By the end of this chapter, students will be able to-

- Explain the role, powers and functions of the Securities and Exchange Board of India
- Identify how the SEBI regulates the capital markets in India under a resolution of the Government of India.
- Understand the prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.
- Know the penalties and adjudication and identify the establishment, jurisdiction, authority and procedure of Appellate Tribunal.
- Know about the significant regulations governed by the SEBI (LODR), Regulations, 2015.
1. **INTRODUCTION**

The Securities and Exchange Board of India was established in 1988. It got legal character in 1992. SEBI was primarily set up to regulate the activities of the merchant banks, to control the operations of mutual funds, to work as a regulator of the stock exchange activities and to act as a regulatory authority of new issue activities of companies. The reason the SEBI was constituted was because before the SEBI, the law relating to the securities market in India was contained in different enactments like Companies Act, 1956, Securities Contract (Regulation) Act, 1956, and the Capital Issues (Control) Act, 1947. Then, at times when the capital market witnessed tremendous growth, it was found that the legislation was scattered in different laws and administrative agencies did not have proper manpower or expertise to deal with the investors. Even there was no monitoring or prosecuting machinery to check malpractices, insider trading, etc. Then, Government of India decided to set up an agency or regulatory body known as Securities Exchange Board of India (SEBI). It was constituted on 12th April 1988 as an interim administrative body under the Finance Ministry. In April, 1988 the SEBI was constituted as the regulator of capital markets in India under a resolution of the Government of India.

In the year of 1995, the SEBI was given additional statutory power by the Government of India through an amendment to the Securities and Exchange Board of India Act, 1992.

The prime objective of the SEBI Act, 1992 are:

1. Protecting the interests of the investors in securities;
2. Promoting the development of, and;
3. Regulating, the securities market and for matters connected therewith or incidental thereto.

SEBI as the watchdog of the industry has an important and crucial role in the market participants and crucial role in the market participants perform three duties in accordance with the regulatory norms. The preamble of the SEBI describes the basic functions of the SEBI as ‘...to protect the interest of investors in the securities and to promote the development of, and to regulate the securities market and for matters connected therewith’.

This SEBI Act deemed to have come into force on the 30th day of January, 1992 and extended to whole of India as per section 1 of the SEBI Act, 1992.

2. **IMPORTANT DEFINITIONS**

According to section 2 of the SEBI Act, 1992, following are some of the important definitions of terms used in the Act:

**Board** means the Securities and Exchange Board of India established under section 3; [Section 2(1) (a)]

**Collective investment scheme** means any scheme or arrangement which satisfies the conditions specified in section 11AA [Section 2(1)(ba)]

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Judicial Member means a Member of the Securities Appellate Tribunal appointed under sub-section (1) of section 15MA and includes the Presiding Officer; [Section 2(1)(db)]

Member means a member of the Board and includes the Chairman; [Section 2(1)(e)]

Regulations means the regulations made by the Board under this Act; [Section 2(1)(h)]

Reserve Bank means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 [Section 2(1)(ha)]

Securities has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 [Section 2(1)(i)]

Technical Member means a Technical Member appointed under sub-section (1) of section 15MB. [Section 2(1)(j)]

(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 or the Depositories Act, 1996, shall have the meanings respectively assigned to them in that Act.

3. ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board [Section 3]

SEBI (hereinafter called 'the Board') has been established as-

- a body corporate
- having perpetual succession and a common seal,
- with powers to acquire, hold and dispose of property, both movable and immovable, and
- to contract as also to sue or be sued by the name of SEBI.
- The head office of the Board shall be at Mumbai.
- Further the Board may establish offices at other places in India.

Management of the Board [Section 4]

The SEBI board is managed by its members (appointed by the Central Government), consists of following:

1 Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.

2 Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.
2.4 CORPORATE AND ECONOMIC LAWS

The Chairman and the five other members as referred in the section, shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance; economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board [Section 4(5)].

The general superintendence, direction and management of the affairs of the Board shall vest in a Board of Members, which may exercise all powers and do all acts and things, which may be exercised or done by the Board. [Section 4(2)]

Term of office and conditions of service of Chairman and members of the Board [Section 5]

The term of office and other conditions of service of Chairman and other Members of the Board as appointed in section 4(1)(d) shall be such as may be prescribed by rules made under the Act.

Right to termination: The Central Government will have the right to terminate the services of the Chairman or other members appointed to the Board (other than its own officials or of the Reserve Bank on the Board) at any time before the expiry of their tenure-

- by giving not less than three months’ notice in writing
- three months’ salary and allowance in lieu thereof

The Chairman and other members shall have the right to relinquish office at any time before the expiry of their tenure by giving a notice of three months in writing to the Central Government.
Term of office: As per the rules framed in this regard, the Chairman and Whole time Members may hold office for a period of five years subject to the maximum age limit of 65 years and can be re-appointed by the Central Government.

Removal of Members of the Board [Section 6]
The Central Government shall have the power to remove a member or the Chairman appointed to the Board, if he:

- at any time has been adjudicated as insolvent;
- has been declared by a competent court to be of unsound mind;
- has been convicted of an offence which in the opinion of the Central Government, involves a moral turpitude.
- has in the opinion of the Central Government so abused his position as to render his continuance in office detrimental to the public interest.

Before removing a member or the Chairman, he will be given a reasonable opportunity of being heard in the matter.

Meetings of the Board [Section 7]
The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations made under Section 30 of the Act.

In the absence of the Chairman: If for any reason, Chairman is unable to attend a meeting, any member chosen by the members present from amongst themselves shall preside over the meeting.

Decision by majority vote: All questions which come up before any meeting shall be decided by majority vote of the members present and the Chairman or the presiding member will have a second or casting vote, in the event of equality of votes.

Member not to participate in meetings in certain cases [Section 7A]
Any member-
- who is a director of a company, and
- who as such director has any indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board,
shall, disclose (as soon as possible after relevant circumstances have come to his knowledge) the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.

Vacancies, etc., not to invalidate proceedings of the Board [Section 8]

- Any vacancy in the Board shall not invalidate any of the acts or proceeding of the Board.
- Similarly, the following reason shall not invalidate any act or proceeding of the Board:

4. POWERS AND FUNCTIONS OF SEBI [SECTION 11]

Subject to the provisions of this Act, it shall be the duty of the Board to protect the interest of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

The measures may provide for:

(a) regulating the business in stock exchanges and any other securities markets;
(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be; associated with securities markets in any manner;
(ba) registering and regulating the working of the depositories, participants, custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf.
(c) registering and regulating the working of venture capital funds and collective investment schemes, including mutual funds;
(d) promoting and regulating self-regulatory organisations;
(e) prohibiting fraudulent and unfair trade practices relating to securities markets;
(f) promoting investors' education and training of intermediaries' of securities markets;
(g) prohibiting insider trading in securities;
(h) regulating substantial acquisition of shares and take-over of companies;
(i) calling for information from, undertaking inspection, conducting inquiries and audits of the stock exchanges, mutual funds, other persons associated with securities market, intermediaries and self-regulatory organizations in the securities market

(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;

(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;

(j) performing such functions and exercising such powers under the provisions of the Securities Contracts (Regulation) Act, 1956, as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section.

(l) conducting research for the above purposes;

(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions.

(m) performing such other functions as may be prescribed.

**Power with respect to inspection of books and Documents:** Further, the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.

**Board are vested with same power as that of civil court:** The Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:
Passing of an order by an Board: The Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;
(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;
(c) suspend any office-bearer of any stock exchange or self-regulatory organization from holding such position;
(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;
(e) attach, for a period not exceeding ninety days, bank accounts or other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:

\[^{3}\text{Clause (e) of sub-section (4) substituted by Banning of Unregulated Deposit Schemes Ordinance, 2019, w.e.f. 21-2-2019.}\]
Provided that the Board shall, within ninety days of the said attachment, obtain confirmation of the said attachment from the Special Court, established under section 26A, having jurisdiction and on such confirmation, such attachment shall continue during the pendency of the aforesaid proceedings and on conclusion of the said proceedings, the provisions of section 28A shall apply:

Provided further that only property, bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached.

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation.

The amount disgorged, pursuant to a direction issued, under the SEBI Act or the Securities Contracts (Regulation) Act, 1956 or the Depositories Act, 1996, as the case may be-

- shall be credited to the Investor Protection and Education Fund (IPEF) established by the Board, and
- such amount shall be utilised by the Board in accordance with the regulations made under this Act.”

Additional functions of SEBI under the Securities Contracts (Regulation) Act, 1956: The Securities Contracts (Regulation) Act, 1956 which was enacted to prevent undesirable transactions in securities and to regulate the business of securities had given certain powers to the Central Government, under the provisions of that Act. The functions of the Central Government under that Act have been granted to SEBI. These functions are:

(a) Power to call for periodical returns or direct enquiries to be made (Section 6 of SCRA): SEBI will receive from every recognised Stock Exchange such periodical returns relating to its affairs as may be prescribed by SCRA rules.

<table>
<thead>
<tr>
<th>Description of Powers</th>
<th>Powers of SEBI</th>
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<tbody>
<tr>
<td>Power to inspect</td>
<td>It shall be open to SEBI to inspect at all reasonable times books of accounts and other documents to be maintained by the Stock Exchanges for periods not exceeding five years as may be prescribed in the public interest and in the interest of trade by the Central Government.</td>
</tr>
<tr>
<td>Power of SEBI to call for information/explanation relating to affairs of the stock exchange</td>
<td>It shall also be open to SEBI to call upon recognised stock exchanges or any member thereof to furnish in writing such information or explanation relating to the</td>
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</table>
affairs of the Stock Exchange or of the member in relation to the stock exchange as may be required by SEBI in the interest of trade or in the public interest.

| SEBI to appoint persons to make an inquiry | It shall also be open to SEBI to appoint, by order in writing, one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such enquiry to SEBI within the time as, specified in the order. In the case of affairs of any of the members of a stock exchange, SEBI can direct the governing body of such stock exchange to make an inquiry and submit its report. |
| SEBI will bound the concerned persons to produce documents before himself /other enquiry officer | Every director, manager, secretary or other officer of such stock exchange, every member of such stock exchange and every constituent or agent of such member if it is a firm and every other person or body of persons having dealings with any of these persons whether directly or indirectly shall be bound to produce before SEBI or other enquiry officer, all books of accounts and other documents in his custody or power relating to the subject matter of the enquiry. This has to be done within the time specified and as may be required by the enquiry authority. |

(b) **Power to approve the bye-laws of stock exchanges:** Section 9 of SCRA provides that any recognised stock exchange may make bye-laws for the regulation and control of contracts with the previous approval of SEBI. Such bye-laws may provide for submission of periodical settlements carried out by clearing houses to SEBI or publication of such particulars by clearing houses subject to SEBI’s directions. Such bye-laws have to be published for public comments and after approval by SEBI shall have to be published in the Gazette of India and also in the Official Gazette of the State unless SEBI, by written order with reasons dispense with the condition of previous publication.

(c) **Power of SEBI to make or amend bye-laws of recognised stock exchanges (Section 10, SCRA):** SEBI may either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion make bye-laws on matters specified in Section 9 of SCRA or amend any bye-laws made by such stock exchange. SEBI will have to be satisfied, after consultation with the governing body of the stock exchange, that it is necessary or expedient to make or amend the bye-laws and record its reasons also.
(d) Licensing of dealers in securities in certain areas (Section 17 SCRA): SEBI has been empowered to grant a license to any person for the business of dealing in securities in any State or area to which Section 13 of SCRA has not been declared to apply. Section 13 of SCRA deals with contracts in notified areas to be illegal in certain circumstances.

(e) Public Issue and listing of securities referred to in section 2 (h) (ie) of SCRA: As per section 17A, securities of the nature referred to in section 2 (h) (ie) shall be offered to the public or listed on any stock exchange unless the issuer fulfills eligibility criteria and complies with other requirements as may be specified by SEBI by regulations.

(f) Power to delegate: Section 29A of SCRA provides that the Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of the SCRA shall, in relation to such matters and subject to such conditions, if any as may be specified in the order, be exercisable also by SEBI or the Reserve Bank of India.

More Powers for SEBI: Certain additional powers with regard to certain provisions under the Companies Act, 2013, related to issue and transfer of securities and non-payment of dividend, in the case of listed public companies intending to get their securities listed on any recognised stock exchange, shall be administered by SEBI.

5. BOARD TO REGULATE OR PROHIBIT ISSUE OF PROSPECTUS, OFFER DOCUMENT OR ADVERTISEMENT SOLICITING MONEY FOR ISSUE OF SECURITIES [SECTION 11A]

(1) As per the section, the Board may, for the protection of investors,—

Specify, by regulations
- the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and
- the manner in which such matters shall be disclosed by the companies;

by general or special orders—
- prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;
- specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.
(2) The Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.

6. COLLECTIVE INVESTMENT SCHEME [SECTION 11AA]

Any scheme or arrangement which satisfies the conditions referred to in sub-section (2) or sub-section (2A) shall be a collective investment scheme.

Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.

Requisite conditions: Any scheme or arrangement made or offered by any person under which, -

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement. [Sub-section 2]

(v) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act [sub-section (2A)].

Exceptions: Following scheme or arrangement shall not be a collective investment scheme -

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934;

(iii) being a contract of insurance to which the Insurance Act, 1938 applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952;

(v) under which deposits are accepted under the Companies Act, 2013

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under the Companies Act, 2013;
(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982;

(viii) under which contributions made are in the nature of subscription to a mutual fund;

(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,

7. POWER TO ISSUE DIRECTIONS [SECTION 11B]

Save as otherwise provided in Section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary:

- in the interest of investors, or orderly development of securities market; or

- to prevent the affairs of any intermediary or other persons referred to in Section 12 being conducted in a manner detrimental to interest of investors or securities market; or

- to secure the proper management of any such intermediary or persons,

Board may issue directions

- to any person or class of persons
- referred to in Section 12, or
- associated with the securities market;

- to any company in respect of matters specified in Section 11A,
- in the interests of investors in securities, and
- the securities market.
Explanation.—For the removal of doubts, it is hereby declared that the 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.

8. INVESTIGATION [SECTION 11C]

(1) **Grounds for issue of an order of investigation:** Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder.

It may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) **Furnishing of relevant documents to the investigating authority:** It shall be the duty of—

- every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12, or
- every person associated with the securities market to preserve, and
- to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) **Period of custody:** The Investigating Authority may keep in its custody any books, registers, other documents and record produced for six months and thereafter shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced:

The Investigating Authority may call for any book, register, other document and record if they are needed again.

If the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other
documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(4) **Examination on oath:** Any person, directed to make an investigation, may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(5) **On failure:** If any person fails without reasonable cause or refuses—

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<th>Failure in compliance</th>
<th>Punishment</th>
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<tr>
<td>(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty to produce; or</td>
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<tr>
<td>(b) to furnish any information which is his duty to furnish; or</td>
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<tr>
<td>(c) to appear before the Investigating Authority personally or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or</td>
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<td>(d) to sign the notes of any examination,</td>
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<td>Person shall be punishable with-</td>
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<td>- imprisonment for a term which may extend to one year, or</td>
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<td>- with fine, which may extend to one crore rupees, or</td>
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<td>- with both, and</td>
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<td>- also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.</td>
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(6) **Notes of examination to be used as examination:** Notes of any examination shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(7) **Impounding of documents :** Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Magistrate or Judge of such designated court in Mumbai, as may be notified by the Central Government for an order for the seizure of such books, registers, other documents and record.

(8) **Demand of services of other officers:** The authorized officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes as specified above with respect to impounding of documents and it
shall be the duty of every such officer to comply with such requisition.

(9) **Order of court:** After considering the application and hearing the Investigating Authority, if necessary, the Magistrate or Judge of the Designated Court may, by order, authorise the Investigating Authority –

- to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;
- to search that place or those places in the manner specified in the order; and
- to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation:

**Exemptions:** Provided that the Magistrate or Judge of the Designated Court shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.

(10) **Impounded documents will remain in the custody of investigating authority:** The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate or Judge of the Designated Court of such return:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.
9. CEASE AND DESIST PROCEEDINGS [SECTION 11D]

If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.

10. REGISTRATION CERTIFICATE [SECTION 12]

<table>
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<tr>
<th>Provision related to</th>
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<tbody>
<tr>
<td>Persons who are authorized to buy, sell or deal in securities</td>
<td>Stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act</td>
</tr>
<tr>
<td>Board may by notification specify the persons who shall buy or sell or deal in securities</td>
<td>Depository, participant, custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act;</td>
</tr>
<tr>
<td>Person who shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds and collective investment scheme including mutual funds</td>
<td>Shall be, who obtains certificate of registration from the Board in accordance with the regulations.</td>
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Manner of application for registration: Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.
Suspension/cancellation of a certificate of registration: The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations; Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

11. PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL [SECTION 12A]

<table>
<thead>
<tr>
<th>Prohibition on person</th>
<th>From performing following activities</th>
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</table>
| No person shall directly or indirectly | use or employ in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange,  
- any manipulative or deceptive device or  
- contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder; |
| | employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange; |
| | engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder; |
| | engage in insider trading;  
- deal in securities while in possession of material or non-public information or  
- communicate such material or non-public information to any other person, -in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;  
- acquire control of any company or securities more than the percentage of equity share capital of a company |
12. FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government [Section 13]

The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund [Section 14]

(1) There shall be constituted a Fund to be called the Securities and Exchange Board of India General Fund and there shall be credited thereto-

• all grants, fees and charges received by the Board under this Act;
• all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

• the salaries, allowances and other remuneration of the members, officers and other employees of the Board;
• the expenses of the Board in the discharge of its functions under section 11;
• the expenses on objects and for purposes authorised by this Act.

Accounts and audit [Section 15]

(1) Preparation of annual financial statement of Board in consultation with CAG of India:
The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) Audit of accounts of Board: The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) Right and Privileges: The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and,
in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) **Certified Accounts and Audit reports to be forwarded to the Central Government:** The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

### 13. PENALTIES AND ADJUDICATION

**Penalty for failure to furnish information, return, etc. [Section 15A]**

If any person, who is required under this Act or any rules or regulations made thereunder,—

- 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

**Penalty for failure by any person to enter into agreement with clients [Section 15B]**

If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such 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.

Penalty for failure to redress investors’ grievances [Section 15C]

If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board,

• such company or intermediary 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 certain defaults in case of mutual funds [Section 15D]

<table>
<thead>
<tr>
<th>Person liable</th>
<th>For defaults</th>
<th>Punishments levied</th>
</tr>
</thead>
<tbody>
<tr>
<td>If any person, who is—</td>
<td>required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration</td>
<td>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 he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees;</td>
</tr>
<tr>
<td></td>
<td>registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration</td>
<td>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;</td>
</tr>
<tr>
<td></td>
<td>registered with the Board as a collective investment scheme, including mutual funds,</td>
<td>he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh</td>
</tr>
<tr>
<td>Make an application for listing of its schemes as provided for in the regulations governing such listing</td>
<td>Rupees for each day during which such failure continues subject to a maximum of one crore rupees;</td>
<td></td>
</tr>
<tr>
<td>Registered as a collective investment scheme, including mutual funds, fails to dispatch unit certificates of any scheme in the manner provided in the regulation governing such dispatch</td>
<td>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;</td>
<td></td>
</tr>
<tr>
<td>Registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>Registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations</td>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

**Penalty for failure to observe rules and regulations by an asset management company [Section 15E]**

Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies,

- such asset management company 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 default in case of stock brokers [Section 15 F]

<table>
<thead>
<tr>
<th>Person, registered as a stock broker</th>
<th>fails to issue</th>
<th>contract notes in the form and manner specified by the stock exchange of which such broker is a member,</th>
<th>he shall be liable to a penalty of more than 1 lakh but which may extend to for which the contract note was required to be issued by that broker</th>
</tr>
</thead>
<tbody>
<tr>
<td>fails to deliver</td>
<td>any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations</td>
<td>he shall be liable to a penalty of more than 1 lakh but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees</td>
<td></td>
</tr>
<tr>
<td>charges</td>
<td>an amount of brokerage which is in excess of the brokerage specified in the regulations</td>
<td>he shall be liable for more than 1 lakh but which may extend to five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher</td>
<td></td>
</tr>
</tbody>
</table>

### Penalty for insider trading [Section 15G]

Any insider shall be liable to a penalty of more than ten lakh rupees extending upto twenty-five crore rupees / three times the amount of profits made out of insider trading, whichever is higher, who-

- either on his own behalf or on behalf of any other person
- communicates any unpublished price-sensitive information to any person, with or without his request for such information
- counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information
- deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or
- except as required in the ordinary course of business or under any law, or

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### Penalty for non-disclosure of acquisition of shares and takeovers [Section 15H]

<table>
<thead>
<tr>
<th>Condition</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—</td>
<td></td>
</tr>
<tr>
<td>disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or</td>
<td></td>
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<tr>
<td>make a public announcement to acquire shares at a minimum price; or</td>
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<tr>
<td>make a public offer by sending letter of offer to the shareholders of the concerned company; or</td>
<td></td>
</tr>
<tr>
<td>make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,</td>
<td></td>
</tr>
<tr>
<td>he shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.</td>
<td></td>
</tr>
</tbody>
</table>

### Penalty for fraudulent and unfair trade practices [Section 15HA]

If any person indulges in fraudulent and unfair trade practices relating to securities, 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 or
- three times the amount of profits made out of such practices.

### Penalty for contravention where no separate penalty has been provided [Section 15HB]

Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be 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 15-I]

<table>
<thead>
<tr>
<th>On the Matters Related to</th>
<th>Power to Adjudicate</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15HA and 15HB</td>
<td>Board shall appoint any officer not below the rank of a Division Chief 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.</td>
</tr>
<tr>
<td>On holding of an inquiry</td>
<td>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 subsection (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.</td>
</tr>
<tr>
<td>Order passed by adjudicating officer is not justified</td>
<td>The Board may call for and examine the record of any proceedings 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: <strong>Limitation period:</strong> 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 15T, whichever is earlier.</td>
</tr>
</tbody>
</table>
Factors to be taken into account by the adjudicating officer [Section 15J]

While adjudging quantum of penalty under section 15-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.

It is clarified here that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of sections 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

Crediting sums realised by way of penalties to Consolidated Fund of India [Section 15JA]

All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Settlement of administrative and civil proceedings [Section 15 JB]

(1) **Filing of an application:** Any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-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) **Board may consider for settlement of defaults:** 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 this Act.

(3) **Mode of settlement proceedings:** The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) **No appeal preferred:** No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.

14. ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF SECURITIES APPELLATE TRIBunal (SAT)

Establishment of Securities Appellate Tribunals [Section 15K]

(1) The Central Government shall, by notification, establish a Tribunal to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force.
(2) The Central Government shall also specify in the notification referred to in sub-section (1), the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

Composition of Securities Appellate Tribunal [Section 15L]

(1) The Securities Appellate Tribunal shall consist of a Presiding Officer and such number of Judicial Members and Technical Members as the Central Government may determine, by notification, to exercise the powers and discharge the functions conferred on the Securities Appellate Tribunal under this Act or any other law for the time being in force.

(2) Subject to the provisions of this Act,—
   (a) the jurisdiction of the Securities Appellate Tribunal may be exercised by Benches thereof;
   (b) a Bench may be constituted by the Presiding Officer of the Securities Appellate Tribunal with two or more Judicial or Technical Members as he may deem fit:
       Provided that every Bench constituted shall include at least one Judicial Member and one Technical Member;
   (c) the Benches of the Securities Appellate Tribunal shall ordinarily sit at Mumbai and may also sit at such other places as the Central Government may, in consultation with the Presiding Officer, notify.

(3) The Presiding Officer may transfer a Judicial Member or a Technical Member of the Securities Appellate Tribunal from one Bench to another Bench.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal [Section 15M]

A person shall not be qualified for appointment as the Presiding Officer or a Judicial Member or a Technical Member of the Securities Appellate Tribunal, unless he—

(a) is, or has been, a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least seven years, in the case of the Presiding Officer; and

(b) is, or has been, a Judge of High Court for at least five years, in the case of a Judicial Member; or

(c) in the case of a Technical Member—
   (i) is, or has been, a Secretary or an Additional Secretary in the Ministry or Department of the Central Government or any equivalent post in the Central Government or a State Government; or
is a person of proven ability, integrity and standing having special knowledge and professional experience, of not less than fifteen years, in financial sector including securities market or pension funds or commodity derivatives or insurance.

**Appointment of judicial member [Section 15MA]**

The Presiding Officer and Judicial Members of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

**Appointment of technical member [Section 15MB]**

(1) The Technical Members of the Securities Appellate Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee consisting of the following, namely:—

(a) Presiding Officer, Securities Appellate Tribunal—Chairperson;
(b) Secretary, Department of Economic Affairs—Member;
(c) Secretary, Department of Financial Services—Member; and
(d) Secretary, Legislative Department or Secretary, Department of Legal Affairs—Member.

(2) The Secretary, Department of Economic Affairs shall be the Convener of the Search-cum Selection Committee.

(3) The Search-cum-Selection Committee shall determine its procedure for recommending the names of persons to be appointed under sub-section (1).

**Validity of appointment of Presiding officer and members of SAT [Section 15MC]**

(1) No appointment of the Presiding Officer, a Judicial Member or a Technical Member of the Securities Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Search cum- Selection Committee.

(2) **Disqualification of members:** A member or part time member of the Board or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, or any person at senior management level equivalent to the Executive Director in the Board or in such Authorities, shall not be appointed as Presiding Officer or Member of the Securities Appellate Tribunal, during his service or tenure as such with the Board or with such Authorities, as the case may be, or within two years from the date on which he ceases to hold office as such in the Board or in such Authorities.

(3) **Effect of holding of office by officer or members on commencement of Finance Act, 2017:** The Presiding Officer or such other member of the Securities Appellate Tribunal, holding office on the date of commencement of Part VIII of Chapter VI of the Finance Act, 2017 shall continue to hold office for such term as he was appointed and the other provisions
of this Act shall apply to such Presiding Officer or such other member, as if Part VIII of Chapter VI of the Finance Act, 2017 had not been enacted.

Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal [Section 15N]

The Presiding Officer or every Judicial or Technical Member of the Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, and shall be eligible for reappointment for another term of maximum five years:

Provided that no Presiding Officer or the Judicial or Technical Member shall hold office after he has attained the age of seventy years.

Salary and allowances and other terms and conditions of service of Presiding Officers [Section 15-O]

The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the Presiding Officer and other Members of a Securities Appellate Tribunal shall be such as may be prescribed.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer and other Members of a Securities Appellate Tribunal shall be varied to their disadvantage after appointment.

Filling up of vacancies [Section 15P]

If, for reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer or any other Member of a Securities Appellate Tribunal-

- then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and
- the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

In the event of occurrence of any vacancy in the office of the Presiding Officer of the Securities Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Judicial Member of the Securities Appellate Tribunal shall act as the Presiding Officer until the date on which a new Presiding Officer is appointed in accordance with the provisions of this Act. [Section 15PA]

Resignation and removal [section 15Q]

(1) **Resignation by notice in writing:** The Presiding Officer or any other Member of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office.

Provided that the Presiding Officer or any other Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office-
2.30 CORPORATE AND ECONOMIC LAWS

- until the expiry of three months from the date of receipt of such notice or
- until a person duly appointed as his successor enters upon his office or
- until the expiry of his term of office,

(2) **Removal of Presiding officer/Judicial member/Technical member:** The Central Government may, after an inquiry made by the Judge of the Supreme Court, remove the Presiding Officer or Judicial Member or Technical Member of the Securities Appellate Tribunal, if he—

(a) is, or at any time has been adjudged as an insolvent;
(b) has become physically or mentally incapable of acting as the Presiding Officer, Judicial or Technical Member;
(c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;
(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest; or
(e) has acquired such financial interest or other interest as is likely to affect prejudicially his functions as the Presiding Officer or Judicial or Technical Member:

Provided that he shall not be removed from office under clauses (d) and (e), unless he has been given a reasonable opportunity of being heard in the matter.

(3) **Central Government authorized to regulate the procedure of investigation:** The Central Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of the Presiding Officer or any other Member.

Appointment, qualification and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal to be governed by Finance Act, 2017 [Section 15QA]

(i) **Where the qualification, appointment etc. is after the commencement of Finance Act, 2017:** Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act.

(ii) **Where the qualification, appointment etc. is before the commencement of Finance Act, 2017:** Provided that the Presiding Officer and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the
provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings [Section 15R]

No order of the Central Government appointing any person as the Presiding Officer or a Member of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

Staff of the Securities Appellate Tribunal [Section 15S]

(1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal [Section 15T]

(1) Any person aggrieved, —

(a) by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act; or

(c) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(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 made by the Board or the Adjudicating Officer or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be, is received by him 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 Board, or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be 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 endeavor shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal [Section 15U]

(1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(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;

(h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal 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 (45 of 1860), and the Securities Appellate Tribunal 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 (2 of 1974).

(4) Where Benches are constituted, the Presiding Officer of the Securities Appellate Tribunal may, from time to time make provisions as to the distribution of the business of the Securities Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with, by each Bench.
On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Presiding Officer of the Securities Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

If a Bench of the Securities Appellate Tribunal consisting of two members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Presiding Officer of the Securities Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing only on such point or points by one or more of the other members of the Securities Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the members of the Securities Appellate Tribunal who have heard the case, including those who first heard it.

**Right to legal representation [Section 15V]**

The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

**Limitation [Section 15W]**

The provisions of the Limitation Act, 1963 shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

**Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants [Section 15X]**

The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

**Civil Court not to have jurisdiction [Section 15Y]**

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**Appeal to Supreme Court [Section 15Z]**

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 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 applicant 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.

15. MISCELLANEOUS

Power of Central Government to issue directions [Section 16]

(1) Without prejudice to the foregoing provisions of this Act or the Depositories Act, 1996, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board [Section 17]

If at any time the Central Government is of opinion that Board unable to perform its functions, it may by notification, supersede the Board for such period, not exceeding six months.

Reasons to supersede the Board-

- on account of grave emergency, the Board is unable to discharge the functions and duties under the provisions of this Act; or
- that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or
- default in the discharge of the functions and duties imposed under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or
- that circumstances exist which render it necessary in the public interest so to do

Effect of publication of notification of superseding the Board:

Upon the publication of a notification of superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted, be exercised and discharged by such person or persons as the Central Government may direct; and
(c) all property owned or controlled by the Board shall, until the Board is reconstituted vest in the Central Government.

**Reconstitution of Board on the expiration of the period of supersession:**

On the expiration of the period of supersession specified in the notification, the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices, shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action.

**Complete reports and action taken to be laid before the Parliament:** The Central Government shall cause a notification issued and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

**Returns and reports [Section 18]**

(1) **Furnishing of returns and reports by the Board to the Central Government:** The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) **Report of previous financial year by the Board:** the Board shall, within ninety days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) **Report to be presented before Parliament:** A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

**Appeals [Section 19]**

(1) **Appeal to Central Government:** Any person aggrieved by an order of the Board made, before the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) **No appeal after expiry of limitation:** No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor.

However, it is admitted after the expiry of the period prescribed if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) **Appeal shall be made in prescribed form with a copy of an order:** Every appeal made
under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed. Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

Members, officers and employees of the Board to be public servants [Section 22]

All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith [Section 23]
Offences [Section 24]

(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 made thereunder, 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 24A]

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), 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 24B]

(1) The Central Government may, on recommendation by the Board, 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 the 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.

Exception: 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 recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) Withdrawal of granted immunity by the Central Government: An immunity granted to a person above 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.

Cognizance of offences by courts [Section 26]

(1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board.

Special Courts [Section 26A]

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<thead>
<tr>
<th>Establishment of Special Courts [Section 26A]</th>
<th>Offences triable by Special Courts [Section 26 B]</th>
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<tbody>
<tr>
<td>(1) <strong>Establishment of Special Court:</strong> 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.</td>
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<td>(2) <strong>Composition:</strong> 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.</td>
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<td>(3) <strong>Qualification for appointment:</strong> 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.</td>
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<tr>
<td>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—</td>
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<tr>
<td>• 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</td>
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<td>• such one of them as may be specified in this behalf by the High Court concerned.</td>
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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 of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this section.

Offences by companies [Section 27]

(1) Where an offence under this Act has been committed by a company—every person who at the time the offence was committed was in charge 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:

Exemption: This sub-section shall not 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 had 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 neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,—

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

(b) director, in relation to a firm, means a partner in the firm.

Recovery of amounts [Section 28A]

(1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order 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 made 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 15T 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 11B, 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.

Power to make rules [Section 29]

(1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) Omitted

(d) the manner in which the accounts of the Board shall be maintained under section 15;

(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the Presiding Officers, Members and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers, or other Members of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations [Section 30]

(1) The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) 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 times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

(c)\(a\) the utilisation of the amount credited under sub-section (5) of section 11;

(c)\(b\) the fulfilment of other conditions relating to collective investment scheme under subsection (2A) of section 11AA;

(d) the conditions subject to which certificate of registration is to be issued, the amount of fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.

(d)\(a\) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(d)\(b\) 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.

Rules and regulations to be laid before Parliament [Section 31]

Every rule and every 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 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.

Application of other laws not barred [Section 32]

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to remove difficulties [Section 34]

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:
Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Validation of certain acts [Section 34A]

34A. Any act or thing done or purporting to have been done under the principal Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and 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.

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SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

1. **SCOPE**

On September 2, 2015, SEBI notified the Listing Obligations and Disclosure Requirements Regulations, 2015 to be called as the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 with objectives:-
To align clauses of the listing agreement with Companies Act and secondly, to consolidate the conditions under different securities' listing agreements in one single regulation. The 2015 Regulations are applicable to any entity (whether a company or not) accessing the stock exchange, for listing equity shares (on main board, SME exchange, institutional trading platforms), debt securities, preference shares, depository receipts, securitized debt instruments, mutual fund units, and other securities as may be specified by SEBI.

2. **INTRODUCTION**

Securities and Exchange Board of India (SEBI), on September 2, 2015, issued SEBI (Listing and Disclosure) Regulations, 2015 on listing of different segments of the capital market and disclosure norms in relation thereto.

These regulations have been structured into single document with the aim to consolidate and streamline the provision of existing listing agreements for different segments of capital markets, such as equity shares (including convertibles), non-convertible debt securities, etc. for ensuring better enforceability.

The latest set of norms provides broad principles for periodic disclosures by listed entities, apart from incorporating corporate governance principles. These regulations shall apply to the listed entity who has listed any of the following designated securities on recognized stock exchange(s):

- Specified securities listed on main board or SME Exchange or Institutional trading platform;
- Non-convertible debt securities, non-convertible redeemable preference Shares, perpetual debt instrument, perpetual non-cumulative preference Shares;
- Indian depository receipts;
- Securitized debt instruments;
- 4security receipts;
- Units issued by mutual funds;
- Any other securities as may be specified by the Board.

**Key features of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 -**

1. **Composition of Board:** Regulation 17(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 states that company should have optimum combination of executive and non-executive directors, with not less than 50% of directors comprising of non-executive directors. Minimum age of director should be 21 years.

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4 Clause (da) inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2018, w.e.f. 6-9-2018.
Independent directors – Regulation 17 specifies that where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors.

Where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors (i.e., 50%) shall comprise of independent directors.

Provided that where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors- at least half of the board of directors of the listed entity shall consist of independent directors.

If the promoter is a company (and not individual), "related to any promoter" means –

(a) If the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it,

(b) If the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.

[Explanation to proviso to regulation 17(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015].

Provisions relating to independent directors are not applicable to section 8 (licensed i.e. non-profit) companies [ MCA Notification dated 5-6-2015 issued under section 462 of Companies Act, 2013]

Disclosure about relationships between directors - Disclosure about relationship between directors inter-se shall be made in the Annual Report, notice of appointment of director, prospectus and letter of offer for issuance and related filings made to stock exchange, where the company is listed.

Vacancy in post of independent director - Vacancy in post of independent director should be filled within three months - Schedule IV of Companies Act, 2013.

2. Board meetings and information to be given to Board: Regulation 17(2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides of conduct of Board meetings. It shall be held at least four times in a year, with maximum time gap of 120 days between the meetings.

Review of compliance report – As per Regulation 17(3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 201, Board will periodically review compliance reports of all laws applicable to company, prepared by company and steps taken by company to rectify instances of non-compliance.
3. Restrictions on Committee membership

<table>
<thead>
<tr>
<th>Nature of holding of office by a person</th>
<th>Maximum Ceiling</th>
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<tr>
<td>A person shall be a member of committees of Board</td>
<td>10</td>
</tr>
<tr>
<td>A person shall be a chairperson of committees</td>
<td>5 (across all companies in which he is director)</td>
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For purpose of considering the limit of committees on which a director can serve, all listed and unlisted public companies will be included, but other companies (private companies, foreign companies, section 8 companies) will be excluded.

Further, only two committees i.e. Audit committee and Stockholders’ Relationship Committee shall be considered for purpose of the limit, i.e. membership of other committees will not be considered [Regulation 26(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015]

4. Qualified and independent Audit Committee: Company will form a qualified and independent audit committee. The requirements are contained in Regulation 18 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

5. Corporate governance requirements with respect to Subsidiary Companies of listed company Regulation 24 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 also apply to listed subsidiary, if it has subsidiaries.

At least one independent director on the Board of Directors of the holding company shall be a director on the Board of Directors of the subsidiary company. The Audit Committee of the holding company shall also review the financial statements, in particular the investments made by the subsidiary company. The minutes of the Board meetings of the subsidiary company shall be placed for review at the Board meeting of the holding company. The Management should bring to notice of Board of holding company all significant transactions and arrangements entered into by unlisted subsidiary company.

Listed entity shall not dispose of shares in its material subsidiary without special resolution in general meeting.

6. Disclosures of events or information: All material disclosures should be made. Following are the disclosures given in Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Following disclosures shall be made -

Basis of related party transactions - A statement of all transactions with related parties including their basis shall be placed before the Audit Committee. Material transactions which are not in normal course of business shall be placed before audit committee. If any transaction is not on an arm's length basis, management shall provide an explanation to the Audit Committee justifying the same.
Disclosure of Accounting Treatment – In case of non-compliance of accounting standards, the fact should be disclosed in financial statement, together with management's explanation why the alternate treatment is giving better view.

Disclosure of risks and risk management - Company shall lay down procedures to inform Board members about the risk assessment and minimization procedures. These procedures shall be periodically reviewed to ensure that executive management controls risk through means of a properly defined framework.

Proceeds from Initial Public Offerings (IPOs) - When money is raised through an Initial Public Offering (IPO) it shall disclose to the Audit Committee, the uses/applications of funds by major category (capital expenditure, sales and marketing, working capital, etc), on a quarterly basis as a part of their quarterly declaration of financial results. Further, on an annual basis, the company shall prepare a statement of funds utilized for purposes other than those stated in the offer document/prospectus. This statement shall be certified by the statutory auditors of the company. Where company has appointed monitoring agency to monitor utilisation of proceeds of public or rights issue, the report of monitoring committee will be placed before audit committee. The audit committee shall make appropriate recommendations to the Board to take up steps in this matter.

Remuneration of Directors - All pecuniary relationship or transactions of the non-executive director's vis-à-vis the company shall be disclosed in the Annual Report. Disclosure about remuneration giving prescribed details should be made in section on Corporate Governance.

Management discussion and analysis report of Board - A management discussion and analysis report of Board shall form part of annual report to shareholders. The report should include following matters within the limits set by the company's competitive position - (a) Industry structure and development (b) Opportunities and threats (c) Segment-wise or product wise performance (d) Outlook (e) Risks and concerns (f) Internal control systems and their adequacy (g) Discussion on financial performance with respect to operational performance (h) Material developments in human resources/industrial relations.

Business Responsibility Statement - Companies are expected to make public disclosure regarding steps taken from Environment, Social and Governance (ESG) perspective. Companies should submit BR Report as part of Annual Report. [Regulation 34(2)(f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015]

Disclosure when director is to be appointed/re-appointed - In case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information - (a) A brief resume of the director; (b) Nature of his expertise in specific functional areas (c) Names of companies in which the person also holds the directorship and the membership of Committees of the Board and (d) Shareholding of non-executive directors in the company either own or as beneficiary.
2.48 CORPORATE AND ECONOMIC LAWS

Information about company on web - Quarterly results and presentation made by companies to analysts shall be put on company's web-site, or shall be sent in such a form so as to enable the stock exchange on which the company is listed to put it on its own web-site.

7. CEO/CFO certification: CEO (either the Managing Director or Manager appointed under Companies Act) and the CFO (whole-time Finance Director or other person discharging this function) of the company shall certify to Board that, they have reviewed the financial statements and the cash flow statements and to the best of their knowledge and belief these statements are true.

The certificate should be submitted to Board annually before or at the time when the annual accounts are presented to Board.

Appointment of CFO shall be approved by Audit Committee before finalisation of appointment of CFO by management.


Board of Directors - (i) Composition and category of directors, for example, promoter, executive, non-executive, independent non-executive, nominee director, which institution represented as lender or as equity investor (ii) Attendance of each director at the Board of Directors (BoD) meetings and the last AGM (iii) Number of other BoDs or Board Committees in which he/she is a member or Chairperson (iv) Number of BoD meetings held, dates on which held.

Audit Committee - (i) Brief description of terms of reference (ii) Composition, name of members and Chairperson (iii) Meetings and attendance during the year.

Remuneration Committee - (i) Brief description of terms of reference (ii) Composition, name of members and Chairperson (iii) Attendance during the year (iv) Remuneration policy (v) Details of remuneration to all the directors, as per format in main report.

Shareholders Grievance Committee - (i) Name of non-executive director heading the committee (ii) Name and designation of compliance officer (iii) Number of shareholders' complaints received so far (iv) Number not solved to the satisfaction of shareholders (v) Number of pending complaints.

General Body meetings - (i) Location and time, where last three AGMs held (ii) Whether any special resolutions passed in the previous 3 AGMs (iii) Whether any special resolution passed last year through postal ballot - details of voting pattern (iv) Person who conducted the postal ballot exercise (v) Whether any special resolution is proposed to be conducted through postal ballot (vi) Procedure for postal ballot.

Disclosures - (i) Disclosures on materially significant related party transactions that may have potential conflict with the interests of company at large (ii) Details of non-compliance by the company, penalties, strictures imposed on the company by Stock Exchange or SEBI or any statutory authority, on any matter related to capital markets, during the last three years (iii) Whistle Blower policy and...
affirmation that no personnel has been denied access to the audit committee (iv) Details of compliance with mandatory requirements and adoption of non-mandatory requirements of clause 49.

9. Transparency and disclosures: SEBI has provided for many disclosures to bring transparency and ensure adequate disclosures to members and public. Some important measures are (a) Publication of quarterly unaudited reports with segment reporting within one month (b) Quarterly limited review by auditors (c) Disclosures about important events in the company (d) Disclosures in Directors' Report.


(a) Section 134(3) of Companies Act, 2013 requires statement of annual evaluation by Board of its own performance and of committees

(b) section 178(2) of Companies Act, 2013 requires Nomination and Remuneration Committee to identify persons to be directors

(c) Schedule IV - Performance evaluation of independent directors

(d) SEBI (LODR) Regulations covering provisions relating to functions of Board, performance evaluation of directors, role of Nomination and Remuneration Committee and Corporate Governance Report.

Further, the Listing Regulations have been sub-divided into two parts viz.,:

(a) Substantive provisions incorporated in the main body of Regulations,

(b) Procedural requirements in the form of schedules to the Regulations

3. COMMON OBLIGATIONS OF LISTED ENTITIES

This part deals with the obligations and responsibilities upon all the listed entities. A responsibility has been cast upon Key Managerial Personnel (KMP'S), Directors, and Promoters that they shall comply with responsibilities or obligations assigned to them under the regulations. [Regulation 5]

The following are the common obligations on Listed entities:

(1) Regulation 6: Compliance Officer And his Obligations: A listed entity shall appoint a qualified Company Secretary as the Compliance Officer. The Compliance officer so appointed shall be responsible for ensuring conformity with regulatory compliance, co-ordination and reporting to the Board, ensuring that correct procedures have been followed that would result in correctness of information filed by listed entity under the regulations and monitoring email address of grievance redressal division.
2.50 CORPORATE AND ECONOMIC LAWS

(2) Regulation 7: Share Transfer Agent: The listed entity shall appoint a share transfer agent or manage the share transfer facility in house.

4. REGULATION 24: CORPORATE GOVERNANCE REQUIREMENTS WITH RESPECT TO SUBSIDIARY OF LISTED ENTITY.

The Board: 5(1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

Explanation.— the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty per cent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.

A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than fifty per cent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.

Selling, disposing and leasing of assets amounting to more than 20% of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.

5. QUARTERLY COMPLIANCES– Listed Entity

A. Regulation 13(3):- Grievance Redressal Mechanism

The listed entity shall file with the recognized stock exchange(s) on a quarterly basis, within 21 days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.

5 Substituted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, with effect from the half year ending March 31, 2019, w.e.f. 1-4-2019.
B. Regulation 27(2): Other Corporate Governance Requirements
A listed entity shall submit quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognized stock exchange(s), Within **15 days** from close of quarter.

C. Regulation 31(1): Holding of Specified Securities and Shareholding Pattern.
A listed entity shall submit a statement showing holding of securities and shareholding pattern separately for each class of securities:
(a) **One day** prior to listing of its securities on the stock exchange(s);
(b) On a quarterly basis, **within 21 days** from the end of each quarter; and,
(c) **Within 10 days** of any capital restructuring of the listed entity resulting in a change exceeding **2 % per cent** of the total paid-up share capital.

D. Regulation 33(3): Financial Results
The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange **within 45 days** of end of each quarter, other than the last quarter.

E. Regulation 32(1): Statement of Deviation(S) Or Variation(S)
A listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc.,-
(a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;
(b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilization of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilization of funds.

6. PRIOR INTIMATION OF BOARD MEETING

A. Regulation 29(1): Financial Results
At least **5 days** in advance (excluding date of meeting and date of intimation).

B. Other Matters Regulation 29(2)
For following purposes Intimation shall be required to be made at least **2 working days** in advance, excluding the date of the intimation and date of the meeting:-
- Proposal for Voluntary Delisting by the listed entity from the stock exchange(s);
- Fund raising by way of further public offer, rights issue, American Depository Receipts/Global Depository Receipts/Foreign Currency Convertible Bonds, qualified institutions placement, debt issue, preferential issue or any other method and for determination of issue price.
• Declaration/recommendation of dividend, issue of convertible securities including convertible debentures or of debentures carrying a right to subscribe to equity shares or the passing over of dividend
• The proposal for declaration of bonus securities where such proposal is communicated to the board of directors of the listed entity as part of the agenda papers;
• Proposal for Buyback of Securities.

C. Regulation 29(3): Prior Intimation
The listed entity shall give intimation to the stock exchange(s) at least 11 working days before any of the following proposal is placed before the board of directors -
• Any alteration in the form or nature of any of its securities that are listed on the stock exchange or in the rights or privileges of the holders thereof.
• Any alteration in the date on which, the interest on debentures or bonds, or the redemption amount of redeemable shares or of debentures or bonds, shall be payable.

D. Regulation 42(2): Record Date or Date of Closure of Transfer Books
A listed entity shall give notice in to stock exchange(s) of record date specifying the purpose of the record date, at least 7 working days (excluding the date of intimation and the record date).

E. Regulation 42(3): Dividend
A listed entity shall recommend or declare all dividend and/or cash bonuses At least 5 working days (excluding the date of intimation and the record date) before the record date.

F. Regulation 46(3):- Website
A listed entity shall update any change in the content of its website Within 2 working days from the date of such change in content.

7. ANNUAL / YEARLY COMPLIANCES
The annual/yearly compliances that have to be followed are as follows:

A. Regulation 33(3): Financial Results: Listed entity shall submit audited standalone financial results for the financial year, along with the audit report and either Form A (for audit report with unmodified opinion) or Form B (for audit report with modified opinion) within 60 days from end of Financial Year.

B. Regulation 34: Annual Report: The listed entity shall submit to the stock exchange and publish on its website—

6 Substituted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018. The amendment shall be applicable in respect of the Annual report filed for the year ended March 31, 2019 and thereafter.
(a) a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders;

(b) in the event of any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent not later than 48 hours after the annual general meeting.

C. Regulation 36(2): Documents & Information to Shareholders: A listed entity shall send annual report to the holders of securities not less than 21 days before the Annual General Meeting.

8. ROLE OF COMPLIANCE OFFICER

The role of a Compliance Officer is as follows:

- Listed Company shall ensure KMP, Directors, Promoters complies with obligations
- Compliance Officer ensure listed Company confirms with regulatory provisions in letter and spirit.
- Co-ordination with – Board and Stock Exchange
- Report to – Board and Stock Exchange.
- Ensure – Correct, Authentic, Comprehensive info is filed.
- Monitor email id for grievance redressal.
- Determining materiality of information to be reported to stock exchange.
- Report to Board about compliance.
- Ensure compliance with SS 1(Board Meeting) and SS 2(General Meeting)
  - To provide guidance to director about their Duties.
  - To assist board in conduct of affairs of the Company.
  - Assist and Advice board in complying with CG and best practices.
  - Facilitate meeting / represent company etc.

9. CORPORATE GOVERNANCE

- Approval for related party transactions through a resolution [As per Clause 49 of Listing Agreement, it was Special Resolution]
- All existing material related party contracts / arrangements, prior to the date of notification of these Regulations, and which may continue beyond, to be placed for approval of the shareholders in first General Meeting subsequent to notification of these Regulations.
Compliance Report on Corporate Governance

The following reports are submitted to Stock Exchange:

- **Quarterly Compliance Report** – to be submitted within 15 days from end of quarter
- **Compliance Report** to be submitted within 6 months from the end of financial year – may be submitted along with second quarter report.
- **Annual Compliance Report.**

10. TYPES OF COMMITTEES UNDER LODR REGULATIONS

A. **Audit Committee:**

Every listed entity shall constitute a qualified and independent audit committee which shall have:

(a) The audit committee shall have minimum three directors as members.
(b) Two-thirds of the members of audit committee shall be independent directors.
(c) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.
(d) The chairperson of the audit committee shall be an Independent Director and he shall be present at Annual general meeting to answer shareholder queries.
(e) The Company Secretary shall act as the secretary to the audit committee.
(f) The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee.

Meetings of Audit Committee:

(a) The audit committee shall meet at least four times in a year and not more than 120 days shall elapse between two meetings.
(b) The Quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least 2 Independent directors.
(c) The audit committee shall have powers to investigate any activity within its terms of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.

B. **Nomination and Remuneration Committee:**

The Board of directors shall constitute the nomination and remuneration committee as follows:

- The committee shall comprise of at least 3 directors;
- All directors of the committee shall be Non-Executive Directors; and
• At least **50 percent** of the directors shall be independent directors.

The **Chairperson** of the nomination and remuneration committee shall be an independent director: **Provided** that the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee. 

The nomination and remuneration committee shall meet at least once in a year.

**C. Stakeholders Relationship Committee:**

The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest of shareholders, debenture holders and other security holders.

• The Chairperson of this committee shall be a Non-Executive director.

• The Board of Directors shall decide other members of this committee.

• At least three directors, with at least one being an independent director, shall be members of the Committee.

**D. Risk Management Committee**

• The Board of directors shall constitute a Risk Management Committee.

• The majority of members of Risk Management Committee shall consist of members of the board of directors.

• The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee.

• The Board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit such function shall specifically cover cyber security.

• The provisions of this regulation regarding risk management committee shall be applicable to top **500 listed entities**, determined on the basis of market capitalization, as at the end of the immediate previous financial year.

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7 Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019.
8 Substituted for "the mechanism of redressal of grievances" the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019.
9 Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019.
10 Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019.
11 Substituted for "100" the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1-4-2019.
Multiple Choice Question

1. Mr. KG filed a complaint against Mr. P alleging that Mr. P has communicated unpublished price sensitive information to Mr. X. Mr. P took a plea that Mr. X requested him for such information and it was done bonafidely. State the correct statement as to the liability of Mr. P in the given situation-

(a) Mr. P will not be liable as he communicated about unpublished price sensitive information on the request of Mr. X
(b) Mr. P will not be liable as he communicated about unpublished price sensitive information to Mr. X, in the ordinary cause of business
(c) Mr. P will not be liable as he communicated about unpublished price sensitive information to Mr. X as it was done without any malafide intention.
(d) Mr. P will be liable as he communicated about unpublished price sensitive information to Mr. X, whether with or without his request for such information.

2. Number of independent directors in Audit committee-

(a) one-third of the members of audit committee.
(b) Two-thirds of the members of audit committee shall be independent directors.
(c) minimum 2
(d) minimum 3

3. For how much capital restructuring, the listed entity shall submit a statement showing holding of securities and shareholding pattern with the stock exchange:

(a) resulting in a change exceeding 1% of the total paid-up share capital
(b) resulting in a change exceeding 2% of the total paid-up share capital
(c) resulting in a change exceeding 2.5% of the total paid-up share capital
(d) resulting in a change exceeding 2% of the total issued share capital

4. SEBI has imposed a penalty on Hotel Leel Ventures Ltd. for violation of Takeover Code. The directors of Management is seeking your advice to apprise them with the time period for filling an appeal with SAT and Supreme Court? Suggest what will be the time period for filing appeal with SAT and Supreme Court?

(a) In case of filing appeal with SAT: Within 45 days from the date of order of the copy made by SEBI or adjudicating officer and in case of filing appeal with Supreme Court: Within 60 days from the date of communication of the decision or order of SAT.
(b) In case of filing appeal with SAT: Within 60 days from the date of order of the copy made by SEBI or adjudicating officer and in case of filing appeal with Supreme Court: Within 60 days from the date of communication of the decision or order of SAT.

(c) In case of filing appeal with SAT: Within 30 days from the date of order of the copy made by SEBI or adjudicating officer and in case of filing appeal with Supreme Court: Within 60 days from the date of communication of the decision or order of SAT.

(d) In case of filing appeal with SAT: Within 60 days from the date of order of the copy made by SEBI or adjudicating officer and in case of filing appeal with Supreme Court: Within 45 days from the date of communication of the decision or order of SAT.

5. Suppose SEBI has constituted its board as per requirements of section 4 of SEBI Act, 1992 with 3 whole time members under Section 4(1)(d) of the SEBI Act, 1992, but one of them resigned and to refill his post, it took 1 month. Examine acts done in between the vacancy period, as per SEBI Act 1992.

(a) All acts become void ab-initio as per section 8 of the SEBI Act, 1992.

(b) Only financial acts are void ab initio as per section 8 of the SEBI Act, 1992.

(c) All acts are valid as per section 8 of the SEBI Act, 1992.

(d) All acts should be rectified after composition of proper board as per section 8 of the SEBI Act, 1992.

6. ABC & Co., Chartered Accountants, is a partnership firm, who is auditor of one of the listed company Z Ltd. for the financial year 2018-19. Mr. B is engaging partner of that audit with a team of 15 members. While doing audit of the financial statement of the company, two members of the team, who are chartered accountant, passed the information to their friends and relatives that this year company’s profit is increasing by 25% as compared to last audited financial year, before this information came in to public domain through the company. They made profit from this information by purchase at low price and after financial statements came in public domain and share prices raised, they sold shares at enhanced price. Please state whether it is a case of insider trading. If yes, then how much penalty for this act, under SEBI Act, 1992.

(a) No, it is not insider trading, because that these persons are not restricted to use the information to benefit themselves.

(b) No, it is not insider trading, because it is not price sensitive information.

(c) Yes, it is insider trading and penalty u/s 15G would be minimum Rs. 10 lacs which may extend upto Rs. 25 cr. or 3 times of profit derived, whichever is higher.

(d) Yes, it is insider trading and penalty u/s 12A would be Rs. 25 cr. or 3 times of profit derived, whichever is lower.
7. A Ltd., a listed company, wants to revise the rate of interest of its existing 12% bond by 1% i.e. 13% bond from 14th August 2019, the said proposal is to be laid before board meeting to be held on 14th July 2019. Upto which of the following date, A Ltd. has to intimate to stock exchange as per regulation 29 of SEBI (LODR), 2015:

(a) 3rd July 2019.
(b) 3rd August 2019.
(c) 5th July 2019.
(d) 5th August 2019.

Descriptive Questions

Question 1

A group of complainants have alleged that Mr. Z, a Member of the Securities and Exchange Board of India (SEBI) has pecuniary interest in some of the cases that came up before the Board and that he misused his position and therefore, he should be removed from his office. The complainants seek your advice. Advise.

Question 2

SEBI received complaints from some investors alleging that ABC Ltd. and some brokers are indulging in price manipulation in the shares of ABC Ltd. Explain the powers that can be exercised by SEBI under the Securities and Exchange Board of India Act, 1992 in case the allegations are found to be correct.

Question 3

Clever who is registered as an Intermediary fails to enter into an agreement with his client and hence penalised by SEBI under section 15B of the SEBI Act. Advise Mr. Clever as to what remedies are available to him against the order of SEBI.

Question 4

A group of investors are upset with the functioning of two leading stock brokers of Calcutta Stock Exchange and want to make a complaint to SEBI for intervention and redressal of their grievances. Explain briefly the purpose of establishing SEBI and what type of defaults by the stock brokers come within the purview of SEBI Act, 1992.

Question 5

Mr. Raman, an investor is not satisfied with the dealings of his stock broker who is registered with Delhi Stock Exchange. Mr. Raman approaches you to guide him regarding the avenues available to him for making a complaint against the stock broker under Securities and Exchange Board of India Act, 1992 and also the grounds on which such complaint can be made. You are required to briefly explain the answer to his queries.
Question 6
On the complaint of Mr. Kamlesh Gupta, after enquiry SEBI finds that Mr. P. Mehta a Chief Executive Officer of the Company, on the basis of unpublished price sensitive information, has indulged in the trading of the securities of that company. Explain, on the basis of the said finding, what action SEBI can take against Mr. P. Mehra under the Securities and Exchange Board of India Act, 1992.

Question 7
Securities and Exchange Board of India (SEBI) has undertaken inspection of books of accounts and records of LR Ltd., a listed public company. Specify the measures which may be taken by SEBI under the Securities and Exchange Board of India Act, 1992 to protect the interest of investors and securities market, on completion of such inquiry.

Question 8
Mr. S, a member of MN Ltd., obtained an order from the Securities and Exchange Board of India (SEBI) against the company. But the company failed to redress the grievance of Mr. S within the time fixed. Consequently, SEBI imposed penalty on the company. The company, however, did not pay the penalty also. State how the penalty can be recovered from the company?

ANSWERS/SOLUTION
Answers to MCQ

2. (b) Hint: As per SEBI (LODR) Regulations, two-thirds of the members of audit committee shall be independent directors.
3. (b) Hint: As per SEBI (LODR) Regulations, a listed entity shall submit a statement showing holding of securities and shareholding pattern separately for each class of securities:
   (a) **One day** prior to listing of its securities on the stock exchange(s);
   (b) **On a quarterly basis, within 21 days** from the end of each quarter; and,
   (c) **Within 10 days** of any capital restructuring of the listed entity resulting in a change exceeding **2 % per cent** of the total paid-up share capital.
4. (a) Hint: Section 15T and 15Z of SEBI Act, 1992
5. (c) Hint: Section 8 of SEBI Act, 1992
6. (c) Hint: Section 15G of the SEBI Act, 1992
7. (a) Hint: Regulation 29
Answers to Descriptive Questions

1. **Removal of Member of the SEBI (Section 6 of the Securities and Exchange Board of India Act, 1992)**

   According to section 6 of the Securities and Exchange Board of India Act, 1992, the Central Government shall have the power to remove a member appointed to the Board, if he:

   (i) is, or at any time has been adjudicated as insolvent;

   (ii) is of unsound mind and stands so declared by a competent court;

   (iii) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude.

   (iv) has, in the opinion of the Central Government so abused his position as to render his continuance in office detrimental to the public interest.

   Before removing a member, he will be given a reasonable opportunity of being heard in the matter.

   In the present case, a group of complainants have alleged that Mr. Z, a member of the SEBI has pecuniary interest in some of the cases that came up before the Board and he misused his position and therefore, he should be removed from his office.

   Here, above complainants may approach the Central Government for removal of Mr. Z, a member of the SEBI and if the Central Government is of the opinion that Mr. Z has so abused his position as to render his continuance in office detrimental to the public interest, the Central Government may remove Mr. Z from his office after giving him a reasonable opportunity of being heard in the matter.

2. **Price manipulation in the shares of ABC Ltd. can be considered as fraudulent and unfair trade practices relating to securities market. In this case SEBI may exercise the following powers under section 11(4) of securities and Exchange Board of India Act, 1992.**

   (i) Suspend the trading of any security (in this case the securities of ABC Ltd.) in a recognized stock exchange.

   (ii) Restrain persons (in this case ABC Ltd.) from accessing the securities market. It can also prohibit any person associated with securities market (i.e. brokers who have indulged in price manipulation) to buy, sell or deal in securities market.

   SEBI may issue the above orders for reasons to be recorded in writing. SEBI shall, either before or after passing such orders give an opportunity of hearing to company and brokers concerned (proviso 2 to Section 11(4)) SEBI may also appoint an adjudicating officer who may levy penalty under section 15 HA after holding an enquiry in the prescribed manner.

   According to section 15HA if any person indulges in fraudulent and unfair trade practices...
relating to securities, he shall be leviable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

**Prohibition on manipulation and deceptive practices:** Further according to section 12A, no person shall directly or indirectly indulge in following (i.e.) (a) using in manipulative or deceptive device in connection with purchase, sale or securities listed (b) Employ any scheme or device to defraud in connection with dealing in securities which are listed (c) engage in an act which would operate as fraud or deceit upon any person in connection with dealing in securities which are listed. SEBI may impose penalty which shall not be less than one lakh rupees but which may extend to one crore rupees. (Section 15 HB).

3. **Remedies against SEBI order:** Section 15B of the Securities and Exchange Board of India Act, 1992 lays down that if any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder, to enter into an agreement with his client, fails to enter into such agreement, he 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. Mr. Clever has been penalised under the above mentioned provision. Two remedies are available to Mr. Clever in this matter:-

(i) **Appeal to the Securities Appellate Tribunal:** Section 15T of the SEBI Act, (1) any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act; or

(c) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board or the Adjudicating Officer or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be, is received by him 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.

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.

The Securities Appellate Tribunal shall send a copy of every order made by it to the Board, or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be the parties to the appeal and to the concerned Adjudicating Officer.

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

(ii) **Appeal to the Supreme Court:** Section 15Z of the SEBI Act, 1992 provides that any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within 60 days from the date of communication of the decision or order to him on any question of fact or law arising out of such order. 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 60 days.

4. **The Securities and Exchange Board of India (SEBI) was established primarily for the purpose of**
   1. to protect the interests of investors in securities
   2. to promote the development of securities market
   3. to regulate the securities market and
   4. For matters connected therewith and incidental thereto.

The following defaults by stock brokers come within the purview of SEBI Act:

(a) Any failure on the part of the stock broker to issue contract notes in the form and in the manner specified by the Stock Exchange.
(b) Any failure on the part of the broker to deliver any security or to make payment of the amount due to the investor in the manner or within the period specified in the regulations.
(c) Any collection of charges by way of brokerage in excess of the brokerage as specified in the regulations. (Section 15 F, SEBI Act, 1992)

5. **Securities and Exchange Board of India (SEBI) was established for regulating the various aspects of stock market.** One of its functions is to register and regulate the stock brokers. In the light of this, Mr. Raman is advised that the complaint against the erring stock broker may be submitted to SEBI.

The grounds on which or the defaults for which complaints may be made to SEBI are as
follows:

(a) Any failure on the part of the stock broker to issue contract notes in the form and manner specified by the stock exchange of which the stock broker is a member.

(b) Any failure to deliver any security or any failure to make payment of the amount due to the investor in the manner within the period specified in the regulations.

(c) Any collection of charges by way of brokerage which is in excess of the brokerage specified in the regulations.

6. Section 15G of the Securities and Exchange Board of India (SEBI) Act, 1992 deals with penalty for Insider Trading. According to this, if any insider

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate on any stock exchange on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary cause of business or under any law, or

(iii) counsels or procures for, any other person to deal in any securities of any body corporate on the basis of unpublished price sensitive information,

shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher. As such SEBI can, after following the prescribed procedure, impose a penalty on Mr. P. Mehra. The maximum penalty that SEBI can impose is Rupees twenty-five crores or three times the amount of profits made out of insider trading, whichever is higher.

7. As per section 11 (4) of the Securities and Exchange Board of India Act, 1992, the Board may, by an order, for reasons to be recorded in writing, in the interest of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

1. suspend the trading of any security in a recognised stock exchange;

2. restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

3. suspend any office-bearer of any stock exchange or self-regulatory organization from holding such position;

4. impound and retain the proceeds or securities in respect of any transaction which is under investigation;

5. attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month,
one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder:

However only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

6. direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation.

8. According to Section 28A of the Securities and Exchange Board of India Act, 1992, if a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement/certificate in the specified form specifying the amount due from the person 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.

The expression ‘Recovery Officer’ means any officer of the Board who may be authorized by general or special order in writing, to exercise the powers of a Recovery Officer. The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers.