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Securities Market in Bangladesh: A Critical Appraisal of its Growth Since its Inception in 1954

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Abstract

Bangladesh securities market came into being in 1954. Despite its operation of half of a century, its growth is unimpressive. The market remains in its infancy because of multifarious weaknesses affecting its operation. Legal and regulatory weaknesses are considered to have hindered the market most from growing to a reasonable extent. The securities regulator introduced unrealistic reforms one after another over the last decade. The lack of appropriate legal reforms has sometimes created regulatory fragility and in turn facilitated corporate culpability. Nothing significant has been done so far to provide protection to investors. The regulator in January 1999 imported the disclosure philosophy from developed economies by discarding the previous paternalistic merit regulation without any study being conducted on the market readiness to utilise it. The adoption of the new philosophy aimed to restore investors' confidence which was eroded by the unprecedented share scam in 1996. But it eventually proved counterproductive. This article suggests that the issue of investor protection be addressed on a priority basis in order to achieve the real growth of the ailing capital market.

Keywords

Securities, Market, Bangladesh, Critical, Appraisal, its, Growth, Since, its, Inception, 1954

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SECURITIES MARKET IN BANGLADESH: A CRITICAL APPRAISAL OF ITS GROWTH SINCE ITS INCEPTION IN 1954

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1. Introduction

The Bangladesh securities market, despite its operation of half of a century, remains in its embryonic form. Various factors such as weaknesses in legal and regulatory regime, widespread corporate malpractice, a lack of active and competent market intermediaries and professionals, and a serious dearth of institutional investors have impeded the growth of the market. In discussing the inception and growth of the securities market in Bangladesh, this paper aims to show that despite the long term duration of its operation, the market has not been able to grow to any reasonable extent. In this study, the growth of the market will be measured in terms of the growth pattern of listed companies in the secondary market, the number of companies going public and the amount of public issues. The discourse demonstrates the gradual growth of the market from independence in 1971 to 2002. It is to be noted that no significant reforms in respect of the Bangladesh securities market were made until the early part of the 1990s[1].

2. Establishment of the Securities Market in Bangladesh

The Bangladesh securities market has two stock exchanges. These are: the Dhaka Stock Exchange (DSE) and the Chittagong Stock Exchange (CSE).

2.1. Establishment of the Dhaka Stock Exchange

The history of the securities market in Bangladesh predates the country's independence. The foundation of this market goes back to early 1954 when an organised stock exchange was set up in Narayanganj, a nearby town of Dhaka, the capital city. The bourse was incorporated as the East Pakistan Stock Exchange Association Limited (EPSEAL) on 28 April 1954[2]. It emerged as the first bourse of the then East Pakistan.

Although the EPSEAL came into being in 1954, it began its operation in 1956 in

[1] See A. Ahmed, 'Capital Market in Bangladesh: The Required Reform Dimensions' (1994) 19 *Bank Parikrama* 35 at 40.

[2] Dhaka Stock Exchange (DSE), *Bangladesh: Introduction to Dhaka Stock Exchange* (2000) Dhaka: DSE at 5.

Narayangonj after having acquired necessary infrastructure[3]. The bourse was shifted to the Narayangonj Chamber Building in the capital city in 1958, and relocated to the present premises in 1959[4]. On 23 June 1962, it was renamed as the East Pakistan Stock Exchange Limited and its name was further changed as the Dhaka[5] Stock Exchange Limited (DSE) on 14 May 1964[6].

It was formed with eight founding members[7]. As of February 2003, there were 195 members[8]. Of these, 157 members are active in the market[9]. Provisions were made to increase the number of members to 500. Foreigners are allowed to be members of the DSE. At present, the Equity Partners Securities Ltd is the sole foreign member in the DSE.

2.2. Establishment of the Chittagong Stock Exchange

The Chittagong Stock Exchange (CSE), the second bourse was incorporated on 1 April 1995. The CSE is situated in Chittagong, the second largest city of the country. The CSE began trading on 10 October 1995 with 30 listed securities and with the market capitalisation of 10,574 million taka (approximately US$176.23 million).

There were 70 founding members in the CSE, each member having one share[10]. As at February 2003, the number of members stood at 129, of which a total of 84

[3] DSE (2000) above n.2 & Securities and Exchange Commission (SEC), *Annual Report* 2001-2002 Dhaka at 4 (translated from Bengali) [hereinafter SEC (2002)].

[4] M. F. Ahmed, *Capital Markets and Institutions in Bangladesh: Some Implications of Japanese Experience* (1997) England: Ashgate at 87.

[5] In 1962, the exact name was 'Dacca Stock Exchange Limited'. In the middle of the 1980s, the spelling of the capital city was changed to 'Dhaka'. Thus the exchange has become the present Dhaka Stock Exchange Limited.

[6] Ahmed (1997) above n.4.

[7] For details of the founding members of the DSE, see DSE, *Memorandum and Articles of Association* (As modified up to 30 April 1998) at 32.

[8] DSE, 'About the DSE' <http://www.dsebd.org/about.html#mem> at 1(23 Feb 2003).

[9] SEC (2002) above n.3 at 10.

[10] For details of the founder memberships, see Chittagong Stock Exchange (CSE), *Memorandum and Articles of Association* at 10-20.

members were active[11]. The total number of members include three foreign members and two of them are active[12].

It is to be noted that in discussing the growth pattern of the market, only the data of the Dhaka Stock Exchange (DSE) will be shown, with an exception that the data of both bourses will be presented in showing the dramatic boom and bust in 1996. The reason for not discussing the data of the CSE separately is that all of the securities listed on the CSE are also listed on the DSE except for one[13]. Thus the securities listed on the CSE cannot be separately taken into account with respect to the growth pattern of the market or listed companies in the country.

3. Growth of the Securities Market in Bangladesh

3.1. Market Growth During 1976-1996

The Bangladesh securities market could not make any significant progress in terms of its depth and breadth until 1976. It is pertinent to note that the operation of the DSE remained suspended from the first quarter of 1971 to the middle of 1976[14]. The suspension commenced automatically following the war of liberation of 1971, and continued until 1976 due to the adoption of socialistic policies by the post liberation administration[15]. Pursuant to this new state policy, the government started massive

[11] SEC (2002) above n.9. CSE, 'Members' <http://csebd.com/cse/member_frame.html> (24 Feb 2003).

[12] CSE, ibid. The Head of Compliance of the CSE confirms that a foreign member named the Hong Kong Bangladesh Securities Limited has not been activated in trading as a member as yet: Mr M. Atiquzzaman <atiq@csebd.com> email (23 Feb 2003).

[13] The sole company which is listed on the CSE alone is the Dacca Dyeing and Manufacturing Co which was listed on 21 March 1998 with the issued capital of 44 million taka (approximately US$0.73 million): Investor Information Cell, Chittagong Stock Exchange, Mr K. U. Jalal < iic@csebd.com> email (27 Mar 2003).

[14] The reasons for the suspension of the market operation will be given in Section 2.

[15] *Constitution of the People's Republic of Bangladesh* 1972 art 8. The original constitution (before any amendments thereto) enshrined socialism as one of the fundamental principles of state policy. But it was amended by *The Second Proclamations (Fifteenth Amendment) Order* 1978. The amendment narrowed down the ordinary meaning of the term by adding a statutory meaning thereto. According to this amendment, the term 'socialism' means 'economic and social justice' not the 'socialistic economy' as it is generally meant.

nationalisation of State Owned Enterprises (SOEs). All large and small-scale enterprises having assets valued at exceeding 2.5 million taka (approximately US$0.04 million) were nationalised by a Presidential Order (PO) in 1972[16]. Such a gigantic step forced the DSE to cease its operations. This suspension impeded the growth of the market.

On 15 August 1975, a military coup d'état took place which overthrew the then government[17]. The successive government opened up the national economy having regard to laissez-faire economic principles. The process of economic liberalisation began in 1976 in independent Bangladesh[18]. The DSE resumed its operations in the middle of 1976 with only nine listed companies[19]. The total paid-up capital of these companies was 132 million taka (approximately US$2.2 million)[20].

After reopening the market in 1976, the growth rate of the market was very slow until the early part of 1980s. In regard to the securities market, one writer commented in 1979 that '[a] capital market, in modern sense, does not exist in Bangladesh'[21].

The number of listed companies had been increasing slowly till 1982. The growth of the market suddenly got a boost after the military takeover in March 1982. The number of listed companies increased fairly rapidly in 1983, and these were 58 in 1984[22]. This upward trend continued until 1988 as can be seen in the following table.

[16] *Presidential Order* 1972, PO No 27 dated 23 March 1972.

[17] See for details, A. G. Chowdhury, 'Bangabandhu Sheikh Mujibur Rahman' <http://www.bangabandhu.org/about3.htm#5> (7 Aug 2001).

[18] M. S. Islam, M. A. B. Khalily & M. H. Khan, *Development of the Securities Market in Bangladesh: A Supply Side Study* (1995) Dhaka: The Asia Foundation and University of Dhaka at 10.

[19] Id at 12.

[20] SEC, *Annual Report* 1996-1997, Dhaka at 30 [hereinafter SEC (1997)].

[21] M. C. Das, 'Development of Capital Market in Underdeveloped Countries with Special Reference to Bangladesh' (1979) 4 *Bank Parikrama* 62 at 69.

[22] M. F. Ahmed, *Emerging Stock Market and the Economy: The Case of Bangladesh* (2000) Nagasaki: Nagasaki Daigaku Keizai Gakubu Tonan Ajia Kenkyujo at 157.

Table 1: *Growth Pattern of Listed Companies in the Securities Market in Bangladesh During 1976-88*[23]

Year (ended in June)	No. of Listed Securities *	No. of Tradable Securities (in millions)**	Paid-up Capital (taka in millions)	Market Capitalisation (taka in millions)
1976	9	13.6	137.5	146.7
1977	11	14.7	230.5	248.5
1978	14	18.5	281.3	305.4
1979	18	21.2	365.1	393.7
1980	23	22.2	405.9	436.9
1981	26	26.6	528.1	603.2
1982	29	32.4	725.6	811.6
1983	44	44.4	1,001.5	1,211.3
1984	58	62.3	1,546.6	2,256.5
1985	69	80.7	2,017.5	3,048.1
1986	78	88.9	2,098.5	3,436.5
1987	92	105.3	3,149.7	12,670.9
1988	111	123.1	3,663.7	13,566.8

* The number of listed securities includes all companies issuing share capital, the number of companies issuing debentures and the number of mutual funds.

** The number of securities includes the total number of shares, debentures and certificates of mutual funds tradable in the market.

After the market had witnessed this growth, the listing rate again went down in 1989 adding only five new companies to the list of the DSE[24]. The main reasons for this decline in securities are argued to be the failure of issuers in holding AGMs, paying dividends and complying with the disclosure requirements[25]. Another reason may be attributed to the political unrest which aimed at ousting the political dictator of the day[26]. In early 1991, the democratically elected government was sworn in[27]. The

[23] Information for the years from 1976 to 1984 has been taken from: DSE, *Fact Book* (1994) Dhaka: DSE at 41. Information for the remaining years (1985-1988) has been taken from: SEC, *Annual Report* 1993-1994, Dhaka at 20 [hereinafter SEC (1994)].

[24] SEC (1994) ibid.

[25] M. F. Ahmed, H. R. Khan & M. S. Islam, *Industrial Financing Through Capital Market in Bangladesh: A Study on the Demand Side* (1993) Dhaka: The Asia Foundation and Bureau of Economic Research,.University of Dhaka, cited in Islam et al (1995) above n.18 at 14. In 1988, only 46 listed companies out of 111 companies paid dividends. For details of the companies failure to pay dividends from 1980 to 1988, see Ahmed (2000) above n.22.

[26] For a legal analysis of this political regime, see M. R. Islam, 'The Seventh Amendment to the Constitution of Bangladesh: A Constitutional Appraisal' (1987) 58 *Political Quarterly* 312.

[27] For the first time in Bangladesh, the election was held under a caretaker government. The election was nationally and internationally acclaimed as free and fair.

new administration paid special attention to the development of the securities market. As a result, the number of listed securities reached 153 by the middle of 1993[28]. Major reforms which were put in place to attract investments were:

i.) abolishing capital gains tax and allowing foreigners to repatriate capital gains and dividend income;
ii.) making the taka (Bangladeshi currency) convertible on current account;
iii.) withdrawing regulatory restrictions on foreign portfolio investors[29];
iv.) offering tax benefits on dividends to all investors and listed companies[30];
v.) withdrawing restrictions on the sale of shares at premiums[31];
vi.) reducing bank interest rates[32].

The above-mentioned reforms encouraged entrepreneurs to some extent to raise capital from the securities market and investors were also encouraged to invest in securities because of the incentives offered to them.

The most significant regulatory reform in the Bangladesh securities market took place in June 1993 when the Securities and Exchange Commission (SEC) was established under the Securities and Exchange Commission Act 1993 (SECA'93). The SEC replaced the Controller of Capital Issues (CCI), the previous regulator[33]. The CCI was a government bureaucrat who worked under the direct control of the Ministry of Finance. The SEC came into being as an autonomous body with a view to fostering

[28] Id at 20.

[29] Foreigners were not previously allowed to invest in securities. In July 1992, the market was opened up for them for the first time: Ahmed (1994) above n.1 at 41.

[30] Withholding tax on dividends not exceeding 5000 taka (approximately US$83) was abolished for individuals. For the amount of dividends exceeding taka five thousand, withholding tax was reduced to 10 per cent for individuals and 15 per cent for companies. Dividend income not exceeding 30,000 taka (approximately US$526) was exempted from income tax.

[31] Ahmed (1997) above n.4 at 78.

[32] For further details of these reforms, see SEC (1994) above n.23 at 12.

[33] The previous CCI was simply a government bureaucrat who worked under the Ministry of Finance. The CCI would primarily regulate the issues of securities.

investor confidence and protecting investors in the securities market[34]. The establishment of this new regulator stimulated investors' confidence in the market. The market witnessed further growth from 1990 to 1995. The upward trend can be seen in the following table.

Table 2: *Growth Pattern of Listed Companies in the Securities Market in Bangladesh During 1989-95*[35]

Year (ended in June)	No. of Listed Securities	No. of Securities (in millions)	Paid-up Capital (taka in millions)	Market Capitalisation (taka in millions)
1989	116	149.7	4,539.2	15,359.5
1990	134	161.1	5,561.1	11,485.9
1991	138	167.2	5,586.6	10,397.3
1992	149	172.3	6,020.3	12,299.1
1993	153	195.1	8,201.7	18,098.7
1994	156	214.4	9,268.0	32,715.0
1995	188	325.5	18,317.3	49,998.1

Governmental efforts to promote the securities market continued. In addition to the reforms mentioned earlier, some other reforms were made during the fiscal year 1995-96. Some of these reforms were:

i.) reducing corporate tax rate for listed industrial companies (not financial) from 40 per cent to 35 per cent;
ii.) requiring the public companies having a paid-up capital of 10 million taka (approximately US$0.16 million) or more be listed on the DSE;
iii.) creating public awareness of the market by broadcasting the market index through the government run television channel;
iv.) allowing non-resident Bangladeshis (NRB) to invest in the issue market and 'remit sale proceeds of, and capital gains and dividend on, these issues';
v.) allowing foreigners to underwrite IPOs and rights issues up to one-third of each issue;
vi.) withdrawing lock-in from foreigners for one year[36].

[34] SEC (1994) above n.23 at 5.

[35] Id at 20. Information for the year 1995 has been taken from: SEC (1997) above n.20 at 31.

[36] SEC, *Annual Report* 1995 -1996, Dhaka at 35-36 [hereinafter SEC (1996)].

In response to the foregoing reforms, the securities market was making gradual progress over the preceding few years. The DSE had provided an 'open outcry' market, and trading was limited to its own premises situated in Dhaka. The trading facilities were insufficient compared to the public interest in investment in securities. The situation was perhaps best described by Doebeie who commented in 1996 that 'I[f] [you] [want] to travel backward in time but forward in hope and expectations, take a tour of the Dhaka Stock Exchange'[37]. In such circumstances, the Chittagong Stock Exchange came into being in order to provide novices with a new market place.

Both of the bourses had been running well until the middle of 1996. All of a sudden, the market experienced an unusual boom which ended up in an unprecedented bust in late 1996. Thousands of small investors lost their life savings. The market-crash was perhaps best stated by foreign analysts who termed it the 'slaughter of the innocent'[38]. However, 'the flute was played by really matured and skilled players who ... made the real fortune out of the innocence of [the] new generation of investors'[39].

Political incidents preceding the turmoil may have some implications for the unusual movements of the market. A general election was held in June 1996 in which a new administration was installed in power[40]. It was found in investigation that 'aspirations and expectations picked up along with the political stability'[41]. General confidence amongst the people in the new administration stimulated the stock market and resulted in an increased pressure to buy shares both in the primary and the secondary markets[42]. But the supply side could not be strengthened proportionately in order to meet the increased demand, even though many companies issued shares at premium up to 100 per cent to take the advantage of the 'unreasonable' bullish trend in

[37] J. Doebele, 'Outcry and Tea Wallahs' (1996) 158 *Forbes* 222 at 222.

[38] 'The Bangladesh Stockmarket: Slaughter of the Innocents' *The Economist* (7-13 Dec 1996) 90 at 90. See also, 'Emerging Stockmarkets: Revenge of the Innocents' *The Economist* (12-18 Apr 1997) 74.

[39] Enquiry Committee, *Enquiry Report on Share Market* (Dhaka, Mar 1997) at 12.

[40] In this election, the Bangladesh Awami League emerged as the majority party which was ousted from the state power by a military coup d'état in 1975 and could not assume power until this election in 1996.

[41] Enquiry Committee (1997) above n.39 at 13.

[42] Ibid.

the market.

Because of the above dramatic increase in demand, the secondary market showed an unusual volatility during the second half of 1996[43]. From July to November 1996, share prices multiplied by nearly four times the previous prices. The market capitalisation appreciated by 265 per cent; the average daily turnover increased by over 1000 per cent; and the Share Price Index went up by 260 per cent. The market capitalisation increased from eight per cent to around 20 per cent of Gross Domestic Products (GDP)[44].

Such an abnormal upward trend did not continue for a long time. Share prices started falling in November of the same year. The index went down to 486.62 points on 21 April 1999 from 3648.75 points in November 1996[45]. Prior to the market boom, it was 989.40 points on 1 July 1996[46].

The following figures show the unprecedented volatility which the securities market in Bangladesh experienced in late 1996 and early 1997 (during the boom and bust).

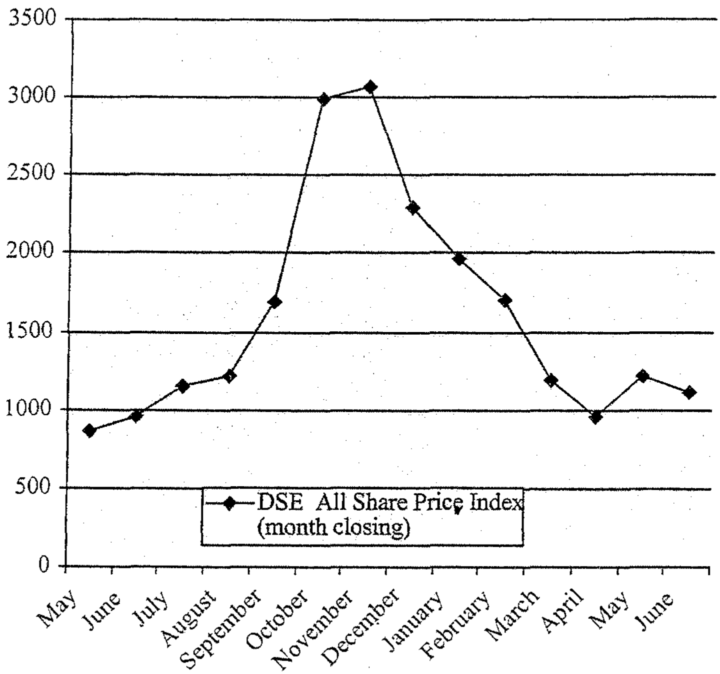
[43] There were several factors leading to the unusual market behaviour. For an analysis of the major causes of the disaster and its impact on the market, see M. N. Alam & S. B. Jahan, 'Impacts of Stock Market Debacle in 1996 on the National Economy of Bangladesh' (1996) 21 *Bank Parikrama* 11.

[44] SEC (1997) above n.20 at 7.

[45] SEC (1996) above n.36 at 22; SEC (1997) above n.20 at 21.

[46] *The Daily Star*, Dhaka, (22 Apr 1999). See also, S. M. Solaiman, 'Securities Market in Bangladesh: Problems and Suggestions' (1998) 3 *Chittagong University Journal of Law* 41 at 41.

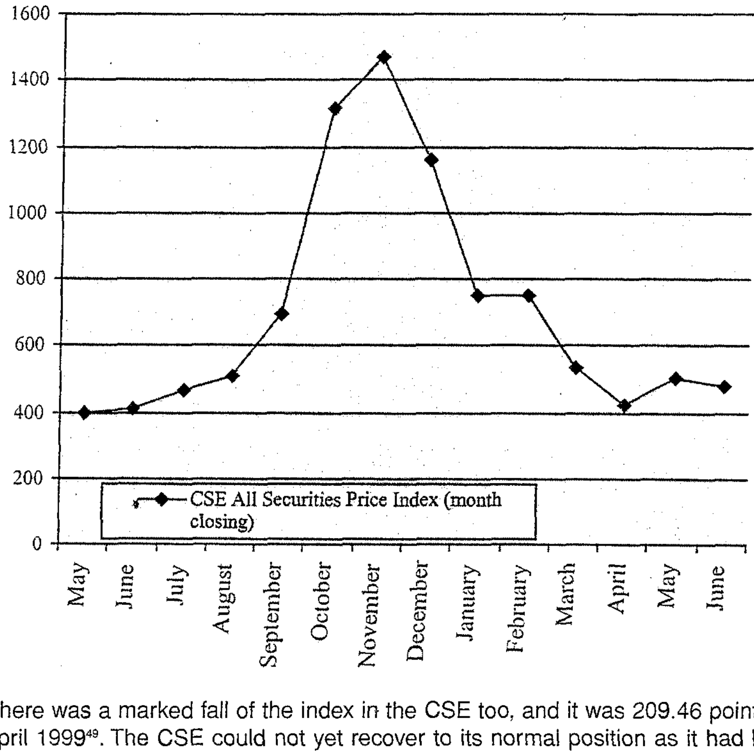
Figure 1: *DSE All Share Price Index During May 1996-July 1997*[47]



The CSE also experienced a similar boom and bust which can be seen in the following figure.

[47] TSEC (1996) above n.36 at 22; SEC (1997) above n.20 at 21.

Figure 2: *CSE All Securities Price Index During May 1996-July 1997* [48]



There was a marked fall of the index in the CSE too, and it was 209.46 points on 21 April 1999[49]. The CSE could not yet recover to its normal position as it had been before the 1996 share scam.

[48] SEC (1996) above n.36 at 25; SEC (1997) above n.20 at 24.

[49] *The Daily Star*, Dhaka (22 Apr 1999) & Solaiman (1998) above n.46.

In the aftermath of the turmoil in 1996, the SEC formed a committee of enquiry headed by a Vice-Chancellor in December 1996[50]. The committee submitted its report on 27 March 1997. The report revealed the evidence of rampant manipulations in relation to trading in securities. The committee detected the cases of these irregularities and identified the wrongdoers, so far as it was possible to do so. In pursuance of the report of enquiry, the SEC 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. As at July 2004, all these cases are still pending in several courts[51].

After the share scam 1996, reform measures were intensified to restore investors' confidence. Major reforms have been made under the Capital Market Development Program 1997 (CMDP). The CMDP was undertaken with the financial and technical supports of the Asian Development Bank (ADB) and the United Nations Development Program (UNDP)[52].

4. Reforms Made During 1997-2002 in the Securities Market in Bangladesh

Major reforms made during 1997-2002 recorded in various documents[53] can be sum-

[50] Professor Amirul Islam Chowdhury, Jahangir Nagar University, Dhaka.

[51] H. Mahmood, 'SEC Slow in Dealing with Cases against Persons Involved the Share Scam' *The Prothom Alo*, Dhaka (5 July 2004).

[52] SEC (2002) above n.3 at 5 (translated from Bengali). For details of the financial and technical assistance, see Asian Development Bank (ADB), *Capital Market Development Program*, (Loan 1580-BAN for US$80 million approved on 20 November 1997); ADB, *Report and Recommendation of the President to the Board of Directors on a Proposed Loan and Technical Assistance Grants to the People's Republic of Bangladesh for the Capital Market Development Program* (RRP: BAN 24103 Manila, 1997); ADB, *Technical Assistance (Financed from the Japan Special Fund) to the People's Republic of Bangladesh for the Capacity Building of the Securities and Exchange Commission and Selected Capital Market Institutions* (TAR: BAN 33226 2000) Manila: ADB

In a separate program, the World Bank has provided financial assistance for a study on a potential bond market in Bangladesh. This study is underway.

[53] SEC (1997) above n.20 at 33-34; SEC, *Annual Reports*, Dhaka 1997-1998 Dhaka at 10-11 [hereinafter SEC (1998)]; SEC, *Annual Reports*, Dhaka 1998-1999 at 58-60 [hereinafter SEC (1999)]; SEC, *Annual Report*, Dhaka 1999-2000 Dhaka at 4-6 [hereinafter SEC (2000)]; SEC, *Annual Report* 2000-2001, Dhaka at 4-7 (translated from Bengali) [hereinafter SEC (2001)] & SEC (1997) above at 39-41.

marised as follows:

- i.) strengthening market regulation and supervision;
- ii.) developing capital market infrastructure;
- iii.) modernising capital market support facilities;
- iv.) increasing the limited supply of securities in the market; and
- v.) developing the institutional sources of capital to improve demand for securities[54].

4.1. Strengthening Market Regulation and Supervision

The following measures have been taken to strengthen the securities market regulation and supervision.

- i.) The number of full-time members of the SEC has been increased from two to four.
- ii.) Previously the SEC was required to obtain approval from the government (Ministry of Finance) prior to making any by-laws for the securities market. The SEC has been vested with the authority to make by-laws within the purview of the SECA'93 without the prior approval from the government.
- iii.) From a situation of gross understaffing, the SEC has made some progress in increasing organisational strength[55].
- iv.) Previously the Registrar of Joint Stock Companies (RJSC) had the exclusive authority to grant registration to companies. A new rule has been made requiring the public companies to obtain the consent of the SEC before their registration by the RJSC.
- v.) The SEC Automation Systems have been implemented.
- vi.) The SEC has introduced a weekly investor education program to impart basic knowledge of the securities market to investors.

[54] The headings of reforms are chosen from the relevant report of the president of the ADB (RRP: BAN 24103 1997) above n.52 at 21-28. See also F. Narayan, 'ADB Pushes Capital Market Reform Agenda' *The Daily Star*, Dhaka (16 Mar 1998).

[55] As on 30 June 1998, the number of approved positions of officers and staff for the SEC was 77, of which the general staff (excluding officers) was a total of 46. The approved numbers of staff were appointed by 30 June 1998. But still some crucial positions are vacant like Director, Legal Division and Full-Time members. More positions needed to be created to strengthen the power of the SEC: SEC (1998) above n.53 at 8.

4.2. Developing Securities Market Infrastructure

Measures taken to develop the market infrastructure are stated below.

i.) Previously the governing boards of the stock exchanges, the policy-making bodies, had dominant membership of brokers. it was regarded as contrary to the transparency and efficiency of the operation of the market. The boards of both the DSE and the CSE have been restructured in order to make them more acceptable to the public. Their present compositions include 50 per cent non-broker members[56].

ii.) The policy making body of the DSE has been separated from its management. Such a separation has existed in the CSE from its very beginning.

iii.) Both of the DSE and the CSE have raised the minimum capital requirement for brokers. The minimum capital has been fixed at 2.5 million taka (approxmately US$0.04 million)[57].

iv.) Both of the stock exchanges have increased the number of their members to 500. In addition, the SEC has amended the provisions for the regulation of brokers to remove inactive members from the stock exchanges to make room for the pro-active ones.

v.) The mandatory dual listing of securities (listing on both bourses) has been cancelled to promote competition between the stock exchanges.

vi.) Dealership operation has been partially separated from the brokerage function. This has been done in view of the potential conflict of interests between brokers/dealers and their clients.

vii.) Both of the bourses have established Investors Protection Funds with uniform rules. These funds are aimed at compensating investors in the secondary market for their losses resulting from the default of member-brokers.

viii.) All listed companies are required to prepare their financial statements to be

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[56] In July 2001, the CSE amended its Articles of Association in conformity with, as it termed, the Chittagong Stock Exchange (Board and Administration) Regulations 2000. Before this amendment, it was the SEC who would nominate half the number of the directors of both exchanges. Now the CSE would propose the names of its nominated directors to the SEC for the regulator's approval: see CSE, *CSE Holds EGM to Adopt New Governing Board & Administration Regulations* (Press Release 7 July 2001). The amendment had been made in an Extraordinary General Meeting held on 7 July 2001.

[57] DSE (2000) above n.2 at 8.

filed with the SEC in compliance with the applicable International Accounting Standards (IAS). The statements have to be audited in compliance with the applicable International Standards on Auditing (ISA) as adopted by the Institute of Chartered Accountants of Bangladesh.

ix.) The SEC required the bourses to introduce a new Index which was termed 'Weighted Average Share Price Index' in November 2001 by discarding their previous General/All Share Price Indexes. As a cosmetic change, the new index increased the index points abruptly. This is because the present index does not take into account the daily performance of poorly performing companies (Z group) which constitute roughly one-third of the total listed companies. Amid widespread criticism by the market participants, the SEC eventually withdrew the new index in December 2003 and reintroduced the previous indexes of the bourses[58].

4.3. Modernising Securities Market Support Facilities

The following measures were taken to modernise the securities market support facilities.

i.) The previous antiquated trading system (open outcry) has been replaced by the automated trading system (screen based) in both the DSE and the CSE.
ii.) In order to introduce trading in scripless shares, the Parliament enacted the Depository Act 1999. Under this law, a company called the 'Central Depository of Bangladesh Limited' (CDBL) was incorporated in August 2000 but it could not start operating until 24 January 2004. The successful operation of the CDBL is expected to help eliminate trading in fake shares. This kind of trading is a real concern, for it strikes at the integrity of the Bangladesh securities market[59].

[58] A. Kibria, 'Weighted Index Goes: SEC Sets Up Consultative Committee to Recommend Measures' *The New Age*, Dhaka (10 December 2003).

4.4. *Measures for Increasing the Supply of Securities*

Reforms made with a view to increasing the supply of securities are enumerated below.

i.) The previous Merit-Based Regulation has been replaced by the Disclosure-Based Regulation under the Public Issue Rules 1998. It was considered that the new philosophy will stimulate the floatation of public companies.
ii.) A package of tax benefits has been offered to all listed companies including banks, insurance companies and other financial institutions. These benefits include: (i) offering 10 per cent tax rebate to listed companies declaring at least 25 per cent dividends; (ii) extending the reduction of corporate tax rate from 40 per cent to 35 per cent to all listed industrial and financial companies.
iii.) Registration charge for trust deeds with respect to bonds and debentures has been fixed at 2,500 taka (approximately US$42) instead of the previous charge of 2.5 per cent of the face value of each offer.
iv.) As of 30 June 2002, a total of 23 merchant bankers were given licences for underwriting, issue managing and portfolio managing (fully fledged merchant bankers). In addition, a total of six merchant bankers were granted licences for managing issues of securities, whilst a single merchant banker obtained a licence as a portfolio manager[60].

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[59] Recently the issue of fake shares has emerged as a major concern of the securities market in Bangladesh. A good number of shares in some companies, for example, Paragon Leather and Footwear Industries Limited, Shamarita Hospital, Atlas Bangladesh were found to be fake. In view of the fake menace, the turnover declined in both the bourses. Many of the fake shares holders borrowed money from commercial banks. These bank loans made the situation worse. To remedy the problem, the SEC sued the Paragon Leather and asked banks to verify shares before considering them as collateral. The securities regulator directed the *Shamarita Hospital* to announce book closure. For details see, SEC, 'Caution Notice Regarding Fake Shares' < http://www.secbd.org/caution.html> (27 Aug 2001); M. S. Rahman, 'SEC Sues Paragon Leather: Fake Shares Pumping Charge Frame' *The Daily Star*, Dhaka (25 Jul 2001); M. S. Rahman, 'Fake Share Menace Grips Bourses: Bank Sitting on Piles of Counterfeit Scrips Taken as Collateral' *The Daily Star*, Dhaka (29 Jul 2001); M. S. Rahman, 'Authentic Scrips before Giving Loans, SEC Asks Banks: Fake Share Makes Commission Alert' *The Daily Star*, Dhaka (2 Aug 2001); M. S. Rahman, 'SEC to Investigate Fake Shares of Shamarita Hospital' *The Daily Star*, Dhaka (6 Aug 2001); M. S. Rahman, 'SEC Directs Shamarita Hospital to Announce Book Closure: Bid to Identify Number of Fake Shares' *The Daily Star*, Dhaka (9 Aug 2001); 'Forged Share Menace: Who to Blame?' *The Independent*, Dhaka (10 Aug 2001); M. S. Rahman, 'Bourses Dull as Trade Volume Declines Alarmingly: Fake Shares-New SEC Moves Take Toll' *The Daily Star*, Dhaka (14 Aug 2001).

[60] For the first time, the regulation for merchant bankers was promulgated in 1995. Since then, the merchant bankers are regulated by the SEC under the *Merchant Banker and Portfolio Manager Regulations* 1995. Before 1995, merchant bankers were not required to obtain any licence from the SEC.

v.) In order to facilitate right issues and secondary issues by listed companies, the SEC promulgated two separate rules entitled the *Right Issue Rules* 1998, and the *Securities and Exchange Commission (Capital Issue of the Public Limited Companies) Rules* 2001.

vi.) With a view to fostering the issuance of mutual funds, the SEC promulgated the *Securities and Exchange Commission (Mutual Funds) Regulations* 1997[61]. Private mutual funds have been exempted from the obligation of paying income tax.

4.5. Measures for Improving Demands for Securities

Institutional investment is insignificant in the Bangladesh securities market. Some legal reforms have been made in order to increase institutional investment in the market. These reforms are discussed below.

i.) The *Trust Act* 1882 has been amended to enable trust funds to invest in securities of their choice. The trust properties consisting of money such as private pension funds and provident funds are now allowed to invest up to 25 per cent of their funds in any securities listed on the stock exchange(s) in Bangladesh. The application of this provision is subject to the trust instrument concerned[62]. Before this amendment, the trust law allowed these funds to be invested in government securities alone.
Likewise, the *Insurance Act* 1938 was amended[63]. The amendment provides

[61] Under these mutual fund regulations, Asset & Investment Management Services of Bangladesh (AIMS) issued the first ever private mutual funds in Bangladesh in 2000.

[62] Section 20B of the *Trust Act* 1882 provides:

(1)Where the trust property comprises money and it cannot be applied immediately to the purposes of the trust, the trustee may, subject to any prohibition or restriction imposed in the instrument of the trust, invest an amount not exceeding 25% of such money, hereinafter referred to in this section as the maximum limit of investment, in any security listed with a stock exchange of Bangladesh.

(2) In determining the exact amount of money that may be invested under sub-section (1) at any given time, the money already invested, if any, under this section and also under section 20(f) shall be deducted from the maximum limit of investment at that time.

(3) Nothing in this section shall be construed to be a bar to authorize the investment of trust-money by the author of the trust beyond the maximum limit of investment.'

[63] *Insurance (Amendment) Act* 2000 s 2.

that 30 per cent of any insurer's funds shall be invested in government securities and the balance shall be invested in any other investment including in the securities market[64].

ii.) The Investment Corporation of Bangladesh is the country's sole investment corporation established in 1976 alongside the restoration of the operation of the DSE. The *Investment Corporation of Bangladesh (ICB) Ordinance* 1976 has been amended to split the ICB into three separate subsidiaries. The newly formed three subsidiaries are entrusted with separate responsibilities, namely, merchant banking, mutual fund operating and stock brokering[65].

iii.) Credit rating is an important consideration for the securities market, especially for the debt securities. To reduce the risk of investors in the debt market, a credit rating company, the Credit Rating Information and Services, was granted registration in April 2002 for the first time.

iv.) There had been a total of eight saving bonds with varying terms and interest rates in Bangladesh. They were not tradable in the securities market. The government discontinued four of them. The closed four bonds were issued with higher interest rates as compared to the remaining bonds. The interest rates of the remaining four bonds were reduced and income tax was imposed for the first time on the interest of these saving bonds[66]. These were done to 'force' small savers to invest in securities.

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[64] The amended s 27 of the *Insurance Act* 1938 is as follows:
(i) thirty per cent of the sum referred to in the said sub-section shall be invested in Government securities; and (ii) the balance shall be invested in any other investment including capital market in such manner as may be prescribed.'

[65] Following an amendment to the *Investment Corporation of Bangladesh Ordinance* 1976, three subsidiaries have already been established, each of which has obtained registration from the Registrar of Joint Stock Companies and started operation. In this regard, s10 of the *Investment Corporation of Bangladesh (Amendment) Act* 2000 provides:

'Each of the following businesses [of the Investment Corporation of Bangladesh] shall be carried on only by one of the three separate subsidiaries established for this purpose, namely:

(a) Merchant banking business including issuing, underwriting and portfolio management of securities;

(b) Mutual fund operations; and

(c) Stock brokerage:....'

[66] 'Reduction of Interest Rates on Savings Bonds' *The Daily Janakantha*, Dhaka (30 Oct 2001) (translated from Bengali); K. Rahman, 'Savers Discouraged in Investment' *The Daily Janakatha*, Dhaka (10 Jul 2002) (translated from Bengali) & M. Haider, 'Fixed Income Earners Hit by Savings Instruments Reforms' *The Weekly Holiday*, Dhaka (19 Jul 2002).

v.) Stamp duty on the transfer of listed securities has been withdrawn.
vi.) The tax exemption threshold amount on dividend income has been enhanced from 30 thousand taka (approximately US$500) to 40 thousand taka (approximately US$667).
vii.) The maximum amount of tax free investment in IPOs has been increased from 0.20 million taka (approximately US$3,333) to 0.25 million taka (approximately US$4,167).
viii.) Listed companies have been grouped into 'A', 'B' and 'Z'. Companies which held AGMs regularly and paid at least 10 per cent dividends in the preceding year were placed in the 'A group'. Companies which held their AGMs regularly but paid less than 10 per cent dividends are placed in the 'B group'. Companies fell under the 'Z group' if they failed to hold the current AGM or did not declare any dividends in the last calendar year, or their operation remained closed for the last consecutive six months or more, or their accumulated loss, even after the adjustment of revenue reserves, if any, stood negative and higher than their net worth. This classification helps ordinary investors know about the current status of the listed companies.

4.5.1. Incentives Offered to Foreigners and Non-Resident Bangladeshis

In addition to the above reforms, incentives have been offered to attract portfolio investments from foreigners as well as from non-resident Bangladeshis.

The following incentives have been offered to foreign investors.

i.) Foreign investors are treated equally with their local equivalents in terms of capital gains and dividends.
ii.) Provisions have been made for the avoidance of double taxation on the basis of bilateral agreements[67].
iii.) They will be granted a six-month's multiple entry visa.

[67] Bangladesh has concluded bilateral agreements for the avoidance of double taxation with the following countries: Belgium, Canada, China, Denmark, France, Germany, India, Italy, Japan, Poland, Romania, Singapore, South Korea, Sri Lanka, Sweden, Thailand, The Netherlands, United Kingdom (including Northern Ireland). Negotiations are going on with USA, Iran, Philippines, Qatar, Australia, Nepal, Turkey, Indonesia, Cyprus, Norway, Finland and Spain: Bangladesh Bank, 'General Facilities/Incentives' <http://bangladesh-bank.org/investpr/invesfac.html > (17 Aug 2001).

iv.) Foreigners will be offered Bangladeshi citizenship for their individual investment of a minimum amount of US$0.5 million or by transferring US$1 million to any recognised financial institution (non-repatriable);

v.) Permanent residentship will be offered for the investment of a minimum amount of US$0.75 million (non-repatriable).
Non-resident Bangladeshi investors are entitled to enjoy all the facilities accorded to foreign investors where applicable. In addition, they have been offered some extra incentives which are mentioned below.

vi.) A quota of 10 per cent in the new issue of securities has been reserved for non-resident Bangladeshis in order to enable them to invest in the primary market.

vii.) They can maintain foreign currency deposits in Non-resident Foreign Currency Deposit (NFCD) account.

5. Market Growth During 1997-2002

Despite the above measures which are primarily aimed at persuading the potential investors of all categories of portfolio investment, the market has not experienced any impressive growth as yet after the stock market collapse in 1996. The trend of the market in response to the above reforms can be seen in the following table.

Table 3: *Growth Pattern of the Listed Companies in the Securities Market in Bangladesh 1996-2002 (DSE)*[68]

Year (ended in June)	No. of Listed Securities	No. of Securities (in millions)	Paid-up Capital (taka in millions)	Market Capitalisation (taka in millions)
1996	201	375.3	21,754.1	67,727.6
1997	214	471.1	26,907.4	107,826.6
1998	224	523.2	30,211.5	62,264.4
1999	230	533.5	28,684.0	50,748.4
2000	239	685.7	30,717.0	54,004.0
2001	244	739.5	32,227.0	72,168.0
2002	257	1003.4	34,968.0	65,518.0

[68] SEC (1997) above n.35; SEC (1998) above n.53 at 19 and, SEC (2000) above n.53 at 11; SEC (2001) above n.53 at 13 (translated from Bengali) & SEC (2002) above n.3 at 14 (translated from Bengali).

The above table shows that a greater number of securities were listed in 2002 in comparison with that of the preceding five years. This development is deemed to owe largely to some reforms accomplished by the new government installed in October 2001. Small savers were 'compelled' to invest in securities. This is evident in that the meagre savers who were risk averse, and lacked confidence in the securities market, invested their money in fixed income savings bonds guaranteed by the government. The new administration at the end of November 2001 reduced the interest rates on various savings bonds by 1.5-2.00 per cent[69]. The government also reduced the interest rates on bank deposits. As a result, the securities market witnessed increased demand to some extent. This demand by no means implied any rise in investor confidence in the market[70]. The companies willing to go public took advantage of this 'forced' increased demand. The increase in the public issues of securities contributed to the corresponding improvement of the other data, such as, the amount of total issued capital and market capitalisation. However, despite the reforms mentioned above, the vast majority of investors are still staying away from the market, because of their market-shyness generated mainly by the lack of investor protection, widespread corporate misfeasance and ineffective market regulation.

It is noteworthy that the information regarding the securities listed on the CSE reflects a similar trend of the market as is evident from Table 3 above[71].

The growth of the market from 1976 to 2002 is shown below in two different figures. The first figure (Figure 3) depicts the growth of listed securities and the number of tradable securities, whilst the second figure (Figure 4) shows the growth of the amounts of paid-up capital and that of market capitalisation.

6. Graphic Presentation of the Market Growth from 1976 to 2002

The growth of the Bangladesh securities market from 1975 to 2002 is presented below in two separate figures.

[69] Reduction of Interest Rates on Savings Bonds' (30 Oct 2001) above n.66.

[70] See, for example, 'Capital Markets Sink to Record Lows' *The Independent*, Dhaka, (10 Mar 2003) & AIMS, 'Waning Indices in the Bourses' *Weekly Market Review* (15 Mar 2003) at 1.

[71] For the information regarding the companies listed on the CSE, see the same sources provided for the above Table 3.

Figure 3: *Growth of the Bangladesh Securities Market During 1976-2002 Measured by the Number of Listed Securities and the Number of Tradable Securities*[72]

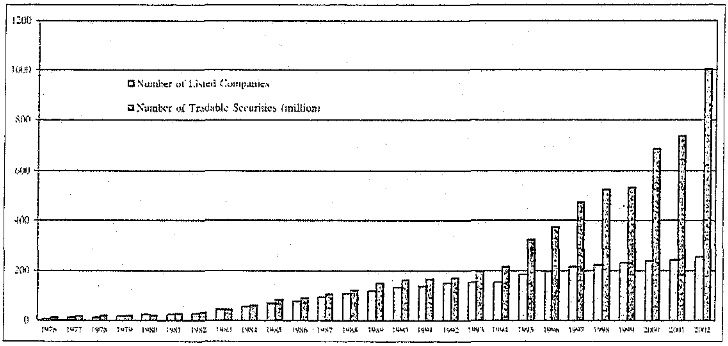
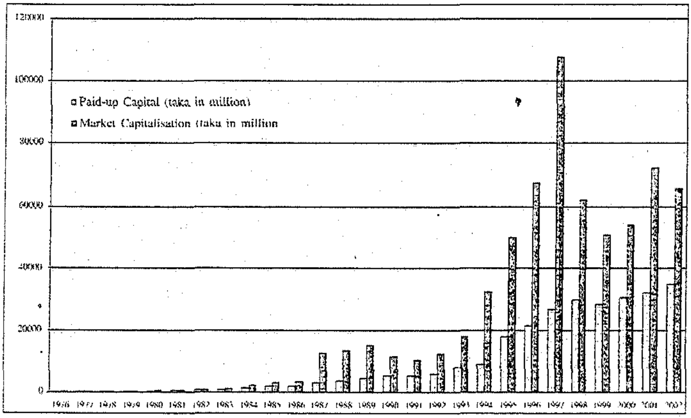


Figure 4: *Growth of the Bangladesh Securities Market During 1976-2002 Measured by the Amounts of Issued Capital and Market Capitalisation*[73]



[72] Above nn.23, 35 & 68. The figure contains the information of the DSE.

[73] Ibid. The Figure contains the information of the DSE.

7. Growth of the Public Issue Market During 1977-2002

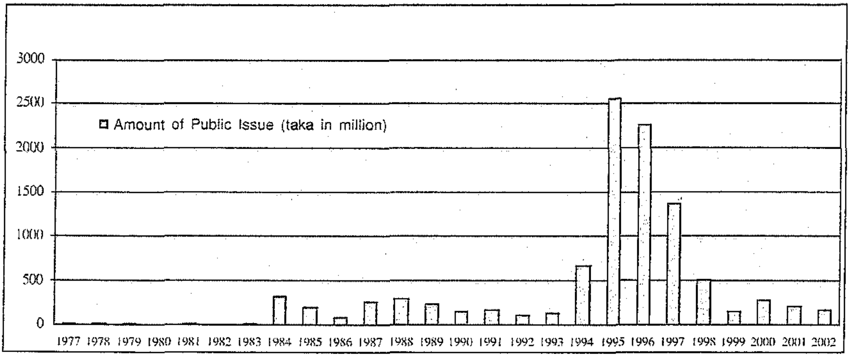
The number representing the variation of listed securities from one year to another does not usually denote the number of public issues in a given year. This is because, the number of listed securities is concerned with several factors, such as, new entries, re-entries, and the suspension and delisting of securities. The growth of the public issue market in Bangladesh measured in terms of the number of issues and the amounts of capital issued to the public is shown below.

Table 4: *Growth of the Public Issue Market in Bangladesh During 1977-2002*[74]

Year (ended in 30 June)	Number of IPOs	Amount Issued (taka in millions)
1977	2	17.5
1978	1	14.7
1979	2	9.2
1980	2	5.2
1981	5	17.5
1982	2	5.9
1983	5	12.9
1984	12	323.9
1985	19	194.1
1986	9	81.1
1987	9	265.0
1988	21	302.9
1989	12	238.6
1990	11	158.3
1991	9	167.2
1992	11	115.0
1993	4	142.5
1994	17	668.4
1995	27	2,560.0
1996	21	2,265.7
1997	18	1377.3
1998	8	506.6
1999	4	150.0
2000	10	277.5
2001	11	217.0
2002	8	173.0

[74] Since the operation of the DSE remained suspended until the middle of 1976, no information relating to the issuance of IPOs in the year ended on 30 June 1976 is available. Information for the years from 1977 to 1993 has been taken from: DSE (1994) above n.23 at 44. Information for the remaining years (1994-2002) has been taken respectively from: SEC (1994) above n.23 at 31; SEC, *Annual Report* 1994-95, Dhaka at 42 [hereinafter SEC (1995)]; SEC (1996) above n.36 at 57; SEC (1997) above n.20 at 52; SEC (1998) above n.53 at 54; SEC (1999) above n.53 at 78; SEC (2000) above n.53 at 16-17; SEC (2001) above n.53 at 19 (translated from Bengali); SEC (2002) above n.3 at 15 (translated from Bengali).

Figure 5: *Growth of the Public Issue Market in Bangladesh During 1977-2002 Measured in Terms of the Amounts of Issues*[75]



8. Performance of the Bangladesh Securities Market Measured in Terms of Mobilising Public Savings for Companies

It may appear from the above discussion of the growth of the securities market that the Bangladesh market has been growing slowly over the last three decades. In reality, the development of the market is not at all impressive. The market has substantially failed to mobilise funds for companies from the general public. This truth is evident from the enormous differences amongst the amounts of investment in securities, investment in government saving instruments and in term deposits in banks. For example, the amount of investment in securities was 2.47 per cent of the total amounts of investment in government saving instruments and bank deposits in 1976; 2.57 per cent in 1980; 2.98 per cent in 1991 and 7.28 per cent in 1997 (after the boom in 1996)[76]. Similarly, the ratios of market capitalisation to the GDP show the poor performance of the market. The market capitalisation was 0.20 per cent of the GDP in

[75] Ibid.

[76] For details of the amounts of investment in securities alongside the investment in government savings bonds and bank deposits (time deposits) from 1976 to 1997, see Ahmed (2000) above n.22 at 186.

1980, 0.56 per cent in 1985, 1.15 per cent in 1992 and 3.57 per cent in 1995[77]. The figure went up (abnormally) following the stock market boom in 1996 and it stood at 6.22 per cent in 1997[78]. The market capitalisation significantly fell in the subsequent years. It was 3.2 per cent of the GDP in 1998, 2.39 per cent in 1999, 2.36 per cent in 2000[79]. The ratios in 2001 and 2002 were 2.84 per cent and 2.41 per cent respectively[80]. These amounts of investment in securities are very poor in comparison with those in many Asian countries as will be seen in the following section.

9. Comparative Position of the Bangladesh Securities Market Amongst Its Selected Asian Counterparts

The poor performance of the Bangladesh market is further evident from the comparative achievements of some selected Asian securities markets. The Bangladesh market is lagging far behind all of the markets included in this comparison.

It may be mentioned that Bangladesh, Pakistan and India (subcontinent) are historically very close to each other in respect of socio-economic status which is an important consideration in respect of portfolio investment. Most of the other selected countries included in the following table were not financially in a much better position a decade ago. Their securities markets have played a pivotal roie in boosting their national economies, whilst the Bangladesh market has miserably failed to do so.

[77] For details of these ratios from 1980 to 1997, see Ahmed (2000) above n.22 at 184.

[78] SEC (1997) above n.35 & Bangladesh Bureau of Statistics, *Statistical Pocketbook of Bangladesh* 2000 (2000) Dhaka at 276.

[79] SEC (1997) ibid; SEC (1998) above n.68; SEC (2000) above n.68 & Bangladesh Bureau of Statistics (2000) ibid. It should be noted here that the calculation of market capitalisation used in this paper is based on the year ending on 30 June. However, the calculation of market capitalisation used in Table 8 and Figure 6 is based on the year ending on 31 December.

[80] SEC (2001) above n.68 (translated from Bengali); SEC (2002) above n.68 (translated from Bengali) & *Bangladesh Economic Survey* 2002, Chapter 2 < http://www.gobfinance.org/economic/index.html> (20 May 2003).

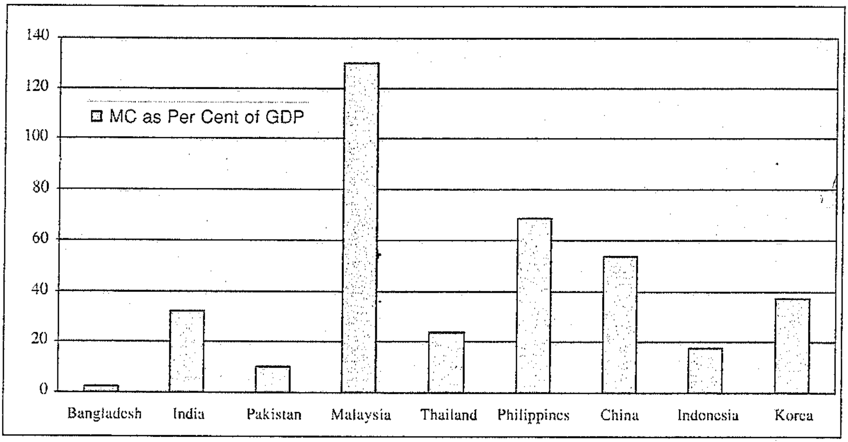
Table 5: *Some Key Indicators of Selected Asian Stock Markets*[81]

(Figures in US$ millions)

Country	Number of Listed Companies	Market Capitalisation (MC)	MC as Per Cent of GDP	Average Company Size
Bangladesh	221	1,186	2.52	5.4
India	5,937	148,064	32.40	24.9
Pakistan	762	6,581	10.68	8.6
Malaysia	795	116,935	130.42	147.1
Thailand	381	29,489	24.14	77.4
Philippines	230	51,554	68.98	224.1
China	1,086	171,587	53.80	535.0
Indonesia	290	26,834	17.51	92.5
Korea	1,308	308,534	37.53	131.2

The above information regarding the MC as per cent of GDP is presented in the following figure.

Figure 6: *Position of Bangladesh Amongst the Selected Asian Markets in Terms of Market Capitalisation of the Per Cent of GDP*



Until 1986, market capitalisation in Bangladesh was far below one per cent (0.75) of the GDP[82]. In 2000, it increased to 2.52 per cent, whilst it was 10.68 per cent in Pakistan, 32.40 per cent in India, and 130.42 in Malaysia[83]. These figures clearly show that the performance and the achievements of the Bangladesh securities market are notably poorer than those of its counterparts in all of the selected South and East Asian countries.

[81] Standard and Poor's, *Emerging Stock Markets Factbook* 2002 (2002) New York: Standard and Poor's at 131, 191, 259, 231, 307,267, 151, 299, 195 & 215, & Standard and Poor's, *Emerging Stock Markets Factbook* 2001 (2001) New York: Standard and Poor's at 41 The information contained in this Table is correct as of December 2000. The information required for a further update is not available in full. The markets have been selected having regard to their closeness to Bangladesh in respect of socio-economic considerations. All of them, except for Bangladesh, are emerging markets: *Standard and Poor's Emerging Stock Markets Review* (April 2002) New York: The McGraw Hill Company at 76. The references to the developed Asian markets like the markets in Singapore and Hong Kong have been deliberately avoided because the Bangladesh market is still a pre-merging one. The comparison of the achievements of the Bangladesh market with those of developed ones may seem unrealistic.

[82] For details of the ratios of GDP and market capitalisation from 1979 to 1997, see Ahmed (2000) above n.77.

[83] See Table 8.

10. Summary and Conclusions

Bangladesh securities market has considerably failed to mobilise capital from the public in the past 50 years of its operations. Potential investors prefer depositing in bank accounts or investing in government savings bonds to investing in the securities market. Investor confidence drastically declined after the stock market crash in 1996. The persons responsible for the scam have not been penalised as yet. Nor have the investors been compensated to date. Reforms introduced so far by the authorities appear to have failed to bring about any tangible development in the market, because investor confidence could not be restored.

Despite the importance of the adequate protection of investors for the development of securities markets, nothing significant has been done so far in this regard, especially for investors in the IPO market. Providing investor protection should be the best way of encouraging the public to invest in securities. The most notable reform made along these lines might be the adoption of the DBR for the IPO market. This reform however is contrary to the real need of such a protection in light of the overall market situation which may be the topic of a different article. Another important reform may be the adoption of the International Accounting Standards (IAS) and International Standards on Auditing (ISA). This adoption is, of course, a welcome initiative, but sufficient attention has not been paid to the implementation of these standards. As a result, many companies have been raising funds from the public through defective prospectuses, which contain untrue information or conceal material facts[84]. More importantly, the wrongdoers could not be brought to justice to pacify the aggrieved investors. These practices of issuing defective prospectuses and the lack of investors' remedies are continuously diminishing investors' confidence in the market. The situation is that the resources of investors cannot be recovered if these are once invested in a fraudulent or misleading IPO[85]. From the practical point of view, the occurrence of these undesirable events cannot be completely eliminated. But these can be regulated up to a reasonable extent. In Bangladesh, the regulation of the securities market is widely recognised to be ineffective. Although the principal regulatory aim is to pro-

[84] 'Malpractice in SEC in Issuing IPOs in 90s' *The Daily Star*, Dhaka (2 April 2004), 'ADB's Capital Market Dev Project "Little Productive", *The New Age* , Dhaka (1 Jun 2004) .

[85] M. Zahir, *Company and Securities Laws* (2000) Dhaka: University Press Limited at 130.

vide investor protection in the market, the present legal and regulatory regime is not conducive to such protection. Legal drawbacks and regulatory failures are considered to be the principal reasons for the poor performance of the market. A recent study shows that the securities laws describing investor protection measures and the quality of their administrative and judicial enforcement are essential elements of corporate governance and finance[86]. It is therefore submitted that the issue of investor protection should be addressed properly instead of offering pecuniary incentives to the market participants. The incentives may attract investors and companies alike for the time being, but the lack of protective measures will certainly drive the investors out of the market. As a result, mere incentives without protection will maintain the existing confidence crisis, and eventually inject further liquidity problem– as is presently the case in the Bangladesh securities market.

[86] R. La Porta, F. Lopez-de-Silanes, A. Shleifer & R. Vishny, 'Investor Protection and Corporate Governance' (2000) *Journal of Financial Economics* 3 at 5. See also R. La Porta, F. Lopez-de-Silanes, A. Shleifer & R. Vishny, 'Legal Determinants of External Finance' (1997) 52 *Journal of Finance* 1131; R. La Porta, F. Lopez-de-Silanes, A. Shleifer & R. Vishny, 'Law and Finance' (1998) 106 *Journal of Political Economy* 1113.

Abstract

Bangladesh securities market came into being in 1954. Despite its operation of half of a century, its growth is unimpressive. The market remains in its infancy because of multifarious weaknesses affecting its operation. Legal and regulatory weaknesses are considered to have hindered the market most from growing to a reasonable extent. The securities regulator introduced unrealistic reforms one after another over the last decade. The lack of appropriate legal reforms has sometimes created regulatory fragility and in turn facilitated corporate culpability. Nothing significant has been done so far to provide protection to investors. The regulator in January 1999 imported the disclosure philosophy from developed economies by discarding the previous paternalistic merit regulation without any study being conducted on the market readiness to utilise it. The adoption of the new philosophy aimed to restore investors' confidence which was eroded by the unprecedented share scam in 1996. But it eventually proved counterproductive. This article suggests that the issue of investor protection be addressed on a priority basis in order to achieve the real growth of the ailing capital market.