Regulation of Indian Clearing Corporations

Why in news?

Recently European Securities and Market Authority (ESMA) de-recognized six Indian Clearing Corporations due to “no co-operation arrangements” between Indian regulators and ESMA.

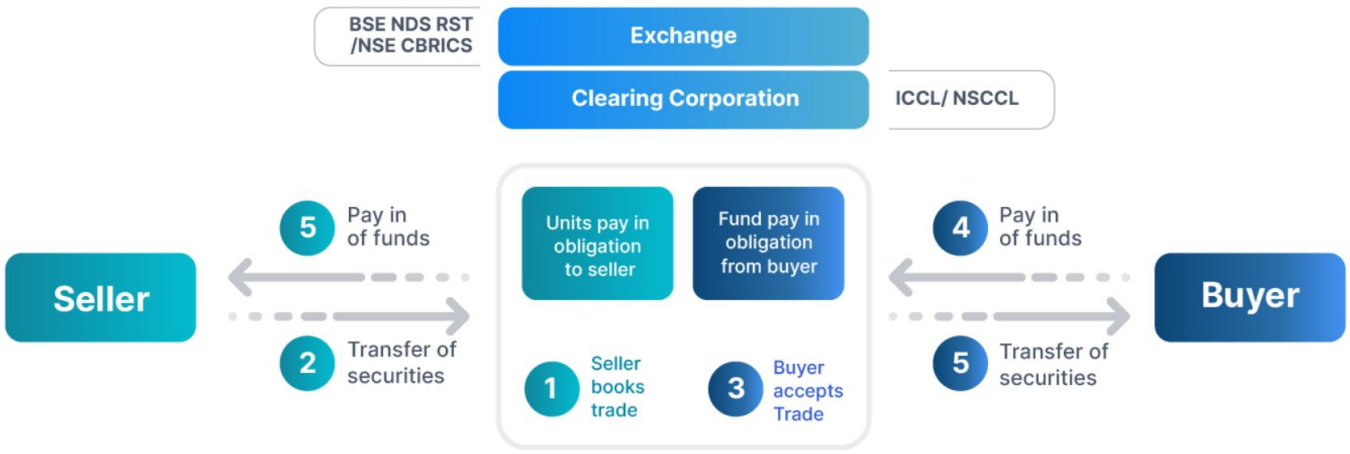
What are Clearing Corporations?

- **Securities contract (regulation) (Stock exchange and clearing corporation) regulations, 2018]** - Section 2(d) of the regulation, 2018 *defines* clearing corporation as
    - Entity that is established to undertake the activity of *clearing and settlement of trades in securities* or other instruments or products that are dealt with or traded on a recognized stock exchange and includes a clearinghouse.
- **Market Infrastructure Institutions (MIIs)** - Stock exchanges, depositories and clearing corporations are collectively referred to as Market Infrastructure Institutions (MIIs).

According to the Bimal Jalan Committee (2010), these institutions are systemically important for the country’s financial development and serve as the infrastructure necessary for the securities market.

- **Role of Clearing Corporations**
- **Clearing -** Clearing is a process when the organization acts as intermediary and it also assumes the role of the buyer and seller in order to ease the transactions that occur in the trade.
- It also includes all the activities that occur from the moment when the trade starts to till the final stage when the trade is settled.
- **Settlement -** The moment clearing comes to an end, settlement begins.
- The settlement agency receives securities from the seller who wants to sell his securities and receives cash from buyers who want to buy securities and settles among them.
- **Clearing corporations under SEBI**
    - Indian Clearing Corporation
    - Metropolitan Clearing Corporation of Indian Limited
    - Multi Commodity Exchange Clearing Corporation Limited

    - National Commodity Clearing Corporation Limited
    - National Securities Clearing Corporation Limited
- **Clearing corporation under RBI**
    - The Clearing Corporation of India
- **Clearing corporation under International Financial Services Centres Authority (IFSCA)**
    - India International Clearing Corporation
    - NSE IFSC Clearing Corporation



What is ESMA?

- European Securities and Market Authority (ESMA) is the *European Union's financial markets regulator and supervisor*.
- ESMA protects the investor and promote stable, orderly financial markets.
- The members include National authorities responsible for securities markets in each EU country.

What is the issue?

- **Issue** - The whole issue started in 2013 when ESMA de-recognized six Indian clearing corporations (CCs) on the basis that these entities were not registered in the EU.
- There is no co-operation between ESMA and the Indian regulators on the issue.
- ESMA has stated that European banks will continue to conduct business with Indian Clearing Corporations after April 2023 but there will be a penal capital charge on these transactions.
- **Government's stand** – ESMA's threat is unreasonable since all clearing corporations are well-regulated in India.
- *SEBI is a member of IOSCO* (International regulators body) and signatory to several multilateral agreements.
- Indian markets have T+1 and net basis settlement for nearly two decades.
- Clearing corporations in India are separate legal entities with robust settlement guarantee funds, comparatively better than some in the EU.
- **Impacts** - Registering with ESMA will give the right and power to deeply supervise them.
- Giving ESMA to audit them will *expose the country's financial markets Data.*

- The impact of penal charge could be that European banks reconsider acting as custodians in India.

References

1. The Hindu business line | Clearing Corporations
2. The Hindu business line | (ESMA)
3. Yubi | Bonds Settlement Process

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