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The Effectiveness of Green Bonds in India: A Socio-legal Perspective

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Abstract

The environment is at the pedestal and there is a crucial need to promote corporate social responsibility. In the speech for Union Budget 2022-2023, the finance minister, Smt. Nirmala Sitharaman presented the plan for issuing green bonds in India. These are the securities issued to finance the projects related to sustainable, environment development and improvement. Presently, the carbon emissions have intensely affected the environment. Though, the concept of green bonds in India is not newly emerged one. Earlier, the help was taken from internationally set standards in regard to the same. Later, even the Securities and Exchange Board of India (SEBI) issued a circular regarding the disclosure requirements for green bonds as well as listing them on the market.

At present, it is regulated through SEBI (Issue and Listing of Debt Securities) Regulations, 2008 since it is a debt security. With green bonds being issued, there are certain problems that might crop up like what will constitute as 'green' or the transparency in selecting the project, in proceeds. Since there is lack of uniformed mechanism, it is essential to look at green bonds from a holistic point of understanding to comprehend its usage and application in India. Moreover, there is the issues related to the uncertainty of the green projects and the concept like greenwashing which is a deception that the funds are being allocated towards the greener projects. With a crucial turn of events towards climate change, green bonds have presented themselves with benefits and certain challenges which are essential to be addressed for a better legal compliance and environment.

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Introduction

As the unfavourable conditions of climate change are accelerating, so are the contours of evaluating the business strategies to inculcate the corporate social responsibility[1] ideology. Green bonds are seen as a novel and strategic way of presenting with the solution by contributing certain portion towards sustainable development goals (SDGs). As a matter of law, the regulation of green bonds and the proceeds generated forthwith needs to be adequately accounted for since without a transparent mechanism, the objective of green bonds will not be accomplished. There might be instances of manipulation and fraudulent activities. Thereby, transparency, disclosures and reporting measures

1 The Companies Act, 2013, § 135

have to be kept intact in law. In India, these are regulated through Securities and Exchange Board of India (SEBI) which had issued a circular for its disclosure requirements. Moreover, the amplitude of growth of green bonds is clearly seen and thus, the proceeds are adequately applied towards mitigating and adaptation of 'green' or environmentally sound work is essential.

Green Bonds – a 'Greener' Way

Being a party to United Nations Framework for Climate Change, India has obligations to limit the emissions of greenhouse gases.[2] This is necessary because of the long-term damaging impacts of climate change. Prolonged challenge of climate change and gradual environmental degradation has brought a newer corporate finance instrument in the form of green bonds. These are corporate financial instruments that are used to finance projects[3] that are environmentally sound or 'green' in nature. To mobilize funds for renewable and cleaner projects indeed requires huge investment; it can be achieved through the usage of green bonds.

A way to usher companies/ projects into the element of environment awakening is crucial in present times but keeping in touch with uneven distribution of income, the green bonds as a financial instrument comes as a saviour. A placard for the debt securities in the market that render towards the cleaner projects[4] to aid in the climate change is the purpose to be served through the green bonds.

Understanding the Concept of Green Bonds

Green bonds are fixed income financial instrument used for sustainable projects or 'green projects' like renewable energy. These are securities issued to investors and act as corporate debt that is repaid after the date of maturity is realised. The concept of green bonds is of contemporary origin around the world. It was first issued in 2007 by the European Investment Bank (EIB) called the Climate Awareness Bond (CAB).[5] CAB has allocated funds in different in 131 projects in 43 countries with its advantage being the element of transparency and the reporting mechanism of its proceeds.[6] What this exhibits is that green bonds have aided in accumulation of funds for mitigating it into the allocated projects by ensure transparent system.

Further, there is World Bank, working at an international level in respect of ensuring strategic framework for green bonds. In 2008, it issued the World Bank Green Bonds, in collaboration with Skandinaviska Enskilda Banken (SEB) to issue *"triple-A rated fixed income product"* in order meet the demand of the investors as well the sustainable innovative projects by issuing 17 billion dollars in 200 bonds.[7] The purpose was to ensure that funds are allocated in such projects and to support in mitigating the harm[8] of climate change with positive action.

The question might arise what is different in the green bond with the conventional corporate bonds which are issued so as to differentiate in their labelling. Basically, these provide financial incentives to the investors who are looking for better returns on their assets[9] along with investing in an environmentally sound project. Beyond that, there are some exemptions in certain circumstances like tax benefits that might attract investors to invest in green bonds. The primary objective is the sustainable or green cause and the secondary is to

2 United Nations Framework Convention on Climate Change, United Nations General Assembly, A/RES/48/189, 1992

3 Flammer, C. (2021). Corporate green bonds. Journal of Financial Economics. 142 (2). 499-516. https:// www.sciencedirect.com/science/article/abs/pii/ S0304405X21000337

4 Maltais, Aaron, and Björn Nykvist (2020). Understanding the role of green bonds in advancing sustainability. Journal of Sustainable Finance & Investment. 1-20.

5 Eila Kreivi, "Green Bond Market Development and EIB", https://www.eib.org/attachments/green-bond-market-development-and-eib.pdf

6 Eila Kreivi, "Green Bond Market Development and EIB", 8, https://www.eib.org/attachments/green-bond-market-development-and-eib.pdf

7 "IBRD Funding Program", The World Bank, https://treasury.worldbank.org/en/about/unit/treasury/ibrd/ibrd-green-bonds

8 "Sustainable Development Bonds", IBRD Funding Program, The World Bank, https://treasury.worldbank.org/en/about/unit/treasury/ibrd

9 Maltais, A. and B. Nykvist (2020). Understanding the role of green bonds in advancing sustainability, Journal of Sustainable Finance & Investment, 1-20. https://www.tandfonline.com/doi/full/10.1080/20430795.2020.1724864

look for the value for the investor. It benefits in the form of building up the reputation by rising of funds[10] as well as aiding the investors in leading towards realizing of their cost on capital by managing the investment opportunities.

ICMA Principles Governing Green Bonds

The International Capital Market Association (ICMA) has released Green Bond Principles (GBP)[11] which are of voluntary nature and are guidelines that lays down certain general principles that is to be followed while issuing of green bonds which will ensure its efficient functioning. Since the transparency is essential to know whether the green bonds are applied towards green objectives, these guidelines reframed in 2021 have proved useful by giving a broad framework for the same. These are as follows:

- Use of Proceeds
- Process for Project Evaluation and Selection
- Management of Proceeds
- Reporting[12]

Briefly, these emphases on how the proceeds of green bonds are utilized and to ensure proper documentation are maintained towards the bonds issued. Further, the portfolio of the project is to be maintained and provided to the investors so that financing or re-financing in the green projects can take place. Moreover, to ensure that the project comes within the domain of a green project having positive impact on the environment is to be accessed. In that regard, the GBP enlists certain inclusive green project categories like renewable energy, energy efficiency, pollution control and prevention, environmentally sustainable management of living natural resources and land use, etc.[13]

It also is the duty to convey to the investor the objectives of the green project, other information related to risks associated; with further information related to the market taxonomies, exclusion criteria, green certifications (if required), negative environment impact (if any). To manage the proceeds of green bonds, a separate account is to be created and to be maintained in that manner to be tracked at intervals. Lastly, the reporting includes maintaining annual information related to the allocation of the funds covering the details of the amount, the project, the qualitative and quantitative performance[14] among other things. Thus, GBPs act as a form of guidelines that has harmonized the way to approach green bonds in its regulatory functioning.

International Perspective

India has emerged as the second country to bring about a legal regulatory framework for green bonds through the Securities and Exchange Board of India (SEBI), after China. China regulates it through the disclosure requirements and has four government agencies established which supervises the green bonds markets. These have brought forth the guidelines and rules for issuing these securities in the market. The guidelines requires the information related to eligibility of the project to be categorized as a green project and to furnish information related to the expected outcome as well how the funds will be management. All these, form the part of the disclosure requirement. In addition, the life of the green bonds has to be disclosed[15] beforehand. In addition, there are CSRC Guiding Opinions whereby, there have to the disclosures relaed to the proceeds, progress reports, annual management

10 I. Shishlov, R. Morel and I. Cochran, "Beyond transparency: Unlocking the full potential of green bonds", Institute for Climate Economics, 2016, pp. 1-28.

11 "The Green Bond Principles (GBP)", ICMA, June 021, https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/green-bond-principles-gbp/

12 "The Green Bond Principles (GBP)", ICMA, June 2021, 4, https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/green-bond-principles-gbp/

13 "The Green Bond Principles (GBP)", ICMA, June 2021, 4-5, https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/green-bond-principles-gbp/

14 "The Green Bond Principles (GBP)", ICMA, June 2021, 6, https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/green-bond-principles-gbp/

15 Hao Zhang, "Regulating Green Bonds in the People's Republic of China" Definitional Divergence and Implications for Policy Making", ADBI Working Paper Series No. 1072, Asian Development Bank Institute, January 2020, https://www.adb.org/publications/regulating-green-bonds-prc-definitional-divergence-implications

reports by the bond trustees. These ensure that the transparency in issuance and after issuance of green bonds is clearly maintained and not hampered and side-by-side protecting the interest of the investors by disclosing the maturity of the green bonds (life of the green bonds).

DIMENSIONS OF REGULATION IN INDIA

In India, there had been a growth in investment in green bonds and its issuance. It is definitely felt that more investors and the companies are taking initiatives in this mechanism owing to the higher environmental impact in the present times and mitigating factors to counter them. With the carbon emissions at the rise in the country due to coal usage as a cost-effective fuel, India has yet to decrease its threshold of the UNFCC within its time frame. Moving towards the goal of sustainability, the government is planning for issuing Rs. 24,000 crores of green bonds in projects related to renewable power generation[16] as a measure towards mitigating the greenhouse gases and weaving pathway for sustainable future. The issue arises since the renewable sector requires huge investment which cannot be requires investment in different forms. That is why the concept of green bonds emerged which started with the Yes Bank in India in 2015 with Rs. 10 billion investment and was in accordance with the internationally set Green Bond Principles by ICMA.

Role of SEBI

To regulate the green bonds, the power is given to the Securities and Exchange Board of India (SEBI) since it is a form of debt security. In response to the growing demand, the concept paper was released for issuing green bonds[17] in India and its regulation that highlighted that India has to fulfil its Nationally Determined Contributions (NDCs) and green bonds are beneficial to that objective. Moreover, the sustainable projects will attract more investors; it will reduce the cost of funding in long-term for such projects. As a consequence, the issuance of green bonds, its listing on the stock market, and its regulation needs to be undertaken to ensure compliance and the protect the interest of the investors.

Therefore, SEBI has been at forefront to tackle the issue related to issuing of green bonds. It has enlisted green bonds are to be considered as the debt securities but with the difference that it is for the sustainable projects and thereby, has to comply with additional requirements along with the already established rules.

The existing application of regulation is in the form of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [LODR]. Since SEBI is a market regulator, it has to ensure that the investors' interest is protected under the capital market. Moreover, it is promoting even long-term government bonds[18] in such projects so to highlight its advantage. With state inclusion in green projects, the objectives can be furthered by reaching at a mass level and attracting investors. At the end of the day, the realization of the green projects for the sustainable future and the public at large because climate change is having damaging effects.

Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021 [NCS Regulations]

These regulations (NCS Regulations, 2021) have repealed the earlier regulations in regard to the listing of debt securities which were Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 [ILDS Regulations][19]

16 Ruchi Bhatia and Ronojoy Mazumdar, "India plans Rs 24,000 cr sovereign green bond as economy goes low carbon", Business Standard, Mar. 16, 2022, https://www.business-standard.com/article/economy-policy/india-plans-rs-24-000-cr-sovereign-green-bond-as-economy-goes-low-carbon-122031500116_1.html

17 "Concept paper for issuance of Green Bonds", SEBI, Dec. 3rd, 2015, https://www.sebi.gov.in/reports/reports/dec-2015/concept-paper-for-issuance-of-green-bonds_31167.html

18 Prakash, N. and M. Sethi (2021). Green Bonds driving sustainable transition in Asian Economies: The Case of India, The Journal of Asian Finance, Economics, and Business, 8 (1). 723-32. https://www.koreascience.or.kr/article/ JAKO202100569443344.page

19 Notification No.: LAD-NRO/GN/2008/13/127878, SEBI, June 6th, 2008, https://www.sebi.gov.in/legal/regulations/jun-2008/sebi-issue-and-listing-of-debt-securities-reg-

and the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 [NCRPS Regulations][20] and amalgamated the provisions of both of these into a single Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021[21].

Green Debt Securities

NCS Regulations, 2021 highlights among other things the green debt securities and has laid down what all projects will be considered under the 'green' terminology. At first, it enlists 8 categories with an additional power given to SEBI to specify any other project which might be considered as green but is not covered with the given eight categories. It defines that 'green debt security'[22] will be a debt security issued for the projects like:

- Renewable and sustainable energy
- Clean transportation
- Sustainable water management
- Climate change adaptation
- Energy efficiency including green buildings
- Sustainable waste management
- Sustainable land
- Biodiversity conservation[23]

Defining the specific projects which can be covered under the green debt securities[24] as well as culminating the rules to regulating the same within one regulation, SEBI has notified the domains within which a project can be classified as 'green' and not anything beyond. Of course, SEBI has been allocated powers to inculcate and include any further category of project but a list was felt essential so that a boundary can be categorically defined. But, one of thing is still missing which is a concrete definition of green bond or green debt security. There still hasn't been provided such a definition but only a category is given. Without a particular definition, if a project is not within enlisted eight domains, then the matter will be specified by SEBI which will be decided on case-to-case basis.

Additional Conditions to be Complied

The conditions for issuing of the green securities as well for listing them on the stock exchange are to be followed by the issuer[25] and it cannot be done away with. These conditions will be specified by SEBI through different compliances further. As for the regulations for complying with the green bonds, these are same which will be applicable to any debt security since green bonds are a kind of debt security. Thereby, they have to, at present, comply with requirements of disclosures as per SEBI[26] and the Companies Act, 2013 which are applicable on debt securities.

These are, though, general in nature and thereby, no other conditions are further, provided in any other form for green bonds specifically[27]. This will again create dilemma in regard to the proceeds of green projects, the mode of its allocation, the annual documentations, maintaining of accounts; and lastly, in regard any dispute which might arise for sustainability of green projects and the

ulations-2008_6503.html

20 Notification No.: LAD-NRO/GN/2013-14/11/6063, SEBI, June 12th, 2013, https://www.sebi.gov.in/legal/regulations/jun-2013/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-redeemable-preference-shares-regulations-2013_26871.html

21 Notification No.: SEBI/LAD-NRO/GN/2021/39, SEBI, August 9th, 2021, https://www.sebi.gov.in/legal/regulations/aug-2021/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-securities-regulations-2021_51764.html

22 Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Regulation 2 (q)

23 Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Regulation 2 (q) (viii)

24 Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Regulation 2 (q), 26

25 Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Regulation 26

26 Securities and Exchange Board of India (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Schedule I

27 Rukmini Roychowdhury and Krishna Dipayan Dash, "India: Private Placement Of Debt Securities - An Analysis In Terms Of The Proposed SEBI (Issue And Listing Of Non-Convertible Securities) Regulations, 2021", Mondaq, Nov. 29th, https://www.mondaq.com/india/securities/1133958/private-placement-of-debt-securities--an-analysis-in-terms-of-the-proposed-sebi-issue-and-listing-of-non-convertible-securities-regulations-2021 2021

maturity of green bonds itself. At the end of the day, green bonds are fixed financial instruments and thereby, when the date of maturity is realized the investors will have to be paid back with interest after realizing the objectives of the bond. If in that circumstance, it is not repaid, it will cause conflicts to be resolved through intervention in law. Thereby, the regulation of green bonds with specifications, conditions, requirements, rules, etc. is of paramount significance.

Disclosure Requirements

SEBI issued a circular in 2017 for *"Disclosure Requirements for Issuance and Listing of Green Debt Securities"*[28]. These guidelines were issued to keep in check the issuance of green bonds with respect to its listing as well as issuance in the financial market and stock exchange[29]. Under the circular, it has defined what will constitute as green debt securities into the different categories which are reiterated in the NCS Regulations (explained further in Part C) with proper definition. Now, these circulars have amalgamated with others into a consolidated SEBI Operational Circular, 2021[30]. Under Chapter IX of the SEBI Operation Circular in accordance with Regulation 26 of NCS Regulations, 2021 certain conditions were to be framed by SEBI which is now given under this Chapter as the Disclosure Requirement for the green debt securities.

General Disclosures

The disclosure requirements is a crucial provision mentioned in this circular which are the issuer has to comply with in addition to ILDS Regulations. These includes the presentation certain information under the Disclosure Document or the Offer Document for green bonds. The disclosures[31] are as follows:

- Stating the environment objectives
- Details of decision making process for eligibility (including how the asset or project comes under the green project, criteria for the Green Debt Securities Proceeds, proposed environment sustainable objectives)
- System to track the deployment of proceeds
- Details of the project (including re-financing existing green projects)
- Appointment of third party review or certifier for project evaluation (Optional but if done, disclosure is mandatory)

These are the general disclosures which are to be undertaken before moving with the issuing of the green debt securities. There is an optional requirement of third party certifier or reviewer which puts the green bonds in a shady area. The international perspective shows that green certifications allow for aligning the bonds with the objectives of the green bonds[32] clearly establishing the eligibility of such projects as well to satisfy the investors and the asset managers in regard to the quality of the projects. Otherwise, if at a later stage, the 'green-ness' is questioned, the appropriate certifier can be made a party; and liability and authority can be defined. It will assist in ensuring that the time and investment of the investors as well as the issuer is not wasted or in vain.

Continuous disclosures

These are subsequent disclosures which are to be made while the green project is going on and at subsequent intervals to keep intact the interest of the green bond holders. These disclosures are to be provided in addition to the compliances specified in SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [LODR Regulations]. The continuous disclosures are divided as per two heads; *firstly (a),* to be provided in half yearly and annual financial result and, *secondly (b),* with annual report[33].

28 Circular No.: CIR/IMD/DF/51/2017 (May 30th, 2017)

29 "Disclosure Requirements for Issuance and Listing of Green Debt Securities", Circular No.: CIR/IMD/DF/51/2017

30 Circular for Issue and Listing of Non-Convertible Securities (NCS), Securitized Documents (SDI), Security Receipts (SR), Municipal Debt Securities and Commercial Paper (CP) [Also called as "SEBI Operational Circular], Circular No.: SEBI/HO/DDHS/P/CIR/2021/613, SEBI, August 10th, 2021, https://www.sebi.gov.in/legal/circulars/aug-2021/operational-circular-for-issue-and-listing-of-non-convertible-securities-ncs-securitised-debt-instruments-sdi-security-receipts-sr-municipal-debt-securities-and-commercial-paper-cp-_51761.html

31 Circular No.: CIR/IMD/DF/51/2017 and Circular No.: SEBI/HO/DDHS/P/CIR/2021/613, Regulation 2.2.

32 Ehlers, T. and F. Packer (2017). Green Bond Finance and Certi-fication. BIS Quarterly Review. 1. https:// www.bis.org/publ/qtrpdf/r_qt1709h.html

33 Circular No.: CIR/IMD/DF/51/2017 and Circular No.: SEBI/

In part (a), the disclosures relating to the utilization of the proceeds which is to be verified by external auditor and the disclosure regarding the details of unutilized proceeds is to be provided. In part (b), the disclosure of the list of the projects where the proceeds are allocated with a description of the project, the disclosure of qualitative performance indicators and quantitative performance indicators (if feasible, and if not, the reasons are to be provided) and lastly, the disclosures related to methods and assumptions of performance indicators.

Again, under the external reviews and mandatory disclosures, the verification and the ratings of the green bonds have to within the framework established to have uniformity, otherwise, there might be a chaos created with differential system established. But, it cannot be denied that external reviews are essential because they inform the investors in regard the projects and its proceeds are applied and allocated towards the project[34]. Since, there isn't hegemony in the business entities or projects, the variability is bound to happen but a scale of reasoning has to be established to counter the conflict.

Issuer's Responsibilities

The issuer has to ensure that whether the project meets the eligibility criteria, to ensure that the documents are intact, to ensure that the proceeds are utilized for the 'green' project and lastly, to disclose any international standards adopted.[35] These obligations and responsibilities are to be categorically put due to the issue that might arise in default of paying back the principle amount or interest on maturity. The issuer will be under obligation so the track is to be maintatined by the issuer and thus, responsibility and the duty is to be fixed so that the eligibility of the green project is satisfied. Moreover, the balance amount or unallocated proceeds of green bonds are to be kept since the issuer is the player in the financial market[36] who will undertake or delegate the function of decision-making. Thereby, appropriate measures of repayment, tracking and the eligibility are to be made with the credit liability of the company by maintaining the amount in the balance sheet.

Phenomena of Greenwashing

With its many advantages and merits to the environment, green bonds suffers from 'greenwashing' or a misleading conception[37] that greener work is being done but in reality it is not so. In corporate arena, it is a form of deception to show something[38] but a parallel work is taking place by either no green work or polluting the environment. Without a proper compliance mechanism at place to ensure corporate responsibility and accountability[39], this things can take the turn for the worse with funds received through green bonds being wasted in a not so proper mechanism.

The disadvantage is at a corporate level as well with saturation of the markets[40] and manipulation of the stakeholders with issues in long run by depleting the environment sources. While there has been diverse views on how much greenwashing affects the corporate social responsibility with one side arguing for bringing a regulation[41] to prevent it while other side, advocating against any specific law[42] for the same. The side in favour for argues

HO/DDHS/P/CIR/2021/613, Regulation 2.3.

34 N. Simeth, "The Value of external reviews in the secondary green bond market", 46, Finance Research Letter, 2022, https://www.sciencedirect.com/science/article/pii/S1544612321003378

35 Circular No.: CIR/IMD/DF/51/2017 and Circular No.: SEBI/HO/DDHS/P/CIR/2021/613, Regulation 2.4.

36 Banga, J. (2019). The green bond market: a potential source of climate finance for developing countries. Journal of Sustainable Finance & Investment. 9 (1). 17-32. https://www.tandfonline.com/doi/abs/10.1080/20430795.2018.1498617

37 Sebastião Vieira de Freitas Netto, et al. "Concepts and forms of greenwashing: A systematic review." 32.1, Environmental Sciences Europe, (2020), 1-12.

38 William S. Laufer, "Social accountability and corporate greenwashing." Journal of business ethics 43, no. 3 (2003), 253-261.

39 Laufer, William S. (2003). Social accountability and corporate greenwashing. Journal of business ethics. 43 (3) 253-261. Id.

40 Furlow, Nancy E. (2010). Greenwashing in the new millennium. The Journal of Applied Business and Economics. 10.6. 22.

41 Feinstein, Nick (2013). Learning from past mistakes: future regu- lation to prevent greenwashing. BC Envtl. Aff. L. Rev. 40, 229.

42 Michael Adams, and Marina Nehme. "Consumer Law: No New Specific Legislation Required to Deal with'Greenwashing'." Keeping good companies 63.7 (2011): 419-422.

that a uniform approach is essential[43] to streamline the terms and conditions by defining it through a binding force that will aid in diminishing the increasing greenwashing phenomena and helping both in corporate and consumer welfare. Though, suggestions are there with respect to bringing false advertising claims like in consumer courts or under securities regulatory framework[44] like in India, there is SEBI Regulations.

Opportunity for Investment

The major challenge at present is the depleting natural resources and increasing carbonization of the environment whereby what is necessary is the greener or cleaner technology and energy[45] resources to aid in the restoring the balance in the environment. With the talks about climate change at the pedestal, the flow of finances and financial market can be taken through the usage of green bonds for a climate-resilient corporate approach towards the corporate social responsibility[46] or CSR. With opportunity for investment what is essential is ensure that there is a credit rating system at place for the issuance of green bonds.[47] These rating help the investors in understanding the viability of a particular bond. As is essential to know, the investors to invest in a particular investment of the company, they should be aware of the circumstances surrounding. Moreover, the lesser returns on investment[48] or ROI for green bonds has posed a question or dilemma with respect to start-ups and other small companies moving towards such a phenomena.

The problem, though, which is posed in the form of limited regulatory framework and ambiguous green phenomena; it cannot be denied that the importance of such an instrument like green bonds will pave the way for higher investment in green technology and cleaner environment. This is a way to move towards green financing[49] and allocation of the funds towards the mitigating and adapting factors of climate change by working towards the realization of sustainable goals.

What was presented at a very prominent stage is to curb the environment through the taxation approach whereby taxes are to be levied on the emissions[50] that affect the environment. This was the theory by Friedman[51] for taxation on the carbon emissions. Green bonds are indeed a way forward but one cannot ignore the challenges which are presented like greenwashing among others, what this tells is to ensure that the legal compliance and regulatory framework should be strong enough to deal with the same and to further, aid in reaching the goal set forth in this regard. To do so, the approach, in the form of carbon tax[52] to deal with the issue of climate change. In essence, more than what is required is to have the disclosure and transparency[53] in approaching the green bonds and their investments.

43 Supra note at 40

44 Miriam A. Cherry, "The law and economics of corporate social responsibility and greenwashing." UC Davis Bus. LJ 14 (2013): 281.

45 Gianfranco Gianfrate, and Mattia Peri (2019). The green advantage: Exploring the convenience of issuing green bonds. Journal of cleaner production 219. 127-135.

46 The Companies Act, 2013, § 135

47 Aiyushi Mehrotra, "Bond, Green Bond: The Emergence of Green Bonds in India", NUALS Law Journal Bllog, June 8, 2022, https://nualslawjournal.com/2022/06/08/bond-green-bond-the-emergence-of-green-bonds-in-india/

48 Mehrotra, Aiyushi, (2022). Bond, Green Bond: The Emergence of Green Bonds in India, NUALS Law Journal Blog, June 8, 2022, https://nualslawjournal.com/2022/06/08/bond- green-bond-the-emergence-of-green-bonds-in-india/

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50 Jeff McMahon, "What would Milton Friedman do about climate change? Tax Carbon", Forbes, October 12 2014 https://www.forbes.com/sites/jeffmcmahon/2014/10/12/what-would-milton-friedman-do-about-climate-change-tax-carbon/?sh=622821d66928

51 McMahon, Jeff. What would Milton Friedman do about climate change? Tax Carbon, Forbes, October 12 2014, https://www.forbes.com/sites/jeffmcmahon/2014/10/12/what-would-milton-friedman-do-about-climate-change-tax-carbon/?sh=53db45cd6928

52 Thomas L Friedman, "The power of green." The New York Times 15 (2007).

53 Varsha S. Banta, "Growing Green Finance in India: A Review of Green Bond Principles, Indian Green Debt Securities and ESG", JSA Advocates and Solicitors Blog, May 13, 2022, https://www.jsalaw.com/banking-financial-services/growing-green-finance-in-india-a-review-of-green-bond-principles-indian-green-debt-securities-and-esg/

Conclusion and Suggestions

In conclusion, it can be clearly estimated that the growth in green bonds is not only paramount but also crucial examining the over-reaching adverse consequences of climate change that is impacting both the environment as well as human beings as an indirect end-result. Thereby, to invest in sustainable-friendly is significant so that the green projects are pushed forward by involving business entities, states and investors. Meanwhile, to regulate the issuance of these securities which are essentially a kind of financial instrument called corporate bond is essential to keep in check that the proceeds[54] and the funds are utilized in the correct and appropriate way.

The Securities and Exchange Board of India has brought circulars as well as regulations to look into the matter by defining the contours of its legality, and regulatory operations with respect to listing of these securities. As a matter of comprehension, there has been a deviation in the form of non-listed securities or green bonds and to keep them in check through SEBI and to ensure that these are regulated in the financial market. Moreover, the rise in issuance of green bonds in India indicates compliance requirements needs to be there to ensure the responsibility in cases of manipulations or projects which are veiled under as 'green'. With a concise convergence between the licensing and certification issuance for such green projects, it can be kept in check with appropriate reporting mechanism related to where the proceeds are accumulated and the annual documentation in that respect with proper maintenance of accounts and audit.

54 Prakash, Nisha and Madhvi Sethi (2021), Green bonds driving sustainable transition in Asian economies: The case of India. The Journal of Asian Finance, Economics and Business. 8.1. 723-732.

In addition, there is disclosure requirements and the issuer's responsibility which the SEBI has issued through Operational Circular but this hasn't provided any further compliance requirement or a detailed criteria of what is to be specifically included. Moreover, it has put the issuance of third party review or certification as an optional measure which means that a project cannot be scored or rated to define its eligibility as a green project. This hampers the validity of the project itself and whether the proceeds are culminated into the correct project or not. As a result, there is uncertainty[55] in the mind of the investor because of lesser transparency in the green bonds.

Lastly, there is the challenge related to the repayment of the principle amount with interest to the investor at the time of the maturity that is in question because there isn't fixed mechanism available. Though, LODR applies to the green bonds but the implication and the process of repayment specifically in cases of ineligible or eligible projects (which are not able to sustain) is not clearly defined. These issues, along with the basic issue of transparency adds to the challenge. It is no doubt that as a financial market regular, SEBI has framed regulations for green bonds, yet a gap is definitely seen which needs to filled because the move towards green bonds even through government involvement is approaching at a faster pace owing to climate change and recent COP22. Thus, green bonds are definitely the present and future in corporate law and securities; thereby, the investor as well issuer's interest needs to be clearly defined with keeping the issuance, listing, disclosures, transparency, proceeds, and reporting mechanism in check through the authority of SEBI.

55 Chugan, Pawan K., Yogesh Mungra, and Kathak Mehta (2017). Challenges and policy implications for marketing green bonds. Consumer Behaviour & Con- temporary Marketing Strategy,(Eds.), Tripurasundari Joshi, Jayesh P. Aagja and Sapna Parashar, Excel India Publishers, New Delhi, IMNU. 371-384.