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Effectiveness of the Capital Market Regulatory System in Iran from the Perspective of Good Regulation

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ABSTRACT

The capital market, as one of the key pillars of the financial system, plays a fundamental role in mobilizing resources, directing savings toward productive investments, and achieving sustainable economic growth. The efficient and effective functioning of this market largely depends on the existence of an appropriate, efficient, and accountable regulatory system. In this regard, examining the effectiveness of the capital market regulation system in Iran from the perspective of good regulation is of particular importance. This article, using an analytical and descriptive method, seeks to examine the level and manner of access of Iran's capital market regulatory system to effective, efficient, and appropriate instruments through which regulatory objectives—namely stability, transparency, and competition—are achieved. The findings of this study indicate that, from the perspective of good regulation, in addition to the independence, participatory capacity, and accountability of the regulatory authority, the success of the regulatory system depends on access to a broad range of instruments and powers. These can be categorized into two groups: "behavior-corrective instruments," including pricing instruments, standard-setting, quality assurance, and competition safeguards; and "control and supervisory instruments," including entry and exit control of market participants, oversight of proper enforcement of regulations, dispute resolution, and complaint handling. In regulating Iran's capital market, it can be stated that despite the granting of a wide range of powers and the availability of a substantial volume of necessary instruments—which may be considered the fundamental capacity and potential for the effectiveness of the regulatory system—this system has not been successful, effective, or efficient in achieving regulatory objectives. This shortcoming is due to the absence of a comprehensive, precise, and up-to-date legal framework, as well as insufficient attention to the organic interconnection of the principles of good regulation in the process of achieving regulatory goals.

Keywords: Effectiveness; good regulation; capital market; corrective instruments; supervisory instruments

Introduction

The capital market, as one of the principal and foundational pillars of any country's financial system, plays a decisive role in resource mobilization, optimal capital allocation, and the realization of sustainable economic growth. The sound and effective functioning of this market requires the existence of an efficient, transparent, and accountable regulatory system; a system that, by employing a set of regulatory instruments, can help maintain stability, enhance transparency, protect investors' rights, and improve the performance quality of market participants, while also fostering fair competition and sustainable development. In Iran, the Securities and Exchange



Organization, as the supervisory authority, is responsible for rulemaking, supervision, and regulation of the capital market. However, the expansion of financial instruments, transformations in the economic environment, and the requirements of convergence with international models have made the review and evaluation of the existing regulatory system inevitable.

Accordingly, assessing the effectiveness of the capital market regulatory system from the perspective of “good regulation” requires particular attention to “regulatory instruments” and the manner of their application in achieving the market’s overarching objectives. This assessment can provide a clear picture of challenges, strengths, and opportunities for improvement in market policymaking and supervision. Principles such as independence, accountability, stakeholder participation, transparency, proportionality, and executive efficiency, as key indicators of good regulation, encompass a broad range of criteria for evaluating the quality of regulations and the performance of the regulatory authority. Examining the degree of conformity of Iran’s capital market regulatory system with the principles of good regulation and analyzing its effectiveness in achieving macroeconomic objectives aim to establish an analytical framework for improving policymaking and strengthening confidence in the capital market. However, what practically ensures the realization of these principles is the “proper design, selection, and application of regulatory instruments.”

Within the framework of good regulation, the effectiveness of the capital market regulatory system can be examined by evaluating the instruments employed at two levels. First, access to and application of corrective instruments, which aim to correct economic behavior and enhance the performance quality of market participants through pricing policies, standard-setting, quality assurance, and competition safeguards. Second, control and supervisory instruments, which are applied to preserve market integrity, competition, order, and public trust through controlling the entry and exit of participants, overseeing proper enforcement of regulations, and resolving disputes and handling complaints. An analysis of regulatory effectiveness without a comprehensive assessment of these instruments and their conformity with the principles of good regulation would provide an incomplete picture of the existing situation. Therefore, examining the design, function, and impact of regulatory instruments constitutes the main criterion for assessing the quality of the capital market regulatory system. Adopting an analytical approach grounded in the principles of good regulation, the present article seeks to answer the key question of the extent to which capital market regulation in Iran is equipped with the necessary, sufficient, and appropriate regulatory instruments to achieve the market’s regulatory objectives, and the degree to which the application of these instruments is aligned with other principles of good regulation, such as the independence and participatory capacity of the regulatory authority, as well as substantive principles of necessity, transparency, proportionality, competition, and purposiveness. A systematic evaluation of these instruments can reveal existing strengths and weaknesses, propose solutions for improving policymaking, strengthen supervisory mechanisms, enhance investor confidence, and pave the way for the development of a more efficient and sustainable regulatory system in the country’s capital market.

Good Regulation

Good regulation is one of the key concepts in the field of public policymaking and institutional economics, emphasizing the design and implementation of effective, efficient, and fair regulations. The primary objective of good regulation is to create a balance between economic freedoms and public interests through the adoption of rules that, while protecting stakeholders’ rights, prevent unnecessary government intervention in economic

activities. In other words, good regulation is a process through which the government or regulatory authority formulates and enforces rules and policies to ensure that economic activities are conducted in accordance with the principles of healthy competition, transparency, accountability, and efficiency. Based on international models, including initiatives of the Organisation for Economic Co-operation and Development and the World Bank, the fundamental principles of good regulation include the independence, accountability, and effectiveness of the regulatory authority, stakeholder participation, necessity, proportionality, transparency, predictability, and purposiveness, all aimed at maintaining the stability and integrity of the financial and economic system, protecting investors' rights, preventing monopolistic and anti-competitive behavior, and creating a predictable and fair environment for economic growth (1, 2).

In the capital market context, good regulation refers to the design and implementation of a set of regulations and supervisory instruments that, while preserving market transparency, fairness, and stability, prevent excessive government intervention. Such regulation should, on the one hand, deter abuse, price manipulation, and insider trading, and, on the other hand, provide the conditions for healthy competition and financial innovation (1, 3). Public interest outcomes, as well as diverse and often competing objectives, must also be taken into account in good regulation, which requires consideration of certain criteria that may be useful in evaluating the quality of specific regulations (4). Regulation can be defined as government intervention in the economy to organize the market, mainly through the enactment of laws and regulations, or, in other words, as an instrument or process that largely reflects the mechanisms of government presence and intervention in the market (5). Some pragmatic proponents of regulation, while acknowledging certain regulatory shortcomings of the state, propose better regulation rather than deregulation. From their perspective, the solution to regulatory deficiencies lies not in deregulation, but in improving regulatory quality. Accordingly, advocates of better regulation have proposed the aforementioned principles, criteria, and mechanisms to justify and explain their approach to enhancing regulatory quality (6). Therefore, good regulation must be enacted with a clear understanding of its objectives and produce desirable outcomes; thus, regulations based on the principles of necessity, transparency, proportionality, effectiveness, flexibility, fairness (equal application), simplicity, cost-efficiency, enforceability, purposiveness, and appropriateness can be regarded as good regulation (7).

Accordingly, in the good regulation model, the regulation of economic and social activities through rulemaking must take place within a system composed of structural and functional principles, components, and mechanisms. On this basis, the regulatory system must, first, be independent both from the government and from the market it supervises. Second, it must possess necessary, sufficient, and effective instruments, including entry and exit control, pricing, competition safeguards, transparency, and the like. Third, regulatory decisions must be made with the cooperation and participation of all institutions and individuals affected by those decisions. Fourth, the system must be accountable to all affected, related, and beneficiary parties. In addition to these organizational principles, which concern the structuring and ordering of the regulatory system, regulatory rulemaking must, from a functional perspective, comply with the substantive principles governing good regulation, namely necessity, transparency, proportionality, effectiveness, flexibility, fairness, predictability, and purposiveness (8).

The Principle of Effectiveness

One of the fundamental components of good governance is the principle of efficiency and effectiveness (9). From a managerial perspective, efficiency can be understood as comprising "efficiency" and "effectiveness." Accordingly,

efficiency refers to “doing things right,” whereas effectiveness refers to “doing the right things” (10). Therefore, efficiency may be interpreted as the correct execution of tasks, while effectiveness refers to the execution of appropriate tasks.

Based on the foregoing, the effectiveness of a regulatory authority requires that the authority not only perform its functions properly but also achieve regulatory objectives. Regarding the distinction between effectiveness and efficiency, effectiveness focuses on the alignment of performance with program indicators or the achievement of objectives, whereas efficiency concerns the alignment of performance with the resources consumed and applicable standards.

In general, the effectiveness of a regulatory authority depends on two factors: the level of support and backing for the authority and its decisions, and the implementation of the authority’s decisions. Support for the regulatory authority directly affects its performance and may include political support, appropriate laws and regulations, adequate financial resources, access to skilled human capital, and, ultimately, oversight and accountability mechanisms. These supportive requirements constitute preconditions for effective regulation (7).

The Necessity of Access to Regulatory Instruments

The proper functioning of a regulatory authority requires the establishment of regulatory governance and adherence to the principles of good regulation. In this regard, the effectiveness of the authority is wholly influenced by the policies, strategies, and mechanisms of regulatory governance and good regulation. The effectiveness of a regulatory authority requires that it possess the necessary instruments to realize good regulation. These instruments may encompass a wide range of powers, competences, and diverse legal and administrative mechanisms that enable the regulator to control and steer the regulated market effectively toward regulatory objectives and strategies. In fact, the transition from the welfare state to the regulatory state entails a fundamental transformation in the mode and manner of governmental intervention in the economy; that is, direct interventions should give way to indirect interventions. This transition has not only made structural transformation of the state necessary, but also requires changes in governmental functions, roles, and—critically—the instruments employed (11).

In the regulatory state, the government assigns the economy to the private sector and, acting as a supervisor, controls and monitors market actors through rulemaking. In terms of the government’s regulatory function in market control, this is achieved functionally through a set of public-law instruments and mechanisms—particularly through the adoption of technical, specialized, detailed, and forward-looking regulations—and structurally through specialized, sectoral, and independent public bodies established by law that operate as the executive arm of the state (12, 13).

The Nature of Regulatory Instruments

Following extensive social transformations, governing social relations through conventional private-law instruments—such as contract law, property law, and tort law—is no longer defensible. Put differently, accepting the idea of the regulatory state implies that economic relations cannot be governed through general, inflexible rules that are oriented primarily toward *ex post* compensation for harm. Regulating these relations, with all their complexities, requires new instruments of a public-law nature; that is, reliance on specialized, sectoral, detailed, and flexible regulations that are forward-looking rather than backward-looking. On this basis, economic regulation

in its general sense refers to a set of mandatory rules and supervisory mechanisms applied by public authorities with the aim of directing, constraining, or altering the economic behavior of individuals and market actors (12).

Accordingly, regulators must possess a diverse set of public-law instruments—or, in other words, instruments of public authority and public-law privileges—that ensure effective control and steering of economic behavior. These include policymaking, pricing, standard-setting, market entry and exit control, quality assurance, competition safeguards, mandatory disclosure of essential information, instruments for monitoring compliance with regulations, complaint handling and dispute resolution, and the authority to impose penalties and sanctions for noncompliance with enacted rules (7).

Nonetheless, it should be acknowledged that, within this extensive list of regulatory and enforcement instruments, regulators generally do not possess the full set of these tools, or even a comparable set. However, it can be argued that the absence of an appropriate instrument—such as the power to impose immediate penalties—can, on a broad scale, constitute a barrier to effective control of economic activities.

Indicators of Effectiveness

With respect to the effectiveness of a regulatory authority, the regulator must pursue clearly defined objectives; in other words, its mission and function must be outcome-oriented (14). For achieving such outcomes and objectives, a key issue—beyond legal competences and powers—is the regulator's access to financial resources. Moreover, to achieve the aforementioned objectives and outcomes, the regulator requires access to effective, impactful, outcome-oriented, and efficient decision-making instruments. As noted, regulatory authorities must possess a set of public authority instruments or public-law privileges that ensure effective control and steering of economic behavior. These instruments may be divided into corrective instruments (aimed at correcting economic behavior) and control and supervisory instruments, which are analyzed below.

Corrective Instruments: Correcting Economic Behavior

Corrective instruments are among the essential requirements of any regulatory system, aimed at changing and correcting the economic behavior of market participants in the direction of public interest and greater market efficiency. Rather than direct intervention, these instruments steer behavior along the desired path by influencing incentives and economic decision-making. Accordingly, corrective instruments refer to those tools and methods intended to correct the economic behavior of entities and operators within the supervised and regulated operating sphere. Pricing instruments, quality-assurance instruments, standard-setting instruments, and competition-safeguard instruments are among the key corrective tools and mechanisms, which are explained separately below.

Pricing Instruments

The pricing of goods and services becomes particularly important in situations of market failure and in the pricing of public services in markets characterized by natural monopoly, especially after liberalization and economic privatization. One of the government's instruments for correcting the economic behavior of firms and consumers, with a view to economic efficiency and improved social welfare, is the formulation and application of price regulation. Due to political and social pressures, the government may be compelled, through the regulatory authority and via pricing, to intervene in this market in order to protect consumers' interests. Once market failure is established, the regulator must select the most appropriate pricing method with due regard to market conditions (15). Sudden and

severe price volatility in financial markets can lead to market instability; accordingly, this has consistently been a central concern for the supervisory authority, stock exchanges, and capital market participants. For this reason, capital market regulation has always required mechanisms for controlling price volatility (16).

Pricing methods may be implemented in two ways: “price level regulation” and “price structure regulation.” The first approach is implemented through five methods: cost-of-service regulation, price-cap (range) regulation, performance-based regulation, regulation through the granting of special privileges, and benchmark-based regulation. The second approach—price structure regulation—is implemented through three methods: pricing based on fully distributed costs, banded pricing regulation, and regulation based on flexible pricing structures. In selecting an appropriate pricing method, three key issues must be considered: the “price level” (which should not exceed average cost), the “price structure” (reflecting different consumer groups), and examination of the “price effect” on service quality. Despite two common approaches—rate-of-return regulation (associated with U.S. practice) and price-cap regulation (associated with U.K. practice)—price-cap regulation is preferred, because it promotes financial, allocative, and productivity efficiency to a greater extent than price structure regulation (17). Pricing instruments exert their greatest effect on the effectiveness of the capital market regulatory system when they can prevent severe volatility and market disruptions, strengthen transparency and price fairness, enhance the regulator’s capacity to restrain manipulation and anti-competitive conduct, contribute to market stability, efficiency, and public trust, and are designed and applied in alignment with the principles of good regulation (necessity, proportionality, efficiency, transparency, flexibility, and purposiveness). In this way, pricing instruments are not merely a component of corrective regulatory mechanisms, but also play a strategic role in realizing the overall effectiveness of the capital market regulatory system.

Under Article 7 of the Securities Market Law, the Securities and Exchange Organization has the authority to apply instruments for “supervision over pricing and control of market volatility.” The Organization is responsible for the “regulation, supervision, and development of the market,” and may exercise direct oversight over trading processes to ensure fair price discovery. In the pricing domain, one instrument available to the Organization—pursuant to Article 32 of the Securities Market Law—is the “halt or suspension of trading,” which is used across exchanges to preserve informational transparency and restore order to the market under abnormal conditions (18). Another pricing-related instrument available to the Organization under clause 16 of Article 7 of the Securities Market Law is the “competence to approve service fees and commissions.” The Board’s competence to approve commissions constitutes an exclusive competence; other executive bodies lack the authority to set commissions and may only propose them to the Organization, which may approve them where necessary. The existence of a commission cap makes it possible to charge commissions below the prescribed rate in order to preserve competition and improve services (19). Within the legal framework, the Organization may halt trading in “shares, other financial securities, or the entire market” in order to prevent the dissemination of asymmetric information and the formation of unstable prices. This authority may be exercised “discretionarily or automatically,” and for short-term or long-term periods. In addition, issuer symbol halts and the “price fluctuation limits” mechanism are two complementary tools that enable exchanges to prevent sharp price jumps and to guide the price discovery process in an orderly manner. The aim of these tools is to “manage unintended market shocks,” reduce herding behavior, and protect investors’ rights (18). Accordingly, through these legal mechanisms, the Securities and Exchange Organization can indirectly influence pricing processes and prevent the formation of incorrect and distorted prices. As a result, trading halts, as

one of the key regulatory instruments, play an important role in “market stability and the proper functioning of the supply-and-demand mechanism.”

In any event, a regulator will be effective when it possesses outcome-oriented, enforceable, and consequential effectiveness instruments. However, for instance, the formation of structural buy and sell queues in Iran indicates that these instruments, rather than controlling volatility, can generate “price lock-in,” and that the regulator has not been able—through pricing tools—to manage the emotional behavior of retail investors, as observed in the market downturns of 2020 and 2023. While pricing instruments in Iran’s capital market may serve functions in preserving trading order and mitigating instantaneous shocks, from the standpoint of good regulation the regulator has not achieved the desired effectiveness in using these tools. The reason for this inefficiency is that these instruments are, by nature, restrictive and anti-price discovery at the design level; they are applied uniformly across all symbols without considering market-specific features at the implementation level; and they result in queue formation, price manipulation, slow price adjustment, and losses for retail investors at the outcome level. Therefore, to enhance effectiveness, the regulator should rely more on information- and transparency-based instruments, develop complementary tools (derivatives, short selling, and genuine market making), move away from price constraints toward mechanisms based on competition and liquidity, and distance itself from directive intervention in the pricing of initial public offerings.

Standard-Setting Instruments

Standard-setting is also one of the instruments for correcting economic behaviors that enables the regulatory authority to achieve specified and pre-determined objectives in the market. Standard-setting concerns the determination and imposition of a set of technical qualitative and quantitative requirements, conditions, and criteria relating to the manner of procurement, production, and supply of goods and services in the target market. For this reason, the adoption of standards is, in essence, a complex and technical process. The preferable approach is for the delegation of power to the regulatory authority to occur in the form of general criteria rather than detailed and granular statutory provisions, so that the regulator retains relatively broad discretion in establishing standards. Matters for which standard-setting is mandatory should be expressly specified by law; however, to the extent possible, the law should empower the regulator to set standards in other related areas as well. In addition, through appropriate, timely, and continuous disclosure, the regulator should also have the operational latitude to amend standards. In many developing countries, standards for the quality of commercial and technical services must be established progressively over time and across successive intervals (7).

Illustrative examples of standard-setting in the context of capital market regulation may include the following:

Applying international standards concerning complaint-handling arrangements (rules, applicable operational standards, and executive procedures).

- Developing internal control reporting standards for securities issuers.
- Developing standards for algorithmic trading in capital markets.
- Developing standards to facilitate mutual recognition of companies and instruments between Iran’s capital market and other jurisdictions.
- Developing accounting standards in the capital market.

Under Article 4 of the Securities Market Law, the High Council of the Stock Exchange has the authority to adopt general policies and rules on the listing of securities, the activities of financial institutions, and the dissemination of

transparent information in order to safeguard market quality and integrity. These instruments enable the High Council to establish and apply the necessary legal and policy framework to preserve the integrity, transparency, and coherence of the capital market. However, the Securities and Exchange Organization, pursuant to the law, holds broad standard-setting powers. Under Article 7, the Organization is the competent authority for the “regulation and drafting of rules, regulations, and executive instructions” in the capital market. Under Article 4, one of the Organization’s inherent duties is “regulation and supervision of issuers, financial institutions, and exchanges” through rulemaking. In addition, under Article 45, the Organization may, for the purpose of preserving market integrity, approve and promulgate the standards necessary for the operation of brokers, market makers, and other financial institutions. Taken together, these provisions render the Securities and Exchange Organization the principal authority for regulatory, technical, and institutional standard-setting in Iran’s capital market.

Nevertheless, in Iran’s capital market, the regulator’s effectiveness in the standard-setting domain faces serious challenges. First, the legal framework governing the grant of standard-setting authority to the Securities and Exchange Organization, as noted, is not sufficiently clear, adequate, or decisive; this can lead to overlapping competences and a lack of coordination in setting relevant standards, particularly between the High Council and the Organization. Second, the process of revising, consolidating, and updating standards in the capital market is not continuous, coherent, or sufficiently rigorous, and there is no specific and sustained institutional commitment to harmonizing and integrating standards with global requirements and benchmarks. Third, standard-setting in Iran is often directive and non-risk-based: uniform requirements are imposed on firms with different sizes and risk profiles, which reduces efficiency and increases compliance costs.

These issues have produced multiple adverse consequences. In the areas of financial reporting, internal control, risk disclosure, and reporting, there is a lack of comprehensive and binding standards, and oversight of compliance with international financial reporting standards is neither complete nor effective. Moreover, in relation to emerging technologies, the regulation of algorithmic trading, cybersecurity, and fintech is limited, delayed, and more prohibition-oriented than guided by enabling standards. In addition, behavioral and professional standards for brokerage firms, investment advisers, and investor complaint handling have either not been developed or remain materially distant from IOSCO-related benchmarks. Weaknesses in standard-setting for mutual recognition with global markets have also hindered foreign investment inflows. Collectively, these factors have reduced transparency, increased systemic risk, lowered the quality of financial services, and diminished the regulator’s effectiveness in achieving good regulation.

Quality-Assurance Instruments

Quality may be defined as the degree of excellence and the nature and characteristics of intrinsic excellence, including distinctive and desirable attributes (20). The International Organization for Standardization, adopting a process-oriented approach, treats “quality assurance” as a component of quality management that is concerned with ensuring that quality requirements are fulfilled, as a method used to assess the attainment of organizational ideals and objectives that are both achievable and implementable (21).

Although, from an economic perspective, the primary mission of regulators is to constrain firms’ conduct through price, quantity, and entry-exit controls, one of the most important functions of regulation—particularly in complex and information-intensive markets such as capital markets—is “ensuring the quality of financial services and products.” In such markets, to enhance integrity, transparency, and efficiency, the regulator must set and enforce

minimum requirements for information quality, disclosure quality, brokerage service quality, risk management quality, and corporate governance quality. Nevertheless, “quality regulation,” compared with quantitative regulation (such as price or quantity), is considerably more difficult, because defining, measuring, and monitoring quality is inherently subject to ambiguity and interpretive variation (7). For instance, while price or trading volume in capital markets can be measured through precise and objective indicators, the quality of information disclosure or the quality of services provided by financial institutions involves multiple dimensions that are not readily quantifiable.

In this context, the most important task of the rulemaking authority is to determine minimum service quality for firms operating in the regulated sector. In many cases, where firms must obtain a license to operate in the relevant sector, service quality standards may be stipulated in the issued license. These standards may include service quality, interactions with consumers, security, social obligations (such as service expansion commitments), and a range of other matters that are not inherently economic and, therefore, are not incorporated into tariff-setting (7).

Illustrative examples of quality-assurance instruments that may be used by the regulator in capital market regulation include the following:

- Ensuring informational transparency of listed companies.
- Ensuring the quality of financial reporting.
- Ensuring the quality of auditing of financial reports, and improving financial literacy and financial information analysis among capital market actors and the accounting profession.
- Ensuring the qualitative enhancement of investor-relevant information in the securities industry.

Pursuant to clause 18 of Article 7 of the Securities Market Law, one of the Organization’s powers for quality assurance is “reviewing and supervising the disclosure of material information by companies registered with the Organization.” Where transparency or free access to information is lacking, supervisory actions cannot produce desirable outcomes (22). The primary objective of stakeholders’ access to information is to facilitate interaction between stakeholder groups and shareholders such that the interests and needs of both groups are taken into account (23). The obligation of exchanges to disclose information includes matters such as statistics on daily trading, lists of admitted securities and halted symbols, and comprehensive information related to the trading of corporate securities, as required by laws and regulations. Financial intermediaries also submit reports on administrative performance, client accounts, and capital adequacy to the supervisory authority. Issuers are likewise required, at the stage of registration and public offering of securities and upon admission to exchanges, to disclose financial and other important information to the public. Oversight of the manner of implementation and the level of compliance with policies and requirements established for information disclosure rests with the capital market supervisory authority (24).

The Securities Market Law has also provided the regulator with multiple instruments for market regulation in relation to “mandatory information disclosure.” Owing to its importance, the legislature has even dedicated a chapter of the law to the regulator’s powers and the modalities of ensuring transparency in the capital market. These instruments include, *inter alia*, mandatory disclosure of comprehensive activity information by all capital market operators—such as exchanges, issuers, brokers, traders, market makers, investment advisers, and all active associations (through standardized publication of comprehensive activity information); mandatory preparation of financial statements by issuers; mandatory compensation for harm caused by incomplete or false information; and mandatory provision of information relating to financial statements, board reports to general assemblies, auditors’ opinions, and all material information affecting share prices.

For example, the “quality of information disclosure by listed companies” is one of the existing challenges in Iran’s capital market. Disclosure quality includes components such as the timeliness of reporting, transparency of financial statements, adequacy of explanatory notes, reliability of information, and the provision of board reports containing an appropriate level of analysis and forward-looking assessment. Although the Securities and Exchange Organization, by adopting disclosure instructions, has sought to establish minimum standards, oversight has often concentrated on more readily quantifiable aspects—such as the timeliness of submissions—due to the high cost of qualitative monitoring, the large number of companies, limited supervisory resources, and the inherent difficulty of measuring qualitative criteria. Meanwhile, more qualitative dimensions such as “depth of disclosure content” or “quality of management discussion and analysis” are less systematically evaluated. This situation indicates that, within the framework of “good regulation” principles, the effectiveness of the capital market regulatory system in the domain of quality-assurance instruments requires the design of more precise indicators, the use of qualitative assessment tools, expanded supervisory capacity, and the development of analytical technologies.

Competition-Safeguard Instruments

Competition-law regulation, among the other instruments available to the regulatory authority, is of particular importance and operates as a principal instrument for realizing competitive policy in the regulated market, alongside and in conjunction with other tools (25). The existence of competition is a determining assumption in the market; if it is eliminated, it leads to market failure (12). Government policies for regulating monopolistic or quasi-monopolistic markets—defending market freedom and protecting competition against monopoly power and collusion—are mainly implemented through two types of institutions: “competition authorities” and “sectoral regulators.” Competition rules, the enforcement and monitoring of which are entrusted to competition authorities, are widely regarded as a necessary condition and an influential factor in the success of free-market economic systems (25).

Stock exchange rules are designed to avoid improper practices, promote fair and equitable principles in securities trading, and facilitate transactions in order to secure the public interest as well as investors’ interests. One of the instruments and prerequisites for this objective is the realization of healthy, fair, and structure-based competition in the capital market. From this perspective, competition may be considered the foundation and one of the requirements of the legal regime governing the capital market, playing a highly significant role in its dynamism. On the other hand, even where a competitive environment exists in the capital market, the continuity and sustainability of competition must be preserved through the use of specific instruments, because market participants may, through agreement and collusion, distort the market’s competitive structure. For this reason, sectoral and cross-sector competition authorities must adopt measures to counter and prevent such “anti-competitive conduct.” These measures may take the form of disciplinary and administrative mechanisms, legal and criminal responses, or the enactment of laws and regulations. In this regard, some of the problems in this domain include the following:

Market-power-driven practices: the existence of dominant economic firms, misuse of inside information and rent-seeking, lack of transparency, asymmetric competition, and state dominance in the market.

Practices resulting from legislative and regulatory gaps.

A structural challenge in competition law within the capital market: a “dual-track” supervisory structure for competition oversight in the capital market, a vertical and hierarchical design of such supervision, and the inconsistency of the effects and outcomes produced by these two supervisory tracks.

Parallel functions and overlapping performance of the Securities and Exchange Organization and the High Council of the Stock Exchange.

The absence of a suitable method grounded in a “systematic economic law” approach, which causes competition among market participants to be displaced by rivalry among regulatory and supervisory authorities (26).

Within the capital market, certain acts are regarded as anti-competitive in professional and specialized terms, including misuse of inside information, nondisclosure or misleading disclosure, market manipulation, and anti-competitive agreements. In fact, competition and information provision are interdependent. Information provision can promote competition and may be viewed as an auxiliary mechanism for implementing competition-law policy. Where transparency exists, the likelihood of realizing competition-law objectives increases. Moreover, one of the core functions of the financial services sector is collecting and analyzing information. The capital market, more than other markets, is exposed to the risks of false and misleading information, asymmetric and conflicting information, and intermediary-related problems (27).

Under Article 4 of the Securities Market Law, the High Council of the Stock Exchange may adopt general policies and instructions for financial institutions and exchanges to provide a basis for equal competition among all participants. This authority enables the creation of a fair and open environment for the entry and operation of diverse actors. In addition, to safeguard competition, the Securities and Exchange Organization possesses multiple instruments under the Securities Market Law. Under Article 7 of the Law, the Organization is required—through rulemaking and supervision over implementation—to establish equal conditions for all market participants. In this respect, the legislature has granted the Organization broad powers that can be classified into three categories: civil/legal, criminal, and disciplinary. For example, in capital market regulation, the suspension or freezing of a trading symbol (as a legal enforcement measure) may be used to remedy or prevent rights violations. The shutdown or suspension of trading at any exchange, under clauses 5 and 6 of Article 7 and Article 32 of the Securities Market Law, also falls within the Organization’s powers.

Iran’s capital market regulatory system exhibits simultaneous strengths and weaknesses in its use of competition-safeguard instruments. On the one hand, disclosure oversight mechanisms, requirements for combating price manipulation, and prohibitions on insider dealing are among the system’s key advantages, contributing to a minimum level of order, transparency, and stability and playing a role in reducing opportunistic conduct. On the other hand, multiple fundamental challenges have undermined the effectiveness of these instruments. First, the capital market structure does not, in practice, exhibit a sufficient level of independence from the state, and the presence of dominant firms, affiliated financial institutions, and informational rents disrupts effective competition. Second, regulatory gaps regarding anti-competitive conduct, algorithmic trading, disclosure processes, and the supervision of professional institutions have rendered competition oversight instruments inadequate and inefficient. Third, institutional dualism and overlap among the Securities and Exchange Organization, the High Council of the Stock Exchange, and the Competition Council have produced “dual-track” supervision, functional conflicts, and inconsistent decisions. Fourth, the absence of a coherent “systematic economic law” regime has caused economic competition to be overshadowed by regulatory interventions, reducing market participants’ incentives to compete on service quality, innovation, and transparency. Fifth, insufficient oversight of disclosure and information quality has allowed problems such as asymmetric information, incomplete disclosure, and the prevalence of market manipulation to persist. As a result, although competition-safeguard instruments are envisaged in the capital market, their effectiveness has remained limited due to institutional misalignment, weak implementation, regulatory gaps,

and a non-competitive market structure, highlighting the need for structural reform, regulatory updating, and strengthened independence of supervisory institutions.

Control and Supervisory Instruments

To achieve desirable objectives and outcomes, the regulatory authority—beyond corrective instruments—must possess a set of supervisory and control instruments through which compliance with regulatory rules and standards among market participants is ensured. In essence, the *raison d'être* of the regulatory authority lies in controlling and steering the market, as well as attaining desirable public-order objectives in the market. Unlike the traditional conception of criminal justice, an economic regulatory system is pluralistic and multi-layered (28). Control and supervisory instruments refer to those tools and mechanisms aimed at exercising oversight over institutions and intermediaries not only within the operational (regulated) sector, but also in relation to institutions and intermediaries within the regulatory sphere itself. Instruments for controlling entry and exit, instruments for ensuring proper enforcement of rules, dispute-resolution instruments, and complaint-handling instruments are among the principal supervisory and control tools.

Entry and Exit Control Instruments

Regulation of “entry and exit” to the market—often referred to as the issuance or revocation of a “license”—is considered an optimal instrument due to its extensive capacity to protect market consumers and stakeholders. Put differently, licensing incorporates rules and regulations that restrict the provision of services to persons or entities. Such restrictions may be applied at three points: initial entry into the market, during ongoing activity in the market, and exit from the market.

Controlling the number of firms and the manner of their performance is among the fundamental variables in determining allocative efficiency and productivity in the market and is necessary for protecting market participants and stakeholders (7). Entry and exit control instruments are *ex ante*, directive—coercive tools that authorize or restrict the entry of certain actors into a market (29).

Regulatory authorities impose specific behavioral conditions on firms and use instruments such as entry and exit controls and incentive schemes in order to moderate firms’ economic behavior and steer them toward social welfare (25). The absence of rules governing entry and exit can hinder the competitiveness of the capital market. In such circumstances, the only means of exercising power may involve resorting to anti-competitive rules and mechanisms. Conversely, imposing certain requirements on companies—such as minimum capital thresholds or shareholder requirements for entry into the capital market (exchange or over-the-counter market)—may function as certification of fitness to enter the market and, thereby, as a mechanism for building investor confidence (26). The most common method of restricting entry into the market is the issuance of an operating license, which—at a minimum—can provide reassurance for market participants and stakeholders. Typically, such a license may include the following:

- Capital requirements, in two forms: minimum required capital and a working-capital threshold.
- A requirement to submit a business plan.
- Managers’ commitments regarding assigned duties.
- A requirement to submit various forms required by the regulator.
- The imposition of ownership restrictions.

- The experience and expertise of human capital and firm management (7).

Under Article 4 of the Securities Market Law, the High Council of the Stock Exchange may establish general policies and rules for the admission of financial institutions, exchanges, and issuers and specify the conditions necessary for their entry into the market. These instruments enable the High Council to exercise policy and supervisory control over the composition of market participants. However, under Article 7, the Securities and Exchange Organization is the competent authority for issuing, renewing, and revoking licenses for financial institutions, exchanges, and issuers and thereby controls the entry of new actors. In practice, therefore, the Organization exercises effective control over entry and exit through licensing, suspension, revocation of activity, and supervision over the admission of securities.

Nevertheless, the application of entry and exit control instruments in capital market regulation also entails multiple challenges. On the one hand, imposing minimum capital or fixed ownership thresholds in an excessively stringent manner may constitute a barrier to entry for market participants and, consequently, an obstacle to full competition. On the other hand, good regulation and the principles of competition, transparency, and ease require that licensing processes be clear, accessible, swift, and precise. Accordingly, one of the major challenges here is the existence of a prolonged, complex, non-transparent, and inconsistent bureaucratic process in evaluating applicants seeking entry into the market. Moreover, the effectiveness of these instruments requires precise and continuous monitoring and evaluation of the performance of all market participants, which is necessarily time-consuming and costly. Overall, entry and exit control is one of the most important mechanisms for preventing capital market failures, but its effectiveness depends on process reform, enhanced transparency, removal of unnecessary barriers, and sustained supervision, so that it can simultaneously reinforce competition, transparency, and market stability.

Instruments for Ensuring Proper Implementation of Regulations

The regulatory authority is both a rulemaking and supervisory institution, and all of the Organization's duties and powers revolve around these two functions (30). Under Article 3 of the Securities Market Law, the High Council of the Stock Exchange is considered the highest supervisory body over the country's capital market and is responsible for approving the market's macro-level policies. Following the High Council, the Securities and Exchange Organization, as the most important pillar of the capital market, is responsible for protecting investors' rights in the capital market, improving the framework for drafting and amending the rules governing it, and supervising the proper implementation of laws and regulations related to the country's capital market.

One of the duties of the Organization's Board of Directors is "supervision over the proper implementation of the Securities Market Law" and the relevant regulations (clause 3 of Article 7 of the Securities Market Law). The implementation of enacted laws and regulations must be ensured through proportionate enforcement mechanisms, and a process for overseeing implementation must be provided. Supervising compliance with capital market laws and regulations by supervised persons requires the availability of sufficient instruments, including the issuance and revocation of operating licenses, the power to request the submission of information, inspection of supervised entities, and disciplinary sanctions in cases of noncompliance. Nonetheless, the duty to supervise proper implementation, in and of itself, does not automatically create a distinct power for the Organization; rather, it operates as an objective whose practical meaning emerges only in combination with other enforcement mechanisms (31). The supervisory authority's instruments should, at a minimum, include the following:

Executive powers (such as halting a public offering of securities, disqualifying managers, imposing disciplinary fines, disclosing the names of violators, or suspending the voting rights of a controlling shareholder).

Investigatory powers (such as requiring the production of all necessary documents and information).

Corrective powers (such as rectifying published information through the issuance of a clarification notice).

Judicial referral powers, including initiating civil and criminal proceedings before judicial authorities (19).

Although the Securities and Exchange Organization's supervisory mechanisms, under the Securities Market Law, provide sufficient legal tools to compel compliance, the principal challenge in the effectiveness of these tools lies not in the existence of their legal basis, but in institutional coherence and the quality of their application. In this respect, delayed or uncoordinated responses can reduce the effectiveness of enforcement measures and undermine their deterrent capacity. Moreover, an excessive focus on disciplinary sanctions—without developing preventive instruments and smart supervision—tends to entrench a reactive approach rather than proactive regulation. Therefore, to enhance the quality of regulatory compliance control, existing instruments should be complemented through strengthened data-driven oversight, procedural transparency, and reforms to executive structures.

Dispute-Resolution and Complaint-Handling Instruments

One of the regulator's key roles in any market is dispute resolution. In every market, conflicts of interest may arise, and such conflicts—despite the existence of rules—can lead to disputes concerning the interpretation of governing regulations or noncompliance with them. Given the specialized nature of these rules and the technical complexity of disputed issues, providing for dedicated mechanisms for resolving disputes within, and under the institutional framework of, sectoral regulators can be of particular importance. Assigning this role to the regulator requires the delegation of powers and access to multiple dispute-resolution instruments, such as the authority to hear cases and issue enforceable decisions, impose fines, and apply sanctions. Nevertheless, it must be recognized that, in complex markets such as capital markets, the types of disputes, their levels, and the parties involved may differ. Accordingly, a single uniform mechanism cannot be applied in all cases. Rather, certain lower-level disputes should be referred to professional associations and self-regulatory organizations so as to prevent the concentration of all decisions within the regulator. Therefore, categorizing market disputes and determining the appropriate forum and mode of resolution for each level or category is a fundamental necessity (7).

On this basis, a distinction should be drawn between, on the one hand, the adjudication of professional disputes among market participants, and, on the other hand, the handling of complaints alleging regulatory violations or disciplinary misconduct. Under the Securities Market Law, several bodies are responsible for handling disputes, complaints, and violations, including the Arbitration Board, the Exchange Board of Directors, and the Associations (32). Dispute resolution among capital market participants takes place before the Arbitration Board as a specialized quasi-judicial forum. Before submitting claims to this Board, disputes must be raised in the Associations so that the Association, as a self-regulatory body, can seek an amicable settlement. Proceedings before the Associations follow a mediation-based approach and aim to achieve reconciliation; they do not issue binding decisions. Where the dispute is resolved by settlement, there is no need to refer it to the Arbitration Board; otherwise, the Associations issue a certificate of failure to reconcile (33).

In most legal systems with developed capital markets and robust financial systems, there is no mandatory exclusive specialized forum for adjudicating such disputes. Nevertheless, in Iran, an exclusive forum (the Arbitration

Board) has been established to handle securities-related disputes. The reasons for not vesting jurisdiction in ordinary courts can be understood, on the one hand, by reference to the importance of capital market development through clear procedures and swift dispute resolution, and, on the other hand, the inefficiency of ordinary courts in handling specialized securities disputes.

Moreover, addressing violations and irregularities in the capital market may take two forms: “private enforcement,” through actions brought by private victims seeking compensation, and “public enforcement,” through the application of criminal or disciplinary sanctions (19). Granting public enforcement authority over capital market violations to the regulatory system results in the delegation of a wide range of punitive instruments to various bodies within that system, including the imposition of monetary fines, revocation or suspension of establishment and operating licenses, revocation or suspension of professional certifications, sanctions involving professional disqualification of managers of supervised entities, and the suspension or freezing of trading symbols.

In Iran’s capital market regulation, conferring competence to handle professional disputes, complaints, and violations by market participants has enabled the Securities and Exchange Organization to possess multiple and effective instruments, such as handling investor complaints and applying disciplinary measures against financial institutions. Although these mechanisms have a clear legal basis, a serious deficiency lies in the absence of a detailed, comprehensive, and precise legal framework governing the conduct of proceedings in a manner that ensures the rights of market participants—particularly investors—and guarantees correct implementation of laws and regulations in their mutual relations. In addition, an excessive focus on disciplinary support after the occurrence of violations has fostered a reactive orientation and reduced deterrent impact. Therefore, to enhance the effectiveness of these instruments, there is a need to “strengthen rapid, transparent, and preventive processes.”

Conclusion

The principle of effectiveness in a regulatory system requires that the public regulatory authority possess a diverse set of public-law instruments—or, in other words, instruments for the exercise of public authority—through which it can control and steer economic activities in the market. These instruments encompass a very broad range of powers, privileges, and quasi-legislative, executive, and quasi-judicial mechanisms that are directed toward several fundamental regulatory functions, including policymaking, rulemaking, enforcement of regulations, supervision of compliance, adjudication of regulatory violations, and, ultimately, the resolution of disputes arising from the application of regulations. The model of public regulation, in essence, emphasizes the regulation of market activities through the enactment and enforcement of non-governmental, sectoral, technical, and specialized rules in areas such as pricing, standard-setting, quality assurance, and competition safeguards. In the context of the capital market, “ensuring stability”—that is, managing market volatility—and “ensuring transparency”—that is, mandating the disclosure of essential information and preventing collusion—are of particular importance.

In evaluating Iran’s capital market regulatory system from the perspective of the effectiveness principle, it must be acknowledged that the legal framework governing the regulation of this market provides for the delegation of a vast array of powers and instruments. In comparative terms, it may even be argued that, in some instances, this level of authority is rare among leading regulatory experiences worldwide. For example, in most capital market regulatory systems, jurisdiction over professional disputes among market participants is not assigned to the regulatory authority, and many such disputes fall within the competence of ordinary courts. In Iran, however, with the establishment of the Arbitration Board under Article 37 of the Securities Market Law, all disputes among financial

institutions and market participants—and even disputes between them and individual investors—are adjudicated and resolved by this quasi-judicial body.

Despite the granting of such extensive powers and the availability of a wide range of necessary regulatory instruments—which may be regarded as the fundamental capacity and potential for the effectiveness of the capital market regulatory system—there is little doubt that this system has not been successful, effective, or efficient in achieving regulatory objectives such as protecting investors' rights, ensuring market stability and transparency, and preventing collusion in trading. This shortcoming may be attributed to several deficiencies and challenges.

The first major challenge relates to the insufficient attention paid to the organic interconnection of the principles of good regulation in the design, organization, and management of the capital market regulatory system. As discussed, granting an adequate volume and level of regulatory powers and instruments, without ensuring independence, accountability, and participatory governance, and without adherence to substantive principles such as competition, coherence, and purposiveness, cannot produce regulatory effectiveness or efficiency. In particular, the disproportionate allocation of regulatory powers—and the conferral of instruments such as the authority to shut down or suspend the entire market and to control market entry and exit—to the High Council of the Stock Exchange as a governmental policy body represents a clear departure from the logic and principles of good regulation. As demonstrated by the experience of the past two decades, the result has been the use of these instruments to pursue governmental and political objectives, often based on non-specialized considerations and without due regard to their damaging consequences for the capital market.

The second challenge concerning regulatory effectiveness relates to deficiencies and shortcomings in the legal framework governing the mechanisms for applying regulatory instruments. It can be asserted with confidence that, in many instances, the laws and regulations governing the use of regulatory tools are characterized by vagueness, incompleteness, inconsistency, ambiguity, and uncertainty. A notable example is found in the rules governing dispute resolution in the capital market. Article 43 of the Securities Market Law, in a unique and difficult-to-justify provision, assigns jurisdiction over investors' claims for damages arising from fault, violations, or the provision of false information at the time of securities offerings to two entirely different bodies: the Arbitration Board, as a quasi-judicial capital market body, and the Board of Directors of the Exchange, as an administrative body. More importantly, neither the Law itself nor subsequent laws and regulations provide any guidance on the procedure to be followed by the Exchange's Board of Directors or the mechanism for compensating such damages. Accordingly, enhancing the effectiveness and efficiency of the capital market regulatory system requires a comprehensive revision of the governing legal framework, particularly through efforts to enact an integrated, coherent, comprehensive, detailed, and up-to-date statute—under the title of a "Capital Market Regulation Law"—that can both remedy existing deficiencies and provide the necessary foundations for realizing the principles of stability, transparency, competition, proportionality, coherence, and purposiveness in the application of regulatory instruments.

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