UNRAVELLING THE LEGAL FRAMEWORK ON DOWNSIDE PROTECTION TO INVESTORS IN INDIA

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ABSTRACT

With the sharp drop in the valuation of the investments in the financial market due to coronavirus pandemic, discussions on the concerns of the investment protection value, especially the downside protection to investors has re-emerged significantly and expected to evolve, to say at least. To exacerbate long-term growth, it is inherently important to not only grow the upside, but it is arguably even more important to protect the investment values from the downside and boost the investors' confidence. This paper begins by articulating the concept and underlying rationale of a downside protection and unties the knots of different ways to extend to downside protection to the investors. The paper exhaustively discusses the extant legal framework of the three types of downside protection viz. anti-dilution provisions, pre-emptive rights and preferred payment upon liquidation, and dwells upon the desideratum of the inculcation of more calibrated downside protections in the venture capital transactions, schemes of arrangement and private investment in public equity in India.

Keywords**:** Downside protection, anti-dilution provisions, pre-emptive rights, liquidation preference, rights issue, right to first refusal (ROFR)

INTRODUCTION

The outbreak of novel coronavirus pandemic has radically impacted the landscape of financial market across the globe, including India. Indubitably, in an attempt to mitigate the impact of this economic fallout, the financially distressed companies will resort to immediate fundraising options such as emergency bridge funding, bail-out financing; or even worse, can call upon liquidation. However, this looming slew of financing in bearish markets and investee-companies at the periphery of liquidation starkly jeopardizes the shareholding value of the existing investors of the corporate entity. Therefore, this has necessitated the discussion of how the investment transactions can protect the investors' interest ahead of time, especially to soften the impact of such unfortunate corporate events.

Since the past few years, investment transaction typically encompasses a number of investor control rights as a part of the investment to cushion the concerns of an investor. A closer study of the investment agreements reveal that these investor control rights are broadly categorized in, viz. (a) governance safeguards and (b) investment protection. Governance safeguards refers to mechanisms by which the company is run – including board nomination, quorum rights at board and shareholder meetings and information and affirmative voting rights.[i] On the flipside, the investment protection refers to a wide variety of mechanisms which offer protection against lowered shareholder value for the investor, sometimes at the expense of the company or other shareholders.[ii] Notably, for the protection of the investment value, 'downside protection' is usually extended to the investors in the transaction agreements.

In this paper, the author seeks to dwell upon the concept of downside protection in the Indian jurisprudence, and critically examines the legal framework of the most common downside measures i.e. anti-dilution rights, pre-emptive rights and preferential payout at the time of liquidation, to the shareholders. The research paper is divided as follows: The next part i.e. Part II: discusses the scope and underlying rationale to put in place a downside protection framework; Part III examines (i) anti-dilution rights; (ii) pre-emptive rights; and (iii) preferential payout on liquidation. Finally, Part IV concludes by arguing how the downside measures are still untested, and how the worse economic hit across the globe will invariably necessitate the development of downside protection.

SCOPE AND RATIONALE UNDERLYING DOWNSIDE PROTECTION

'Downside protection' is in the form of covenants agreed to reduce the frequency and/or magnitude of capital losses to the investors, resulting from significant asset market declines.[iii] In layman terms, they are strategies that help to protect investors against significant losses and preserve the power of their portfolios and allow maximum participation in future gains.[iv] These protective rights are either additions to the pre-existing company related statutory rights, or enable investors to contract around immaterial or problematic company law provisions[v], and are generally encapsulated in an investment agreement or a shareholders agreement,[vi] which records the commercial and behavioural terms of arrangement between the investor, the company. [vii]

The first wave of downside protection was witnessed after the hard lessons of the 2008 Global Financial Crisis. Many institutional investors and pension funds were under pressure from their stakeholders to find better ways of limiting the risks that they face — meaning that downside protection strategies assumed new importance for many.[viii] The need of downside protection was further exemplified with the significant reforms in the realm of corporate law, primary being the corporate governance reforms. The most important facet of corporate governance framework is the strong enforcement of the investor protection laws as it is, after all, investors that provide the capital that businesses need to grow and in a very real way, the fuel that keeps the engine of our economy moving.[ix] Strictly speaking, an investor's decision to invest in a company is driven by the expected potential of the company and the price such investor pays, reflects such expectation[x] and require a rate of return, at a level of risk they can accept and commit to for the long run.[xi]

Thus, in the interim, it becomes important for the private equity and venture capital fund investors to ensure that the value of the investor's shareholding does not diminish[xii] or dwindle due to volatile financial market. Essentially, it has become crucial to incorporate and warrant downside protection for two reasons, first, as every investor has invested to accrue corporate benefits and vision prospects of capital improvement; and more importantly, to be in tune with the corporate governance norms.

TYPES OF DOWNSIDE PROTECTION

The downside protection provisions have taken varied and complex contours, both internationally and municipally. It commonly includes liquidation preferences, conversion rights, anti-dilution protections, voting and information rights, share transfer restrictions (particularly with respect to promoters)[xiii] and restriction on sales in the form of right of first offer, right of first refusal) and co-sale or tag-along rights. However, in the Indian context, the most standard downside measures to the shareholders are; anti-dilution rights, pre-emptive rights and preferential pay out on liquidation, which we will now proceed to examine through an exhaustive discussion of its nuances and legal enforcement.

a. Anti-Dilution Rights

It is a common practice for corporate entities to raise capital at low valuations during the economic crisis to tide over the funding crunch (colloquially refereed as 'down-rounds'). However, these down rounds often result in substantial 'equity dilution' of the investments of the founders and existing shareholders. Dilution refers to the phenomenon of a shareholder's ownership percentage in a company decreasing because of an increase in the number of outstanding shares, leaving the shareholder with a smaller piece of the corporate pie.[xiv] For instance, if the value of the shares of a company is 1 rupee and the promoters issued 40 shares to the foreign investor and kept 60 shares for themselves. A few years down the line, the company is in dire need of funds and therefore issues 60 shares at 0.5 rupee each to a domestic investor. As a result of the subsequent financing, the shareholding of the foreign investor falls from 40% to 25%.[xv] In an extreme situation of dilutive effect and shareholding value erosion, the existing shareholders may be crammed down such that their shares or options are not worth much.[xvi] As a consequence, the slew of future rounds of financing inevitably triggers the requirement of 'anti-dilution rights', as the existing investors may clamour recovery in the form of compensation for such loss.

Anti-dilution adjustments, as the name suggests, are protection mechanism against such dilution. They are self-executing rights that offer protection from value erosion in the form of reduction of conversion price of securities, translating into a proportional increase in the number of equity shares issuable to the investor on conversion.[xvii] Put simply, they mitigate the dilutive effect of future stock issuances on certain stockholders[xviii] and protect against a down round by the investee company, by adjusting the price at which the preferred stock converts into common stock. Broadly, there are two methods by which such compensation for maintain the erstwhile position is calculated and paid to the investors in India– (a) full ratchet approach and (b) weighted average method.

(a) Full-ratchet approach: Under this method, the conversion price is reduced to the exact price per share paid in the down round, allowing the holder of the convertible security to receive stock at that lower price. Herein, even additional shares can be issued to the existing investors for the surplus consideration after such price adjustment without making any further payments.[xix] This approach is the most favoured by investors as it fully protects the investor against economic dilution from the initial investment; after the adjustment, the securities receivable upon conversion will have the same aggregate value as the initial investment.[xx] Concomitantly, it is also seen as onerous on the founders as they suffer the collateral damage that would be diluted disproportionately and while the existing investor escapes unscathed[xxi] and hence, is viewed as the most aggressive and unfair mechanism by many.

(b) Weighted average method: A more balanced approach is the weighted average method since it takes into account the number of shares being issued in the down round[xxii] unlike full ratchet method, which insolently disregards the number of shares being issued in the subsequent financing round. In this method, a formula is devised in the transaction agreement wherein the conversion price is reduced to the weighted-average price per share of securities issued both prior to and in the dilutive issuance[xxiii] coupled with the number of shares being issue. As this method invariably takes into account various factors such as common outstanding shares, warrants and convertible securities, per-share consideration received by the company from new investor etc., it is perceived as a holistic method of protection for interest of both founders and investors.

It is to be noted that the investors and founders has the autonomy to design novel methods to espouse anti-dilution protection in the financial transactions. It, however, becomes material for both to understand the metrics behind the formula and the true impact of these clauses before contractually agreeing to them.[xxiv] Typically, investors consider numerous factors prior to enforce their anti-dilution rights such as impact of enforcement on the management team, future capital raising ability etc.

Furthermore, as a prudent practice, the foregoing clauses should categorically enumerate specific issuances that will (not) trigger the adjustment. Upon a closer look, one may effortlessly recognize that, since the Indian Companies Act 2013 (CA 2013) provides a leeway to the companies to freely determine the issuance price; the investor generally prefer, or perhaps demand, anti-dilution rights in all investment transactions. While in events such as share splits, bonus issue, consolidation, reclassification of share capital, issue of options and issue of ordinary shares against convertible instruments are typically exempted from the ambit of anti-dilution events given the effect of such issuances are different, as they affect the interest of all shareholders equally.[xxv]

To date, no Indian legislative document or court ruling has provided explicit guidance on the nuances of anti-dilution provisions. The concept of anti-dilution provisions, common in the western legal context, largely remains unfamiliar and without a secure legal foundation in Indian law.

b. Pre-emptive rights

Pre-emptive rights are rights that allow venture capitalists to acquire new shares being issued by the entrepreneurial firm in direction proportion, or pari pasu, to the level of ownership that they hold in the in the firm at the time the news issues are issued; this ensures that venture capitalists level of shareholding cannot be dilution without their agreement.[xxvi] Suppose an investor presently holds 20% of the shareholding in the investee company, they would be given a right to invest in 20% whenever a new round of shares will be issued.

Crucially, the exercise of these rights occurs to protect investors from dilution of their ownership position in the company when an emergency round of financing is undertaken. So, whenever a company issues shares at low nominal value in order to achieve significant dilution of ownership to non-participating shareholders (normally called a ‘wash-out’ round) aids the shareholders to maintain their percentage of ownership. In the absence of preemptive rights, insiders may expropriate minority shareholders by offering shares to related parties at below-market price[xxvii]. However, exercising pre-emptive rights in such circumstances inherently translates into an effective downside protection against dilution.

Historical Background: For a better understanding, it's pertinent to trace the course of the development of pre-emptive rights in India. The pre-emptive mechanism has been available under Indian law for over a century. Section 105C of the Companies Act, 1936[xxviii] explicitly postulated an obligatory duty on 'all' the companies to offer pre-emption rights to the existing shareholders whilst further issuance of capital. Section 105 read as: "Where the directors decide to increase the capital of the company by the issue of further shares such shares shall be offered to members in proportion to the existing shares held by each member (irrespective of class) and such offer shall be made by notice specifying the number of shares to which the member is entitled…''.

While in independent India, the pre-emptive rights were bestowed to the shareholders under section 81(1) of the Companies Act 1956 of a public company; exempting the private companies. Further, as the corporate regime witnessed a paradigm shift, in particular to extend greater autonomy to the companies in their operations; the novel CA 2013 did not carve any mandatory obligation of pre-emptive mechanism on the companies.

In the present regime, the statutory underpinnings of pre-emptive rights are tenuously guided by section 62 of the CA, 2013. Section 62 envisages the mechanism of 'rights issue' which is a statutory right to the shareholders to subscribe new share in the company in proportion to their existing holding. In a way, this is a classic example of a company preserving the pre-emptive rights of the existing shareholders in case of a further issue of capital. However, the key rider is that unless and until the board offers the rights issue, the preemptive right of the shareholder does not exist.[xxix] The pre-emptive rights are often limited to certain issuances of shares (for example, shares issued as part of an employee stock option plan do not typically trigger pre-emptive rights), but this can all be stipulated in the provisions of the shareholders' agreement.[xxx] Therefore, investors are acceded pre-emptive rights in the form of rights issue after the board approval.

More importantly, easier negotiated than implemented, various questions sparks on the validity and enforcement of pre-emptive rights as it subtly restricts the transferability of the shares. The Indian law i.e. CA 2013, on one hand, strictly requires restrictions on the transferability of shares in private companies[xxxi], and other, the transferability of shares cannot be restricted in public companies.[xxxii] Thus, the validity of pre-emptive clauses in regards to shares of public companies is a topic of debate as it is one of the basic features of a public company that its shares have to be freely transferable.[xxxiii] As far as the private companies are concerned, it is an accepted principle that such pre-emptive rights are valid if incorporated in the Articles of Association (AoA)[xxxiv] as section 58(1) of the CA 2013 (corresponding section 111A of the Companies Act 1956), clearly mandates that the board must necessarily reject those transfers that are not in consonance with the AoA.[xxxv] Ergo, in the case of private companies, the restriction is enforceable when contained in the AoA.

Alternatively, the question of enforceability of contractual restrictions on transfer of shares of public limited companies has been the subject matter of various decisions by courts.[xxxvi] In 2010, a division bench of the High Court of Bombay in the dictum of Messer’s Holding Limited vs. R.M. Ruia & others, settling this legal quagmire, tactfully upheld the validity of the pre-emptive clauses in public companies. The court observed that under the proviso to Section 58(2) of the CA 2013, parties may enter into contracts or arrangements in respect to transfer of securities and these will be enforceable as a 'contract'.[xxxvii] Additionally, in 2013, the Securities and Exchange Board of India promulgated a notification[xxxviii] to clarify those transactions including pre-emptive rights in shareholders' agreements, as valid contracts, for the purpose of the Securities Contract Regulation Act, 1956.[xxxix] However, it would be prudent to note that the extant position of valid pre-emptive clauses (w.r.t. public companies) might amend, when the issue of comes up before the Hon’ble Supreme Court of India.

In practice, the most standard pre-emptive rights are formulated in the form of, viz. (i) Right of First Refusal (ROFR); and (ii) Right of First Offer (ROFO). The former is a pre-emptive option between the existing shareholders whereby the shareholder wishing to sell to a third party must first offer the shares to the holder of ROFR. If the holders of ROFR do not buy these shares, the shareholder can then normally sell freely to a third party. [xl] It should be noted that rights issue is an exercise of the typical ROFR. While the latter is a subtle variation of ROFR as the shareholder wishing to sell shall first offer the shares to the holder of ROFO and obtain a price therefrom for such shares. If third party offers a price more than the offer of holder of ROFO and the holder of ROFO does wish to purchase the shares at such price set by third party, then the shareholder wishing to sell is free to sell it to a third party.[xli] It is important for the promoters to include a ROFO or a ROFR clause since it protects the ownership of the company against outsider influence. That prior to the investor selling its shares and bringing in a new partner, the promoters would have some opportunity to consolidate their shareholding or even ascertain who the potential partner in the form of the third party buyer is, in the case of the ROFR.[xlii] The industry has recently witnessed certain high profile corporate battles including Anil Ambani's multi-billion-dollar amalgamation proposal with South African telecom giant MTN, Vedanta-Cairn deal, wherein ROFR clause has been decisively used. [xliii]

On a flipside, one may undisputedly note that one of the major concerns related to pre-emptive rights is that it applies only when equity is transferred to a third party, whereas it disregards the other form corporate acquisitions such as equity transfers, registered capital increases, company mergers, complete asset transfers and proxy solicitations.[xliv] In such situation, even if a general pre-emptive right is granted in the investment document, it will prove to be an empty remedy for the investors. Nevertheless, pre-emptive rights are one of the fundamental protections shareholders need, and shareholder agreement is imperative to ensure these rights are correctly covered.

c. Liquidation Preference

Over the last few years, investors have been more risk conscious and demand a security in the return of the invested capital by incorporating the liquidation preference in the investment agreement. Liquidation preference is right of the investor to receive its investment amount plus certain agreed percentage of the proceeds in the event of a 'liquidation or liquidity event' of the company, in preference over the other shareholders.[xlv] Specifically, it protects the investor from exiting the company at a price lower than what was initially expected out of its investment.[xlvi] It should be noted that the liquidity event should not be misconstrued with winding up, since the term encompasses merger, acquisition, recapitalization, reorganization, liquidation, dissolution or any other similar transaction which might modify or reclassify the rights of the investor (generally known as 'deemed liquidation'). In all these cases, certain proceeds are generated that, if it weren't for the mechanics of the liquidation preference clause, would be distributed among the shareholders in proportion to their holdings of shares in the company. A liquidation preference basically works as a downside protection of the invested capital in low-return scenarios[xlvii] by assuring returns at the liquidity events.

Legal Enforcement Mechanism

Various debates are spurred on whether a 'liquidation' and 'liquidity event' preference clause is legally enforceable under realm of Indian law. Practitioners have long suggested that the enforcement of liquidation preference rights is subject to the interpretation of the courts, having been 'imported' through practice.[xlviii] To understand the enforcement mechanism, it's pertinent to deliberate upon them separately.

As far the liquidation preferences clauses are concerned, prior to the enactment of the Insolvency and Bankruptcy Code 2016 ("IBC") the statutory cornerstone was predominantly guided by the CA 2013. Neither the CA 2013 delved into the nuances of the liquidation preference exhaustively, nor expressly prohibited the enforceability of a liquidation preference clause. The share capital of a company limited by shares is divided into – (i) equity share capital (either with voting rights or with differential rights to dividend, voting or otherwise) and (ii) preference share capital. According to section 43 of the CA 2013, the preference shareholders are provided with an inherent preferential right with respect to the payment of dividend as well as repayment in the event of liquidation, winding up or repayment of capital of the company. This implied that investors who have been issued equity shares would perhaps not be in a position to enforce its liquidation preference over the preference shareholders. [xlix]

However, the Ministry of Corporate Affairs on 5th June 2015 ("**MCA**"), issued a notification exempting private companies from section 43 of the CA 2013, provided the memorandum of association or AoA clearly states that the company is exempted under section 43 of the CA 2013. On a perusal, it can be clearly deduced that the tailor-made liquidation preference clause can be enforceable if clearly incorporated in the AoA of a private company. Conversely, in case of public companies the situation is a bit more complex as there is no clarity as to whether a contractual understanding with respect to distribution of proceeds will be considered legally valid in such a scenario.[l]

Proceeding further, the CA 2013 was largely silent on the manner in which proceeds are distributed; however, the ordering of payouts upon the liquidation is well settled in the law of insolvency i.e. IBC. Section 53 of the IBC prescribes for a priority of payment to all class of creditors of the company undergoing liquidation ('**Corporate Debtor**') which is referred to as the 'waterfall mechanism' in common parlance. However, sub-section (2) of section 53 categorically restricts the autonomy of the parties to dwindle the order of payment. Section 53(2) reads as: "Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator." Therefore, any clause in the contractual agreement which give the investor a preferred payout in priority over creditors, workmen, government dues or other preferential payments will not be upheld.[li] While, antithetical to the liquidation preference clause, investors and management of the company has complete autonomy to curate their liquidity events clauses in the financing agreements.

As this clause determines the economic return that an investor is entitled to receive upon the occurrence of the 'liquidity event' at the company or shareholder level; it consequently secures the investor capital of one shareholder. However, since it ends up affecting the right of other shareholders, they are the most heavily negotiated clauses in the investment document. There are broadly three different types of liquidation preference.

a) **Non-participating:** A 'multiple' of the investment amount is decided upon by the investor and in a liquidation event and the Company is obligated to provide to such multiple amounts by attributing the proceeds to the investor. The multiple may be a 1x, 1.5x etc. of the investment amount. So, if an investor has invested Rs.10 lakhs with a 1x liquidation preference, the first Rs.10 lakhs of any proceeds payable on a liquidation event will be for that investor (if it has a 2x liquidation preference, the first Rs.20 lakhs will be for that investor). Generally, the investors propose a higher non-participating liquidation preference, however, it sets unwanted disincentives to the founder performance as it sets an unreasonably high bar for them to reach before they can participate in the profits of the company.

(b) **Full participating**: It gives the investors the right to recover their investment (or a multiple of it) and, in addition, to participate in the distribution of the remaining liquidation proceeds, on a pro rata basis with the rest of the shareholders.[lii] This type of liquidation preference is the most favourable to the investors of the company as they as get a return of investment, plus share rateably in the remainder.

(c) **Capped participating**–The preferred stockholders have the same rights as participating preferred, but their aggregate return is capped. Once they have received the capped amount, they no longer have the right to share in the remaining proceeds with the other common stockholders.[liii] Pertinently, capped participation liquidation preference is often viewed as an intermediate approach and is widely used by the corporate entities.

These foregoing clause acts as a security measure that intends to mitigate the financial risk taken by the investors in relation to the common shareholders[liv] and typically, seen in the early stage investment wherein the investors wish to protect itself from the downside scenario.

Nevertheless, as the liquidation preference clauses impact the interest of all the investors and the founders, it's necessary to balance their interests. From an investor perspective, in an insolvency scenario, there are often no proceeds whatsoever to distribute to shareholders. As a shareholder (albeit a preferred shareholder) the investor will still sit behind debt-holders when a company is wound up. A liquidation preference in that scenario gives an investor a priority, but it is a priority over nothing[lv] and subsequently, can be seen as an absolute panacea for risk on an investor's investment.

However, from a founder's perspective, a liquidation preference can, in an extreme scenario, render the founder's shares of little or no value in an exit scenario. For example, it has been reported that when the fantasy sports provider Fan Duel was sold in 2018, the founders did not receive any proceeds whatsoever due to the cumulative effect of liquidation preferences across several funding rounds – notwithstanding that the company had been valued at around £465m. Founders should remember that the price for receiving a high valuation from an investor may sometimes be a draconian liquidation preference.[lvi] Therefore, as the liquidation preferences are very impactful, it's important to carefully consider its inclusion in the investment agreement that protects the best interests of investors as well as the founders.

CONCLUSION

Despite India being ranked 63rd in the 'Ease of Doing Business Index 2020' (as per by the World Bank), the institutional and legal framework in India is unquestionably not sturdy enough to sustain economic downturns and not collapse under pressure. In the time like these it becomes lucid that how existing investment transactions are not resilient and exposed to market cyclicality, undermining the investor's interest. As the entrepreneurship and investing world is in for some rough sailing in the troubled economy, the investors should understand the subject of downside protection in order to completely protect themselves against downside scenarios that may arise in future.

The need to understand downside protection is further exacerbated by the culture of majoritarian in the corporate landscape. In India, the concentrated shareholding is typically vested in the hands of the founder or promoter as the norm, PE and VC funds take up a minority position. Thus, in order to protect and encourage the intersection of PE and VC funds in the mainstream funding, it's important to protect themselves from the self-opportunism of promoters and negotiate for downside protections rights as part of the investment. Further, with the current focus on the debt restructuring options though schemes of arrangements, it is important for the parties to comprehensively explore innovative avenues to extend downside protection in such liquidity events.

One must also understand the importance of downside protection in the light of the increasing mode of financing i.e. Private Investments in Public Equity (PIPE). PIPE have become a vital source of funds for start-up firm, private middle-market firms, firm in financial distress and public firms seeking buyout financing in India. Given the escalating interest of investors in the PIPE deals, it's important to protect investors from the downside to make PIPE the next big instrument of investments. PIPEs transactions are typically structured as a purchase by the private equity investor of newly issued preference shares that are convertible into equity shares. This structure inherently provides the investor with some measure of downside protection, because the preference shares are senior in the capital structure to the common shares, but still PIPE deals are essentially insufficient to extend downside protection. No gainsaying the fact, that there is no right or wrong approach. Rather, the prevalence of one approach over another depends on the market norms and the parties' relative negotiating leverage. However, the terms so contractually agreed upon must always be within the operative legal framework.

On a contradictory front, the investor protection matters like anti-dilution protection and liquidation preference are becoming uncommon in late-stage deals as the founders of late-stage companies argue that there should be no reason for the founders to compensate the investor in case of a down-round or prioritize payments to the investor in case of a liquidity event. Similar to the commonly accepted concept in the West called “pay-to-play" is in the limelight as the provision is designed to incentivize investors to participate in future rounds of financing. To put it simply, such a provision requires existing investors to participate in subsequent rounds on a pro rata basis or they stand to lose at least some, or all of their preferential rights such as liquidation preference or certain voting rights.[lvii]

Further, they are criticized on the ground that each shareholder is an equal partner in the risk, and founders should not be made liable to compensate for the loss in value of the investors, unless it is established that the founders have acted in bad faith, committed fraud etc.[lviii] Furthermore, the private equity investors, in the past, have responded by negotiating structured deals with downside protection clauses and put options, but these structures often led to misalignment among stakeholders, broken agreements and poorer returns for the private equity firm.[lix]

Despite the foregoing concerns and the shortcomings, to exacerbate long-term growth, it is inherently important to not only grow the upside, but it is arguably even more important to protect the investment values from the downside and boost the investors’ confidence. In my opinion, private equity in India has witnessed euphoric highs and frustrating lows since the start of the millennium and as it sets a course for the future, the industry has a chance to reclaim a position as a vibrant contributor to the nation’s economy, but it must be guided by powerful downside protections in tandem with matured regulatory policies.

ENDNOTES

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