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Securities Contracts (Regulation) Act, 1956

20.0 Introduction

Stock market plays a significant role in development of the economy. Stock market facilities mobilisation of funds from small savings of investors and channelises these resources into various development needs of various sectors of the economy. Stock market also provides mechanism for trading of securities thus ensuring liquidity to the investment of investors. Thus, stock market facilitates transactions in securities.

In order to prevent undesirable transactions in securities, promote healthy stock market, the Securities Contracts (Regulation) Act, 1956 was enacted by Parliament vide Act No. 42 of 1956. This Act applies to whole of India.

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, by providing for certain other matters connected therewith.

20.1 About Corporatisation & Demutualisation of Stock Exchanges

Traditionally, the stock exchanges in India were organizations formed generally on not-for profit and the trading members besides rendering various services were also owning, controlling and managing the stock exchanges. They were essentially not corporatised and working on mutual basis. This type of system had its own merits and inherent limitations. However with the passage of time and events occurring at the various stock exchanges, a thought was contemplated as why they should not be allowed to corporatise and work on demutualisation basis. The advantage of the new system is that the public interest becomes a dominant factor and therefore the interest of the private interest is relegated to the background.

Essentially, the Securities Contracts (Regulation) Act, 1956 permitted different types of organizational structure for the stock exchanges to operate and it is for this reason we saw some stock exchanges were association of persons, some were company limited by shares and some others were company limited by guarantee. The Securities Contract (Regulation) Act, 1956 was amended by the Government through the Securities Laws (Amendment) Act, 2004. The purpose of this Amendment Act is to provide for corporatising and demutualisation of all recognized stock exchanges, delisting of securities, appeals against orders of the Securities Appellate Tribunal, penalties for failure to furnish information, return etc. and other related matters.
20.2 Corporate and Allied Laws

Corporatisation & Demutualisation
The Corporatisation intends to make a stock exchange as a corporate entity limited by shares. In the new legislation under Section 2 (aa) the term corporatisation has been defined as “the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860, by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society”.

Further, Demutualisation is the process of separating ownership, trading and management in a stock exchange. This process shall prevent conflict of interests, which may arise when stockbrokers are involved in the management of the stock exchanges. It is defined under section 2(ab) as “the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India”.

20.2 Highlights of Legislation on Securities Laws
The following are the salient features of the legislation which amended the Securities Contracts (Regulation) Act, 1956:

- New definition on Corporatisation and De-mutualisation and Procedure for the same.
- The definitions of securities now include units or any such instrument issued to the investors under any mutual fund scheme.
- The definition of securities to include swap, options and hybrid instruments and other contracts for differences.
- Central Government to regulate spot transactions.
- De-listing of securities subject to prior approval of the holders of securities.
- Establishment of a Clearing Corporation instead of clearing house as at present.
- Assets of the client to be dealt by the intermediary as directed by the investor.
- Empowers SEBI to restrict the voting rights of the shareholders who are also stockbrokers of the recognised stock exchange.
- SEBI can restrict the right of shareholders or a stockbroker of the recognised stock exchange to appoint representatives on the Governing Board.
- Further, SEBI can restrict the maximum number of representatives of the broker of the recognised stock exchange to be appointed on the governing board of the stock exchange (i.e., one-fourth).
- Every stock exchange, whose scheme for Corporatisation and Demutualisation has been approved by SEBI, should ensure that at least 51% of its equity share capital is held, within 12 months of the SEBI order by public other than shareholders having trading rights.
- Stock exchanges are allowed to make fresh issue of equity shares to the public or subject to SEBI regulations in any other manner can increase its equity share capital to fulfill the above norm.
- New Scheme for Penalty
The new legislation thus intends to convert stock exchanges, which were set up as association of persons or as companies limited by guarantee, into companies limited by shares. The focus is to encourage retail investors as a driving force by increasing their participation in the stock market. Further, under new legislation all stock exchanges would be required to submit a scheme within a time frame as may be specified for Corporatisation and Demutualisation to the capital market regulator, the Securities and Exchange Board of India after it is notified by the Central Government. Thus by all accounts, the new legislation is ushering a new era in the profile of stock exchanges and its functioning.

20.3 Definitions (Section 2)

In this Act unless the context otherwise requires—

(a) “Contract” means a contract for or relating to the purchase or sale of securities:

(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860, by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;

(ac) “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract, which derives its value from the prices, or index of prices, of underlying securities;

[C] commodity derivatives; and

(D) such other instruments as may be declared by the Central Government to be derivatives;

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act 1944 (18 of 1944);

1 Inserted by Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dated 28.08.2015.
2[(bb)"goods" mean every kind of movable property other than actionable claims, money and securities;

(c) “member” means a member of a recognised stock exchange;

3[(ca)"non-transferable specific delivery contract" means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other documents of title relating thereto are not transferable; ]

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a teji, a mandi, a teji mandi, a galli, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

4[(ea)"ready delivery contract" means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately, or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise:

Provided that where any such contract is performed either wholly or in part :

(I) by realisation of any sum of money being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or

(II) by any other means whatsoever, and as a result of which the actual tendering of the goods covered by the contract or payment of the full price therefor is dispensed with, then such contract shall not be deemed to be a ready delivery contract; ]

(f) “recognised stock exchange” means a stock exchange which is for the time being recognised by the Central Government under Section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for-

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2 Inserted by Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dated 28.08.2015.

3 Inserted by Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dated 28.08.2015.

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;

(gb) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(h) “Securities” include—

(i) Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

(ia) derivative;

(ib) units or any other instruments issued by any collective investment scheme to the investors in such schemes;

(ic) security receipt as defined in clause(2g) under section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

(id) units or any other such instrument issued to the investors under any mutual fund scheme. Securities however, shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938.

(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case maybe;

(ii) Government securities;

(iiia) such other instruments as may be declared by the Central Government to be securities; and

(iii) rights or interests in securities;
20.6 Corporate and Allied Laws

"specific delivery contract" means a commodity derivative which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;]

(i) “spot delivery contract” means a contract which provides for—
   (a) actual delivery or securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;
   (b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;

(j) “stock exchange” means –
   (a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or
   (b) a body corporate incorporated under the Companies Act, 1956 whether under a scheme of corporatisation and demutualisation or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

"transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract and which is subject to such conditions relating to its transferability as the Central Government may by notification in the Official Gazette, specify in this behalf.

20.4 Recognition of Stock Exchanges

Dealing in securities can be provided for only by recognised Stock Exchanges. As of date there are 24 recognised Stock Exchanges in the country including OTCEI and Inter connected Stock Exchange, NSE and BSE are two leading Stock Exchanges having nation wide presence. Power to recognise Stock Exchange vests with Central Government. However, Central Government has delegated these powers also to SEBI vide its notification No. F.No. 1/57/SE/93 dated 13.9.94.

Application for recognition (Section 3)

Any Stock Exchange desirous of being recognised may make an application to the Central Government in the prescribed manner.

5 Inserted by Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dated 28.08.2015.

Application must be accompanied with Bye-Laws, Rules, Regulations which must contain specific details on:

1. The governing body of Stock Exchange, its constitution and powers of management and manner in which its business is transacted.
3. Admission to various classes of members, qualification for membership and the exclusion, suspension, expulsion and re-admission of members therefrom or thereinto.
4. The procedure for registration of Partnerships as members to stock exchange in cases where the rules provide for such membership, and the nomination and appointment of authorised representatives and clerks.

20.5 Granting of Recognition (Section 4)

1. Central Government after making inquiry and obtaining such further information, if any, as it may require, from the applicant that:
   a. Rules and Bye-Laws are in conformity with the conditions prescribed.
   b. Stock Exchange is willing to comply with any condition that Central Government may impose for carrying out the object of this Act (fair dealing and investors protection).
   c. The recognition would be in the interest of trade and also in public interest.

Central Government may grant recognition to stock exchange subject to the conditions that it may impose.

2. The conditions imposed may include
   i. qualification for membership of stock exchange.
   ii. manner in which contracts shall be entered into and enforced as between members.
   iii. representation of Central Government on Board of Exchanges.
   iv. maintenance of accounts of members and their audit.

3. Grant of recognition shall be published in Gazette of India and also in Official Gazette of State in which stock exchange is located.

4. No application can be refused unless an opportunity of being heard is given to the Stock Exchange. Reason for refusal will be communicated in writing.

5. No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 (Bye-Laws, Rules, Regulations contain specific details on Stock Exchange, its constitution and powers of management, duties and powers of office bearers, admission of members, their qualifications, exclusion, suspension etc.) shall be amended except with the approval of the Central Government.
Corporatisation and demutualisation of stock exchanges (Section 4A)

On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B:

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation. For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.

Procedure for corporatisation and demutualisation.(Section 4B)

Section 4B provides that all recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval.

Further, the Securities and Exchange Board of India may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange, shall not be required to submit the scheme under this section.

On receipt of the scheme referred above, the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification. [Sub-section (2)]

No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange. [Sub-section (3)]

Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by –

(a) the Securities and Exchange Board of India in the Official Gazette;
(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised
stock exchange and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members. [Sub-section (4)]

Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette.

The Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme. [Sub-section (5)]

The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict-

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board. [Sub-section (6)]

The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956, or any other law for the time being in force, have full effect. [Sub-section (7)]

Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights. [Sub-section (8)]

The Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.

Withdrawal of Recognition (Section 5)

If Central Government is of the opinion that recognition granted to an Exchange must be withdrawn in the interest of the trade or in the public interest, it may withdraw the recognition after serving due notice on governing body of the Exchange. Withdrawal however will not affect validity of Contracts entered into before the date of withdrawal notification. (Sub-section 1).

Sub-section 2 provides that, where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B...
within the specified time therefore or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition.

No such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B."

**Power of Central Government to call for Information (Section 6)**

1. Every recognized stock exchange should furnish periodical returns to SEBI in the prescribed format. These Returns contain information on current affairs of the Exchange including volume and value of transactions, short deliveries, important decisions taken by Board etc.

2. Every Stock Exchange has to maintain books of accounts for a period of 5 years and these books may be inspected by SEBI at any point of time.

3. SEBI may by order in writing call for information or explanation relating to affairs of an Exchange or its member. SEBI also has the power to appoint one or more inquiry officers who may submit their report to SEBI.

4. Every Director, Manager, Secretary or officer of the Exchange; every member of such stock exchange; if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm and every other person or body of persons who has had dealings in the course of business with any of the persons mentioned above whether directly or indirectly, is bound to provide information to Enquiry officer or SEBI representative who are looking into the affairs of the Exchange.

SEBI carries out regular inspection of all Exchanges at periodical intervals. Apart from this if market condition warrants it carries out special investigation into the affairs of the Exchange/s.

**Annual Report (Section 7)**

Every Stock Exchange is required to furnish a copy of Annual Report to Central Government.

**Rules Restricting Voting Rights (Section 7A)**

A recognized Stock Exchange is empowered to amend rules to provide for all or any of the following matters:

(a) restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting.

(b) regulation of voting rights by specifying that each member is entitled to one vote only irrespective of number of shares held.

(c) restriction on right of member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange.
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(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

Currently all exchanges provide for one member one vote. Only member can be appointed as proxy. Any amendment should be duly approved by Central Government and such amendment becomes effective only after such approval.

20.6 Power of Central Government to Make Rules (Section 8)

The Central Government after consultation with Stock Exchange may by order in writing direct Stock Exchange/s to make or amend rules within two months from the date of such order. If an Exchange fails to comply with order Central Government on its own may make or amend the rules.

Clearing corporation (Section 8A)

A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, for the purpose of –

(a) the periodical settlement of contracts and differences thereunder;
(b) the delivery of, and payment for, securities;
(c) any other matter incidental to, or connected with, such transfer. [Sub-section (1)]

Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Securities and Exchange Board of India for its approval. [Sub-section (2)]

The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.

20.7 Power to recognised Stock Exchanges to Make Bye-Laws (Section 9)

(1) Any recognised stock exchange may, subject to the previous approval of the Securities and Exchange Board of India, make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for:

(a) the opening and closing of markets and the regulation of the hours of trade;
(b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment of securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;

(c) the submission to the Securities and Exchange Board of India by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the Securities and Exchange Board of India may, from time to time, require, namely:

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of which have been squared up during the course of each settlement period;

(iii) the total number of each category of security actual delivered at each clearing;

(d) the publication by the clearing house of all or any of the particulars submitted to the Securities and Exchange Board of India under clause (c) subject to the directions, if any, issued by the Securities and Exchange Board of India in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of budlas or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing, highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing.

(k) the regulation of the entering into, making, performance, rescission and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of members who are not parties to such contracts;

(l) the regulation of taravani business including the placing of limitation thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;
(p) the regulation of the course of business between parties to contracts in any capacity;
(q) the fixing of a scale of brokerage and other charges;
(r) the making, comparing, settling and closing of bargains;
(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in such emergencies, including the power to fix maximum and minimum prices for securities;
(t) the regulation of dealings by members for their own account;
(u) the separation of the functions of jobbers and brokers;
(v) the limitations on the volume of trade done by any individual member in exceptional circumstances;
(w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may:
(a) specify the bye-laws, the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;
(b) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely:
   (i) fine
   (ii) expulsion from membership
   (iii) suspension from membership for a specified period
   (iv) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the Securities and Exchange Board of India, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situated, and shall have effect as from the date of its publication in the Gazette of India:

Provided that if the Securities and Exchange Board of India is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

20.8 Power of SEBI (Section 10)

SEBI on its own in consultation with Board of Exchange or on request of Exchange may amend any Bye-law relating to matters covered under Section 9 above after recording reasons
for so doing. The making or the amendment or revision of any bye-laws shall in all cases be subject to the condition of previous publication.

If an Exchange has objection to the amendments made by SEBI, it may within 2 months apply to SEBI for revision. All amendments come into effect from date of Gazette notification. However, in respect of amendments by Exchange keeping public interest in mind SEBI in its discretion may specifically waive the condition of previous publication.

**Superseding of Stock Exchange (Section 11)**

Central Government are vested with power to supersede the Board of Stock Exchange after serving on governing body a notice in writing and after giving opportunity to the governing Board to be heard in the matter. Central Government may by notification in Official Gazette declare governing board of an Exchange as superseded and may appoint person/s to perform and exercise all powers of Board.

**Power to suspend business of Recognised Stock Exchange (Section 12)**

If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient to do so, it may, by notification in the Official Gazette suspend such of its business for period not exceeding 7 days. The Central Government also has power to extend this period by a like notification.

**Power to issue directions (Section 12A)**

If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary –

(a) in the interest of investors, or orderly development of securities market; or

(b) to prevent the affairs of any recognised stock exchange, or, clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or

(c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

it may issue such directions, -

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.

Explanation.— For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.
Contracts in notified Area (Section 13)

The Central Government may declare applicability of this Section to a State or States or area whereupon every contract entered into between members of a recognised stock exchange or recognised stock exchanges will only be legal. Contracts entered into between persons other than members of a recognised stock exchange or recognised stock exchanges will be illegal. However, this provision would not be applicable to spot delivery transaction.

*Provided that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall--

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.

Establishment of Additional Trading floor (Section 13A)

According to Section 13A, a Stock Exchange may establish additional trading floor with the prior approval of the Securities Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

For the purpose of this section ‘Additional Trading Floor’ means a trading ring or trading facility offered by a recognized stock exchange outside its area of operation to enable the investor to buy and sell securities through such trading floor under the regulatory frame work of that Stock Exchange.

Members not to act as Principals (Section 15)

Members of Stock Exchange normally carry out transactions on behalf of investor and hence, principal agent relationship exists. Member can enter into transaction as principal with another member of the Exchange only. If he desires to enter into contract as principal with a non member then he has to get written consent from such person to act as principal. Contract note should indicate that member is acting as Principal. ‘Spot delivery’ contracts would be outside the preview of this section.

Power to prohibit contracts in certain cases (Section 16)

If the Central Government is of the opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or are specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein. [Sub-section (1)]

All contracts in contravention of the provisions of sub-section (1) entered into after the date of the notification issued thereunder shall be illegal. [Sub-section (2)]

Recently, in exercise of the powers conferred by subsection (2) of section 28 and sub-section (1) of section 16 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), read with Government of India notification number S.O. 573(E), dated the 30th July, 1992 issued under
section 29A of the said Act, the Securities and Exchange Board of India (hereinafter referred to as ‘the Board’) hereby rescinds the notification number S.O.184(E), dated the 1st March, 2000, except as respects things done or omitted to be done before such rescission, and declares that no person in the territory to which the said Act extends, shall, save with the permission of the Board, enter into any contract for sale or purchase of securities other than a contract falling under any one or more of the following, namely:-

(a) spot delivery contract;
(b) contracts for sale or purchase of securities or contracts in derivatives, as are permissible under the said Act or the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules and regulations made under such Acts and rules, regulations and bye-laws of a recognised stock exchange;
(c) contracts for pre-emption including right of first refusal, or tag-along or drag along rights contained in shareholders agreements or articles of association of companies or other body corporate;
(d) contracts in shareholders agreements or articles of association of companies or other body corporate, for purchase or sale of securities pursuant to exercise of an option contained therein to buy or sell the securities, where-
   (i) the title and ownership of the underlying securities is held continuously by the selling party to such contract for a minimum period of one year from the date of entering into the contract;
   (ii) the price or consideration payable for the sale or purchase of the underlying securities pursuant to exercise of any option contained therein, is in compliance with all the laws for the time being in force as applicable; and
   (iii) the contract is settled by way of actual delivery of the underlying securities:

Provided that the contracts specified in clauses (a) to (d) above, shall be in accordance with the provisions of the Foreign Exchange Management Act, 1999 and rules or regulations made thereunder:

Provided further that nothing contained in this notification shall affect or validate any contract which has been entered into prior to the date of this notification.

Explanation.- It is hereby clarified that the contracts mentioned in clauses (c) and (d) above shall be valid notwithstanding anything contained in section 18 A read with clause (d) of subsection (1) of section 23 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956):

Provided also that any contract for sale or purchase of government securities, gold related securities, money market securities, contracts in currency derivatives, interest rate derivatives and ready forward contracts in debt securities entered into on the recognised stock exchange shall be entered into in accordance with,—

(I) the rules or regulations or the bye-laws made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992(15 of 1992) or the directions issued by the Securities and Exchange Board of India
under the said Acts;

(II) the rules made or guidelines or directions issued, under the Reserve Bank of India Act, 1934 (2 of 1934) or the Banking Regulations Act, 1949 (10 of 1949) or the Foreign Exchange Management Act, 1999 (42 of 1999), by the Reserve Bank of India;

(III) the notifications issued by the Reserve Bank of India under the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2 (Section 17A)

Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

Every issuer intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

Where the permission applied for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881, (26 of 1881) shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.

Contracts in ‘derivative’ (Section 18A)

Contracts in derivative shall be legal if such contracts are

(a) traded on stock exchange.

(b) settled on clearing house of the recognised stock exchange; or

in accordance with the rules and bye-laws of such stock exchange.

Prohibition on non-recognised Stock Exchanges (Section 19)

No person except with the permission of Central Government shall organise or assist in organising or be a member of unrecognised Stock Exchange for the purpose of carrying out transaction in securities.

Listing of Securities (Section 21)

When shares are issued to public through public issue listing of Securities with recognised Stock Exchange is mandatory.

Section 21 of SCRA provides that where securities are listed on the application of any person, such person has to comply with the conditions of Listing Agreement in that stock exchange.

Delisting of securities (Section 21A)

(1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act:

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals:

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.

Appeal before Securities Appellate Tribunal against refusal to list securities (Section 22A)

(1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or
(b) where the stock exchange has omitted or failed to dispose of, within the time specified in subsection (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section

8 Inserted by the Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dtd 28.08.2015.
referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow,

appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

Procedure and Powers of SAT (Section 22B)
The Securities Appellate Tribunal (SAT) is not bound by the procedure laid down by the code of Civil Procedure, 1908 and shall be guided by the principles of natural justice and shall have power to regulate their own procedures and will be vested with power vested in Civil Court under Code of Civil Procedure 1908 in respect of following matters:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex parte;

(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte; and

(h) any other matter which may be prescribed.

Every proceeding before SAT shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code and the SAT shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Legal Representation (Section 22C)
Appellant may appear in person or authorise one or more CAs, CSs or CMAs or Legal practitioners to represent the case.

Appeal to Supereme Court (Section 22F)
Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or
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order of the Securities Appellate Tribunal to him on any question of law arising out of such order:
Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

20.9 Penalties (Section 23)

(1) Any person who—

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in section 17 or section 17A or section 19; or

(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30; or

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contract in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognized stock exchange or his agent authorized as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, willfully represents to or induces any person to believe that contracts can be entered into or performed under this act through him: or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other person for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years
or with fine, which may extend to twenty-five crore rupees, or with both.

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 or who fails to comply with the provisions of section 21 or section 21A or with the orders of the Central Government under section 22, or with the orders of the Securities Appellate Tribunal shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.

Penalty for failure to furnish information, return, etc (Section 23A)
Any person, who is required under this Act or any rules made thereunder, -

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefore in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

Penalty for failure by any person to enter into an agreement with clients (Section 23B)
If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees for every such failure.

Penalty for failure to redress Investors’ grievances (Section 23C)
If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

Penalty for failure to segregate securities or moneys of client or clients (Section 23D)
If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.
Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds (Section 23E)

If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

Penalty for excess dematerialisation or delivery of unlisted securities (Section 23F)

If any person dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

Penalty for failure to furnish periodical returns, etc (Section 23G)

If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.

Penalty for contravention where no separate penalty has been provided (Section 23H)

Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

Power to adjudicate (Section 23-I)

(1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such
inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier.

**Factors to be taken into account by the adjudicating officer (Section 23 J)**

While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

**Settlement of administrative and civil proceedings (Section 23JA)**

(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purposes of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.

**Recovery of amounts (Section 23JB)**

(1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;
(d) arrest of the person and his detention in prison;
(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.


Explanation 3.— Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression “Recovery Officer” means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.

Crediting sum realised by way of penalties to Consolidated Fund of India (Section 23K)

All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.
Appeal to Securities Appellate Tribunal (Section 23L)

(1) Any person aggrieved, by the order or decision of the recognised stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B or sub-section (3) of section 23-I, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the appellant and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Offences (Section 23M)

(1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

Composition of certain offences (Section 23N)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.
Power to grant immunity (Section 23 O)

(1) The Central Government may, on recommendation by SEBI, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

20.10 Offences by Companies (Section 24)

(1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of
individuals, and

(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.

(3) The provisions of this section shall be in addition to, and not in derogation of the provisions of Section 22A.

Certain offences to be cognizable (Section 25)

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under section 23 shall be deemed to be cognizable offence within the meaning of that code.

Cognizance of offences by courts (Section 26)

No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

Establishment of Special Courts (Section 26A)

(1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts. (Section 26B)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision (Section 26C)

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.
Application of Code to proceedings before Special Court (Section 26D)

(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional provisions (Section 26E)

Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.

20.11 Title to Dividends (Section 27)

(1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

Explanation.—The period specified in this section shall be extended—

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the
company has refused to register the transfer of the security in the name of the transferee.

20.12. Right to Receive Income from Collective Investment Scheme (Section 27A)

(1) It shall be lawful for the holder of any securities, being units or other instruments issued by collective investment scheme, whose name appears on the books of the collective investment scheme, issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by a collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investments scheme became due.

Explanation: The period specified in this section shall be extended—

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income respect of units or other instrument issued by collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being units or other instruments issued by collective investment scheme in respect of which the income in respect of units or other instruments issued by collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.
Right to receive income from mutual fund (Section 27B)

(1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.- The period specified in this section shall be extended –

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect-

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.".

20.13 Act not to Apply in Certain Cases (Section 28)

(1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to
obtain at his option from the company or other body corporate issuing the same or or from any of its shareholders’ or duly appointed agents, shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government is satisfied that in the interest of trade and commerce or the economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations, or restrictions, if any, subject to which it shall not so apply.

20.14 Power to Make Rules (Section 30)

(1) The Central Government may, by notification in the Official Gazette make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications;

(b) the manner in which any inquiry for the purpose of recognizing any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in market contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;
(h) the requirements which shall be complied with—
   (A) by public companies for the purpose of getting their securities listed on any
   stock exchange;
   (B) by collective investments scheme for the purpose of getting their units listed on
   any stock exchange;
   (ha) the grounds on which the securities of a company may be delisted from any
   recognised stock exchange under sub-section (1) of section 21A;
   (hb) the form in which an appeal may be filed before the Securities Appellate Tribunal
   under sub-section (2) of section 21A and the fees payable in respect of such
   appeal;
   (hc) the form in which an appeal may be filed before the Securities Appellate Tribunal
   under section 22A and the fees payable in respect of such appeal;
   (hd) the manner of inquiry under sub-section (1) of section 23-1;
   (he) the form in which an appeal may be filed before the Securities Appellate Tribunal
   under section 23L and the fees payable in respect of such appeal;
   (i) any other matter which is to be or may be prescribed.

20.15 §[Special Provisions related to commodity derivatives.]

30A. (1) Nothing contained in this Act shall apply to non-transferable specific delivery
contracts:
Provided that no person shall organise or assist in organising or be a member of any
association in any area to which the provisions of section 13 have been made applicable
(other than a stock exchange) which provides facilities for the performance of any non-
transferable specific delivery contract by any party thereto without having to make or
receive actual delivery to or from the other party to the contract or to or from any other
party named in the contract.

(2) Where in respect of any area, the provisions of section 13 have been made applicable
in relation to commodity derivatives for the sale or purchase of any goods or class of
goods, the Central Government may, by notification, declare that in the said area or any part
thereof as may be specified in the notification all or any of the provisions of this Act shall
not apply to transferable specific delivery contracts for the sale or purchase of the said
goods or class of goods either generally, or to any class of such contracts in particular.
Notwithstanding anything contained in sub-section (1), if the Central Government is of the
opinion that in the interest of the trade or in the public interest it is expedient to regulate
and control non-transferable specific delivery contracts in any area, it may, by notification

§ Inserted by Part II of Chapter VIII of the Finance Act 2015, w.e.f. 28.09.2015 vide Gazette Notification
F. No. 1/9/SM/2015, Extraordinary, Pt. II, Sec. 3, Sub-section (ii) dtd 28.08.2015.
in the Official Gazette, declare that all or any of the provisions of this Act shall apply to such class or classes of non-transferable specific delivery contracts in such area in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.

20.16 Power of SEBI to make Regulations (Section 31)

Without prejudice to the provisions contained in section 30 of the Securities and Exchange board of India Act, 1992, the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognized stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under subsection (8) of that section;

(b) the eligibility criteria and other requirements under section 17 A.

(c) the terms determined by the Board for settlement of proceedings under sub-section (2) of section 23JA;

(d) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Validation of certain acts (Section 32)

Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.