. This provision confirms unjustified differential treatment to the companies and institutions going beyond the mandate of principle of equality before law and equal protection of law. The provision also allows the companies to justify any discriminatory practices committed by them on the basis of such vague grounds mentioned above.

(vi) Undue Exercise of Good Faith Clause

Section 12 of the Act 1999 exonerates the depository, or its employee or representative any, employee of the commission from liability of causing any damage to any one by showing to do so in good faith and without any negligence. In order to ensure transparency and accountability of an institution or organization, it is necessary to make the persons responsible who are in the management of the institution or organization for actions done in good faith in their official capacity. If provisions are made in the law to immune those persons from criminal liability, impeachment or any other legal proceeding for those actions, it will hamper the transparency and accountability of the institution/organization.

(vii) Infringing ‘Equality before Law’

Section 19 deals with Power to grant exemption in certain cases to specified person from compliance of specific provision for the mentioned period in consultation with the Government. This provision infringes the basic principles of our Constitution enshrined in Article 27 as “equality before law and equal protection of law”. This is a discriminatory provision. Such discretionary ‘discriminatory provision’ is very likely to arbitrary.

4.2.5 Exchanges Demutualization Act 2013

In the era of globalization and with increasing competition, the necessity for reform of stock exchanges has become imminent and many stock exchanges in the world has been demutualised. Development of technology, increasing financial competition and relevant expenditure are emphasizing stock exchanges to change entrepreneurial strategy and to adopt demutualization.

The main objects of demutualization are as follows:

- To segregate trading right from ownership of stock exchanges;
- Right to make profit by exchanges’ shareholders, which will focus on efficiency and create more value; and
- To enhance good governance in stock exchanges.

To pursue the above mentioned objectives, the Exchanges Demutualization Act 2013 has been enacted on 29 April 2013.²⁷

²⁷ Exchanges Demutualization Act 2013 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>>.

4.2.5.1 Basic Synopses of the Exchanges Demutualization Act 2013

For making Country's Stock Exchanges as modern and international standard, Demutualization Act has been approved in the Bangladesh National Parliament on 29 April 2013. The salient outlines of the Exchanges Demutualization Act 2013 are as follows:

(i) Explanation of Relevant Terminologies

Section 2 defines some unique and relevant terms for better understanding the text and purpose of this enactment used in various Sections this Act. Some of those terms are- blocked account, demutualization, depository, exchange facilities, scheme or scheme of arrangement etc.

(ii) Compulsory Demutualization of Exchanges

Section 4 deals with demutualization of exchanges. It is stated herein that every exchange must be registered, incorporated as a public company and demutualised for operation or carrying on its functions. On failure to do so, the facilities or services of an exchange cannot be used or utilized for the transaction or dealing in any security. An exchange must act in the interest of the investing public and the public interest prevails in conflicting with the exchange interest.

(iii) Procedure of Demutualization

Section 5 deals with submission of scheme for demutualization. Section 6 deals with approval of scheme. Section 7 deals with publication of approved scheme. Section 8 deals with changes of memorandum and articles of association, share allotment, etc. Section 9 deals with submission of memorandum and articles of association, etc. Section 10 deals with effectiveness of demutualization. Section 11 deals with subsequent conditions to be complied after demutualization.

(iv) Limit of holding Share, Blocked Share, TREC etc

Sections 12-17 relate with Limit of holding Share, Blocked Share, Transaction of trading right entitlement certificate (TREC), etc.

Section 12 deals with Limit of holding Share, etc. Section 13 deals with entitlement of shares holding in blocked accounts and maintenance. Section 14 deals with transfer of shares reserved in blocked accounts. Section 15 deals with buying and selling of shares by the strategic investor. Section 16 deals with trading right entitlement certificate or receipt of TREC, transfer etc. Section 17 deals with Registering of Shares of Exchanges.

(v) Consequences of Demutualization

Sections 18-19 mandate the consequences of demutualization. Section 18 deals with existing proceedings, etc. Section 19 deals with obligations of operating the affairs of exchanges for public interest and protection of investor's interest.

(vi) Penal Provision for Contravention

Section 20 deals with offences and Penalty. Section 20(1) provides that if it is *prima facie* presumed by the Commission that any exchange or existing exchange or director, member, shareholder, CEO, official or servant thereof intentionally and with knowledge contravenes any provision of this Act, the exchange shall be fined with up-to 10 lac taka or registration certificates may be suspended and director, member, shareholder, CEO, official or servant shall be personally liable to fine up to 1 lac taka. Arrear fine shall be realized as arrear of land revenue.

Section 21 states that where any person guilty is a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is

proved to be beyond his knowledge and he exercised due diligence to prevent such contravention.

4.2.5.2 Inherent Drawbacks of the Exchanges Demutualization Act 2013

To make this Act faultless, strong and effective piece of legislation, its shortcomings must be identified to find ways out thereof. Some of the limitations of this Act are discussed in this chapter.

(i) Flexible Penalty for Contravening Provisions

Section 20(1) provides for the exchange fine with upto 10 lac taka or suspends its Registration certificates and for director, member, shareholder, Chief Executive Officer, official or servant shall be personally liable to fined up to 1 lac taka. Absence of imprisoning penalty and personal liability up to 1 lac taka are very flexible enough creating no fear to the economically strong perpetrators.

(ii) Absence of Jurisdiction of Court or Tribunal

The penalty will be imposed by the Commission under Section 20 of Act. In the Act, there is no provision inserting the jurisdiction of Court or Tribunal to get redressed judicially and challenging the directive or punitive order of the Commission. As a result the principle of natural justice and constitutional right to be tried by independent and impartial tribunal enshrined in Article 35 of the Constitution are denied.

(iii) Unsuccessful Fine Recovery System

Under Section 20(2), the arrear fine imposed by the Commission may be recovered as arrear of land revenue. The arrear of land revenue is recovered by Certificate Case which is lengthy and complex. Section 14 of the SEO 1969 also requires the BSEC to bring cases to recover short swing profits under the Public Demands Recovery Act

1913. However, as shown in Table below, the PDR Act 1913 has not proven an effective tool for recovery of fines sought by the BSEC is an abysmal 0.5 percent [mentioned in section 4.2.2.2 (viii)].

(iv) Manipulation of the Defence ‘Due Dillgence and Without Knowledge’

Section 21 states that where any person guilty is a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention. This provision confirms unjustified differential treatment to the companies and institutions going beyond the mandate of principle of “equality before law and equal protection of law”. The provision also allows the companies to justify any discriminatory practices committed by them on the basis of such vague grounds mentioned above.

4.2.6 The Companies Act 1994

Companies Act 1994 though deals with company formation and regulation; it is very significant piece of stock market legislations. The appraisal of the Companies Act 1994, in this paper, has been restricted to scrutinizing ‘Unclaimed Dividend’ and ‘Buy-Back of Shares’.

4.2.6.1 Scrutinizing Unclaimed Dividend and Undistributed Asset

Regulation 96 inserted in Schedule –1 of the Companies Act 1994 provides that, the company must pay the declared dividends within two months from the date of its declaration:

Section 343 of the Companies Act 1994 mandates that unclaimed dividend and undistributed assets which have remained unclaimed for one hundred and eighty days after being payable or refundable to be paid to Combined Liquidation Account where

any company is being wound up. But there is no provision regarding non-wound up company.

Further, there is no provisions of remedy or punishment if the company deliberately failed to pay the dividend within two months from the date of its declaration according to Regulation 96 of the Schedule – 1 of the Companies Act, 1994.

On the contrary, in India, Sections 124 and 127 of Companies Act 2013 provide all detailed consequences in this case with penalty in default.

4.2.6.2 Prohibition on Buy-Back of Shares

Buy-back of Shares is taking back shares by the company itself from existing share holders. It is the repurchase of own share by the company. This strategy of corporate finance involves capital restructuring. It is prevalent all over the world. Shares are bought by the company either to upturn the shares' value or to eliminate any threat by hostile investor(s) targeting to control stake into the company.

However, buy-back of shares is prohibited in Bangladesh. Section 58 of the Companies Act 1994 restricts the companies to purchase its own shares. A little scope is remained in the next Section, i.e., Section 59, to reduce share capital only through the Court's sanction under particular stringent terms and conditions, if the Articles of Association of the company contains specific provisions on this behalf.

Due to such restriction or prohibition on repurchase of shares by issuing company, it is difficult by the company to protect the interest of the investors by increasing share value or to prevent any threat by hostile investor with this strategy of corporate finance under certain circumstances.

In India, the buy-back of shares is now permitted by inserting Sections- 68, 69 and 70 read with the provision of article 41 of Schedule- I in the Indian Companies Act, 1913 to this effect. In Pakistan the buy-back of shares is sanctioned under the Buy-back of

Shares Rules 1999 read with the provision of Section 95A of the Companies Ordinance 1984 and a company may purchase its own shares.

4.3 Landmark Case Laws relating to Stock Market in Bangladesh

Reportedly there are about 256 cases relating stock market pending in the Supreme Court of Bangladesh. Only a few cases are decided by the apex court. Some of those decided cases are discussed in this Section.

4.3.1 Shinepukur Holdings Ltd. & others Vs. SEC & another²⁸, 1998²⁹,

4.3.1.1 Journey of Case

BSEC filed reports on 2-4-1997 before the Chief Metropolitan Magistrate (CMM), Dhaka alleging offences under Section 17 / 24 of the said Ordinance against the some accused companies and their directors engaged in fraudulent acts during July to December of 1996.

The report contained the findings of the Inquiry Committee made by the BSEC under Section 21 of SEO 1969 detected by an Inquiry Committee of the Ordinance in respect of the accused persons. The Chief Metropolitan Magistrate, after registering the report as Criminal Petition Case (CR case), took cognizance and issued warrant of arrest against the accused persons who obtained anticipatory bail from the High Court Division.

Then they filed Criminal Revision³⁰ before the Court of Sessions, Dhaka under Sections 435 and 439A of the Code of Criminal Procedure for setting aside the CMM Court's order.

²⁸ 50 DLR (AD) (1998) 189.

²⁹ Shinepukur Holdings Ltd. & others Vs. Securities and Exchange Commission & another, 1998, 27 CLC (AD) (Criminal petition for Leave to Appeal Nos. 52 to 54 of 1998) <[http://www. clcbd. org/judgment/496.html?q=seizure-list](http://www.clcbd.org/judgment/496.html?q=seizure-list)> accessed 20 January 2020.

[Arising out of a common judgment and order dated 9 December, 1997 passed by a Division Bench of the High Court Division rejecting Criminal Reference Nos. 1-3 of 1997 made by the Sessions Judge, Dhaka by his judgment and order dated 1-6-97 under section 438 of the Code of Criminal Procedure recommending quashing of the proceedings of CR Case Nos. 1075, 1076 and 1080 of 1997 pending in the Court of the Chief Metropolitan Magistrate (CMM) Dhaka].

³⁰ Cases No. 163-165 of 1997.

The learned Sessions Judge³¹ held that the complainant having no legal authority to place the reports under SEO 1969, the CR cases were likely to be quashed and lack of authority of quashment, a reference³² was sent to the High Court Division with his recommendation.

The High Court Division by the impugned judgment and order rejected all the references. Then the appeal lies before Appellate Division by the accused petitioners.

4.3.1.2 Observations of the Appellate Division:

The Appellate Division in his judgement in para-10 observed that the objection raised is only technical and not of any substance. The technical objection will be ignored because the spirit behind the provision has been satisfied by the decision of the Commission before filing of the report.

At para 13, this Division observed that the objection raised by the petitioners as to lack of authority of the officer was premature as it should have been raised first before the CMM Court but they did not surrender before CMM Court. The Sessions Judge was well-advised to reject the revision petitions upon the view that the objection as to alleged lack of authority should be raised before the Court taking cognizance. They contented for sufficient compliance of the requirement of the law as regards authorisation of the officer who filed the report on behalf of the Commission.

At para 16, this Division prohibited the subordinate Court to try to be more expert at the complaint stage because it will be an example of nipping the prosecution in the bud. At para 18, this Division acknowledged all protection of the accused under the law but discourage to stretch the law too far to frustrate the prosecution of resourceful foul players concerning national economy on the threshold.

³¹ by his judgment and order dated 1-6-97.

³² under Section 438 of the Code of Criminal Procedure.

Here the Court must strike a balance. They were of the view that the learned Sessions Judge failed to maintain that balance which has been restored by the High Court Division.

4.3.2 Professor Mahbub Ahmed and others Vs. SEC,³³ 2011

4.3.2.1 Journey of the Case:

BSEC filed reports against the some accused companies and their directors involved in fraudulent acts under Section 17/24 of the said Ordinance during July to December of 1996. The report contained relevant portions of the findings of the Inquiry Committee made by the SEC under Section 21 of SEO, 1969 detected by an Enquiry Committee of the Ordinance in respect of the accused persons. In the filed reports, specific allegations were quoted from the inquiry committee report in respect of the petitioners as were relevant in each case. The CMM, after registering the report as CR case, took cognizance and issued warrant of arrest against the accused persons who obtained anticipatory bail from the High Court Division.

The Case was transferred to Additional Metro-Sessions Court for trial. On the day fixed for framing Charge, accused petitioner filed discharge petition³⁴ on the ground that the report was totally false concocted, *mala fide* and motivated. The Court framed charges under Sections 17(e)(ii)(iv) of SEO, 1969. Then, the petitioners moved before High Court Division individually and obtained the Rules as to show cause as to why the proceeding of the said sessions case should not be quashed.

4.3.2.2 Observations of the Apex Court:

The facts and questions of law being same, all petitions were disposed in the same judgment. The Court mandates to have any of the grounds of Section 561A for quashing

³³ 40 CLC (HCD) [9110] <<http://www.clcbd.org/judgment/9110.html>>.

³⁴ under Section 265C of the Code of Criminal Procedure.

a proceeding. The Court further repeated the negation given in *Shinepukur Holdings Ltd Vs. Securities Exchange Commission*,³⁵ not to nip the prosecution in the bud as the Inquiry Committee allegations have been made categorically against the accused-petitioners.

At Para 32 this Division Court interprets 'sufficient ground for proceeding' do not mean sufficient grounds for conviction. *Prima-facie* material is sufficient for forming an opinion to proceed against the accused. Having not a revisional application,³⁶ this Court denies exercising the power under Section 561A to interrupt or divert the ordinary course of justice. After all, the stay order was recalled and vacated and the trial court is directed to proceed with the trial to dispose the case as expeditiously as possible preferably within 6(six) months from the date of the receipt of this judgment.

4.3.3 SEC Vs. Runa N Alam, 2004³⁷

4.3.3.1 Journey of Case

BSEC filed reports against the some accused companies and their directors involved in fraudulent acts under Section 17/24 of the said Ordinance during July to December of 1996. The report contained relevant portions of the findings of the Enquiry Committee made by the SEC under Section 21 of SEO, 1969 detected by an Enquiry Committee of the Ordinance in respect of the accused persons. In the filed reports, specific allegations were quoted from the inquiry committee report in respect of the petitioners as were relevant in each case. The CMM, after registering the report as CR case, took cognizance and issued warrant of arrest against the accused persons who obtained anticipatory bail from the High Court Division.

³⁵50 DLR (AD) 189.

³⁶Section 439 of Code of Criminal Procedure.

³⁷33 CLC (AD) <<http://www.clcbd.org/judgment/95.html>>.

The Case was transferred to the Court of Additional Sessions Judge, Dhaka for disposal and upon hearing the parties the trial Court framed charge against which Criminal Revision under Section 439 of the Code of Criminal Procedure was filed and the High Court Division by order dated 26-3-1999 made the Rule absolute. And then this appeal is directed against the judgment and order dated making the Rule absolute.

4.3.3.2 Observations of the Apex Court:

The Appellate Division observed in Para 13 that every director, manager or other officer responsible for the conduct of the affairs of the Company or Corporate Body who would be liable and punished unless such contravention is proved to be beyond his knowledge and he exercised due diligence to prevent such contravention.

The Apex Division further in Para 20 interpreted Section 24 of SEO 1969 as the said Section creates a legal fiction whereby a director, manager or other officer responsible to the company for the conduct of the company become automatically guilty of the offence committed by such company and is liable to be prosecuted, proceeded against and punished accordingly. No other overt act or direct commission of the offence alleged is necessary bearing the factum of being responsible thereof for the conduct of its business.

Finally this Court set aside impugned order of the High Court Division and the trial court was directed to proceed against the accused in accordance with law.

4.3.4 Appraisal of the above Case Laws

The directions given in the Case Laws by Appellate Division of the Supreme Court (Apex Court) might be taken as greatly useful tools to interpret the imprecise legislations and to fill the shortcomings thereof within the rules of statutory interpretation. In the above case laws, the Apex Court is very strict in prosecuting the accused person treating the Inquiry Report significant and dependable one. The Apex

Court issued some directions in these cases as useful tools for trying the relevant cases expeditiously. The Court repeatedly advised not to nip the prosecution in the bud where the Inquiry Committee allegations have been made categorically against the accused-petitioners. The Apex Court further commended to challenge the premature authority of the officer filing the report in the court of cognizance. The Court must strike a balance between to protection of law and national interest and not to stretch the law too far to frustrate the prosecution on the threshold. Division Court interprets 'sufficient ground for proceeding' do not mean sufficient grounds for conviction and *Prima-facie* material is sufficient for forming an opinion to proceed against the accused. In interpreting 'beyond his knowledge or due diligence' in Section 24 of SEO, 1969 stated that this Section creates a legal fiction whereby a director, manager or other officer responsible to the company for the conduct of the company become automatically guilty of the offence committed by such company and no other overt act or direct commission of the offence is necessary.

However, though the Apex Court is very careful in their judgment, they are not expectedly vigilant to settle the pending cases before themselves considering their national economic importance. Noteworthy that in the case *Professor Mahbub Ahmed and others Vs. SEC, 2011*, the High Court Division directed the trial court to dispose the case preferably within six months, but case had been pending before 11 years for maintainability hearing.

4.4 Concluding Remarks

Regulations are an absolute necessity in the face of the growing importance of stock market in Bangladesh. The Laws and Regulations relating to securities and share markets in Bangladesh have been on the focus after the great turmoil in the share market in 1996 and 2009-10. There are a bundle of primary and secondary legislations

relevant to stock market. The Securities and Exchange Ordinance, 1969, The Bangladesh Securities and Exchange Commission Act 1993, The Depositories Act 1999, The Companies Act 1994, The Exchanges Demutualization Act 2013 are vital and significant regulatory legislations in Bangladesh stock market.

There are some common inherent shortcomings of all these laws are lack of proper execution of the capital market regulations, deficient penalty, ineffective fine recovery system, no direct access to justice, tribunal lacking cognizance power on complaint, want of original jurisdiction of tribunal, the comfortable savoir of good faith clause lacking special prosecution team, disregarding equality before law and equal protection of law, abuse of the defence 'due diligence and without knowledge'. Besides, there are vital specific loopholes in these legislations mentioned above. The directions given in the Case Laws by Apex Court would be greatly useful tools to interpret the vague legislations and fill the loopholes thereof within the rules of statutory interpretation. If the shortcomings could be properly addressed and redressed, it is expected that the stock market of Bangladesh shall immediately be the one of the strongest stock market in world.

Chapter-5

Findings of the survey on the Acts, rules, and regulations of the stock market of Bangladesh

The researcher has tried to explore different facets of Bangladesh-based capital market eco-system through a questionnaire-driven survey. Key informants (KIs) were approached during the survey. The findings of the survey on the Acts, rules, and regulations of the stock market of Bangladesh for legislative reforms for the development of Bangladesh-based stock market are analyzed as follows:

5.1 Section: A - The survey findings of the close-ended questionnaire

The findings of survey by the close-ended questionnaire are submitted as opinion of the stakeholders and experts on stock market on basis of different market issues on tabular and explanatory form as follows:

5.1.1 Opinion about the performance of the stock market in Bangladesh

Opinions of stakeholders about the performance of the stock market in Bangladesh are produced through the following tables on the caption titled points with required explanation of the tables:

5.1.1.1 Performance parameter: Supply of fundamentally-strong stocks: Table 1.1

Response	Frequency	Percentage
Excellent	0	0
Very Good	0	0
Good	3	16.67
Average	10	55.55
Needs to improve	5	27.78
Total respondents :	18	100

Table 1.1 explains the supply of fundamentally-strong stocks in the Bangladesh stock market. About 16.67% respondents opined good number and 55.55% of the respondents opined that the average supply of fundamentally-strong stocks is available. But 27.78% of the respondent thinks the supply of fundamentally-strong

stocks needs improvement for the smooth development of the Bangladesh stock market.

5.1.1.2 Performance parameter: Reduction in transaction costs: Table 1.2

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	1	5.56
Good	8	44.44
Average	6	33.33
Needs to improve	2	11.11
Total respondents :	18	100

Table 1.2 identifies the reduction in transaction costs in the Bangladesh stock market. About 5.56% mentioned that excellent and another 5.56% respondents mentioned very good condition is prevailing regarding the reduction in transaction costs. But the majority of the respondents 44.44% and 33.33% mentioned that good and average condition is prevailing in respect of reduction in transaction respectively. About 11 percent of respondents also mentioned that reduction of transaction costs needs to improve.

5.1.1.3 Performance parameter: Reduction in Pre-IPO information asymmetry:

Table 1.3

Response	Frequency	Percentage
Excellent	0	0
Very Good	1	5.56
Good	4	22.22
Average	8	44.44
Needs to improve	5	27.78
Total respondents :	18	100

Table 1.3 reveals the picture of reduction in pre-IPO information asymmetry. The highest percentage of 44.44 percent respondents indicates the average condition is prevailing regarding reduction in pre-IPO information asymmetry in Bangladesh stock market. About 22.22% of respondents mentioned good and 5.56% mentioned very good

condition is prevailing. But 27.78 percent of respondents also mentioned that-IPO information asymmetry needs to improve.

5.1.1.4 Performance parameter: Good governance in listed firms: Table 1.4

Response	Frequency	Percentage
Excellent	0	0
Very Good	1	5.56
Good	4	22.22
Average	6	33.33
Needs to improve	7	38.89
Total respondents :	18	100

Good corporate governance is a prerequisite of a well-regulated stock market. Table 1.4 indicates the prevailing condition of good governance in listed firms. The highest number of respondents i.e., 38.89% think that corporate governance in listed firms needs to improve, and 33.33%—of the respondent mentioned average condition is prevailing regarding good governance in listed firms. While 5.56% think very good and 22.22% argued governance condition is good in listed firms. Analysis of the table indicates good governance parameters of the listed corporation of Bangladesh need to improve.

5.1.1.5 Performance parameter: Price-value association: Table 1.5

Response	Frequency	Percentage
Excellent	0	0
Very Good	1	5.56
Good	6	33.33
Average	6	33.33
Needs to improve	5	27.78
Total respondents :	18	100

Table 1.5 explains the price-value association scenario. 27.78% of respondents mentioned the price-value association scenario of Bangladesh stock markets needs to improve and 33.33% has mentioned that the average condition is prevailing concern in the price-value association. 33.33% think good and 5.56% think the very good condition is prevailing in Bangladesh stock market.

5.1.1.6 Performance parameter: Insider trading prohibition: Table 1.6

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	1	5.56
Good	4	22.22
Average	5	27.77
Needs to improve	7	38.89
Total respondents :	18	100

Insider trading hindrance transparent stock price movement and insider trading also lead to the chance to manipulate the stock price. The above table indicates the opinion of the insider trading prohibition condition of the Bangladesh stock market. The highest percentage of respondents i.e., 38.89% think insider trading prohibition conditions of the Bangladesh stock market need improvements, and 27.77% of respondents think the average condition is prevailing. About 22.22% of respondents opined good, 5.56% opined very well and 5.56% mentioned excellent condition is prevailing regarding insider trading prohibition in Bangladesh stock market. A Survey of insider trading prohibition parameters indicates the majority of respondents i.e. 67% believe the situation needs to improve or the average condition is prevailing. Hence, the regulatory authority of the Bangladesh stock market may try to minimize insider trading from the Bangladesh stock market.

5.1.2 Rating of the regulatory initiatives implemented by the Bangladesh Securities and Exchange Commission (BSEC)

The ratings of the regulatory initiatives implemented by the Bangladesh Securities and Exchange Commission (BSEC) are submitted through the following tables on the caption titled points with required explanation of the tables:

5.1.2.1 Regulatory initiatives: Pricing mechanism under book-building approach: Table 2.1

Response	Frequency	Percentage
Excellent	0	0
Very Good	3	16.67
Good	3	16.67
Average	5	27.77
Needs to improve	7	38.89
Total respondents :	18	100

Table 2.1 shows the respondent's perception regarding the pricing mechanism under the book-building approach. The highest percentage of respondents i.e., 38.89% indicates pricing mechanism under book-building approach needs to improve and 27.77% mentioned average condition is prevailing. While 16.67% of respondents have mentioned good and 16.67% of respondents also mentioned that very good pricing mechanism under book-building approach is prevailing. We observed about 78% of respondents rated needs to improve or average condition regarding pricing mechanism under book-building approach. Hence, the pertinent regulatory authority may take initiative to improve the book-building approach.

5.1.2.2 Regulatory initiatives of BSEC: Creating a pool of qualified auditors: Table 2.2

Response	Frequency	Percentage
Excellent	3	16.67
Very Good	2	11.10
Good	5	27.78
Average	5	27.78
Needs to improve	3	16.67
Total respondents :	18	100

Table 2.2 reveals the scenario of creating a pool of qualified auditors. 16.67%, 11.10%, 27.78%, and 27.78 % respondents have mentioned excellent, very good, good, and the average number of qualified auditors are available in Bangladesh respectively. About 16.67% of respondents mentioned that needs to improve. The

majority of the respondents have shown their satisfaction regarding creating a pool of qualified auditors.

5.1.2.3 Regulatory initiatives of BSEC: De-listing & OTC (over-the-counter) market: Table 2.3

Response	Frequency	Percentage
Excellent	0	0
Very Good	2	11.11
Good	5	27.78
Average	6	33.33
Needs to improve	5	27.78
Total respondents :	18	100

Table 2.3 indicates the scenario of the De-listing & OTC (over-the-counter) market. It is observed that 33.33% of respondents have mentioned that De-listing & OTC (over-the-counter) market condition is average and 27.78% of respondents have mentioned that the condition needs to improve. Among the respondents, 11.11% mentioned very good, 27.78% mentioned good condition is prevailing regarding-listing & OTC (over-the-counter) market. It seems about 61% of respondents mentioned needs to improve & average conditions are prevailing relating to de-listing & OTC (over-the-counter) market. Hence, the regulatory authority may look for the development of the de-listing & OTC (over-the-counter) market.

5.1.2.4 Regulatory initiatives of BSEC: Share categorization: Table 2.4

Response	Frequency	Percentage
Excellent	2	11.11
Very Good	6	33.33
Good	3	16.67
Average	6	33.33
Needs to improve	1	5.56
Total respondents :	18	100

Table 2.4 reveals the share categorization condition of the stock market. It is observed that 33.33% of respondents have mentioned very good, 11.11% have mentioned excellent and 16.67% have mentioned good condition is prevailing regarding share

categorization in Bangladesh stock market. About 33.33% have mentioned the average condition and only 5.56% mentioned that it needs to improve. It is observed that about 61% of respondents mentioned excellent to good condition is prevailing regarding share categorization. It seems good rules are being followed by the regulatory authority for share categorization in the Bangladesh stock market.

5.1.2.5 Regulatory initiatives of BSEC: 10% discount for retail-investors in IPO-stocks: Table 2.5

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	6	33.33
Good	4	22.22
Average	6	33.33
Needs to improve	1	5.56
Total respondents :	18	100

Table 2.5 indicates the prevailing scenario of a 10% discount for retail investors in IPO stocks. It is observed that 33.33% of respondents have mentioned very good, 22.22% have mentioned good and 5.56% have mentioned excellent condition is prevailing regarding discount for retail-investors in IPO-stocks at Bangladesh stock market. About 33.33% have mentioned the average condition and only 5.56% mentioned that it needs to improve. It is observed that about 61% of respondents mentioned that excellent to good condition is prevailing regarding 10% discount for retail-investors in IPO-stocks. It seems appropriate procedures are being followed by the regulatory authority for implementing a 10% discount for retail investors in IPO stocks in the Bangladesh stock market.

5.1.2.6 Regulatory initiatives of BSEC: Small-cap board: Table 2.6

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	1	5.56
Good	8	44.44
Average	4	22.22
Needs to improve	4	22.22
Total respondents :	18	100

Table 2.6 shows the small-cap board condition of the stock market. It is observed that 44.44% of respondents have mentioned as good, 5.56% have mentioned very good and 5.56% have also mentioned excellent condition is prevailing regarding small-cap board in Bangladesh stock market. About 22.22% have mentioned the average condition and the rest 22.22% mentioned that it needs to improve. It is observed that about 65% of respondents mentioned excellent to good condition is prevailing regarding small-cap board. It seems good rules are being followed by the regulatory authority for ensuring small-cap boards in public limited companies in Bangladesh.

5.1.2.7 Regulatory initiatives of BSEC: Demutualization: Table 2.7

Response	Frequency	Percentage
Excellent	3	16.67
Very Good	1	5.56
Good	6	33.33
Average	5	27.78
Needs to improve	3	16.67
Total respondents :	18	100

Table 2.7 indicates the prevailing scenario of demutualization of stock exchanges. It is observed that 33.33% of respondents have mentioned good, 16.67% have mentioned excellent and 5.56% have mentioned very good condition is prevailing regarding the demutualization process. About 16.67% have mentioned that the demutualization process needs to improve. It is observed that about 55.55% of respondents mentioned excellent to good condition is prevailing and 27.78% mentioned average condition is prevailing regarding demutualization process. It seems the demutualization process is in progress and it needs to be more strengthened for ensuring good management practices in stock exchanges.

5.1.3 Rating of the initiatives implemented by Stock Exchanges - DSE & CSE

Rating of the initiatives implemented by Stock Exchanges i.e. DSE & CSE are reflected by the following tables on the caption titled points with required explanation of the tables:

5.1.3.1 Monitoring & regulatory initiatives by Stock Exchanges: Procedure of enlisting the securities in Stock Exchanges: Table 3.1

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	4	22.22
Good	4	22.22
Average	7	38.89
Needs to improve	2	11.11
Total respondents :	18	100

Table 3.1 reveals the procedure of enlisting the securities in stock exchanges. It is observed that 22.22% of respondents have mentioned as very good, 22.22% has also mentioned good and 5.56% have mentioned that excellent condition is prevailing regarding the procedure of enlisting of securities in stock exchanges in Bangladesh stock market. About 38.89% have mentioned that average condition and only 11.11% mentioned that it needs to improve. It is observed that about 50% of respondents mentioned excellent to good condition is prevailing regarding enlisting procedure of the securities in stock exchanges and 38.39% have mentioned that average condition is prevailing. It seems the procedure of enlisting the securities in stock exchanges is in progress and it needs to be made easier for attracting more private limited companies to be enlisted in stock exchanges.

5.1.3.2 Monitoring & regulatory initiatives by Stock Exchanges: Creating a pool of qualified surveillance team: Table 3.2

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	5	27.78
Good	1	5.56
Average	8	44.44
Needs to improve	3	16.66
Total respondents :	18	100

Table 3.2 reveals the scenario of creating a pool of surveillance teams. 44.44% of respondents have mentioned the average number of surveillance team is working and 16.66% have mentioned that the number of surveillance team needs to increase. 5.56%, 27.78%, and 5.56 % respondents have mentioned excellent, very good, and good situation is prevailing regarding surveillance of stock market respectively. 61.1% of respondents have opted in favor of taking the initiative to increase the number of a qualified pool of surveillance teams. The adequate pool of qualified surveillance teams will help to ensure fair dealings in the stock exchanges of Bangladesh.

5.1.3.3 Monitoring & regulatory initiatives by Stock Exchanges: Regulatory measures for violation of stock exchange Acts/rules/regulations: Table 3.3

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	3	16.67
Average	6	33.33
Needs to improve	6	33.33
Total respondents :	18	100

Table 3.3 shows the implementation of regulatory measures for violation of stock exchange acts/ rules of the Bangladesh stock market. It is observed that 33.33% of respondents have mentioned average and 33.33% mentioned that it needs to improve the implementation of regulatory measures for violation of stock exchange acts/ rules.

About 5.56% mentioned excellently, 11.11% has mentioned as very good and 16.67% has mentioned that good regulatory measures have been taken for violation of stock exchange acts/ rules. It is observed that about 67% of respondents mentioned that average or needs to improve the status of the implementation of regulatory measures for violation of stock exchange acts/ rules. It seems lack of implementation of regulatory measures hinders the optimum development of the Bangladesh stock market. Hence, prompt implementation of regulatory measures by the regulatory authority is a precondition for the sound development of the Bangladesh stock market.

5.1.3.4 Monitoring & regulatory initiatives by Stock Exchanges: Lock in period for sponsor shareholders: Table 3.4

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	3	16.66
Good	8	44.44
Average	5	27.78
Needs to improve	1	5.56
Total respondents :	18	100

Table 3.4 indicates the prevailing scenario of the lock-in period for sponsor shareholders. It is observed that 44.44% of respondents have mentioned as good, 16.66% have mentioned very good and 5.56% have mentioned excellent condition is prevailing regarding lock-in period for sponsor shareholders. It is observed that about 67% of respondents have mentioned that excellent to good condition and 27.78% have mentioned average condition is prevailing regarding the lock-in period for sponsor shareholders. Only 5.56% mentioned lock-in period for sponsor shareholders needs to improve. It seems rules relating to the lock-in period for sponsor shareholders are quite good.

5.1.3.5 Monitoring & regulatory initiatives by Stock Exchanges: Lock in period for foreign portfolio investors: Table 3.5

Response	Frequency	Percentage
Excellent	0	0
Very Good	4	25
Good	5	31.25
Average	5	31.25
Needs to improve	2	12.50
Total respondents :	16* Missing system 2	100

* The total frequency is 18. Out of 18 respondents, only 16 respondents have responded. So the remaining 2 respondents are considered as a missing system in this table.

Table 3.5 shows the prevailing scenario of the lock-in period for foreign portfolio investors. It is observed that 25% of respondents have mentioned as very good, 31.25% have mentioned good and 31.25% have also mentioned average condition is prevailing regarding lock-in period for foreign portfolio investors. It is observed that about 88% of respondents have mentioned that very good to average condition is prevailing regarding the lock-in period for foreign portfolio investors. Only 12.50% have mentioned that the lock-in period for foreign portfolio investors needs to improve. It seems rules relating to the lock-in period for foreign portfolio investors are quite good.

5.1.3.6 Monitoring & regulatory initiatives by Stock Exchanges: Effective control of circuit breakers: Table 3.6

Response	Frequency	Percentage
Excellent	3	16.66
Very Good	2	11.11
Good	5	27.78
Average	5	27.78
Needs to improve	3	16.66
Total respondents :	18	100

Table 3.6 reveals the prevailing scenario of effective control of circuit breakers in security pricing at stock exchanges. It is observed that 16.66% of respondents have mentioned that excellent, 11.11% have mentioned very good and 27.78% have mentioned good condition is prevailing regarding effective control of circuit breakers for security pricing. About 27.78% of respondents have mentioned average condition and 27.78% have mentioned the scenario of effective control of circuit breakers needs to improve. It seems the scenario of effective control of circuit breakers is in progress and it needs to be more strengthened for ensuring fair price of securities in the secondary market.

5.1.3.7 Monitoring and regulatory initiatives by Stock Exchanges: Continues market for securities: Table 3.7

Response	Frequency	Percentage
Excellent	1	5.88
Very Good	3	17.64
Good	6	35.30
Average	5	29.41
Needs to improve	2	11.77
Total respondents :	17	100

** The total frequency is 18. Out of 18 respondents, only 17 respondents have responded. So the remaining 1 respondent is considered as a missing system in this table.*

Table 3.7 indicates the prevailing scenario of the continuous market for securities at stock exchanges. It is observed that 35.30% of respondents have mentioned as good, 17.64% have mentioned very good and 5.88% have mentioned excellent condition is prevailing regarding continues market for securities at stock exchanges. About 29.41% have mentioned average and 11.77% of respondents have mentioned that the continuous market for securities at stock exchanges needs to improve. It is reflected that about 58.82% of respondents mentioned that excellent to good condition is prevailing and 29.41% mentioned average condition is prevailing regarding the

continuous market for securities at stock exchanges. It seems the continuous market for securities at stock exchanges is improving and it needs to be more strengthened for ensuring adequate securities in the stock market.

5.1.3.8 Monitoring & regulatory initiatives by Stock Exchanges: Fair security/stock price speculation: Table 3.8

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	5	27.78
Average	4	22.22
Needs to improve	6	33.33
Total respondents :	18	100

Table 3.8 shows the response of fair security/stock price speculation at the Bangladesh stock market. It is observed that 33.33% of respondents have mentioned fair security/stock price speculation needs to improve and 22.22% have mentioned average condition is prevailing. About 5.56% have mentioned excellent, 11.11% has mentioned very good and the rest 27.78% mentioned good condition is prevailing relating to fair security/stock price speculation at Bangladesh stock market. It is observed that about 56% of respondents mentioned average or below condition is prevailing. It seems fair security/stock price speculation needs to improve.

5.1.3.9 Monitoring and regulatory initiatives by Stock Exchanges: Protection of investors' interest: Table 3.9

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	4	22.22
Average	7	38.89
Needs to improve	4	22.22
Total respondents :	18	100

Table 3.9 reveals the scenario of protection of investors' interest in the stock market. About 22.22% of respondents have mentioned that the protection of investors' interest needs to improve and 38.89% have mentioned average scenario is prevailing. About 5.56%, 11.11%, and 22.22% of respondents have mentioned that excellent, very good,

and good condition is prevailing relating to the protection of investors' interest in the stock market. 62% of the respondents think better protection of investors' interest in the stock market needs to ensure.

5.1.3.10 Monitoring and regulatory initiatives by Stock Exchanges: Liquidity in the stock exchange: Table 3.10

Response	Frequency	Percentage
Excellent	0	0
Very Good	1	5.56
Good	7	38.90
Average	5	27.77
Needs to improve	5	27.77
Total respondents :	18	100

Table 3.10 indicates the situation of liquidity in stock exchanges. About 27.77% of respondents have mentioned that liquidity in stock exchanges needs to improve and 27.77% have also mentioned average scenario is prevailing. About 5.56% of respondents have mentioned very good and 38.90% have mentioned the good situation of liquidity in stock exchanges is prevailing in the stock market. 56% of the respondents expect a better situation of liquidity in stock exchanges for ensuring the liquidity of their investment.

5.1.3.11 Monitoring and regulatory initiatives by Stock Exchanges: Transparent settlement of the transaction: Table 3.11

Response	Frequency	Percentage
Excellent	4	22.22
Very Good	2	11.11
Good	5	27.78
Average	2	11.11
Needs to improve	5	27.78
Total respondents :	18	100

Table 3.11 reveals the scenario of transparent settlement of the transaction in stock exchanges. It is observed that 22.22% of respondents have mentioned excellent, 11.11% have mentioned very good and 27.78% have mentioned good condition is prevailing regarding transparent settlement of the transaction in stock exchanges. About 11.11% has mentioned the average condition and only 27.78% mentioned that

it needs to improve. It is observed that about 62% of respondents mentioned excellent to good condition is prevailing regarding transparent settlement of the transaction in stock exchanges. It seems the procedure of transparent settlement of transactions has improved in stock exchanges.

5.1.3.12 Monitoring and regulatory initiatives by Stock Exchanges: Monitoring & Control of listed companies/securities: Table 3.12

Response	Frequency	Percentage
Excellent	2	11.11
Very Good	3	16.67
Good	2	11.11
Average	7	38.89
Needs to improve	4	22.22
Total respondents :	18	100

Table 3.12 indicates the situation of monitoring & control of listed companies/ securities in stock exchanges. 38.89% of respondents have mentioned that the average condition of monitoring & control of listed companies/securities is prevailing and 22.22% of respondents have mentioned monitoring & control of listed companies/ securities needs to improve. About 11.11%, 16.67%, and 11.11% -respondents have mentioned excellent, very good, and good condition is prevailing relating to monitoring & control of listed companies/ securities. It implies that 61% of the respondents expect a better situation of monitoring & control of listed companies / securities in stock exchanges for ensuring the safety of their investment.

5.1.3.13 Monitoring and regulatory initiatives by Stock Exchanges: Safety of capital and fair dealings: Table 3.13

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	4	22.22
Good	5	27.78
Average	4	22.22
Needs to improve	4	22.22
Total respondents :	18	100

Table 3.13 reveals the scenario of safety of capital & fair dealings in stock exchanges. About 5.56%, 22.22%, and 27.78% of respondents have mentioned excellent, very good, and good condition is prevailing relating to the safety of capital & fair dealings in stock exchanges. 22.22% of respondents have mentioned that the average condition is prevailing and 22.22% have mentioned control of listed companies/securities needs to improve. It seems the scenario of safety of capital & fair dealings in stock exchanges is improving.

5.1.4 Rating of the regulatory measures implemented by the Government

Ratings of the regulatory measures implemented by the Government are reproduced through the following tables on the caption titled points with required explanation of the tables:

5.1.4.1 Monitoring & regulatory initiative by the Government: Establishment of relevant stock market regulatory bodies: Table 4.1

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	7	38.90
Good	4	22.22
Average	3	16.66
Needs to improve	3	16.66
Total respondents :	18	100

Table 4.1 indicates the survey findings of the prevailing scenario of the establishment of relevant stock market regulatory bodies by the Government of Bangladesh. It is observed that 5.56% of respondents have mentioned excellent, 38.90% have mentioned very good and 22.22% have mentioned good condition is prevailing regarding the establishment of relevant stock market regulatory bodies by the Government of Bangladesh. It is observed that about 67% of respondents have mentioned that excellent to good condition and 16.66% have mentioned average condition is prevailing regarding the establishment of relevant stock market regulatory bodies by the Government. Only 16.66% mentioned the

establishment of relevant stock market regulatory bodies needs to improve. It seems initiative relating to the establishment of a relevant stock market regulatory body by the Government of Bangladesh is commendable.

5.1.4.2 Monitoring & regulatory initiative by the Government: Coordination among the stock market regulatory bodies: Table 4.2

Response	Frequency	Percentage
Excellent	1	5.55
Very Good	1	5.55
Good	6	33.34
Average	5	27.78
Needs to improve	5	27.78
Total respondents :	18	100

Table 4.2 reveals the scenario of coordination among the stock market regulatory bodies in Bangladesh. 27.78% of respondents have mentioned the average scenario of coordination among the stock market regulatory bodies is observed and 27.78% have mentioned that coordination among the stock market regulatory bodies needs to improve. 5.55%, 5.55%, and 33.34 % respondents have mentioned excellent, very good and good situation is prevailing regarding of coordination among the stock market regulatory bodies respectively. 56% of respondents have opted in favor of taking the initiatives to increase the coordination among the stock market regulatory bodies in Bangladesh. Effective coordination among the stock market regulatory bodies in Bangladesh will help to ensure fair dealings in the stock market of Bangladesh.

5.1.4.3 Monitoring and regulatory initiative by the Government: Initiative by Government in formulation & amendment of relevant stock market Acts/ Rules / Regulations: Table 4.3

Response	Frequency	Percentage
Excellent	2	11.11
Very Good	1	5.56
Good	5	27.78
Average	6	33.33
Needs to improve	4	22.22
Total respondents :	18	100

Table 4.3 shows the survey response of initiative by the Government in formulation & amendment of relevant stock market Acts/Rules/Regulations. It is observed that 22.22% of respondents have mentioned initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations needs to improve and 33.33% has mentioned average condition is prevailing. About 11.11% have mentioned excellent, 5.56% has mentioned very good and the rest 27.78% have mentioned good condition is prevailing relating to an initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations in Bangladesh stock market. It is observed that about 56% of respondents mentioned average or below condition is prevailing. It seems initiative by the Government in formulation & amendment of relevant stock market Acts/Rules/Regulations in Bangladesh needs to improve.

5.1.4.4 Monitoring and regulatory initiative by the Government: Initiative for encouraging foreign portfolio investment: Table 4.4

Response	Frequency	Percentage
Excellent	0	0
Very Good	2	11.11
Good	6	33.33
Average	4	22.23
Needs to improve	6	33.33
Total respondents :	18	100

Table 4.4 indicates the survey findings of the initiative for encouraging foreign portfolio investment by the Government of Bangladesh. It is observed that 11.11% of respondents have mentioned very good, 33.33% have mentioned good and 22.23% have mentioned average condition is prevailing regarding the initiative for encouraging foreign portfolio investment. About 33.33% of respondents have mentioned initiatives for encouraging foreign portfolio investment needs to improve. It is observed that about 56% of respondents have mentioned either needs to improve or average condition is prevailing in respect of

initiatives for encouraging foreign portfolio investment. Hence, relevant stock market regulatory bodies may take more initiatives to encourage foreign portfolio investment in Bangladesh.

5.1.4.5 Monitoring & regulatory initiative by the Government: Initiative for stable foreign exchange policy: Table 4.5

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	8	44.44
Average	3	16.67
Needs to improve	4	22.22
Total respondents :	18	100

Table 4.5 shows the prevailing scenario of initiative for stable foreign exchange policy in Bangladesh. It is observed that 5.56% of respondents have mentioned excellent, 11.11% has have mentioned very good and 44.44% have mentioned good condition is prevailing regarding initiative for stable foreign exchange policy in Bangladesh. About 22.22% of respondents think that it needs to improve. It is observed that about 62% of respondents mentioned excellent to good condition is prevailing and 16.67% have mentioned that average condition is prevailing regarding initiative for stable foreign exchange policy in Bangladesh. It seems the Government initiative for a stable foreign exchange policy in Bangladesh is in progress and it needs to be more strengthened for ensuring a stable foreign exchange policy.

5.1.4.6 Monitoring & regulatory initiative by the Government: Initiative for cooperation with international agencies/stock exchanges: Table 4.6

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	3	16.67
Good	4	22.22
Average	2	11.11
Needs to improve	8	44.44
Total respondents :	18	100

Table 4.6 reveals the scenario of initiative for cooperation with international agencies/stock exchanges for the development of the Bangladesh stock market. 44.44% of respondents

have mentioned initiative for cooperation with international agencies/stock exchanges for the development of the stock market needs to improve. About 5.56%, 16.67%, and 22.22% respondents have mentioned excellent, very good and good situation is prevailing regarding initiative for cooperation with international agencies/stock exchanges respectively. About 56% of respondents have opted in favor of taking the initiative to increase initiative for cooperation with international agencies/stock exchanges for the development of the Bangladesh stock market.

5.1.4.7 Monitoring & regulatory initiative by the Government: Surveillance of stock market by pertinent Government Ministries: Table 4.7

Response	Frequency	Percentage
Excellent	0	0
Very Good	4	22.22
Good	1	5.56
Average	6	33.33
Needs to improve	7	38.89
Total respondents :	18	100

Table 4.7 indicates the prevailing scenario of surveillance of the stock market by pertinent Government ministries. It is observed that 22.22% of respondents have mentioned as very good, 5.56% have mentioned good and 33.33% have mentioned average condition is prevailing regarding surveillance of stock market by pertinent Government ministries. About 38.39% of respondents have mentioned that surveillance of the stock market by pertinent Government ministries needs to improve. It is observed that about 73% of respondents have mentioned surveillance of stock market by pertinent Government ministries either average or needs to improve. It seems concerned Government ministries may increase surveillance of stock market activities.

5.1.4.8 Monitoring & regulatory initiative by the Government: Appropriate measures for inquiry of stock market crash: Table 4.8

Response	Frequency	Percentage
Excellent	0	0
Very Good	2	11.11
Good	4	22.22
Average	5	27.78
Needs to improve	7	38.89
Total respondents :	18	100

Table 4.8 reveals the scenario of measures taken for inquiry of the stock market crash in Bangladesh. 38.89% of respondents have mentioned initiatives for measures taken for inquiry of stock market crash needs to improve. About 11.11% and 22.22% of respondents have mentioned very good and good situation is prevailing regarding initiative for appropriate measures for inquiry of stock market crash. It is reflected that about 67% of respondents have mentioned that measures taken for inquiry of stock market crash is average or needs to improve. It seems concerned Government ministries need to take necessary measures for conducting a prompt and appropriate inquiry to protect against the stock market crash.

5.1.4.9 Monitoring & regulatory initiative by the Government: Implementation of inquiry committee's pertinent recommendations for the protection of a stock market crash: Table 4.9

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	2	11.11
Average	3	16.67
Needs to improve	10	55.55
Total respondents :	18	100

Table 4.9 shows the scenario of implementation of the inquiry committee's pertinent recommendations for the protection of the stock market crash. About 55.56% of respondents have mentioned that implementation of the inquiry committee's pertinent recommendations for the protection of stock market crash needs to improve and 16.67% have also mentioned average scenario is prevailing. About 5.56% of respondents have mentioned excellent, 11.11% have mentioned very good and 11.11% also mentioned good scenario of implementation of inquiry committee's pertinent recommendations for the protection of stock market crash is observed. It seems about 73% of the respondents expect a better situation of implementation of the inquiry committee's pertinent recommendations for the protection of the stock market crash.

5.1.4.10 Monitoring & regulatory initiative by the Government: Monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam: Table 4.10

Response	Frequency	Percentage
Excellent	0	0
Very Good	2	11.11
Good	2	11.11
Average	6	33.33
Needs to improve	8	44.45
Total respondents :	18	100

Table 4.10 reveals the scenario of monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam. About 44.45% of respondents have mentioned that Monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam needs to improve and 33.33% have also mentioned average scenario is prevailing. About 11.11% of respondents have mentioned very good and 11.11% have also mentioned good initiative of monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam is observed. It seems about 78% of the respondents expects a better situation in respect of monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam. Hence, the pertinent authority may take initiative for quick disposal of stock market pending cases for improving the protection and confidence of investors.

5.1.4.11 Monitoring & regulatory initiative by the Government: Initiative to convert Government-owned/state-owned enterprise to public limited companies for increasing supply of good securities in Bangladesh stock market: Table 4.11

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	3	16.67
Good	2	11.11
Average	4	22.22
Needs to improve	8	44.44
Total respondents :	18	100

Table 4.11 shows the survey response of initiative to convert Government-owned/state-owned enterprises to public limited companies for increasing supply of good securities in Bangladesh stock market. It is observed that 44.44% of respondents have mentioned that the initiative to convert Government-owned/state-owned enterprises to public limited

companies for increasing supply of good securities in Bangladesh stock market needs to improve and 22.22% have mentioned average condition is prevailing. About 5.56% have mentioned excellent, 16.67% have mentioned very good and the 11.11% have mentioned good condition is prevailing relating to the initiative to convert Government-owned/state-owned enterprise to public limited companies. It is observed that about 67% of respondents mentioned that the initiative to convert Government-owned/state-owned enterprises to public limited companies for increasing the supply of good securities in the Bangladesh stock market either needs to improve or the average condition is prevailing. It seems Government initiative to convert Government-owned/state-owned enterprises to public limited companies for increasing supply of good securities in the Bangladesh stock market is necessary.

5.1.4.12 Monitoring & regulatory initiative by the Government: Assistance to the small investors for offsetting losses due to stock market crash: Table 4.12

Response	Frequency	Percentage
Excellent	1	5.56
Very Good	2	11.11
Good	7	38.89
Average	4	22.22
Needs to improve	4	22.22
Total respondents :	18	100

Table 4.12 indicates the survey findings of assistance to the small investors for offsetting losses due to the stock market crash. It is observed that 5.56% of respondents have mentioned excellent, 11.11% have mentioned very good, 38.89% have mentioned good and 22.22% has mentioned that average condition is prevailing regarding the assistance to the small investors for offsetting losses due to stock market crash. About 22.22% of respondents have mentioned assistance to the small investors for offsetting losses due to the stock market crash needs to improve. It is observed that about 56% of respondents have mentioned excellent to good condition is prevailing and 22.22% have mentioned that average condition is prevailing regarding assistance to the small investors for offsetting losses due to stock

market crash. Hence, relevant stock market regulatory bodies may take more initiatives to protect the losses & offset the losses of stock market investors.

4.2 Section: B - The Survey by Open-Ended Questionnaires

In this section, the open ended survey questionnaire and findings thereby are submitted as for reflecting the opinions of the stakeholders and experts on stock market on basis of different market issues on inquiry and explanatory form. The open-ended questionnaires are used for survey to take detailed and free opinions from stakeholders and experts.

4.2.1 Open-Ended Questionnaires

The open ended questionnaires are produced in the following for the convenience of realizing the explanatory opinions of the stakeholders and experts on stock market in the next sections. The numbers of open ended questionnaires were set immediately after close ended questionnaires as started from 5.

4.2.1.1 Question # 5: What problems do you think to create hurdles to the development of the stock market in our country?

4.2.1.2 Question # 6: What measures should be taken by the Government as well as the Bangladesh Securities and Exchange Commission to solve the problems to achieve the development of the stock market as you mentioned?

4.2.1.3 Question # 7: How do you assess the measures taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets, to protect the investors, to prevent stock market manipulation, share scams in 1996 and 2010 of the country?

4.2.1.4 Question # 8: What are gaps do you think in the development of stock markets, protection of investors, prevention of stock market manipulation, share scams in 1996 and 2010 in Bangladesh?

4.2.1.5 Question # 9: What steps should be taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets protect the investors, to prevent stock market manipulation and share scam in Bangladesh?

4.2.1.6 Question # 10: What legislative reforms should be taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets, to protect the investors, to prevent stock market manipulation and share scam in Bangladesh?

4.2.1.7 Question # 11: What is the main reason for backlogging of stock market-related cases in Bangladesh?

4.2.1.8 Question # 12: How can corruption in the stock market, infringement of investor's protection, prevention of stock market manipulation, and share scam be driven out from Bangladesh?

4.2.1.9 Question # 13: Do you think that the stock market in Bangladesh is heading in the right direction? Please suggest the right ways if your answer is no.

4.2.1.10 Question# 14: What is the biggest positive impact on Bangladeshi stock markets in the future?

5.2.2 The survey findings of open-ended questionnaires and analysis

The survey findings of the above-mentioned open-ended questionnaires are clustered into five stock market pertinent sections. In this section, the views of respondents have been presented as well as the researcher also tried to incorporate his analyses and suggestions for legislative reforms for the development of the Bangladesh stock market. The clustered sections are as follows:

- (1) Views of respondents and analysis of researcher relating to Bangladesh Securities and Exchange Commission (BSEC).
- (2) Views of respondents and analysis of researcher relating to Stock Exchanges of Bangladesh.

- (3) Views of respondents and analysis of researcher relating Stock Market Acts, rules, and regulations.
- (4) Views of respondents and analysis of researcher relating to other pertinent stock market-related institutions of Bangladesh.
- (5) Views of respondents and analysis of researcher relating to General Stock Market Investors of Bangladesh.
- (6) Views of respondents and analysis of researcher relating to Future Prospects of Stock Market of Bangladesh.

5.2.2.1 Views and analysis relating to BSEC

The views of respondents and analysis of researcher relating to Bangladesh Securities and Exchange Commission (BSEC) are analyzed below:

- (i) Lengthy IPO approval process and improper stock valuation of BSEC for IPO offerings hinder the supply of securities in the Bangladesh stock market. Hence, it is suggested that BSEC should reform the IPO approval framework for minimizing the IPO approval time and ensures proper IPO stock valuation through a qualified team of valuation experts.
- (ii) The major parties behind stock market scams of 1996 and 2010 have not been specified by BSEC after stock market scams. Measures of BSEC are less than satisfactory. As per the views of the respondents regarding stock market scams liable factors are – omnibus account, placement share, book building method, rumors, and so on. Misuse of those factors causes the capital market debacle. The big and wealthy investors have the potential to manipulate the market and get away with it avoiding penalties. The risk-takers in the real sense are the medium and small investors who are prone to lose their investments for scams and unlawful acts in the market. The government and BSEC filed the cases based on the inquiry report. The matter is now under subjudice. BSEC's

inability towards access to prosecution proceedings hampered the confidence of general stock market investors. Hence, it is suggested that BSEC should coordinate with Government law enforcement agencies, relevant courts, and lawyers for prompt settlements of those cases. The timely intervention of BSEC is also needed to control unprecedented events in the future.

- (iii) At present BSEC and other stock market pertinent bodies have lack of technological advancement for prompt stock market monitoring and surveillance. As the stock market is time-driven, technology-driven, and mission-critical business, updating the technology of the major participants like BSEC, Stock Exchanges, CDBL Securities Firms, and Brokerages Firms with the state-of-the-art platform is necessary. This will help to establish an efficient and transparent market place that ensures the reliable execution venue, surveillances to monitor and control the stock market trading and scams.
- (iv) Lack of coordination between regulators: BSEC, Stock Exchanges, CDBL, Bangladesh Bank, Ministry of Finance is prevailing. Hence, coordination among the regulators is necessary to improve the stock market transparency.
- (v) Lack of diversified security products and absence of multi-asset classes are prevailing. Only equity-based markets are the major suppliers of securities in Bangladesh. Hence, the introduction of regulations for the issuance of fixed-income securities with intimation to regulators, and multiple varieties of corporate bond are necessary to introduce for increasing the supply of securities in the stock market by BSEC.
- (vi) To prevent trading of fake paper shares all enlisted companies of stock exchanges needed to be enlisted with Central Depository Bangladesh Ltd (CDBL) and deposit their securities with CDBL. BSEC needs to frame a law for the mandatory enlistment of stock exchange enlisted corporations in CDBL for protecting the trade of fake paper shares.

- (vii) The present Book Building System and Price discovery System failed to protect the stock market scams in 2010. Hence, BSEC may review the Book Building System to ensure the protection of the stock market crash.
- (viii) As a regulator BSEC needs to be more vigilant and be more active in controlling stock market anomalies. Capacity building of BSEC is necessary for monitoring investors, company management, regulators, and legal systems. Ensuring the compliance of Acts, rules, regulations, orders, directives, and notifications regarding the stock market operations is essential. Sustainable stock market growth through liberalizing investment decisions, removing distortions, and promoting stronger supervision and governance of the markets is also crucial. Correcting the existing legal and regulatory framework, continuing improvements to the market infrastructure stock market surveillance system, and empowering institutions e.g., BSEC by reducing government tutelage were crucial to developing a more stable and resilient financial system. The Government and Bangladesh Securities and Exchange Commission should create a sound business environment for individual investors, institutional investors, and companies. It will bring confidence among investors and private sector companies to raise funds from the stock market.

5.2.2.2 Views and analysis relating to Stock Exchanges of Bangladesh

The Views of respondents and analysis of opinions relating to Stock Exchanges of Bangladesh are explored as follows:

- (i) Information asymmetry and agency problems create hurdles in the development of Bangladesh equity-based stock market. Weak governance in listed companies and market intermediaries is also prevailing. Hence, it is suggested that to improve good governance in listed companies, stock exchange authority should begin the physical monitoring of listed companies' activities on a half-yearly basis through an arrangement of a multi-party vigilance team for physical monitoring of listed companies.
- (ii) At present number of enlisted companies are few in stock exchanges (581 in DSE & 331 in CSE) of Bangladesh. Most of the IPOs were oversubscribed. That indicates high demand for new securities is prevailing. Hence, it is necessary to take initiative to convert the large private limited companies with good track of financial condition to public limited companies and enlist those companies to stock exchanges. This measure will help to increase the supply of securities in the stock market, stock trading, and market capitalization, and thus stock price index will improve systematically.
- (iii) For ensuring transparent stock exchange active demutualization of the stock exchange is mandatory. But full demutualization of stock exchanges in Bangladesh is not yet done. Due to this, we observed tussles at the time of appointments of the CEO of DSE & CSE. It is suggested that full demutualization of stock exchanges should be done as early as possible to provide safety to the enlisted corporations and investors.
- (iv) Stock exchanges of Bangladesh are facings the problem of insufficient adaptation of technology advancements. It creates a barrier to the healthy growth of stock trading and the dissemination of trading information. It is suggested to ensure continuous up-gradation of technological advancement of stock exchanges. That will help to enhance

the capability and performance of the exchange trading and monitoring to handle the small as well as larger volumes of trading.

- (v) From stock market scam inquiry reports, in many instances it is reflected that annual reports of the listed companies do not depict a proper representation of business reality. There are headways yet to make on ensuring the reliability of annual reports of enlisted companies. Hence, it is suggested that the stock exchange should take necessary steps to ensure that financial statements of enlisted companies are prepared as per the guidelines of International Accounting Standards (IAS) and audited by competent audit firms.
- (vi) Insider trading is a problem in listed corporations and stock exchanges. At present stock exchange members of Bangladesh can also act as the director of the corporation. This freedom creates the possibility of insider trading. To minimize insider trading it is suggested that provision should be incorporated in stock exchange rules so that members of stock exchange can't be permitted to become the director of the corporation.
- (vii) Many of the respondents mentioned that the Bangladesh stock market does not depend on the good fundamentals of the companies, rather news and rumors work better than other indicators, and the IPO distribution process also needs to review. Due to these reasons, abnormal fluctuations in Stock prices were observed in the different periods. Hence, it is suggested that the stock exchange authority may update the market information continuously, may properly apply the circuit breakers to control the abnormal stock price, and may conduct investor education on regular basis for stock market stability. Stock Exchanges are an information-based organization that needs lots of training, research and development works. A company run after profit may hardly focus on training and research works. Theoretically capacity building of the management of stock exchange may be given a priority in the demutualized stock exchange compared to 1996.

5.2.2.3 Views and analysis relating to Stock Market Acts, rules, and regulations

The Opinions of respondents and exploration of researcher relating to Stock Market Acts, rules, and regulations of Bangladesh are reproduced as follows:

- (i) Respondents stated that reluctance of good governed profitable companies in the stock market listing due to over regulations and compliance burden are prevailing. Hence, it is necessary to take steps for a listing of strong fundamental companies in stock exchanges through the adoption of mandatory enlisting rules. Here, government regulators may make it mandatory to enlist the large companies to the stock exchange if paid-up capital is more than Tk. 100 crore. state-owned companies and MNCs should also bring mandatorily to the stock market for increasing the supply of securities in the stock market. It could be a big help to raise capital from the market for the companies that may reduce the load on the bank.
- (ii) Respondents opined that different groups from BSEC, stock exchange members and directors, and large investors participated in stock market manipulations in 1996 and 2010 and earned huge unusual profits at the time of the stock market debacle of 1996 and 2010. By legislative reforms, enactment, and implementation of the law, the clear-cut rule for detection and punishment for violation and manipulation in the market and strict and punitive measures should be applied to the concerned groups/investors who earned profit via unlawful means, monetary penalties on lack of governance need to be more severe. So, it is necessary to amend the rules and to enact necessary by-laws in BSEC investor's protection acts/rules for controlling stock market manipulations and protecting the investors.
- (iii) One of the main reasons for the backlogging of stock market-related cases in Bangladesh is the lack of a solid legislative body for the capital market and misuse of power. The concerned legal officials (lawyers) may have less understanding of

securities-related Acts, rules, and regulations, and lack of ownership and expertise in the area. Hence, it is necessary to amend the necessary securities laws to empower the BSEC to sue against the violators as per relevant civil liabilities is an important issue for investors' protection. Time-consuming enforcement mechanisms often concluded with penalties lower than abusive profit. By reforming the present legal system punishing the offenders and manipulators in the shortest possible time is necessary.

- (iv) Respondents opined that lack of key policies like close surveillances, auditing and accounting practices, lack of market monitoring & surveillance is prevailing in Bangladesh stock market. Hence, strengthening market monitoring & surveillance, implementation of International Auditing Standard (IAS) and strict penalization can play an instrumental role in controlling those stock market problems.
- (v) Many BSEC officials, ICB officials were involved in the stock market scam of 2010 and they earned a lot of money from the stock market in that time by violating their responsibility and service rules. Hence, it is necessary to enact a law that periodic disclosure of wealth position of the holders of key regulatory positions including their investments in the stock market should be practiced.
- (vi) Small investors face problems getting margin loans from financial institutions and securities firms. Hence, funding opportunities should be created for small and interested investors. In this regard, a provision may be enacted that jobholders and businesses men may get a margin loan by considering their monthly income.
- (vii) There are still some pending cases that were recommended by the stock market Enquiry Committee for taking actions but have not yet been implemented. It is suggested to make necessary provisions in securities acts to form a committee for monitoring the stock market related cases and take necessary initiative to dispose of

those cases. Boosting investors' confidence by implementing probe committee report is necessary.

5.2.2.4 Views and analysis relating to other pertinent stock market-related institutions

The Opinions of respondents and investigation of researcher relating to other pertinent stock market-related institutions of Bangladesh are described as follows:

- (i) Lack of market-based financing for easy availability of bank-based financing due to a huge number of banks and their aggressive lending initiatives discourages converting private limited companies to a public limited company. Hence, it is necessary to impose restrictions on banks for long-term financing beyond own equity capital in industrial and service sectors. To encourage the business organization to convert into a public limited company government may provide the first 7 years tax holiday and next 7 years tax incentives to enlisted companies. A necessary amendment of fiscal law is recommended in this regard.
- (ii) Absence of professional asset/fund managers, institutional investors, and asset management companies is prevailing in Bangladesh. Syndication of institutional investors and brokerage houses is also hurdling the development of the stock market in Bangladesh. If public limited commercial banks establish their subsidiary asset management companies then these problems may be minimized. Hence, Government may encourage large public limited commercial banks to establish their subsidiary asset management companies by giving a 5% to 10% tax rebate incentive.
- (iii) The significant gap in the stock market development is still the lack of good governance in the stock market participants. The regulatory bodies need to focus on building good governance in all stages to avoid another unfavorable situation.
- (iv) Delay in investigation creates a bar to make an immediate correction to the market and it also shakes long-run investors' confidence. Political influence is also considered as

one of the main reasons for backlogging of stock market-related cases in Bangladesh. Lack of engagement of market participants and implementation of lessons learnt from market incidents, and no examples of punishment for scam intruders were observed. Hence, it is necessary to initiate immediate action to identify the alleged unfair practices of the market participants on time. Regulatory bodies and policy actors should be more coordinated in their actions and policy formulations and actions of the regulators are important for a transparent stock market.

5.2.2.5 Views and analysis relating to General Stock Market Investors

The Views of respondents and study of researcher relating to General Stock Market Investors of Bangladesh are narrated below:

- (i) Dominant presence of poorly knowledgeable retail investors, lack of capacity in terms of awareness, knowledge, and legal system, myopic investment mindset of the investors and irrational investment behavior of the general investors are prevailing in Bangladesh stock market. To overcome this problem it is necessary to take initiatives for the expansion of stock market-related education programs. BICM and BSEC's Dhaka-based capital market education programs are not sufficient for improving the stock market knowledge of general investors. BSEC and BICM may introduce short-term stock market education programs at the district level for investors. Effective awareness programs and education of investment in the stock market will help to reduce the manipulation or breach of laws.
- (ii) Due to the dominance of equity instruments, absence of fixed-income securities, lack of corporate bond market the supply of securities is less than demand in Bangladesh. Most of the time IPO's were oversubscribed and general investors fail to succeed in IPO allocation. To make our stock market strong, we need more corporations to be enlisted in stock exchanges. For strong Government and Corporate Bond Market, varieties of securities, derivatives markets, etc., Government can take its large infrastructure

development works by issuing government bonds by using the stock market like other countries in the world.

5.2.2.6 Views and analysis relating to Future Prospects of Bangladesh stock market

The Interpretations of respondents and explorations of researcher relating to future prospects of Bangladesh stock market are narrated in the following points:

- (i) After the share scam of 1996 automated trading system had been installed instead of a cry-out auction procedure to ensure a fair, transparent trading system. The government also strengthened the manpower and resource of the Bangladesh Securities and Exchange Commission. CDBL formation also ensures investors' protection by removing fraudulent activities with the paper script.
- (ii) After the share scam of 2010 demutualization of stock exchanges had been initiated to ensure better monitoring of the market by the stock exchanges. Stock Exchanges also strengthened their manpower and resource for improving the investors' service.
- (iii) Bangladesh's own continuing economic growth towards a middle-income country by 2031 and a developed country by 2041 and consequential industrial expansion and mega projects are also implemented by the Government. The stock market may play a pivotal role in developing as an alternative to the bank-based financial system for channeling equity to the industrial sector by raising capital from the securities market. Proper growth of the stock market can open up more opportunities for both investors and companies. Efficient allocation of resources can be ensured with a well-developed stock market which eventually will help the economy to have healthy growth and the Bangladeshi stock market can play a vital role in the future to cater to this goal.

5.3 Summary of the Survey Findings of the chapters are as follows:

An overall summary of the survey findings of each chapter of section I has been reproduced in tabular and graphical form with brief but comprehensive analysis thereof.

5.3.1 Opinion about the performance of the stock market in Bangladesh

The views of stakeholders about the performance of the stock market in Bangladesh appraised in Chapter 5.1.1 through six parameters are summarised in the following table and figure with comprehensive interpretations:

Table – 5.1 Summarized Findings of Performance of the Stock Market in Bangladesh

Performance parameters	Excellent	Very Good	Good	Average	Needs to improve
Table 1.1: Supply of fundamentally-strong stocks	0	0	16.67	55.55	27.78
Table 1.2: Reduction in transaction costs	5.56	5.56	44.44	33.33	11.11
Table 1.3: Reduction in pre-IPO information asymmetry	0	5.56	22.22	44.44	27.78
Table 1.4: Good governance in listed firms	0	5.56	22.22	33.33	38.89
Table 1.5: Price-value association	0	5.56	33.33	33.33	27.78
Table 1.6: Insider trading prohibition	5.56	5.56	22.22	27.77	38.89

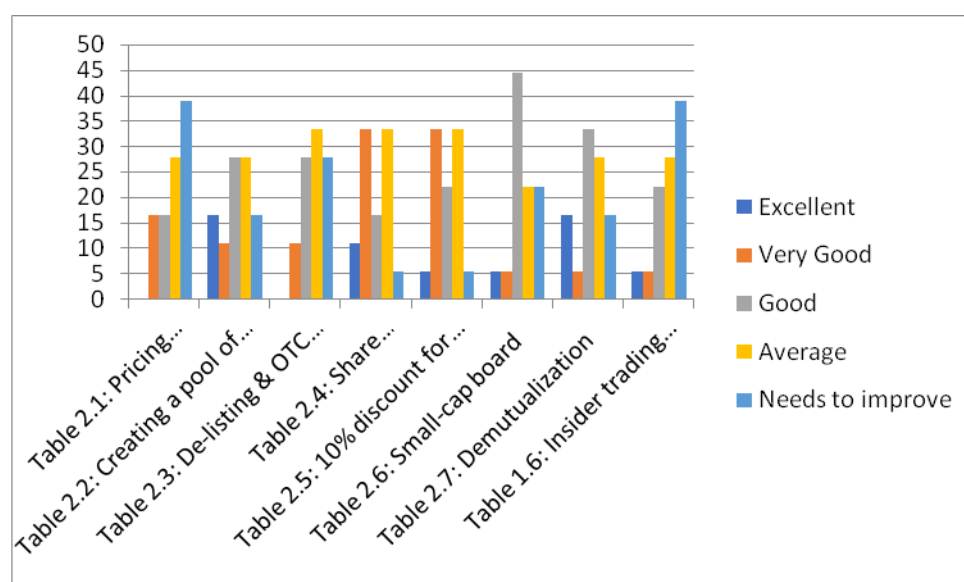


Figure 2

Analysing Figure 2 reflected from the table appraising Section I of Chapter 5, it seems about 35 percent of respondents have mentioned that the average condition is prevailing regarding the performance of stock market parameters such as supply of fundamentally-strong stocks; reduction in pre-IPO information asymmetry; good governance in listed firms; price-value association; insider trading prohibition. About 30 percent of the respondents have mentioned that these parameters need to improve.

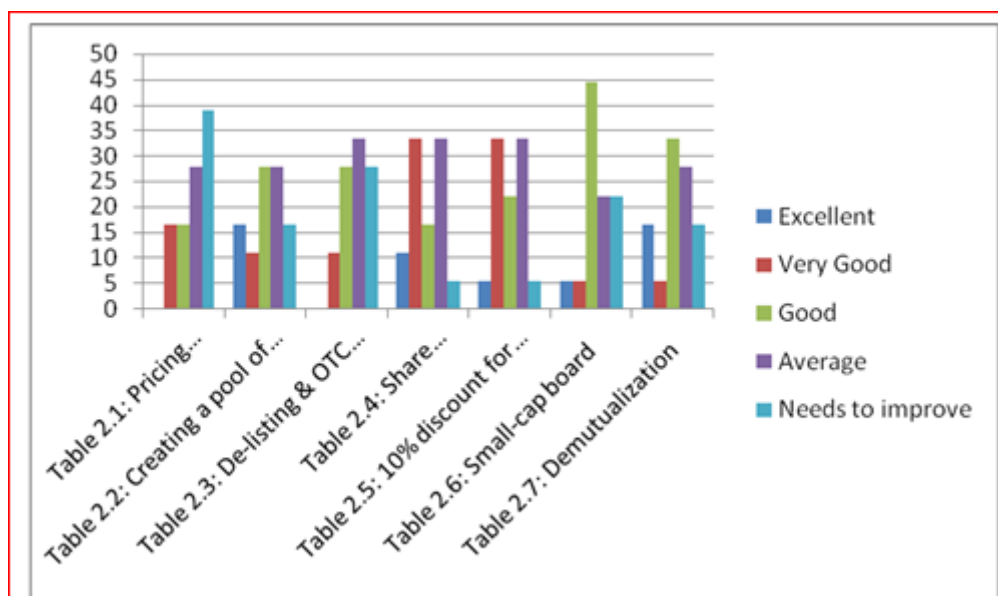
5.3.2 Opinion about the Rating of the regulatory initiatives by BSEC

The views of stakeholders about the Rating of the regulatory initiatives implemented by the Bangladesh Securities and Exchange Commission (BSEC) appraised in Chapter 5.1.2 through seven parameters are summarised in the following table and figure with comprehensive interpretations.

Table: 5.2: Summarized Findings of Regulatory Initiatives Implemented by BSEC

Regulatory initiatives	Excellent	Very Good	Good	Average	Needs to improve
Table 2.1: Pricing mechanism under book-building approach	0	16.67	16.67	27.77	38.89
Table 2.2: Creating a pool of qualified auditors	16.67	11.10	27.78	27.78	16.67
Table 2.3: De-listing & OTC (over-the-counter) market	0	11.11	27.78	33.33	27.78
Table 2.4: Share categorization	11.11	33.33	16.67	33.33	5.56
Table 2.5: 10% discount for retail-investors in IPO-stocks	5.56	33.33	22.22	33.33	5.56
Table 2.6: Small-cap board	5.56	5.56	44.44	22.22	22.22
Table 2.7: Demutualization	16.67	5.56	33.33	27.78	16.67

Figure -3



Analysing Figure 3 reflected from the table appraising Section II of Chapter 5, it is observed that about 25 percent of respondents have mentioned that good condition is prevailing regarding the regulatory parameters for initiatives implemented by

Bangladesh Securities and Exchange Commission (BSEC). The parameters are: Creating a pool of qualified auditors; De-listing & OTC (over-the-counter) market; 10% discount for retail-investors in IPO-stocks; Small-cap board; Demutualization. About 30 percent of the respondents have mentioned that the average condition is prevailing regarding these parameters and about 17 percent of the respondents have mentioned that five parameters need to improve.

5.3.3 Opinion about the Monitoring & regulatory initiatives by Stock Exchanges

The Views of stakeholders about the Rating of the Monitoring & regulatory initiative implemented by Stock Exchanges appraised in Chapter 5.1.3 through thirteen parameters are summarised in the following table and figure with comprehensive interpretations.

Table: 5.3: Summarized Findings of the Monitoring & regulatory initiative implemented by Stock Exchanges

Monitoring & regulatory initiatives of stock exchanges - DSE & CSE:	Excellent	Very Good	Good	Average	Needs to improve
Table 3.1: Procedure of enlisting the securities in Stock Exchanges	5.56	22.22	22.22	38.89	11.11
Table 3.2: Creating a pool of qualified surveillance team	5.56	27.78	5.56	44.44	16.66
Table 3.3: Regulatory measures for violation of stock exchange acts/ rules	5.56	11.11	16.67	33.33	33.33
Table 3.4: Lock in period for sponsor shareholders	5.56	16.66	44.44	27.78	5.56
Table 3.5: Lock in period for foreign portfolio investors		25	31.25	31.25	12.50
Table 3.6: Effective control of circuit breakers	16.66	11.11	27.78	27.78	16.66
Table 3.7: Continues market for securities	5.88	17.64	35.50	29.41	11.77
Table 3.8: Fair security/stock price speculation	5.56	11.11	27.78	22.22	33.33
Table 3.9: Protection of investors' interest	5.56	11.11	22.22	38.89	22.22
Table 3.10: Liquidity in stock exchange	0	5.56	38.90	27.77	27.77
Table 3.11: Transparent settlement of transaction	22.22	11.11	27.78	11.11	27.78
Table 3.12: Monitoring & Control of listed companies/ securities	11.11	16.67	11.11	38.89	22.22
Table 3.13: Safety of capital & fair dealings	5.56	22.22	27.78	22.22	22.22

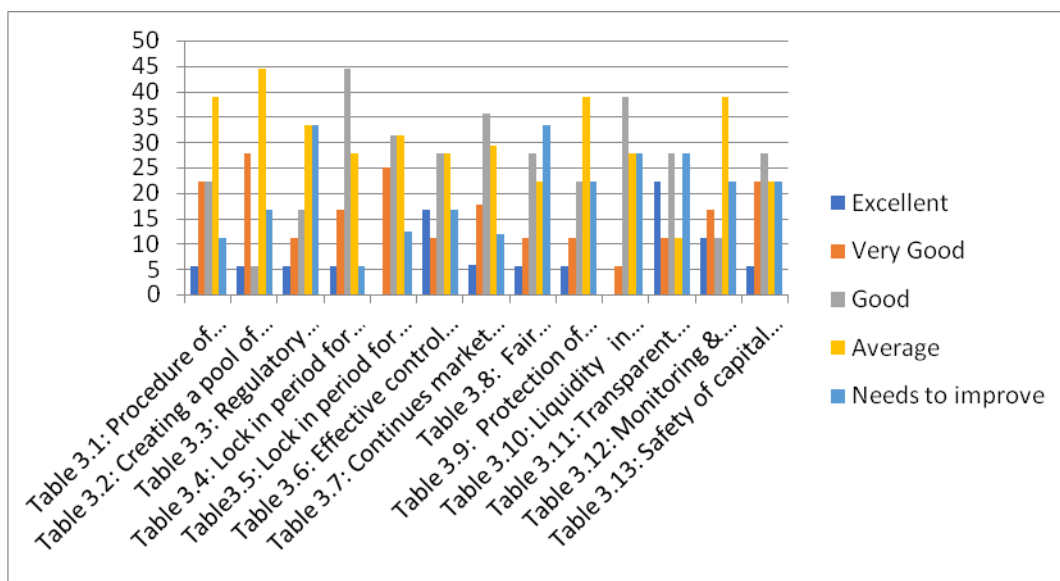


Figure 4

It is reflected from Figure 4 reproduced from the table appraising Section III of Chapter 5 that about 25 percent of respondents have mentioned that good condition is prevailing regarding the monitoring & regulatory initiatives implemented by Stock exchanges parameters such as procedure of enlisting the securities in stock exchanges; creating a pool of qualified surveillance team; regulatory measures for violation of stock exchange acts/ rules; lock-in period for sponsor shareholders; lock-in period for foreign portfolio investors; effective control of circuit breakers; continuity to market for securities; fair security/stock price speculation; protection of investors' interest; liquidity in stock exchange; transparent settlement of transaction; safety of capital & fair dealings. About 30 percent of respondents have mentioned that the average condition is prevailing and another 25 percent of respondents have mentioned that these parameters need to improve.

5.3.4 Opinion about the measures implemented by the Government

The views of stakeholders about the measures implemented by the Government for the development of the stock market in Bangladesh appraised in Chapter 5.1.4 through twelve parameters are summarised in the following table and figure with comprehensive interpretations.

Table: 5.4:

Monitoring & regulatory initiative by the Government:	Excellent	Very Good	Good	Average	Needs to improve
Table 4.1: Establishment of relevant stock market regulatory bodies	5.56	38.90	22.22	16.66	16.66
Table 4.2: Coordination among the stock market regulatory bodies	5.55	5.55	33.34	27.78	27.78
Table 4.3: Initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations	11.11	5.56	27.78	33.33	22.22
Table 4.4: Initiative for encouraging foreign portfolio investment	0	11.11	33.33	22.23	33.33
Table 4.5: Initiative for stable foreign exchange policy	5.56	11.11	44.44	16.67	22.22
Table 4.6: Initiative for cooperation with international agencies/stock exchanges	5.56	16.67	22.22	11.11	44.44
Table 4.7: Surveillance of stock market by pertinent Government Ministries	0	22.22	5.56	33.33	38.89
Table 4.8: Appropriate measures for inquiry of stock market crash	0	11.11	22.22	27.78	38.89
Table 4.9: Implementation of inquiry committee's pertinent recommendations for the protection of a stock market crash	5.56	11.11	11.11	16.67	55.55
Table 4.10: Monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam	0	11.11	11.11	33.33	44.45
Table 4.11 Initiative to convert Government-owned/ state-owned enterprise to public limited companies for increasing supply of good securities in Bangladesh stock market	5.56	16.67	11.11	22.22	44.44
Table 4.12 Assistance to the small investors for offsetting losses due to stock market crash	5.56	11.11	38.89	22.22	22.22

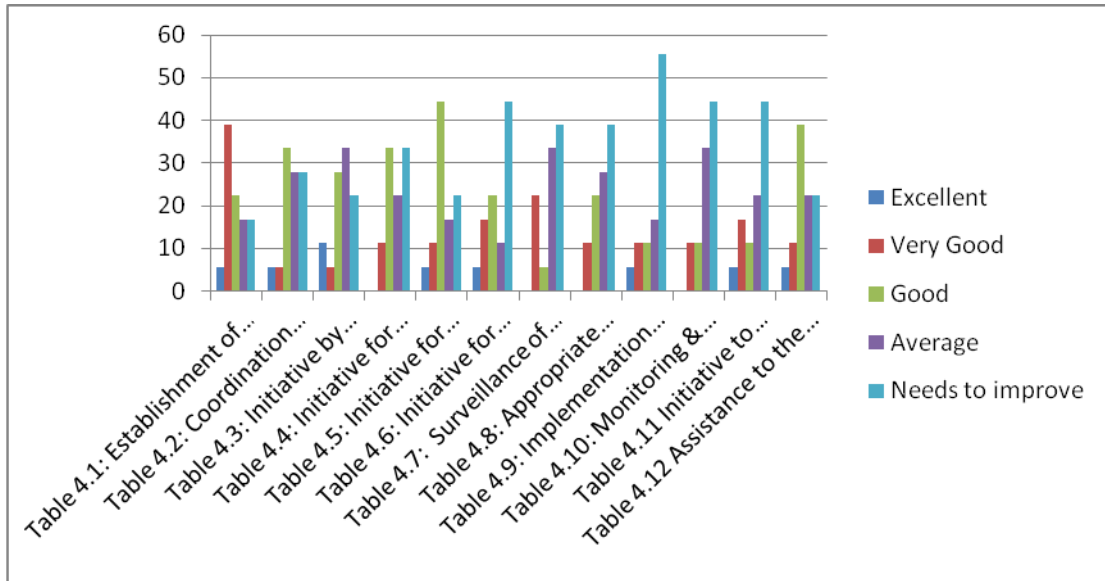


Figure 5

By assessing Figure 5 reproduced from the table appraising Section IV of Chapter 5, it seems about 30 percent of respondents have mentioned that average condition is prevailing regarding the regulatory measures implemented by the Government regarding the parameters such as coordination among the stock market regulatory bodies; an initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations; an initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations; initiative for encouraging foreign portfolio investment; initiative for stable foreign exchange policy, an initiative for cooperation with international agencies/stock exchanges; surveillance of stock market by pertinent Government ministries; measures for inquiry of stock market crash; assistance to the small investors for offsetting losses due to stock market crash. About 35 percent of respondents have mentioned that these parameters need to improve. More than 20 percent of the respondents have opined that in eight parameters government has been able to ensure good conditions.

5.4 Concluding Remarks of the chapter

Stock markets function in a regulatory regime and the regulators must be professional, efficient, and transparent. Bangladesh Securities and Exchange Commission is the apex regulator for the stock market. More than twenty-five years after its formation, BSEC is yet to develop as an efficient watchdog competent to discharge its most important responsibilities of protecting the interest of investors. The debacle of 1996 and 2010-11 was a massive regulatory failure. BSEC lacks quality, professional manpower, competent accountants, financial analysts, and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of coordination between the Ministry of Finance, Bangladesh Bank, Securities, and Exchange Commission, and other related organizations. This isolation of BSEC was, perhaps, a crucial factor for the regulatory failure in 2011. It is unfortunate that since the establishment of the Securities and Exchange Commission in 1993, the stock market has crashed twice. On both occasions, thousands of small and inexperienced investors lost everything they had. The stock market crash is not something unique and it happened in many other countries. But market collapses in other countries were normally linked to some internal or external economic shock or global recession. In the case of Bangladesh, it has not been so. Both the crashes were neither due to external economic factors nor internal economic malfunctions. These crashes were the results of poor governance, unbridled manipulations, undue influences, and unlimited greed.

The giddy rise of price in 2010 was also the act of manipulation by the scam masters, this time only some new scam masters were added with the old buddies of 1996. But style and nature of the scams were the same - robbing the pockets of the innocent retail investors by pushing the stock prices sky-high. The only thing that was done

was the forming of a committee by the government to enquire about how the stock scam happened and what could be done as remedies. The Enquiry Committee unmasked the scam masters by describing how they lay the net of robbing and in turn deplored the incompetence and inaction of the BSEC. But things stopped there. The retail investors who were robbed of their capital got neither compensation nor any other kind of justice.

From the sequence of analysis of previous chapters and chapter five's Findings of the survey on the Acts, rules, and regulations of the stock market of Bangladesh for legislative reforms of Bangladesh stock market researcher may demand that the hypothesis "Growth of the stock market depends upon economic, political, stock market Acts, rules & regulations, the legal frame work in a country and the legal stability that the Government can provide to the stock markets. Thus stock market development and ensuring stock market legal stability are correlated" has proved.

Chapter-6

Recommended Regulatory and Legislative Reforms of Bangladesh Stock Market

6.1. Introduction

By considering the observation and analysis of identified pertinent shortcomings in the preceding chapters of the thesis, necessary regulatory and legislative reforms of Bangladesh stock market have been tried to be recommended in this chapter. To overcome those difficulties and challenges, some effective recommendations have been produced on the basis of the evidence and illustrations available in the thesis for regulatory and legislative reforms of Bangladesh stock market.

6.2 Proposed Regulatory Reforms for Developing Bangladesh Stock Market

After appraisal of the role of different stock market regulatory bodies in Bangladesh as discussed in chapter 3 and giving due attention to the views of respondents and analysis of researcher relating to different stock market governing bodies, some necessary and effective measures, to be adopted by the those regulatory bodies, are recommended in this section.

6.2.1 Recommended Measures for BSEC

- (i) Swift IPO approval process and proper stock valuation of BSEC for IPO offerings hinder the supply of securities in the Bangladesh stock market. Hence, it is suggested that BSEC should reform the IPO approval framework for minimizing the IPO approval time and ensures proper IPO stock valuation through a qualified team of valuation experts.
- (ii) The major perpetrators behind stock market scams of 1996 and 2010 have not been specified by BSEC after stock market scams. The government and BSEC filled the cases based on the inquiry report. The matter is now under *sub-judice*.

BSEC's inability to wards access to prosecution proceedings hampered the confidence of general stock market investors. Hence, it is suggested that BSEC should coordinate with Government law enforcement agencies, relevant courts, and lawyers' for prompt settlements of those cases. The best solution might be forming a Prosecution Unit of the Commission for this purpose. The timely intervention of BSEC is also needed to control unprecedented events in the future.

- (iii) At present BSEC and other stock market pertinent bodies have lack of technological advancement for prompt stock market monitoring and surveillance. As the stock market is time-driven, technology-driven, and mission-critical business, updating the technology of the major participants like BSEC, Stock Exchanges, CDBL Securities Firms, and Brokerages Firms with the state-of-the-art platform is necessary. This will help to establish an efficient and transparent marketplace that ensures the reliable execution venue, surveillances to monitor & control the stock market trading and scams.
- (iv) Lack of coordination between regulators: BSEC, Stock Exchanges, CDBL, Bangladesh Bank, Ministry of Finance is prevailing. Hence, coordination among the regulators is necessary to improve the stock market transparency.
- (v) Lack of diversified security products and absence of multi-asset classes are prevailing. Only equity-based markets are the major suppliers of securities in Bangladesh. Hence, the introduction of regulations for the issuance of fixed-income securities with intimation to regulators, and multiple varieties of corporate bond are necessary to introduce for increasing the supply of securities in the stock market by BSEC.
- (vi) To prevent trading of fake paper shares all enlisted companies of stock exchanges needs to be enlisted with Central Depository Bangladesh Ltd (CDBL) and deposit

their securities with CDBL. BSEC needs to frame a law for the mandatory enlistment of stock exchange enlisted corporations in CDBL for protecting the trade of fake paper shares.

(vii) The present Book Building System and Price discovery System failed to protect the stock market scams in 2010. Hence, BSEC may review the Book Building System to ensure the protection of the stock market crash.

(vii) As a regulator BSEC needs to be more vigilant and be more active in controlling stock market anomalies. Capacity building of BSEC is necessary for monitoring investors, company management, regulators, and legal systems. Ensuring the compliance of Acts, rules, regulations, orders, directives, and notifications regarding the stock market operations is essential. Sustainable stock market growth through liberalizing investment decisions, removing distortions, and promoting stronger supervision and governance of the markets is also crucial. Correcting the existing legal and regulatory framework, continuing improvements to the market infrastructure stock market surveillance system, and empowering institutions e.g., BSEC by reducing government tutelage were crucial to developing a more stable and resilient financial system. The Government and Bangladesh Securities and Exchange Commission should create a sound business environment for individual investors, institutional investors, and companies. It will bring confidence among investors and private sector companies to raise funds from the stock market.

6.2.2 Suggested Actions for Stock Exchanges of Bangladesh

(i) Information asymmetry and agency problems create hurdles in the development of Bangladesh equity-based stock market. Weak governance in listed companies and market intermediaries is also prevailing. Hence, it is suggested that to improve

good governance in listed companies' stock exchange authority should begin the physical monitoring of listed companies' activities on a half-yearly basis through an arrangement of a multi-party vigilance team for physical monitoring of listed companies.

- (ii) At present numbers of enlisted companies are few in stock exchanges (581 in DSE & 331 in CSE) of Bangladesh. Most of the IPOs were oversubscribed. That indicates high demand for new securities is prevailing. Hence, it is necessary to take initiative to convert the large private limited companies with good track of financial condition to public limited companies and enlist those companies to stock exchanges. This measure will help to increase the supply of securities in the stock market, stock trading, and market capitalization, and thus stock price index will improve systematically.
- (iii) For ensuring transparent stock exchange active demutualization of the stock exchange is mandatory. But full demutualization of stock exchanges in Bangladesh is not yet done. Due to this, we observed tussles at the time of appointments of the CEO of DSE & CSE. It is suggested that full demutualization of stock exchanges should be done as early as possible to provide safety to the enlisted corporations and investors.
- (iv) Stock Exchanges of Bangladesh are facing the problem of insufficient adaptation of technology advancements. It creates a barrier to the healthy growth of stock trading and the dissemination of trading information. It is advocated to ensure continuous up-gradation of technological advancement of stock exchanges. That will help to enhance the capability and performance of the exchange trading and monitoring to handle the small as well as larger volumes of trading.

- (v) From stock market scam inquiry reports, in many instances it is reflected that annual reports of the listed companies do not depict a proper representation of business reality. There are headways yet to make on ensuring the reliability of annual reports of enlisted companies. Hence, it is suggested that the stock exchange should take necessary steps to ensure that financial statements of enlisted companies are prepared as per the guidelines of International Accounting Standards (IAS) and audited by competent audit firms.
- (vi) Insider trading is a problem in listed corporations and stock exchanges. At present stock exchange members of Bangladesh can also act as the director of the corporation. This freedom creates the possibility of insider trading. To minimize insider trading it is suggested that provision should be incorporated in stock exchange rules that members of stock exchange can't be permitted to become the director of the corporation.
- (vii) Many of the respondents mentioned that the Bangladesh stock market does not depend on the good fundamentals of the companies, rather news and rumors work better than other indicators, and the IPO distribution process also needs to review. Due to these reasons, abnormal fluctuations in stock prices were observed in the different periods. Hence, it is suggested that the stock exchange authority may update the market information continuously, may properly apply the circuit breakers to control the abnormal stock price, and may conduct investor education on regular basis for stock market stability. Stock Exchanges are an information-based organization that needs lots of training, research and development works. Theoretically capacity building of the management of stock exchange may be given a priority in the demutualized stock exchange compared to 1996.

(vii) To protect the investors, a share trading mechanism should be introduced to restrict share trading by the broker except the visible consent of the clients. Moreover, Stock Exchanges should use their punitive authority, in necessary cases, given by the Exchanges Demutualisation Act and the Trading Rights Entitlement Certificates (TREC) Regulations. Moreover, Stock Exchanges should use their punitive authority, in necessary cases, given by the Exchanges Demutualisation Act and the Trading Rights Entitlement Certificates (TREC) Regulations to oversee and regulate the activities of the TREC holders.

6.2.3 Recommended Initiatives by other Stock Market-Related Institutions

- (i) Lack of market-based financing for easy availability of bank-based financing due to huge number of banks and their aggressive lending initiatives discourages converting private limited companies to a public limited company. Hence, it is necessary to impose restrictions on banks for long-term financing beyond own equity capital in industrial and service sectors. To encourage the business organization to convert into a public limited company government may provide the first 7 years tax holiday and next 7 years tax incentives to enlisted companies. A necessary amendment of tax law is recommended in this regard.
- (ii) Absence of professional asset/fund managers, institutional investors, and asset management companies is prevailing in Bangladesh. Syndication of institutional investors and brokerage houses is also hurdling the development of the stock market in Bangladesh. If public limited commercial banks establish their subsidiary asset management companies then these problems may be minimized. Hence, Government may encourage large public limited commercial banks to establish their subsidiary asset management companies by giving tax rebate incentive.

- (iii) The significant gap in the stock market development is still the lack of good governance in the stock market participants. The regulatory bodies need to focus on building good governance in all stages to avoid another unfavorable situation.
- (iv) Delay in investigation creates a bar to make an immediate correction to the market and it also shakes long-run investors' confidence. Political influence is also considered as one of the main reasons for backloging of stock market-related cases in Bangladesh. Lack of engagement of market participants and implementation of lessons learnt from market incidents, and no examples of punishment for scam intruders were observed. Hence, it is necessary to initiate immediate action to identify the alleged unfair practices of the market participants on time. Regulatory bodies and policy actors should be more coordinated in their actions and policy formulations and actions of the regulators are important for a transparent stock market.
- (v) Cumulative weakness of stock brokerage house and the alleged embezzlement of their clients' fund heighten the distress among the frustrated investors. A good number of client alleged that cheques issued by the brokerage firm repeatedly dishonoured and their permission is misused to snatch their fund. To protect the investors, a share trading mechanism should be introduced to restrict share trading by the broker except the visible consent of the clients. Though there is CDBL alert service of share trading, all clients do not avail this service. So, BO account should be opened through unique ID and Password given and preserved by the clients. Moreover, Stock Exchanges should use their punitive authority, in necessary cases, given by the Exchanges Demutualisation Act and the Trading Rights Entitlement Certificates (TREC) Regulations Moreover, Stock Exchanges should use their punitive authority, in necessary cases.

6.2.4 Recommended Measures for General Stock Market Investors

- (i) Dominant presence of poorly knowledgeable retail investors, lack of capacity in terms of awareness, knowledge and legal system, myopic investment mindset of the investors and irrational investment behavior of the general investors are prevailing in Bangladesh stock market. To overcome this problem it is necessary to take initiatives for the expansion of stock market-related education programs. BICM and BSEC's Dhaka-based capital market education programs are not sufficient for improving the stock market knowledge of general investors. BSEC and BICM may introduce short-term stock market education programs at the district level for investors. Effective awareness programs and education of investment in the stock market will help to reduce the manipulation or breach of laws.
- (ii) Due to the dominance of equity instruments, absence of fixed-income securities, lack of corporate bond market the supply of securities is less than demand in Bangladesh. Most of the time IPO's were oversubscribed and general investors fail to succeed in IPO allocation. To make our stock market strong we need more corporations to be enlisted in stock exchanges; for strong Government and Corporate Bond Market, varieties of securities, derivatives markets; etc., Government can take its large infrastructure development works by issuing government bonds by using the stock market like other countries in the world.
- (iii) Provisions should be made to give TIN compulsorily at opening BO account as recommended in the Inquiry Report,2011 at Page 143 Para 9.26 to control fake account or *benami* account.

6.2.5 Constituting the Commission of Inquiry

The major perpetrators behind stock market scams of 1996 and 2010 have not been specified by BSEC after stock market scams. The government and BSEC filed the cases based on the inquiry report. The matter is now under *sub-judice*. BSEC's inability towards access to prosecution and delay in investigation proceedings hampered the confidence of general stock market investors. In the Inquiry Report headed by Mr. Khondokar Ibrahim Khaled suggested and Supreme Court gives direction to the government to conduct further inquiry on the said scams to identify the real perpetrators behind those market manipulations to bring them under prosecution. However, for a comprehensive inquiry of this sensitive issue and matter of public importance, formation of a Commission of Inquiry under the Commissions of Inquiry Act 1956¹ is expected to reveal the real fact thereof. Under Section 3 under the Commissions of Inquiry Act 1956, the Government may appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions. The Commission is empowered to enquire into the matter and perform other functions as may be necessary. The Commission may be constituted by one or more members appointed by the Government, and if there are more than one members one shall act as the President thereof.

For instance, on 24 October, 1977 the Government (Ministry of Defence), by an *official Gazette* notification² formed a Commission of Inquiry, Under Section 3 under

¹ Commissions of Inquiry Act 1956 (Bangladesh) <<http://bdlaws.minlaw.gov.bd/>> .

² S.R.O. 320-L/77 (Bangladesh).

the Commissions of Inquiry Act 1956, consisted of 2 members namely- Mr. Justice A.F.M Ahsanuddin Chowdhury as president and Mr. Justice A.T.M Masud as member for the purpose of making inquiry into certain incidents involving the Armed Forces took place at Bogra Cantonment on the night between 29th and 30th September, 1977 and at Dacca Cantonment on the night between 1st and 2nd October, 1977 describing the jurisdiction of such inquiry.

Besides, on 26 February 1983, the Government (Ministry of Labour and Manpower), by *official Gazette* notification³ formed a National Wages and Productivity Commission which was reconstituted by *official Gazette* notification⁴, for the purpose of making inquiry into the wages and productivity of industrial workers.

This Commission was empowered with jurisdiction of the Commission of Inquiry and given applicability under Section 4 and Sub-Sections (2),(3), (4), (5) and (6) of Section 5 of the Commissions of Inquiry Act, 1956 by an *official Gazette* notification.⁵

6.3 Suggested Legislative Reforms for Developing Bangladesh Stock Market

It is evident from previous chapters that ineffective stock market Acts, Rules and Regulations hampered the optimum growth of Bangladesh stock markets. The Laws and Regulations relating to securities and share markets in Bangladesh have been on the focus after the great turmoil in the share market in 1996 and 2009-10. There are a bundle of primary and secondary legislations relevant to stock market. The Securities and Exchange Ordinance 1969, The Bangladesh Securities and Exchange Commission Act 1993, The Depositories Act 1999, The Companies Act 1994,

³ S.R.A-O-ZA VIII/12(3)/83(1)124(Bangladesh).

⁴ S.R.A-O-ZA VII/12(3)/84(1)/349 dated 27 February 1983(Bangladesh).

⁵ S.R.O. 90-L/85 dated 13 February 1985(Bangladesh).

The Exchanges Demutualization Act 2013 are vital and significant regulatory legislations in Bangladesh stock market. There are some common inherent shortcomings of all these laws are lack of proper execution of the capital market regulations, deficient penalty, ineffective fine recovery system, no direct access to justice, tribunal lacking cognizance power on complaint, want of original jurisdiction of tribunal, the comfortable savoir of good faith clause lacking special prosecution team, disregarding equality before law and equal protection of law, abuse of the defence ‘due diligence and without knowledge’. Besides, there are vital specific loopholes in these legislations mentioned in chapter 4 and 5. To redress the addressed shortcomings properly, the following suggested recommendation carries much weight to be implemented on priority basis for optimum development of the stock market of Bangladesh.

6.3.1 Reconstituting Commission as Representative and Participatory Body

Under Section 5 of the BSEC Act 1993, practically the Commission lacks representations of vital regulatory bodies. For a participatory and regulatory bodies’ representing Commission might be reconstituted amending section 5 of BSEC Act, 1993 in the following manner:

- (i) One Chairman;
- (ii) three permanent Commissioners;
- (iii) One Government officer ranked not below Additional Secretary of Financial Institution Division as ex-officio member nominated by Government;
- (iv) Chairman, Financial Reporting Council;
- (v) One Deputy Governor nominated by Bangladesh Bank;
- (vi) One Deputy Comptroller and Auditor General nominated by Comptroller and Auditor General.

6.3.2 Reviewing Appointment Procedure

Section 5 of the BSEC Act 1993 stipulates that the Chairman and Commissioners of the Commission shall be appointed by the Government. Regarding the work nature and responsibility of the commission, sole appointing authority vested in the government does not ensure enough transparency in appointment procedure. A Search Commission or Selection Committee may be formed for appointing Chairman and permanent Commissioners for free, fair and credible appointment procedure amending Section 5 the BSEC Act 1993 in the following manner:

- (i) Comptroller and Auditor General-Chairman;
- (ii) Chairman, Financial Reporting Council- Member;
- (iii) One member from Public Service Commission nominated by Chairman-Member;
and
- (iv) Secretary, Financial Institution Division- Member.

Financial Institution Division shall give secretarial assistance to this Committee or Commission. The Committee shall prepare a list of 2 persons for each vacant post unanimously to be submitted to the Government for appointing the Chairman and permanent Commissioners out of recommended persons. In preparing the list of panel, the Selection Committee shall consider the expertise in company matters and securities market or special knowledge in law, economics, accounting and any other discipline as required by the government. For further terms and conditions of the office of the Chairman and the Commissioners, the model may be taken from the terms and conditions of the Chairman and the Members of the Anti-Corruption Commission as mentioned in Sections 5-10 of the Anti-Corruption Commission Act, 2004. It is noteworthy that in the proposed reformation for BSEC by the inquiry committee

headed Khandeker Ibrahim Khalid presented at para 9.3 of the report, a model of a high-level Search Committee for preparing panel of short listed personnel eligible for appointment.

6.3.3 Providing Concrete Guidelines Mandating Disclosure of Information

Efficient and reliable brokerage houses have not yet developed for supporting and guiding the investors in taking right decision. Investors are not capable enough to analyze financial information. Concrete guidelines for prospectus preparation, IPO, premium pricing and other relevant issues shall immediately be introduced for protecting the investors in Bangladesh from high degree of risk in the face of frequent reported market manipulation and other abuses that make the elusive concept of business confidence. Strict provisions must be inserted in stock market legislations to provide authentic detailed information regarding the IPO to the investors.

6.3.4 Proper Execution of the Capital Market Regulations

Though in Section 11(1), 11(2) of SEO, 1969, provide that an annual report of its affairs and statements and other reports must be submitted every listed security to furnish as - prescribed to the Stock Exchange, to the security holders and to the BSEC, it is observed that many public limited companies do not hold regular Annual General Meeting (AGM), pay dividends and publish financial statements in time. These aspects might be ensured by inserting strict supervisory and punitive provisions in stock related laws with proper execution mechanism in the capital market regulations.

6.3.5 Strict Implementation of Kerb Market Regulating Laws

Despite having Sections 2CC and 8 in SEO 1969, BSEC repeatedly failed to protect the investor's interest by strictly implementing the provisions to regulate Kerb Market in the recent past 2009-2010 and 1996. One of the important ways of investors'

protection in the primary market is to ensure full and fair disclosures to prospective investors in order to enable the investors to make informed decision. Prospectus is an invitation to prospective investors to subscribe for securities of a public company detailed in it. In order to get fair information about the public issue and its issuer such full information must be provided in prospectus.

According to Sections 2B, 2E and Section 18 of SEO, 1969, it is Commission's (BSEC's) duty and responsibility to ensure full and fair information for investors. So, Sections 2B, 2E and 18 of Securities and Exchange Ordinance 1969 must be implemented strictly by the Commission to protect the interest of investors by to regulate Kerb Market.

6.3.6 Limiting Power to Impose Overriding Conditions

In Section 2CC, by inserting a *non-obstante* clause, gives the Commission power to impose any condition as may be necessary overriding any law, Memorandum or Articles of Association of company or any consent or recognition accorded under Sections 2A and 2B with retrospective effect. This section is enacted as *ex post facto law*. This *non-obstante clause* was inserted by an amending SEO, 1969 in 1997 after 1996 stock market crash. However, it is expected that the BSEC will restraint itself to exercise this unfettered power for the benefit of the investors and better regulation of stock market. For ensuring such functioning, concrete guideline or criteria, under which the BSEC can exercise its ample power under the Section, should be inserted in this Section to bring checks and balances between company's manipulating tricks and immediate effective action by the Commission. Retrospective effect of the directives or conditions must be confined within *bonafide* directives following the constitutional negation of *ex post facto law*.

6.3.7 Introducing Exemplary Penalty

From the view of all stock market legislations including SEO, 1969, BSEC Act 1993 penal provisions are not enough for the greedy stock market culprit having financial strength and high influencing muscle power. Only five years and five lac highest penalties without any minimum punishment could never make in fear to repeat the offences. For exemplary punishment model may be taken from Money Laundering Prevention Act 2012 and Information, Communication and Technology Act 2006. Like those laws highest punishment might be fourteen years imprisonment with minimum 5 years imprisonment and/or fine of taka one crore with minimum taka 10 lac. Forfeiture of potential property from manipulation may be inserted as additional effective measure.

6.3.8 Ensuring Direct Access to Justice

Section 25 of SEO 1969, 19(2) of BSEC Act 1993 and Section 16 of Depository Act 1999 bar direct access to justice towards the victim by conditioning to take cognizance of any offence punishable under these laws except on a report in writing of an officer authorized by the Securities and Exchange Commission. These laws should either allow the victim to file complaint in Court or any authorized unit of the Commission responsible to initiate prosecution or investigation on complaint by victim or informant or on its own knowledge.

6.3.9 'Equal Protection of Law' and 'Equality before Law' to be Upheld

Section 25 of SEO 1969, Section 19(2) of BSEC Act 1993 and Section 16 of Depository Act 1999 not only restricts the direct access to justice of the common people but also disregards the stipulation of equal protection of law guaranteed under Article 27 of the Constitution of Bangladesh as the redress of the grievance for any

offence under this Act is contingent on the sole will of the authorized officer.- For ensuring equal protection of law, door must be open for the common people to lodge complaint to authorized officer who must be accountable under these laws for taking respective action on complaint. In this regards, one stop service in lodging complaint in court or authorized officer may protect the litigants from facing multiple discrimination while taking permission from the authorized officer and also in case of redressing their grievances before the Court. The constitutionally guaranteed right to fair trial of the aggrieved person must be upheld by amending these jeopardizing provisions.

Further, Section 2D (1) of the SEO, 1969, Section 22 of BSEC Act, 1993, Section 19 of Depository Act, 1999 Section 21 of the Exchanges Demutualization) Act, 2013 provide that the Commission may, with or without consultation with the Government and by notification in the official Gazette, declare any specific provision of these laws as mentioned in particular law inapplicable in the case of any specified person or organization for the period mentioned in the notification. This exempting provision for particular person or organization infringes the basic principle of ‘doctrine rule of law’ and fundamental rights of our Constitution enshrined in Article 27 namely- “equality before law”. To uphold this basic principle of law such exemption must conditional and qualified within the ambit of exceptions of A.V Dicey’s principle - “Rule of Law” and conditions of positive discrimination as referred in Article 28 and 29 of our Constitution. So, the provisions of blank exemption must be amended by providing the terms, conditions and qualifications for exercising this discretionary power to defend arbitrary abuse.

6.3.10 Generalizing Jurisdiction of the Tribunal to relevant Cases

Section 25B of SEO, 1969 established Tribunal authorizing the tribunal all powers of the Court of Sessions in trying the securities related cases when it is transferred by the Court of Sessions. However, other major stock market laws including BSEC Act, 1993 and Section 16 of Depository Act 1999 ignore the jurisdiction even existence of such tribunal. To avoid such inconsistency in trial forum, the Tribunal must be generalized for stock and security matters punishable under any of stock market laws amending the relevant laws. For example, all offences under environmental laws must be tried in Environmental Court or Special Magistrate Court established specially for this purpose under Section 4 and 6 of the Environment Court Act 2010.

6.3.11 Giving Tribunal Original and Exclusive Jurisdiction

Section 25 further provides that no Court inferior to that of a Court of Sessions shall try any such offence. Section 25B authorizes the tribunal all powers of the Court of Sessions in trying the securities related cases when it is transferred by the court of sessions. As there is no mandatory provision to transfer the cases to this tribunal, few cases has been transferred and now it is reported that the tribunal has no case to try. Having parallel forum for trying security and stock market cases without mandating transfer makes the purpose of establishing special Tribunal fruitless and creates anomalies among them. For avoiding such inconsistencies and anomalies, The Tribunal must immediately be given the original and exclusive jurisdiction to take cognizance and try the same. Tribunal should be authorized all powers of Special Judges appointed under the Criminal Law Amendment Act, 1958 to try cases of different special laws like offences scheduled in the Anti-Corruption Commission Act, 2004.

6.3.12 Establishment of Special Forum with Jurisdiction of High Court

In Bangladesh, a great number of the security cases are pending in High Court Division for decade for quashing under 561A of the Criminal Procedure Act, 1898 and judicial review under Article 102 of the Constitution of Bangladesh. Ironically some cases are pending in the stage of maintainability hearing for 5 to 11 years.⁶ It is reported that out of 561 pending cases, 243 cases are pending before High Court Division of Supreme Court.⁷

If the tribunal is given the status of High Court or High Court is given the jurisdiction to try the same like company matters under the Companies Act, 1994 and Banking matters under the Banking Companies Act 1991, stock market cases could be settled very quickly and efficaciously without having any complexity, lengthy and inconsistency. Otherwise, the Appellate Tribunal would be established for challenging Tribunal's judgment, order or decision giving the Appellate Tribunal status of High Court Division like Administrative Appellate Tribunal established under Section 5 of the Administrative Tribunal Act, 1980 consisting of one Chairman and two other members who shall be appointed by the Government.

6.3.13 Setting Timeframe for the Investigation and Trial

Special forum for trying stock related cases without specific timeframe for investigation and trial will hardly minimize the miscarriage of justice due inordinate delay in disposal of relevant cases. For speedy and expeditious disposal of these cases reasonably short period should be set in stock marker legislations for completing investigation and trial. In default of completing such investigation or trial, the

⁶ *Annual Report, (2019 -2020)*, Bangladesh Securities and Exchange Commission, 102.

⁷ *ibid.*

responsible Investigation Officer should be made accountable to the court and his controlling authority; Public Prosecutor to the Government and Judge to the Supreme Court. To have model provision for specific provision of timeframe for trial and investigation, Sections 18, 20 and 31A of Nari o Shishu Nirjatan Daman Ain 2000 might be very relevant for speedy disposal of these cases. According to Section 18 the Ain 2000, investigation must be completed within 60 days and with permission within additional 30 days if it is reasonable to extend and in default the investigation shall handed over another Investigation Officer and it will reported as misconduct and incapacity in his service book. On the other hand according to Section 20 of the Ain, the tribunal must dispose the case within 180 days, otherwise the accused should be released on bail and bail if not granted must write the reason. Further, according Section 31A of the Ain 2000, if the case is not disposed within prescribed period, the Judge within 30 days such default must submit a written report to the Supreme Court and copy to the Government and Public Prosecutor as well as Police Office shall default must submit a written report to the Government and copy to the Supreme Court.

6.3.13 Permanent Prosecution Unit

The Legal Services division does not engage with the prosecution and investigation of bundle of cases in Courts, Tribunal and General Certificate Courts pending for decades.⁸ Moreover, for depending on ineffective and delayed prosecution and investigation system, the filed cases are not redressed properly and major claims of the victim are not even addressed.

⁸ *Annual Report, (2019 -2020)*, Bangladesh Securities and Exchange Commission, 102.

To overcome these challenges, permanent 'Prosecution Unit' of the Commission paves the ways out. The ideal model in this respect is permanent 'Prosecution Unit' of the Anti-Corruption Commission established under Section 33 of the Anti-Corruption Commission Act 2004 consisting of number of Prosecutors as may be necessary for conducting the cases to be investigated by the Commission under this Act and triable by the Special Judge. However, until permanent Prosecutors of the Commission are appointed under this Section, Advocates appointed or approved on temporary basis by the Commission shall conduct the cases and Prosecutors appointed under this Section shall be deemed to be the Public Prosecutors. Appointment, terms and conditions of service of permanent 'Prosecution Unit' and the procedures of prosecution and investigation shall be determined by stock market laws.

6.3.14 Effective Fine Recovery System

Sections 14 and 22 (2) of SEO, Section 18(2B) of BSEC Act, 1993 and Section 20(2) of Depository Act 1999 requires the BSEC to bring cases to recover short swing profits and Section 22 (2) prescribes to recover unrealized fine as arrear of land revenue which is collected under the PDR Act, 1913. However, the PDR Act, 1913 has not proven an effective tool for recovery of fines. Recovery of fines sought by the BSEC is an abysmal 0.5 percent⁹. For effective fine recovery system, different execution processes i.e. seizure, arrest, sale, attachment, forfeiture of property and civil imprisonment with speedy implantation mechanisms need to be inserted in the security law giving particular Tribunal jurisdiction to execute the same. For model execution procedure might be adopted from Section of *Artha Rin Adalat Ain*, 2003 (Money Loan Court Act, 2003). Under this Act 2003 the billions of defaulted Bank loan are recovered within expected short period.

⁹ibid.

6.3.15 Reviewing Good Faith and ‘Due Diligence and Without Knowledge’ Clauses

Sections 30 of SEO, Section 22 of BSEC Act, 1993 and Section 12(2) of Depository Act, 1999 provides immunity from liability to the persons who are in the management of the institution or organization for actions done in good faith in their official capacity. If provisions are made in the law to immune those persons from criminal liability, impeachment or any other legal proceeding for those actions, it will hamper the transparency and accountability of the institution/organization. In order to ensure transparency and accountability of an institution/organization, it is necessary to make the persons accountable who are in the management of the institution or organization for actions done even in good faith in their official capacity. So Section 22 of the BSEC Act needs to be reformulated to shift the burden on the officer to prove his good faith in trial and not to exempt him from prosecution. The persons who are in the management of the institution or organization may produce the good faith as defence in trial to escape punishment offence to be proved under Section 105 of the Evidence Act, 1872. However, they must face trial if they are accused of any offences under stock market laws.

In addition, Section 20 of BSEC Act, 1993 and Section 15(2) of Depository Act, 1999 Section 21 states that a company or its officials or agent contravenes any provision, such contravention is deemed unless such contravention is proved to be beyond his knowledge and he exercised due diligence. In addition, if the company is corporate body, then in a criminal case only monetary penalty can be imposed against them. To balance this unjustified differential treatment violating principle of “equality before law and equal protection of law” and discriminatory practices on the basis of such vague grounds, the burden of proof must be shifted on the company to prove under

Section 105 of the Evidence Act, 1872 that offence was such contravention is probed to be beyond his knowledge and he exercised due diligence. However, circumstances must be specified when practicing due diligence and done without knowledge is presumed in the relevant laws. Same degree of exemption might be applicable for all persons including company for upholding principles “equality before law and equal protection of law”

6.3.16 Specific Provision for Unclaimed Dividend and Penalty for Default

Regulation 96 inserted in Schedule – 1 of the Companies Act, 1994 provides that when a dividend is declared, it shall be paid within two months from the date of its declaration. In Addition, Section 343 of the Companies Act 1994 mandates that unclaimed dividend and undistributed assets to be paid to ‘Combined Liquidation Account’ where any company is being wound up. Specific provisions must be enacted amending the Companies Act for introducing a follow up consequential procedure of such unclaimed dividends and undistributed assets after depositing the same to Combined Liquidation Account and imposing penalty for default. However, same provision should be applicable for non-wound up company. To initiate such procedure, reviewing the provisions of the Companies Act, 1913 of India in this aspect would be in great use.

Section 124 of the Companies Act 2013 of India provides that if the declared dividend is not paid or claimed within 30 days, such dividend shall be transferred within seven days to ‘Unpaid Dividend Account’ with detailed information such of claimant to be placed on the company. If the said dividend is not transferred accordingly, twelve percent of default amount shall be deposited on the benefit of the company members. Any entitled claimant of such dividend may be paid on

application to the company. However, if the transferred money is not paid to the claimant for seven years, such money shall be shifted to 'Investor Education and Protection Fund' and claimant will have the entitlement on such fund at any time by submitting application following the prescribed procedure. On default with any requirement of this Section, the company is liable to be fined with minimum five lakh rupees and maximum twenty-five lakh rupees and every officer of the company may be fined with minimum one lakh rupees and maximum five lakh rupees. In addition, Section 127 of the Companies Act 2013 of India provides penalty for default of allocating dividends within prescribed period to entitled stockholder, every director, if takes part knowingly with such default, shall be penalized with imprisonment up-to two years and fined with minimum one thousand rupees for per day during continuing such default and the company shall be penalized to pay eighteen per cent simple interest for each day of continuing such default.

6.3.17 Sanctioning Buy-Back of Shares

Buy-back of Shares is prohibited in Bangladesh. Section 58 of the Companies Act, 1994 restricts the companies to purchase its own shares. A little scope is remained in the next Section, i.e., Section 59, to reduce share capital only through the Court's sanction under particular stringent terms and conditions. It is pertinent to sanction buy-back of share by the company itself to protect the interest of the investors by increasing share value or to prevent any threat by hostile investor with this strategy of corporate finance under certain circumstances. For this purpose the Companies Act 1994 need to be amended and necessary Rules or Regulation might be framed on need basis taking proper guidelines from India and Pakistan in this respect.

In India, the buy-back of shares is now permitted by inserting Sections 68, 69 and 70 read with the provision of article 41 of Schedule- I in the Indian Companies Act 2013

to this effect.- In Pakistan the buy-back of shares is sanctioned under the buy-back of shares Rules, 1999 read with the provision of Section 95A of the Companies Ordinance 1984 and any company may purchase its own shares.

6.3.17 Amendment of BSEC (Public Issue) Rules, 2015

According to rule 5 of BSEC (Public Issue) Rules, 2015 shifts upon the investors to read the prospectus carefully, to comprehend the risk factors along with risks taking ability. Besides, this rule 5 exempts the liability of the Commission by giving consent to the issuer company of its financial soundness but sole liabilities shifted on the issuer company and its related persons. Commission guarantees only correctness of statements as clerical job but does not work as watchdog to verify the financial soundness of the issuer company. Herein the Commission avoid its liability to assure the investor of the issuer company's overall soundness. So, by amending this rule, the Commission should incur the responsibility of confirming company's overall soundness before consenting to issue share. No company should be consented to issue or offer share except having financial soundness and overall stability.

6.3.18 Formation of Law reform Commission

For implementation of legislative recommendations suggested above stock related laws needs to be vastly amended.- For comprehensive reformulations of these laws, the government would better to take necessary action to form a "Stock Market Related Law Reform Commission" on urgent basis. The proposed Law Reform Commission, after scrutinizing shortcomings of existing related legislations and root causes of said two share scams along with other related crimes along with conducting a feasible study, shall propose an exhaustive law consolidating the share market related laws.

6.4 Concluding Remarks

After the share scam of 1996 automated trading system had been installed instead of a cry-out auction procedure to ensure a fair, transparent trading system. The government also strengthened the manpower and resource of the Bangladesh Securities and Exchange Commission. CDBL formation also ensures investors' protection by removing fraudulent activities with the paper script. After the share scam of 2010, demutualization of stock exchanges had been initiated to ensure better monitoring of the market by the stock exchanges.

For a vibrant capital market in Bangladesh, the regulatory reforms by the regulatory bodies as soon as possible. The Government should treat this sector with much weight and give the assistance to regulatory body with priority in bringing immediate reforms suggested above. Because, the stock market may play a pivotal role in developing as an alternative to the bank-based financial system for channelling equity to the industrial sector by raising capital from the securities market. Proper growth of the stock market can open up more opportunities for both investors and companies. Efficient allocation of resources can be ensured with a well-developed stock market which eventually will help the economy to have healthy growth and the Bangladeshi stock market can play a vital role in the future to cater to this goal.

Besides for healthy growth with proper competition in the Bangladesh stock market, legislative reforms must immediately brought in stock market related laws. To implement the legal reforms effectively, a 'Law Reform Commission for Security Laws' needs to be constituted for submitting a comprehensive proposal to the Government. An exhaustive law consolidating the share market related laws may solve all shortcomings of legal framework of stock market.

Chapter-7

Conclusion

Stock markets have a huge role to play in the economic development of a country. An efficient stock market helps to allocate financial resources to businesses efficiently. Businesses in turn use the capital to grow, generate employment and contribute to the national development. As a result, productivity improves and the overall economy is benefitted. Over the last five decades, the journey of the Bangladesh stock market has not been smooth. The market remains at a nascent stage, with little or no diversification scope, dominated by retail investors, who lack financial literacy. Stock markets around the globe are vital in determining transparency and efficiency for an economy.

The stock markets of Bangladesh as elsewhere are governed by certain Acts, rules and regulations. Major regulatory authorities of Bangladesh stock market consist of Bangladesh Securities and Exchange Commission (BSEC), Registrar of Joint Stock Companies and Firms (RJSC), Dhaka Stock Exchange Limited (DSE) and Chittagong Stock Exchange Limited (CSE). BSEC is under the Ministry of Finance and RJSC is under the Ministry of Commerce. On the other hand, DSE and CSE are corporate bodies under the Companies Act 1994. Dhaka Stock Exchange Limited (DSE), Chittagong Stock Exchange Limited (CSE), Central Depository Bangladesh Limited (CDBL), Bangladesh Institute of Capital Market (BICM), Stock-dealer/stock-broker, Merchant Banker, Asset Management Company and Credit Rating Company etc. are the institutions that contribute to the development of the Bangladesh stock market.

Till 1993 in Bangladesh, capital issues had been controlled under the Capital Issues (Continuance of Control) Act 1947 (CCI Act). The BSEC has been constituted to

foster a well-functioning capital market including taking over the responsibility of the Controller of Capital Issues. RJSC is the sole authority which facilitates formation of companies etc.; and keeps track of all ownership related issues as prescribed by the laws in Bangladesh. The RJSC partially implements the Companies Act, 1994.

DSE and CSE were established with a view to listing of Companies (As per Listing Regulations) 2020, providing the screen based automated trading of listed Securities, settlement of trading (As per Settlement of Transaction Regulations), Gifting of share/granting approval to the transaction/transfer of share, administering and controlling, conducting Market Surveillance etc.

The central depository system (CDS) is a system of script less trading where all records relating to the sale, purchase and transfer of shares are maintained electronically, doing away with need for share certificates. In a depository system, the investors lodge securities with the depository company and the records of transfer between the buyers and sellers are made by book entry not by an extensive paper trail. There is the Central Depository System or CDS waiting too long on through enactment of the Depositories Act 1999. Under this system physical possession of shares, or the share certificates, is eliminated and replaced by practice of a safe deposit system as in banks for money. Central Depository Bangladesh Limited (CDBL) is engaged in the operations of the Central Depository System (CDS), a major financial market infrastructure in Bangladesh established as a part and parcel of the overall financial sector reforms initiative spearheaded by the Ministry of Finance. Bangladesh Institute of Capital Market was registered with the Registrar of Joint Stock Companies and Firms as per Section 28 of the Companies Act, 1994, on 24th July 2008 with approval of the Trade Organization of the Ministry of Commerce. The

main objective of Bangladesh Institute of Capital Market is to train up the capital market related parties about the technical and practical knowledge of capital market.

The Financial Reporting Act 2015 got passed in the Parliament on September 9, 2015.

The Act includes provisions for setting up an independent Financial Reporting Council (FRC). The FRC will be entrusted to ensure accountability and improve the performance of the professional accountants of Bangladesh.

In the last three decades, the stock market of Bangladesh has undergone a drastic change. This calls for more stringent and vigilant regulation in Bangladesh. Stock markets function in a regulatory regime and it is important that the regulators are professional, efficient and transparent. Bangladesh Securities and Exchange Commission is the apex regulator for the stock market. More than twenty-five years after its formation, BSEC is yet to develop as an efficient watchdog competent to discharge its most important responsibilities of protecting the interest of the investors.

The regulatory system during Controller of Capital Issues (CCI) period was insufficient to maintain proper watch on the capital market. It was proved over time that the provisions in the CCI Act were totally inadequate to regulate the growing dimension of capital market activity. Due to the lack of institutional control over stock markets, insider trading, fraudulent deals and suspended payments became regular features in security dealings, shaking investor's confidence. Under these circumstances, there arose a need to constitute a larger body, which can act as a unifying force in bringing together the scattered legislations and offer better protection to Bangladesh stock investors.

In Bangladesh the need for establishing an independent and statutory agency for monitoring and supervising the functions of the securities markets both at primary

level and also at secondary level was felt. To fulfill this need the Controller of Capital Issues (CCI) was abolished and the Bangladesh Securities and Exchange Commission (BSEC) has been formed to supervise the securities market of Bangladesh and to frame necessary Rules and Regulations of capital markets and issues and dealings in securities with a view to provide for protection of investors. On June 08, 1993 under the Securities and Exchange Commission Act, 1993 commenced its full-scale activities on 14th November, 1993.

The debacles of 1996 and 2011 were basically a massive regulatory failure. BSEC lacks quality, professional manpower, competent accountants, financial analysts and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of coordination between the Ministry of Finance, Bangladesh Bank, Securities and Exchange Commission and other related organizations. This isolation of BSEC was, perhaps, a crucial factor for the regulatory failure in 2006 and 2011. Close understanding and coordination between Bangladesh Bank and the Bangladesh Securities and Exchange Commission is particularly important because the money market often has an impact on the capital market. Besides, Bangladesh Bank regulates banks and financial institutions. It is unfortunate that since the establishment of the Securities and Exchange Commission in 1993, the stock market has crashed twice. On both occasions, thousands of small and inexperienced investors lost everything they had.

Bangladesh stock market experienced the first worst turmoil in 1996. Until mid-1996 Bangladesh securities market failed to attract investors, both local and international. However, between July and mid-November 1996, both Dhaka and Chittagong Stock Exchanges experienced an unprecedented bullish run. During this period, market

capitalization went up by 265% and the average daily turnover increased by over 1000%. There were about 192 securities listed with both the stock exchanges at that time. According to the official record, price index at Dhaka Stock Exchange increased by 281% and at Chittagong Stock Exchange increased by 258%. Then the bubble burst: share prices of both the stock exchanges dropped by 25% from their peak in mid-November. It was reported that outside in the 'kerb (informal) market' the prices went down further.

The regulatory move to control the situation was very slow. The regulatory authority took time to realize the possible impact of index crash on the entire economy. In late December 1996, the BSEC constituted an Enquiry Committee to investigate into the irregularities of stock market activities during July 1996 to November 1996.

In March 1997, the Enquiry Committee prepared a lengthy report identifying a number of companies being in breach of specific provisions of securities market regulation and commented that such companies were guilty of fraudulent acts in relation to securities trading. The Enquiry Committee also identified some of the country's biggest brokers who were apparently involved in market manipulation. Based upon the Enquiry Committee Report, the BSEC obtained warrants of arrest against 32 people in 7 brokerage firms and 8 listed companies. The BSEC also filed 15 share-scam cases in the High Court Division of the Supreme Court of Bangladesh.

However, it is unfortunate that the Enquiry Committee Report failed to address the regulatory aspects in a comprehensive way. The said Report served two purposes: (a) it identified some of the market manipulators involved in many fraudulent activities during the period in question; and (b) it brought into light the irregularities involved in the day-to-day operation of the stock exchanges. The Report, however, completely

ignored the role that should have been played by the BSEC as a regulatory body to handle the crisis.

The Bangladesh stock market has again seen an upsetting scenario in 2010 that is very similar to the one in 1996. As it was recovering from that trough, it again dropped into the pit. Angry investors were seen protesting on the streets on December 20, 2010, when there was the most dramatic fall in the stock market in its 55-years history. The DSE General Index dropped by 551 points, or 6.72%. Again, on January 20, 2011, the index fell within 5 minutes of the trading operations in the two bourses by 600 points. And the panic deepened.

The process has apparently been used by issuers in coalition with groups of institutional investors to artificially raise the price of securities beyond fundamentals. The high premiums charged on shares affect the retail investor who subscribes to the shares at the high price and faces a deflated price upon listing. The process is said to be similar to the much-criticized direct listing method, which had been scrapped for private companies the year before. There are further allegations against BSEC and even the two bourses for frequent shifts in their position with Bangladesh Bank being indifferent to market fallouts.

Lately, there has been a large influx of retail investors to the bourses; hence the market has become almost retail driven. Investors, without bothering much about underlying fundamentals, went on a buying spree with "share prices to go higher" expectations. Access to quality and credible corporate information is still a major issue in the market. While a handful of institutional investors enjoy certain benefits, nothing exists for retail investors. Many investors are unaware about the companies'

shares which they are trading. More importantly, the ignorance of these investors about the real information reportedly contributed to the mishaps.

There were allegations about capacity issues in the BSEC, internal control lapses and even moral turpitude of their staff. The government has taken cognizance, under unwavering public pressure, the Bangladesh Securities and Exchange Commission formed a four-member Enquiry probe committee under Section 21 of the Securities and Exchange Commission Ordinance, 1969 on January 26, 2011, to investigate share market scam. The appointments came as the government moved to establish order in the country's two bourses. The probe body has been entrusted with 11 tasks that include finding out if any individual or group had influenced the market or taken any undue advantages.

The much-hyped report of the committee to investigate the stock market collapse has been submitted to the government on April 7, 2011. The probe body in its report observed that unscrupulous market operators have pocketed nearly Tk. 200 billion of general investors' money and a substantial part of this amount has also been moved out of the country. The methods that the crooks used to cheat investors, as identified by the probe committee, are asset revaluation, change of face value, direct listing, book building, pre-placement, bonus share issue etc. These are very much in line with the public perception of the latest stock market crash.

The probe body's report has identified a few individual suspects by name. But it is quite specific, as the media reports indicate, about the role played by a few top officials of the capital market regulator - the Bangladesh Securities and Exchange Commission (BSEC) - who were instrumental in making the schemes of the stock market crooks a success. However, blaming the BSEC alone would be unfair since

others concerned, despite having enough indications of market manipulation, did fail to take action in time. The probe body has mentioned in its report the names of a number of individuals as suspects and certainly not yet accused - who were involved in the recent stock market scam.

The committee found various irregularities, including the existence of omnibus accounts, which allowed some market players to make exorbitant profits at the expense of the retail investors. The report ended with recommendations to reform the BSEC drastically and asked the government to publish the names of the influential players and to remain cognizant in countering their influences. The report resulted in the dismissal of BSEC chairman Mr. Ziaul Haque Khandaker along with other BSEC members accused. However, the Finance Minister AMA Muhith stated that the State would neither disclose the names of the accused officially nor take punitive measures without further investigation, although no dates for fresh probes have been declared. Later, the report was published under the direction of Hon'ble High Court Division after omitting the name of the culprits. The paramount causes identified by the Inquiry Committee are massive irregularities and immorality, involvement of stakeholders in unethical activities of direct listing in primary issue, revaluation of the share, placement to special person/organizations at face value or lower value etc., influencing the secondary market in circular trading, block trading, unusual transaction, etc. by a concerted group of persons/ organizations, irregularities or inconsistencies in issuance of stock share against right share, preference share, IPO-repeat-IPO, unrealized profit and in giving validation unethical works and negligence etc.

The noteworthy recommendations of the inquiry committee are: to remove the involved officials, reformation of BSEC, Stock Exchange Demutualization by preparing and implementing 'Demutualization Plan', co-ordination between Stock Exchange and BSEC, financing by the bank in Stock Market, bringing transparency in non-transparent omnibus accounts, prohibiting share transaction of government and concerned officers, fixation of share value by fixed price procedure and book building procedure, controlling serial trading and manipulation, introducing uniformities of face value of share, bringing fairness in issuance of right Share/preference share, strict monitoring, effective measures by Government etc.

There is no denying that the failure to punish those responsible for the 1996 scam has encouraged the repetition of similar felony, but on a much greater scale this time. Letting the crooks go off the hook again would be tantamount to giving them free reign. So, it is imperative for the government to identify the real culprits and punish them in accordance with the law of the land. At the same time, with due earnestness, the government should recast the BSEC thoroughly since the development of the stock market depends largely on its performance. The probe body also has laid special emphasis on the BSEC reorganization.

The Acts, Rules and Regulations governing the BSEC and the Stock Exchanges affairs require amendment in many respects to bring back the investors' trust and discipline in the stock market as well as to allow a comprehensive system (not a vested quarter) to run and manage the affairs of the stock markets.

After two major stock market crashes took place in 1996 and 2010-2011, a prolonged bearish trend has been witnessed throughout the last decade. With the setbacks strongly impacting the market, the stock market of Bangladesh has gone through

several reforms and the enactment of new laws and regulations. The government initiated a massive reform program that included: the regulator, stock exchanges, intermediary industries, policies, regulations related to the market. Both stock exchanges of the country have been demutualized, separating their operations and ownership. Despite the stock market experienced many reforms, leading conglomerates are yet to come forward. Such companies do not want to share the ownership of the entities with the public and abide by Rules and Regulations of the securities law.

Regulations are an absolute necessity in the face of the growing importance of stock markets throughout the world. The regulation of a stock market involves the regulation of securities; these rules enable the stock market to function more efficiently and impartially. A well regulated market has the potential to encourage additional investors to partake, and contribute in, furthering the development of the economy.

Laws relating to stock markets play an important role in the development of stock markets. Most of the stock market experts believe that ineffective stock market Acts, Rules and Regulations hampered the optimum growth of Bangladesh stock markets. The Laws and Regulations relating to securities and share markets in Bangladesh are new in practice and have come to be noticed only after the great turmoil in the share market in 1996 and the action taken by the BSEC against some persons alleging that they contravened the laws relating to the conduct of the share markets. The basic laws that cover the field are the Securities and Exchange Ordinances, 1969 and the Securities and Exchange Commission Act of 1993. Rules and regulations have been framed under these laws. There has been only one major judicial decision on the working of these laws and this relates to the preliminary procedure to be followed by

the Bangladesh Securities and Exchange Commission before filing a criminal action for violation of the provisions of the securities and Exchange Ordinance.

The basic laws that cover the field are the Securities and Exchange Ordinance, 1969, The Bangladesh Securities and Exchange Commission Act 1993, The Depositories Act 1999, The Companies Act 1994, The Exchanges Demutualization Act 2013, and rules, regulations, bye-laws, order, directives, notification have been framed under these laws. In addition the relating case laws of Apex Court have significant contribution to the legal framework of stock market. The Securities Act 1920 enacted to consolidate and amend the law relating to Government securities. The Securities and Exchange Ordinance, 1969 (SEO, 1969) was enacted to provide for the protection of investors, regulations of capital markets and issue and dealings in securities and for matters ancillary thereto. The Bangladesh Securities and Exchange Commission Act 1993 (BSEC Act 1993) was enacted to establish Bangladesh Securities and Exchange Commission for the purposes of providing the protection of the interests of investors in securities, the development of the securities market and for matters connected therewith or ancillary thereto. According to the provision of the Act the BSEC empowered to oversee issue of capital, and has as its primary purpose of protecting the public in corporate investments. The Depositories Act, 1999 lays down the formation of depositories and provides a legal framework for establishment of depositories in Bangladesh to record ownership details of securities in book entry form for setting up depositories in Bangladesh giving fully authority of granting registration, controlling etc. to the BSEC. In order to segregate trading right from ownership of stock exchanges; ensure right to make profit by exchanges' shareholders and enhance good governance in stock exchanges, the Exchanges Demutualization Act, 2013 has been enacted to make provisions for the development of the capital

markets of Bangladesh, setting up effective institutional good governance, protection of interests of the investors in securities, and for ancillary matters. In the appraisal of Companies Act, 1994 the scrutiny of 'Unclaimed Dividend' and 'Buy-Back of Shares' has been found relevant for the development of stock market. Reportedly there are about 256 cases relating stock market pending in the Supreme Court of Bangladesh. Out of a few decided cases, three landmark cases i.e. Shinepukur Holdings Limited and others Versus SEC and another, 1998, Professor Mahbub Ahmed and others Versus SEC, 2011 and SEC Versus Runa N Alam, 2004 are critically analyzed. In these case laws the Supreme Court of Bangladesh interprets the imprecise legislations and paves the way to fill the shortcomings thereof within the rules of statutory interpretation.

In this thesis an attempt is made to study how the Bangladesh stock market has developed during the last three decades. The development of stock market has been studied from the point of view of the pertinent institutions who contribute to the development of the stock market. Such a study cannot be completed unless studying the role of regulatory bodies. So, the role of regulatory bodies has been analyzed and the constraints to the legislative reforms for the growth of Bangladesh stock market are also tried to identify. Some recommendations for improvement of Bangladesh stock market have been prescribed mostly from the perspective of legislative reforms experience.

Recently, a large number of Bangladeshi companies has been offering new shares to the public vis-à-vis general investors have been showing interests to invest in shares. The growing number of public offerings and higher rates of share application support this over subscription. Over subscription has now become an order of the day in this frenzy new issue market. And its prevalence in most of the year indicates higher

demand relative to supply. There are many shortcomings of Bangladesh stock markets. In order to overcome the problems listed above active participation of stock brokers in share trading, introducing market making role, establishing more credit rating agencies, will go a long way in winning the investors' confidence.

It is observed that Bangladesh securities market has failed to achieve any significant growth since its inception. This stagnation is attributable to a number of factors that include, inter alia, the existence of weak legal and regulatory frameworks, the absence of active market professionals, the predominance of individual investors, and a serious dearth of foreign and institutional investors. Legal and regulatory weaknesses are considered to have critically hindered the market's potential growth. Some important laws are outdated, and the regulator has introduced some unrealistic reforms over the years. Most of the reforms accomplished concentrating on incentives to investors and issuers alike, but nothing significant has been done for investors' protection. Moreover, BSEC's role should be as a 'promoter' rather than a 'regulator' in removing the challenges of Bangladesh stock market.

These irregularities were the results of poor governance, unbridled manipulations, undue influences, and unlimited greed. From the sequence of analysis of findings of the survey on the existing enactments and legislative reforms of Bangladesh stock market, presumption cannot be denied that growth of the stock market depends upon economic, political, stock market Acts, rules & regulations, the legal framework in a country and the legal stability that the Government can provide to the stock markets. Thus stock market development and ensuring stock market legal stability are correlated.

Stock markets function in a regulatory regime and it is important that the regulators are professional, efficient and transparent. BSEC as the apex regulator for the stock

market is yet to develop as an efficient watchdog competent to discharge its most important responsibilities of protecting the interest of investors. BSEC lacks qualified professional manpower, competent accountants, financial analysts and legal experts. Instead of developing as a highly professional organization, it has grown into more of a bureaucratic body. There is also a persistent lack of co-ordination among the Ministry of Finance, Bangladesh Bank, Securities and Exchange Commission, Insurance Development and Regulatory Authority, National Board of Revenue and other related organizations. Swift IPO approval process and proper stock valuation of BSEC for IPO offerings hinder the supply of securities in the Bangladesh stock market. The major perpetrators behind stock market scams of 1996 and 2010 have not been specified by BSEC after stock market scams. The present Book Building System and Price discovery System failed to protect the stock market scams in 2010.

Stock Exchanges of Bangladesh i.e. DSE and CSE also failed to discharge their duties and take prompt initiatives for the protection of the investors. Information asymmetry and agency problems create hurdles in the development of Bangladesh equity-based stock market. Weak governance in listed companies and market intermediaries is also prevailing. At present number of enlisted companies are few in stock exchanges (581 in DSE & 331 in CSE) of Bangladesh. Most of the IPOs were oversubscribed. Stock exchanges of Bangladesh are facing the problem of insufficient adaptation of technology advancements. From stock market scam inquiry reports, in many instances it is reflected that annual reports of the listed companies do not depict a proper representation of business reality. There are headways yet to make on ensuring the reliability of annual reports of enlisted companies. Insider trading is a problem in listed corporations and stock exchanges. At present stock exchange members of Bangladesh can also act as the director of the corporation.

Besides, Lack of market-based financing for easy availability of bank-based financing due to huge number of banks and their aggressive lending initiatives discourages converting private limited companies to a public limited company. Absence of professional asset/fund managers, institutional investors, and asset management companies is prevailing in Bangladesh. Syndication of institutional investors and brokerage houses is also hindering the development of the stock market in Bangladesh. The significant gap in the stock market development is still the lack of good governance in the stock market participants. Delay in investigation creates a bar to make an immediate correction to the market and it also shakes long-run investors' confidence. Political influence is also considered as one of the main reasons for backloging of stock market-related cases in Bangladesh. Lack of engagement of market participants and implementation of lessons learnt from market incidents, and no examples of punishment for scam intruders were observed.

Further, Dominant presence of poorly knowledgeable retail investors, lack of capacity in terms of awareness, knowledge and legal system, myopic investment mindset of the investors and irrational investment behavior of the general investors are prevailing in Bangladesh stock market. According to suggestion of Inquiry Report headed by Khandaker Ibrahim Khaled and direction of Supreme Court gives to the government to conduct further inquiry on the said scams to identify the real perpetrators behind those market manipulations to bring them under prosecution.

The problems exist in the bottle-neck of the systems, loopholes in the laws and policy of the country and delay in or even not being disposal of the securities related cases. The crooks have been let to go off the hook again and again, and naturally encouraged to play the same game. The role of Registrar of Joint Stock under Companies Act, 1994 and the Financial Reporting Council under Financial Reporting Act, 2015 is not

played proactively and vigilantly to attract the worthy company to invest in stock market.

There are some common inherent shortcomings of all these laws are lack of proper execution of the capital market regulations, deficient penalty, ineffective fine recovery system, no direct access to justice, absence of permanent prosecution unit, tribunal lacking cognizance power on complaint, want of original jurisdiction of tribunal, the comfortable savoir of good faith clause lacking special prosecution team, disregarding equality before law and equal protection of law, abuse of the defence ‘due diligence and without knowledge’ etc. Besides, there are vital specific loopholes in these legislations mentioned above. BSEC, not being participatory authority representing major regulatory bodies, faulty appointment procedure and tenure thereof, absence of concrete guidelines, weakness in kerb market regulating laws, incomprehensive provision for unclaimed dividend, and prohibition on buy-back of shares are some of paramount specific limitations of stock market legislations. Unexpected delay in the disposal of stock market related cases hinders the end of justice denying fundamental rights of speedy trial as ensured in the Constitution of Bangladesh.

By considering the observation and analysis of identified pertinent shortcomings in the preceding chapters of the thesis, necessary regulatory and legislative reforms of Bangladesh stock market have been tried to be recommended for a strong and steady stock market in Bangladesh. To overcome those difficulties and challenges, some effective recommendations have been made on the basis of the evidence and illustrations available in the thesis for regulatory and legislative reforms of Bangladesh stock market.

It is important that the regulators are professional, efficient and transparent. Close understanding and coordination between Bangladesh Bank and the Securities and

Exchange Commission is particularly important because the money market often has an impact on the capital market. It is suggested that BSEC should reform the IPO approval framework for minimizing the IPO approval time and ensuring proper IPO stock valuation through a qualified team of valuation experts. BSEC should coordinate with Government law enforcement agencies, relevant courts, and lawyers² for prompt settlements of those cases. Moreover, coordination among the regulators is necessary to improve the stock market transparency. Updating the technology of the major participants like BSEC, Stock Exchanges, CDBL Securities Firms, and Brokerages Firms with the state-of-the-art platform is necessary to establish an efficient and transparent marketplace that ensures the reliable execution venue, surveillances to monitor & control the stock market trading and scams. all enlisted companies of stock exchanges needed to be enlisted with Central Depository Bangladesh Ltd (CDBL) and deposit their securities with CDBL. BSEC needs to frame a law for the mandatory enlistment of stock exchange enlisted corporations in CDBL for protecting the trade of fake paper shares. BSEC may review the Book Building System to ensure the protection of the stock market crash.

As a regulator, BSEC needs to be more vigilant and be more active in controlling stock market anomalies. Capacity building of BSEC is necessary for monitoring investors, company management, regulators, and legal systems. Ensuring the compliance of Acts, Rules, Regulations, Orders, Directives, and Notifications regarding the stock market operations is essential. The Government and Bangladesh Securities and Exchange Commission should create a sound business environment for individual investors, institutional investors, and companies. It will bring confidence among investors and private sector companies to raise funds from the stock market.

It is suggested that to improve good governance in listed companies of stock exchange authority should begin the physical monitoring of listed companies' activities on a half-yearly basis through an arrangement of a multi-party vigilance team for physical monitoring of listed companies. It is necessary to take initiative to convert the large private limited companies with good track of financial condition to public limited companies and enlist those companies to stock exchanges to increase the supply of securities in the stock market, stock trading, and market capitalization, and thus stock price index will improve systematically. Full demutualization of stock exchanges should be done as early as possible to provide safety to the enlisted corporations and investors. It is advocated to ensure continuous up-gradation of technological advancement of stock exchanges to enhance the capability and performance of the exchange trading and monitoring.

The stock exchange should take necessary steps to ensure that financial statements of enlisted companies are prepared as per the guidelines of International Accounting Standards (IAS) and audited by competent audit firms. To minimize insider trading it is suggested that provision should incorporate in stock exchange rules that members of stock exchange can't be permitted to become the director of the corporation. The stock exchange authority may update the market information continuously, may properly apply the circuit breakers to control the abnormal stock price, and may conduct investor education on regular basis for stock market stability. It is necessary to impose restrictions on banks for long-term financing beyond own equity capital in industrial and service sectors. Government may encourage large public limited commercial banks to establish their subsidiary asset management companies by giving tax rebate incentive.

The regulatory bodies need to focus on building good governance in all stages to avoid another unfavourable situation. It is necessary to initiate immediate action to identify the alleged unfair practices of the market participants on time. Regulatory bodies and policy actors should be more coordinated in their actions and policy formulations and actions of the regulators are important for a transparent stock market. BSEC and BICM may introduce short-term stock market education programs at the district level for investors. Effective awareness programs and education of investment in the stock market will help to reduce the manipulation or breach of laws. To make our stock market strong we need more corporations to be enlisted in stock exchanges, strong Government and Corporate Bond Market, varieties of securities, derivatives markets, etc. Government can take its large infrastructure development works by issuing government bonds by using the stock market like other countries in the world. However, for a comprehensive inquiry of this sensitive issue and matter of public importance, formation of a Commission of Inquiry to identify the real perpetrators behind those market manipulations to bring them under prosecution under the Commissions of Inquiry Act, 1956 is expected to reveal the real fact thereof.

Besides, some suggestive legislative reforms are necessary for a well-ordered and disciplined stock market in Bangladesh. For a participatory and regulatory bodies' representing Commission might be reconstituted amending Section 5 of BSEC Act, 1993 with Chairman, permanent Commissioners and in participation with ex-officio Members from major regulatory bodies like; Bangladesh Bank, Financial Institution Division, and Anti-Corruption Commission etc. for ensuring checks and balances. The Chairman and other full time members might be appointed through a search commission or selection committee including members from Financial Institutions

Division, Public Service Commission, and Financial Reporting Council headed by the Comptroller and Auditor General of Bangladesh. The Selection Committee shall prepare a list of 2 persons having special required knowledge for each vacant post unanimously to be submitted to the Government for appointing the Chairman and permanent Commissioners out of recommended persons. Strict provisions must be inserted in stock market legislations to provide authentic detailed information regarding the IPO to the investors. For ensuring regular Annual General Meeting (AGM), payment of dividends and publication financial statements in time, it is necessary to insert strict supervisory and punitive provisions in stock related laws with proper execution mechanism of the capital market regulations. Besides, Sections 2B, 2E and 18 of Securities and Exchange Ordinance 1969 must be implemented strictly by the Commission to protect the interest of investors by to regulate Kerb Market. Unfettered power conferred under Section 2CC of SEO, 1969 for the benefit of the investors and better regulation of stock market may be controlled by providing concrete guideline or criteria, under which the BSEC can exercise its ample power under the Section to bring checks and balances between company's manipulating tricks and immediate effective action by the Commission. Retrospective effect of the directives or conditions must be confined within *bonafide* directives following the Constitutional negation of *ex post facto law*.

To ensuring direct access to justice, capital market laws should either allow the victim to file complaint in Court or any authorized unit of the Commission responsible to initiate prosecution or investigation on complaint by victim or informant or on its own knowledge. Exempting provision for particular person or organization infringing the basic principle of 'doctrine of rule of law' and fundamental rights of our Constitution enshrined in Article 27 namely- 'equality before law' must be conditional and

qualified within the ambit of exceptions of A.V Dicey's principle -"Rule of Law" and conditions of positive discrimination as referred in Article 28 and 29 of our Constitution to defend arbitrary abuse.

To avoid such inconsistency in trial forum of stock related offences, the Tribunal must be generalized for stock and security matters punishable under any of stock market laws amending the relevant laws. For example, all offences under environmental laws must be tried in Environmental Court or Special Magistrate Court established specially for this purpose under Section 4 and 6 of the Environment Court Act, 2010. For avoiding such inconsistencies and anomalies, Tribunal must immediately be given the original and exclusive jurisdiction to take cognizance and try the same. Tribunal should be authorized all powers of Special Judges appointed under the Criminal Law Amendment Act, 1958 to try cases of different special laws like offences scheduled in the Anti-Corruption Commission Act, 2004. Moreover, If the Tribunal or Appellate Tribunal is given the status of High Court or High Court is given the jurisdiction to try the same like company matters under the Companies Act 1994 and Banking matters under the Banking Companies Act, 1991 or service matters in the Administrative Tribunal Act, 1980, stock market cases could be settled very quickly and efficaciously without having any complexity, lengthy and inconsistency. To avoid ineffective and delayed prosecution and investigation system due to which the filed cases are not redressed properly and major claims of the victim are not even addressed. For speedy and expeditious disposal of these cases reasonably short period should be set in stock market legislations for completing investigation and trial. In default of completing such investigation or trial, the responsible Investigation Officer should be made accountable to the court and his controlling authority; Public Prosecutor to the Government and Judge to the Supreme Court taking provision of Sections 18, 20 and

31A of Nari o Shishu Nirjatan Daman Ain 2000 as model. To overcome these challenges, permanent 'Prosecution Unit' of the Commission paves the ways out. The ideal model in this respect is permanent 'Prosecution Unit' of the Anti-Corruption Commission established under Section 33 of the Anti-Corruption Commission Act, 2004.

For exemplary punishment model may be taken from Money Laundering Prevention Act 2012 and Information, Communication and Technology Act, 2006. Like those laws highest punishment might be fourteen years imprisonment with minimum 5 years imprisonment and/or fine of one crore taka with minimum 10 lac taka. Forfeiture of potential property from manipulation may be inserted as additional effective measure. For effective fine recovery system, different execution processes i.e. seizure, arrest, sale, attachment, forfeiture of property and civil imprisonment with speedy implementation mechanisms need to be inserted in the security law giving particular Tribunal jurisdiction to execute the same. For model execution procedure might be adopted from Section of *Artha Rin Adalat Ain*, 2003 (Money Loan Court Act, 2003).

In order to ensure transparency and accountability of an institution/organization, it is necessary to make the persons accountable who are in the management of the institution or organization for actions done even in good faith in their official capacity. So Section 22 of the BSEC Act needs to be reformulated to shift the burden on the officer to prove his good faith in trial and not to exempt him from prosecution. The persons who are in the management of the institution or organization may produce the good faith as defence in trial to escape punishment offence to be proved under Section 105 of the Evidence Act 1872. However, they must face trial if they are accused of any offences under stock market laws. In addition, circumstances

must be specified when practicing due diligence and done without knowledge is presumed in the relevant laws. 'Without knowledge' might be applicable for all persons including company for upholding principles "equality before law and equal protection of law".

The Registrar of Joint Stock under the Companies Act 1994 and the Financial Reporting Council under Financial Reporting Act 2015 must play proactive and vigilant role to attract the worthy company to invest in stock market. Necessary changes might be brought in relevant enactments to ensure their respective role in this regards. Specific provisions must be enacted amending the Companies Act for introducing a follow up consequential procedure of such unclaimed dividends and undistributed assets after depositing the same to Combined Liquidation Account and imposing penalty for default. However, same provision should be applicable for non-wound up company. To initiate such procedure, reviewing the provisions of the Companies Act 2013 of India in this aspect would be in great use. It is pertinent to sanction buy-back of share by the company itself to protect the interest of the investors by increasing share value or to prevent any threat by hostile investor with this strategy of corporate finance under certain circumstances. For this purpose the Companies Act 1994 need to be amended and necessary Rules or Regulation might be framed on need basis taking proper guidelines from India and Pakistan in this respect. In India, the buy-back of shares is now permitted by inserting Sections- 68, 69 and 70 read with the provision of article 41 of Schedule- I in the Indian Companies Act, 2013 to this effect. In Pakistan the buy-back of shares is sanctioned under the buy-back of shares Rules, 1999 read with the provision of Section 95A of the Companies Ordinance 1984 and may purchase its own shares.

To make the Commission accountable and vigilant immediate amendment of rule 5 of BSEC (Public Issue) Rules, 2015 is necessary to shift the responsibility the Commission to confirm company's overall soundness before consenting to issue share. No company should be consented by the Commission to issue or offer share except having financial soundness and overall stability.

For comprehensive reformulations of these laws, the government would better to take necessary action to form a "Stock market related law reform commission" on urgent basis. The proposed Law Reform Commission, after scrutinizing shortcomings of existing related legislations and root causes of said two share scams along with other related crimes along with conducting a feasible study, shall propose an exhaustive law consolidating the share market related laws.

It is noteworthy that the Apex Court repeatedly advised not to nip the prosecution in the bud where the Enquiry Committee allegations have been made categorically against the accused-petitioners. The Highest Court further commended to challenge the premature authority of the officer filing the report in the court of cognizance. The Court must strike to a balance between to protection of law and national interest and not to stretch the law too far to frustrate the prosecution on the threshold. Division Court interprets 'sufficient ground for proceeding' do not mean sufficient grounds for conviction and prima-facie material is sufficient for forming an opinion to proceed against the accused. In interpreting 'beyond his knowledge or due diligence' in Section 24 of SEO, 1969 stated that this Section creates a legal fiction whereby a director, manager or other officer responsible to the company for the conduct of the company become automatically guilty of the offence committed by such company and no other overt act or direct commission of the offence is necessary.

After all, the analysis of the Acts, rules and regulations, identification of the loopholes therein and the roles of regulators behind the recent stock market crash and recommendation for the legislative reforms for the development of Bangladesh stock market are sure to assist the policy makers and legislators to update the relevant laws, investigation of share scam cases and the matters ancillary thereto in need of the socio-economic perspective of the 21st century.

From the sequence of all analysis, it seems clear that the Bangladesh stock market is in a process of change with the inclusion of new rules over the relative position and strictly delineated functions of various types of stock market institutions. Over the years the stock market of Bangladesh has grown rapidly. In fact the Bangladesh stock market has widened but depth has to be achieved in true sense. For a vibrant capital market in Bangladesh, the regulatory reforms should be made by the regulatory bodies as soon as possible. Government should treat this sector with much weight and give the assistance to regulatory body with priority in bringing immediate reforms suggested above. Because, the stock market may play a pivotal role in developing as an alternative to the bank-based financial system for channelling equity to the industrial sector by raising capital from the securities market. Proper growth of the stock market can open up more opportunities for both investors and companies. Efficient allocation of resources can be ensured with a well-developed stock market which eventually will help the economy to have healthy growth and the Bangladeshi stock market can play a vital role in the future to cater to this goal. Besides for healthy growth with proper competition in the Bangladesh stock market, legislative reforms must immediately brought in stock market related laws. The market has to be made investor friendly otherwise the depth of the market cannot be achieved. We are quite

optimistic that the stock market of Bangladesh will get a boost if the suggested measures are implemented.

Annexure I

Questionnaire for Interview:

A Survey on the Acts, Rules and Regulations in respect of the stock market of Bangladesh and matters ancillary thereto for the purpose of legislative reforms for the Development of Bangladesh Stock Market.

All the information collected by this questionnaire will be used only for academic purposes and will be kept confidential.

Organization Name:

Name of the Respondent (optional):

Designation / Position (optional):

**Please put "X" Mark in the relevant
Box**

1. What is your opinion about the performance of the stock market in Bangladesh?

Performance parameters	Excellent	Very Good	Good	Average	Needs to improve
Supply of fundamentally-strong stocks					
Reduction in transaction costs					
Reduction in pre-IPO information asymmetry					
Good governance in listed firms					
Price-value association					
Insider trading prohibition					

2. How would you rate the following regulatory initiatives implemented by Bangladesh Securities and Exchange Commission (BSEC)?

Performance parameters	Excellent	Very Good	Good	Average	Needs to improve
Regulatory initiatives					
Pricing mechanism under book-building approach					
Creating a pool of qualified auditors					
De-listing & OTC (over-the-counter) market					
Share categorization					
10% discount for retail-investors in IPO-stocks					
Small-cap board					
Demutualization					

3. How would you rate the following initiatives implemented by Stock Exchange?

Performance parameters	Excellent	Very Good	Good	Average	Needs to improve
Monitoring & regulatory initiatives of stock exchanges					
Procedure of enlisting the securities					
Creating a pool of qualified surveillance team					
Regulatory measures for violation of stock exchange acts/ rules					
Lock in period for sponsor shareholders					
Lock in period for foreign portfolio investors					
Effective control of circuit breakers					
Continues market for securities					
Fair security/stock price speculation					
Protection of investors' interest					
Liquidity in stock exchange					
Transparent settlement of transaction					
Monitoring & Control of listed companies/ securities					
Safety of capital & fair dealings					

4. How would you rate the following regulatory measures implemented by the Government?

Performance parameters	Excellent	Very Good	Good	Average	Needs to improve
Monitoring & regulatory initiative by the Government					
Establishment of relevant stock market regulatory bodies					
Coordination among the stock market regulatory bodies					
Initiative by Government in formulation & amendment of relevant stock market Acts/Rules/Regulations etc.					
Initiative for encouraging foreign portfolio investment					
Initiative for stable foreign exchange policy					
Initiative for cooperation with international agencies/ stock exchanges for development of stock market					
Strong surveillance of stock market by pertinent Government Ministries					
Appropriate measures for inquiry of stock market crash					
Implementation of inquiry committee's pertinent recommendations for protection of stock market crash					
Monitoring & quick disposal of stock market pending cases for natural/proper justice of stock market scam					
Initiative to convert Government owned/ state owned enterprise to public limited companies for increasing supply of good securities in Bangladesh stock market					
Assistance to the small investors for offsetting losses due to stock market crash					

5. What problems do you think create hurdles to the development of stock market in our country?
6. What measures should be taken by the Government as well as Bangladesh Securities and Exchange Commission to solve the problems to achieve the development of stock market?
7. How do you assess the measures taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets, protect the investors, prevent stock market manipulation after committing share scam in 1996 and 2010 of the country?
8. What were the gaps do you think in the development of stock markets, protection of investors, prevention of stock market manipulation, after committing share scam in 1996 and 2010 in Bangladesh?
9. What steps should be taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets, protect the investors, prevent stock market manipulation and share scam in Bangladesh?
10. What legislative reforms should be taken by the Government and Bangladesh Securities and Exchange Commission to develop the stock markets, protect the investors, prevent stock market manipulation and share scam in Bangladesh?
11. What is the main reason for backlogging of stock market related cases in Bangladesh?
12. How can corruption in stock market, infringement of investor's protection, prevention of stock market manipulation and share scam be driven out from Bangladesh?
13. Do you think that the stock market in Bangladesh is heading towards the right direction? Please suggest.
14. What do you think will keep the biggest positive impact on Bangladeshi stock market in future?

পিএইচ.ডি./ডি.বি.এ./এম.ফিল.
(খিসেসে Plagiarism নেই মর্মে প্রত্যয়নপত্র)

গবেষকের নাম (ক) বাংলায়... হাফিজ আহমেদ চৌধুরী
(খ) ইংরেজীতে... HAFIZ AHMED CHOWDHURY
বিভাগ/ইনস্টিটিউট... আইন বিভাগ, ঢাকা বিশ্ববিদ্যালয়
খিসেসের শিরোনাম... An Insight into the Legislative Reforms
for the Development of Bangladesh Stock Market

তত্ত্বাবধায়কের নামঃ সিনিয়র ড. মোঃ হুমায়ুন কবীর, অধ্যাপক, আইন বিভাগ ও ডীন আইন স্কুল,
ঢাকা বিশ্ববিদ্যালয়
মুদ্রা-তত্ত্বাবধায়কের নামঃ (১)..... X
(২)..... X

খিসেসে Plagiarism (অন্যের লেখা নিজের বলে চালানো) নেই মর্মে স্মৃষ্টি অনুমদের ডিন মহোদয়ের/ ঢাকা বিশ্ববিদ্যালয়ের গ্রন্থাগারিক মহোদয়ের প্রত্যয়নপত্রঃ

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(স্বাক্ষর ও সীলমোহর)
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বি. দ্র. খিসেসে Plagiarism (অন্যের লেখা নিজের বলে চালানো) নেই মর্মে বিভাগ সমূহের গবেষকদেরকে স্মৃষ্টি অনুমদের ডিন মহোদয়ের নিকট থেকে এবং ইনস্টিটিউট সমূহের গবেষকদেরকে ঢাকা বিশ্ববিদ্যালয়ের গ্রন্থাগারিক মহোদয়ের নিকট থেকে প্রত্যয়নপত্র সংগ্রহ করে খিসেসের সাথে জমা দিতে হবে।

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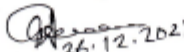
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