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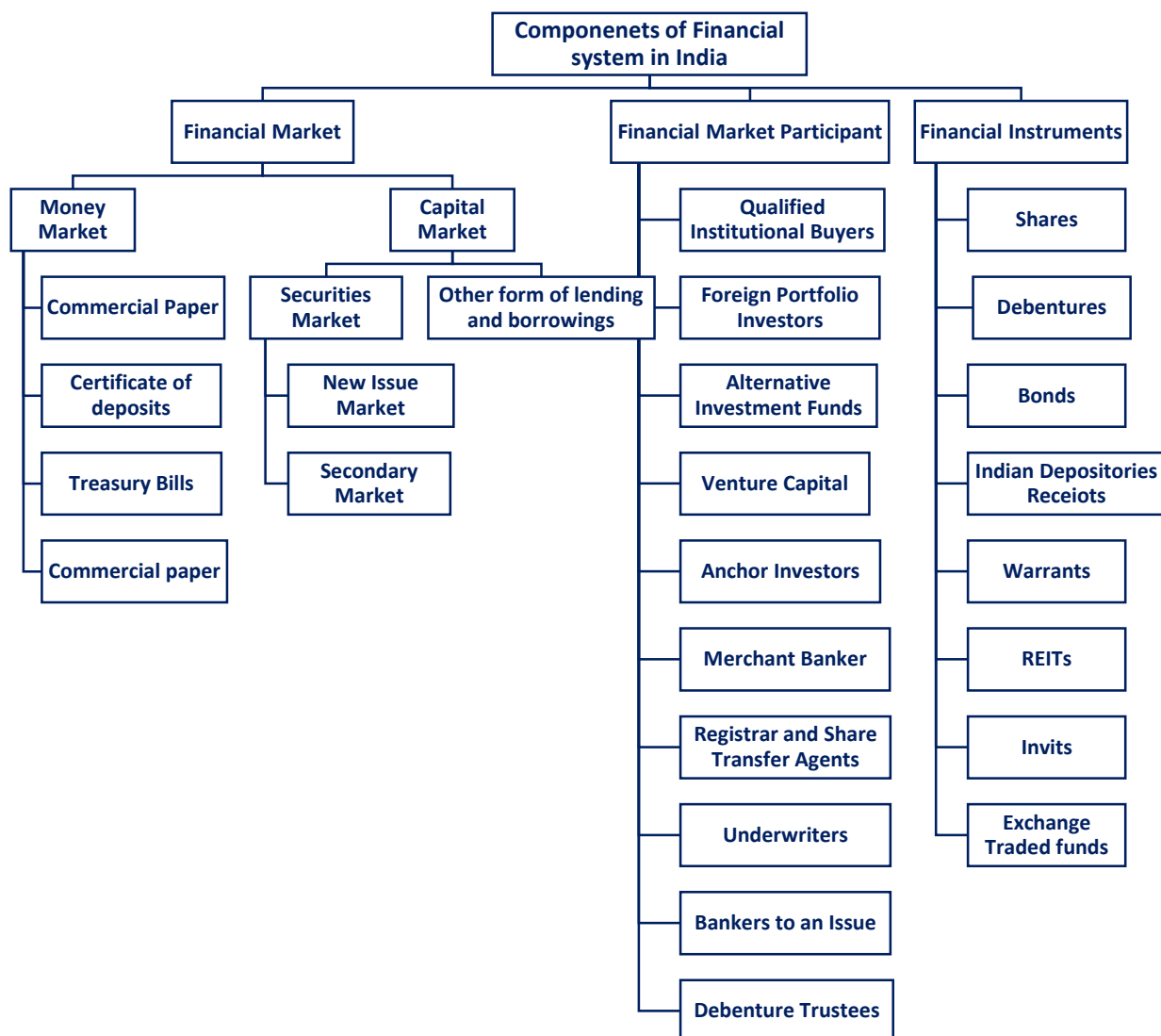
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CHAPTER 1 - BASICS OF CAPITAL MARKET

FINANCIAL SYSTEM IN INDIA

Every modern economy is based on a sound financial system which helps in production, capital and economic growth by encouraging savings habits, mobilising savings from households and other segments and allocating savings into productive usage such as trade, commerce, manufacture etc.

Financial system covers both credit and cash transactions. All financial transactions are dealt with by cash payment or issue of negotiable instruments like cheque, bills of exchanges, hundies etc. Thus, a financial system is a set of institutional arrangements through which financial surpluses are mobilised from the units generating surplus income and transferring them to the others in need of them. The activities include production, distribution, exchange and holding of financial assets/instruments of different kinds by financial institutions, banks and other intermediaries of the market. In a nutshell, financial market, financial assets, financial services and financial institutions constitute the financial system.



FINANCIAL MARKETS IN INDIA

Indian Financial Market, has been one of the oldest across the globe and is definitely the fastest growing and best among other financial markets of the emerging economies. The history of Indian capital markets is more than 200 years old, around the end of the 18th century. It was at this time that India was under the rule of the East India Company. The capital market of India initially developed around Mumbai; with around 200 to 250 securities brokers participating in active trade during the second half of the 19th century. Today, Bombay Stock Exchange (BSE), one among the world's largest exchange in terms of trading turnover in the same city. Indian Financial market is one of the well-developed markets in the world.

A Financial market enables efficient trade of securities, and transfer of funds, between lenders and borrowers and also creates securities for investment. People who have surplus funds invests in these securities to earn return on their investments.

► FUNCTIONS OF FINANCIAL MARKET

- It facilitates mobilisation and channelization of savings into the most productive uses.
- It helps in determining the price of the securities, on the basis of their demand and supply in the market. It provides liquidity to tradable assets, by facilitating the exchange, as the investors can readily sell their securities and convert assets into cash.
- It reduces cost by providing valuable information, regarding the securities traded in the financial market.
- It facilitates exchange of assets without physical delivery.

The financial markets are mainly divided into:

A. MONEY MARKET

Money Market is a segment of the financial market where borrowing and lending of short-term funds take place. The maturity of money market instruments ranges from one day to one year. In India, this market is regulated by both RBI (the Reserve bank of India) and SEBI (the Securities and Exchange Board of India). The nature of transactions in this market is such that they are large in amount and high in volume. Thus, we can say that the entire market is dominated by a small number of large players. The market consists of negotiable instruments having characteristics of liquidity (quick conversion into money), minimum transaction costs and no loss in value such as treasury bills, commercial papers, certificate of deposit, etc. It performs the crucial role of providing an equilibrating mechanism to even out the short-term liquidity, surpluses & deficits and therefore, facilitates the conduct of monetary policy of an economy.

B. CAPITAL MARKET

Capital Market is a part of the financial system that is concerned with the industrial securities market, government securities markets, and long- term loan market. A market that serves the medium & long-term liquidity needs of borrowers & lenders and therefore embraces all terms of lending & borrowing. The capital market comprises institutions and mechanisms through which intermediate terms funds and long-term funds are pooled and made available to business, government and individuals. The capital market also encompasses the process by which securities already outstanding are transferred. This market is also referred to as the Barometer of the Economy. It deals with instruments like shares, stocks, debentures and bonds. Companies turn to capital markets to raise funds needed to finance for the infrastructure facilities and corporate activities. The capital market is a vital part of any financial system. The wave of economic reforms initiated by the government has influenced the functioning and governance of the capital market. The Indian capital market has undergone structural transformation since liberalization.

► NEED FOR CAPITAL MARKET

Capital market plays an extremely important role in promoting and sustaining the growth of an economy.

- It is an important and efficient conduit to channel and mobilize funds to enterprises, both private and government.
- It provides an effective source of investment in the economy.
- It plays a critical role in mobilizing savings for investment in productive assets, with a view to enhancing a country's long-term growth prospects, and thus acts as a major catalyst in transforming the economy into a more efficient, innovative and competitive marketplace within the global arena.
- In addition to resource allocation, capital markets also provide a medium for risk management by allowing the diversification of risk in the economy.
- A well-functioning capital market tends to improve information quality as it plays a major role in encouraging the adoption of stronger corporate governance principles, thus supporting a trading environment, which is founded on integrity.
- Capital market has played a crucial role in supporting periods of technological progress and economic development throughout history.

- Among other things, liquid markets make it possible to obtain financing for capital-intensive projects with long gestation periods. This certainly held true during the industrial revolution in the 18th century and continues to apply even as we move towards the so-called “New Economy”.
- Capital markets make it possible for companies to give shares to their employees via ESOPs.
- Capital markets provide a currency for acquisitions via share swaps.
- Capital markets provide an excellent route for disinvestments to take place.
- Venture Capital and Private Equity funds investing in unlisted companies get an exit option when the company gets listed on the capital markets
- The existence of deep and broad capital market is absolutely crucial in spurring the growth our country.

► FUNCTIONS OF THE CAPITAL MARKET

The major objectives of capital market are:

- To mobilize resources for investments.
- To facilitate buying and selling of securities.
- To facilitate the process of efficient price discovery.
- To facilitate settlement of transactions in accordance with the predetermined time schedules.

SECURITIES MARKET

Securities Market is a place where companies can raise funds by issuing securities such as equity shares, debt securities, derivatives, mutual funds, etc. to the investors (public) and also is a place where investors can buy or sell various securities (shares, bonds, etc.). It is therefore, a market where financial instruments/claims are commonly & readily available for transfer by means of sale. Once the shares (or securities) are issued to the public, the company is required to list the shares (or securities) on the recognized stock exchanges. Securities Market is a part of the Capital Market.

► FUNCTIONS OF SECURITIES MARKET

- a) The Securities Market allows people to do more with their savings than they would otherwise could.
- b) It also provides financing that enables people to do more with their ideas and talents than would otherwise be possible.
- c) The Securities Market provides a linkage between the savings and the investment across the entities, time and space. It mobilises savings and channelises them through securities into preferred enterprises.
- d) The Securities Market also provides a market place for purchase and sale of securities and thereby ensures transferability of securities, which is the basis for the joint stock enterprise system.
- e) The existence of the Securities Market makes it possible to satisfy simultaneously the needs of the enterprises for capital and the need of investors for liquidity.
- f) A developed Securities Market enables all individuals, no matter how limited their means, to share the increased wealth provided by competitive private enterprises.
- g) The Securities Market allows individuals who can not carry an activity in its entirety within their resources to invest whatever is individually possible and preferred in that activity carried on by an enterprise.

Securities market has two inter-dependent & inseparable segments which are as follows:

1. Primary Market :

The primary market deals with the issue of new instruments by the corporate sector such as equity shares, preference shares and debt instruments. Central and State Governments, various public sector undertakings (PSUs), statutory and other authorities such as state electricity boards and port trusts also issue bonds/debt instruments. This market is of great significance for the economy of a country as it is through this market that funds flows for productive purposes from investors to entrepreneurs. The strength of the economy of a country is gauged by the activities of the Stock Exchanges. The primary market creates and offers the merchandise for the secondary market. The primary market in which public issue of securities is made through a prospectus is a retail

market and there is no physical location. Offer for subscription to securities is made to the investing community. It is also known as Initial Public Offer (IPO) Market.

There are two major types of issuers of securities:

- Corporate Entities (companies) which mainly issue equity instruments (shares) and debt instruments (bonds, debentures, etc.).
- Government (Central as well as State) which issues debt securities (dated securities and treasury bills). In addition to IPOs, the Company has other options to raise capital.
- Qualified institutional placements (listed company issuing shares to Qualified Institutional Buyers (QIB).
- In International markets through the issuance of American Depository Receipts (ADR), Global Depository Receipts (GDRs), External Commercial Borrowings (ECB) etc.

2. Secondary Market:

The secondary market or stock exchange is a market for trading and settlement of securities that have already been issued. The investors holding securities sell securities through registered brokers/sub-brokers of the stock exchange. Investors who are desirous of buying securities, purchase them through registered broker/sub-broker of the stock exchange. It may have a physical location like a stock exchange or a trading floor. Since 1995, trading in securities is screen-based and Internet-based trading has also made an appearance in India. The secondary market provides a trading place for the securities already issued, to be bought and sold. It also provides liquidity to the initial buyers in the primary market to re-offer the securities to any interested buyer at any price, if mutually accepted. An active secondary market actually promotes the growth of the primary market and capital formation because investors in the primary market are assured of a continuous market and they can liquidate their investments. It is also known as Further Public Offer Market (FPO).

REGULATORY FRAMEWORK FOR SECURITIES MARKET

It is important to ensure smooth working of capital market, as it is the arena for the players associated with the economic growth of the country. Various laws have been passed from time to time to meet this objective. The financial market in India was highly segmented until the initiation of reforms in 1992-93 on account of a variety of regulations and administered prices including barriers to entry. The reform process was initiated with the establishment of Securities and Exchange Board of India.

1. SEBI Act, 1992:

The SEBI Act, 1992 establishes SEBI with statutory powers for

- (a) protecting the interests of investors in securities,
- (b) promoting the development of the securities market, and
- (c) regulating the securities market.

Its regulatory jurisdiction extends over corporates in the issuance of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market. It can conduct enquiries, audits and inspection of all concerned and adjudicate offences under the Act. It has powers to register and regulate all market intermediaries and also to penalise them in case of violations of the provisions of the Act, Rules and Regulations made there under. SEBI has full autonomy and authority to regulate and develop an orderly securities market.

2. Securities Contracts (Regulation) Act, 1956:

It provides for direct and indirect control of virtually all aspects of securities trading and the running of stock exchanges and aims to prevent undesirable transactions in securities. It gives central government/SEBI regulatory jurisdiction over

- (a) stock exchanges through a process of recognition and continued supervision,
- (b) contracts in securities, and
- (c) listing of securities on stock exchanges.

As a condition of recognition, a stock exchange complies with prescribed conditions of Central Government. Organised trading activity in securities takes place on a specified recognised stock exchange. The stock exchanges determine their own listing regulations which have to conform to the minimum listing criteria set out in the Rules.

3. Depositories Act, 1996:

The Depositories Act, 1996 provides for the establishment of depositories in securities with the objective of ensuring free transferability of securities with speed, accuracy and security by

- a) making securities of public limited companies freely transferable subject to certain exceptions;
- b) dematerializing the securities in the depository mode; and
- c) providing for maintenance of ownership records in a book entry form.

In order to streamline the settlement process, the Act envisages transfer of ownership of securities electronically by book entry without making the securities move from person to person. The Act has made the securities of all public limited companies freely transferable, restricting the company's right to use discretion in effecting the transfer of securities, and the transfer deed and other procedural requirements under the Companies Act have been dispensed with.

4. Companies Act, 2013:

The Companies Act, 2013 envisage to strengthen the existing regulatory framework on Corporate Governance. It deals with issue, allotment and transfer of securities and various aspects relating to company management. It provides for standard of disclosure in public issues of capital, particularly in the fields of company management and projects, information about other listed companies under the same management, and management perception of risk factors. It also regulates underwriting, the use of premium and discounts on issues, rights and bonus issues, payment of interest and dividends, supply of annual report and other information.

SEBI – THE CAPITAL MARKETS REGULATOR

The Securities and Exchange Board of India (SEBI) was established in 1988 through an administrative order, but the Act was passed after about four years and it became a statutory and really powerful Institution only since 1992. The Controller of Capital Issues was repealed and its office was abolished in 1992 and SEBI was established on 21 February, 1992 through an ordinance issued on 30 January, 1992. The SEBI Act replaced the ordinance on 4 April, 1992. Certain powers under certain sections of Securities Contracts Regulation Act (SCRA) and Companies Act (CA) have been delegated to the SEBI. The regulatory powers of the SEBI were increased through the Securities Laws (Amendment) Ordinance of January 1995, which was subsequently replaced by an Act of Parliament. The SEBI is under the overall control of the Ministry of Finance, and has its head office at Mumbai. It has now become a very important constituent of the financial regulatory framework in India. SEBI was established with the statutory powers to:

- Protecting the interest of investors;
- Promoting the development of the securities market; and
- Regulating the securities market.

SEBI acts as a watchdog for all the capital market participants and its main purpose is to provide such an environment for the financial market enthusiasts that facilitate efficient and smooth working of the securities market.

To ensure this the three main participants of the financial market should be taken care of, i.e. issuers of securities, investor, and financial intermediaries.

Issuers of securities: These are entities in the corporate field that raise funds from various sources in the market. SEBI makes sure that they get a healthy and transparent environment for their needs.

Investor: Investors are the ones who keep the markets active. SEBI is responsible for maintaining an environment that is free from malpractices to restore the confidence of general public who invest their hard-earned money in the markets.

Financial Intermediaries: These are the people who act as middlemen between the issuers and investors. They make the financial transactions smooth and safe.

PARTICIPANTS OF CAPITAL MARKET

A. QUALIFIED INSTITUTIONAL BUYERS

Qualified Institutional Buyers (QIBs) are investment institutions who buy the shares of a company on a large scale. QIBs are those institutional investors who are generally perceived to possess expertise and the financial proficiency to evaluate and to invest in the Capital Markets.

The institution is usually a collective group of people in which a large number of investors repose faith and the institution collects a large investible sum from various investors to invest in the market. When investing through the institution, investors usually have limited control on their investments in comparison to the individual investment as they hand over the amount for investment to the institution and they, in turn, engage experts to have a vigil on the market.

According to Regulation 2(1)(ss) of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, Qualified Institutional Buyer comprises of –

- I. a mutual fund, venture capital fund, Alternative Investment Fund and foreign venture capital investor registered with SEBI;
- II. foreign portfolio investor other than individuals, corporate bodies and family offices;
- III. a public financial institution;
- IV. a scheduled commercial bank;
- V. a multilateral and bilateral development financial institution;
- VI. a state industrial development corporation;
- VII. an insurance company registered with the Insurance Regulatory and Development Authority;
- VIII. a provident fund with minimum corpus of twenty five crore rupees;
- IX. a pension fund with minimum corpus of twenty five crore rupees;
- X. National Investment Fund set up by the Government of India;
- XI. Insurance funds set up and managed by army, navy or air force of the Union of India;
- XII. Insurance funds set up and managed by the Department of Posts, India;
- XIII. Systemically important non-banking financial companies.

B. FOREIGN PORTFOLIO INVESTOR

Foreign Portfolio Investor (FPI) means a person who has been registered under Chapter II of SEBI (Foreign Portfolio Investors) Regulations, 2019 which shall be deemed to be an intermediary in terms of the provisions of the SEBI Act, 1992.

Categories of FPI

Category I FPIs include:

- I. Government and Government related investors such as central banks, sovereign wealth funds, international or multilateral organizations or agencies including entities controlled or at least 75% directly or indirectly owned by such Government and Government related investor(s);
- II. Pension funds and university funds;
- III. Appropriately regulated entities such as insurance or reinsurance entities, banks, asset management companies, investment managers, investment advisors, portfolio managers, broker dealers and swap dealers;
- IV. Entities from the Financial Action Task Force member countries, or from any country specified by the Central Government by an order or by way of an agreement or treaty with other sovereign Governments, which are–
 - a) appropriately regulated funds;
 - b) unregulated funds whose investment manager is appropriately regulated and registered as a Category I foreign portfolio investor. However the investment manager undertakes the responsibility of all the acts of commission or omission of such unregulated fund;
 - c) university related endowments of such universities that have been in existence for more than five years.
- V. An entity (A) whose investment manager is from the Financial Action Task Force member country and such an investment manager is registered as a Category I foreign portfolio investor; or (B) which is at least seventy-five per

cent owned, directly or indirectly by another entity, eligible under sub-clause (ii), (iii) and (iv) of clause (a) of this regulation and such an eligible entity is from a Financial Action Task Force member country. However such an investment manager or eligible entity undertakes the responsibility of all the acts of commission or omission of the applicants seeking registration under this sub-clause.

Category II FPIs include

all the investors not eligible under Category I foreign portfolio investors such as –

- I. appropriately regulated funds not eligible as Category-I foreign portfolio investor;
- II. endowments and foundations;
- III. charitable organisations;
- IV. corporate bodies;
- V. family offices;
- VI. individuals;
- VII. appropriately regulated entities investing on behalf of their client, as per conditions specified by the Board from time to time;
- VIII. Unregulated funds in the form of limited partnership and trusts.

Explanation: An applicant incorporated or established in an International Financial Services Centre shall be deemed to be appropriately regulated.

C. ALTERNATIVE INVESTMENT FUNDS

According to SEBI (AIF) Regulations, 2012, “Alternative Investment Fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which,-

- I. is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and
- II. is not covered under the SEBI (Mutual Funds) Regulations, 1996, SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI to regulate fund management activities.

However, the following shall not be considered as Alternative Investment Fund for the purpose of these regulations;

- I. Family trusts set up for the benefit of ‘relatives’ as defined under Companies Act, 2013.
- II. ESOP Trusts set up under the SEBI (Shares Based Employee Benefits) Regulations, 2014 or as permitted under Companies Act, 2013.
- III. Employee welfare trusts or gratuity trusts set up for the benefit of employees.
- IV. Holding companies within the meaning of Section 2(46) of the Companies Act, 2013.
- V. Other special purpose vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework.
- VI. Funds managed by securitisation company or reconstruction company which is registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- VII. Any such pool of funds which is directly regulated by any other regulator in India.

Thus, the definition of AIFs includes venture capital fund, hedge funds, private equity funds, commodity funds, Debt Funds, infrastructure funds, etc., while, it excludes Mutual funds or collective investment schemes, family trusts, employee benefit schemes, employee welfare trusts or gratuity trusts, ‘holding companies’ within the meaning of Section 2(46) of the Companies Act, 2013, securitization trusts regulated a specific regulatory framework, and funds managed by securitization company or reconstruction company which is registered with the RBI under Section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

One AIF can float several schemes. Investors in these funds are large institutions, high net worth individuals and corporates. In India, AIF is regulated by the SEBI (Alternative Investment Funds) Regulations, 2012.

Categories of Alternative Investment Funds

- **Category I:** which invests in start-up or early stage ventures or social ventures or SMEs or infrastructure or other sectors or areas which the government or regulators consider as socially or economically desirable and shall include venture capital funds (VCF), SME Funds, social venture funds (SVF), infrastructure funds and such other Alternative Investment Funds as may be specified;
- **Category II:** which does not fall in Category I and III and which does not undertake leverage or borrowing other than to meet day-to-day operational requirements and as permitted in these regulations;
- **Category III:** which employs diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives

D. VENTURE CAPITAL

Venture Capital is one of the innovative financing resource for a company in which the promoter has to give up some level of ownership and control of business in exchange for capital for a limited period, say, 3-5 years. Venture Capital is generally equity investments made by Venture Capital funds, at an early stage in privately held companies, having potential to provide a high rate of return on their investments. It is a resource for supporting innovation, knowledge-based ideas and technology and human capital-intensive enterprises.

“Venture Capital Fund” means an Alternative Investment Fund which invests primarily in unlisted securities of start-ups, emerging or early-stage venture capital undertakings mainly involved in new products, new services, technology or intellectual property right based activities or a new business model and shall include an angel fund. Essentially, a venture capital company is a group of investors who pool investments focused within certain parameters. The participants in venture capital firms can be institutional investors like pension funds, insurance companies, foundations, corporations or individuals but these are high risk investments which may give high returns or high loss.

Areas of Investment

Different venture groups prefer different types of investments. Some specialize in seed capital and early expansion while others focus on exit financing. Biotechnology, medical services, communications, electronic components and software companies seem to be the most likely attraction of many venture firms and receiving the most financing. Venture capital firms finance both early and later stage investments to maintain a balance between risk and profitability. In India, software sector has been attracting a lot of venture finance. Besides media, health and pharmaceuticals, agri-business and retailing are the other areas that are favoured by a lot of venture companies.

E. PRIVATE EQUITY

Private equity is a type of equity (finance) and one of the asset classes who takes securities and debt in operating companies that are not publicly traded on a stock exchange. Private equity is essentially a way to invest in some assets that isn't publicly traded, or to invest in a publicly traded asset with the intention of taking it private. As a source of investment capital, private equity comes from High Net-worth Individuals (HNI) & firms that purchase stakes in private companies or acquire control of public companies with plans to make them private & consequently delist from the stock exchange. Unlike stocks, mutual funds, and bonds, private equity funds usually invest in more illiquid assets companies.

By purchasing companies, the firms gain access to those assets and revenue sources of the company, which can lead to very high returns on investments. Another feature of private equity transactions is their extensive use of debt in the form of high-yield bonds. By using debt to finance acquisitions, private equity firms can substantially increase their financial returns.

Private equity consists of investors and funds that make investments directly into private companies or conduct buyouts of public companies. Capital for private equity is raised from retail and institutional investors, and can be used to fund new technologies, expand working capital within an owned company, make acquisitions, or to strengthen a balance sheet. The major of private equity consists of institutional investors and accredited investors who can commit large sums of money for long periods of time.

Types of Private Equity

Private equity investments can be divided into the following categories:

Leveraged Buyout (LBO): This refers to a strategy of making equity investments as part of a transaction in which a company, business unit or business assets is acquired from the current shareholders typically with the use of financial leverage. The companies involved in these type of transactions that are typically more mature and generate operating cash flows.

Venture Capital: It is a broad sub-category of private equity that refers to equity investments made, typically in less mature companies, for the launch, early development, or expansion of a business.

Growth Capital: This refers to equity investments, mostly minority investments, in the companies that are looking for capital to expand or restructure operations, enter new markets or finance a major acquisition without a change of control of the business.

F. ANGEL FUND

Angel fund refers to money pool created by high networth individuals or companies (generally known as Angel Investor), for investing in start up business. Angel fund is defined in SEBI (Alternate Investment Funds) (amendment) Regulations, 2013 as a sub-category of Venture Capital Fund under category I-AIF that raises funds from angel investors and invests in accordance with regulations specified by SEBI.

An angel investor or angel (also known as a business angel, informal investor, angel funder, private investor, or seed investor) is an affluent individual who provides capital for a business start-up, usually in exchange for convertible debt or ownership equity. A small but increasing number of angel investors invest online through equity crowd funding or organize themselves into angel groups or angel networks to share research and pool their investment capital, as well as to provide advice to their portfolio companies.

Angel investments are typically the earliest equity investments made in start-up companies. They commonly band together in investor networks. Often these networks are based on regional, industry investor or academic affiliation.

G. ANCHOR INVESTORS

Anchor investor means a Qualified Institutional Buyer (QIB) who makes an application for a value of at least 10 crore rupees in a public issue on the main board made through the book building process or makes an application for a value of atleast ` 2 crore for an public issue on the SME exchange made in accordance with Chapter IX of the SEBI (ICDR) Regulations, 2018.

Allocation to anchor investors shall be on a discretionary basis and subject to the following:

(I) In case of public issue on the main board, through the book building process:

- I. Maximum of 2 such investors shall be permitted for allocation upto Rs. 10 crore.
- II. Minimum of 2 and maximum of 15 such investors shall be permitted for allocation above Rs. 2 crore and upto Rs. 25 crore, subject to minimum allotment of Rs. 1 crore per such investor.
- III. In case of allocation above Rs. 25 crore; a minimum of 5 such investors and a maximum of 15 such investors for allocation upto Rs. 25 crore and an additional 10 such investors for every additional Rs. 25 crore or part thereof, shall be permitted, subject to a minimum allotment of Rs. 1 crore per such investor.

(II) In case of public issue on the SME exchange, through the book building process:

- i. Maximum of 2 such investors shall be permitted for allocation up to two crore rupees;
- ii. Minimum of 2 and maximum of 15 such investors shall be permitted for allocation above 2 crore rupees and up to Rs. 25 crore rupees, subject to minimum allotment of Rs. 1 crore rupees per such investor;
- iii. In case of allocation above Rs. 25 crore rupees; a minimum of 5 such investors and a maximum of 15 such investors for allocation up to Rs. 25 crore rupees and an additional 10 such investors for every additional 25 crore rupees or part thereof, shall be permitted, subject to a minimum allotment of Rs. 1 crore rupees per such investor.

The bidding for anchor investors shall open one day before the issue opening date allocation to Anchor Investors shall be completed on the day of bidding by Anchor Investors. Shares allotted to the Anchor Investor shall be locked in for 30 days from the date of allotment in the public issue. Upto 60% of the portion available for allocation to QIB shall be

available to anchor investor(s) for allocation/ allotment (“anchor investor portion”) and one-third of the anchor investor portion shall be reserved for domestic mutual funds.

H. HIGH NET WORTH INDIVIDUALS

HNI or high net worth individuals is a class of individuals who are distinguished from other retail segment based on their net wealth, assets and investible surplus. While there is no standard put forth for the classification, the definition of HNIs varies with the geographical area as well as financial markets and institutions. Though there is no specific definition, generally in the Indian context, individuals with over Rs. 2 crore investible surplus may be considered to be HNIs while those with investible wealth in the range of Rs. 25 lac – Rs. 2 crore may be deemed as Emerging HNIs.

I. PENSION FUND

Pension Fund means a fund established by an employer to facilitate and organize the investment of employees’ retirement funds which is contributed by the employer and employees. The pension fund is a common asset pool meant to generate stable growth over the long term, and provide pensions for employees when they reach the end of their working years and commence retirement. Pension funds are commonly run by some sort of financial intermediary for the company and its employees like National Pension Scheme (NPS) is managed by UTI AMC (Retirement Solutions), although some larger corporations operate their pension funds in-house. Pension funds control relatively large amounts of capital and represent the largest institutional investors in many nations.

Pension funds play a huge role in development of the economy and it play active role in the Indian equity market. This pension fund ensures a change in their investment attitudes and in the regulatory climate, encouraging them to increase their investment levels in equities and would have a massive impact on capital market and on the economy as a whole.

Legislations

There are three defining Acts for pensions in India:

- 1. Pensions under the EPF & MP Act 1952:** These include the Employees, Provident Fund, Employees, Pension Scheme, and Employees, Deposit Linked Insurance Scheme.
- 2. Pensions under the Coal mines PF & MP Act 1948:** These include Coal mines provident fund, Coal mines pension scheme & Coal mines linked insurance scheme.
- 3. Gratuity under the Payment of Gratuity Act, 1972:** There are other provident funds in India like Assam Tea Plantations PF, J&K PF, and Seamens PF etc

Pensions broadly divided into two sector:

- **A-Formal sector Pensions:** Formal sector pensions in India can be divided into three categories; viz pensions under an Act or Statute, Government pensions and voluntary pensions.
- **B- Informal sector Pensions :** This scheme will cover unorganized workers who are working or engaged as home based workers, street vendors, agriculture workers, construction workers, among others.

CAPITAL MARKET INSTRUMENTS

A. EQUITY SHARES

Equity shares, commonly referred to as ordinary share also represents the form of fractional ownership in which a shareholder, as a fractional owner, undertakes the maximum entrepreneurial risk associated with a business venture. The holder of such shares is the member of the company and has voting rights.

According to explanation (i) to Section 43 of Companies Act, 2013 “equity share capital”, with reference to any company limited by shares, means all share capital which is not preference share capital. Section 43 further provides for equity share capital (i) with voting rights, or (ii) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed.

Equity capital and further issues of equity capital by a company are generally based on the condition that they will rank pari passu along with the earlier issued share capital in all respects. However, as regards dividend declared by the

company such additional capital shall be entitled to dividend ratably for the period commencing from the date of issue to the last day of the accounting year, unless otherwise specified in the articles or in the terms of the issue.

Important Characteristics

- a) Equity shares, have voting rights at all general meetings of the company. These votes have the affect of controlling the management of the company.
- b) Equity shares have the right to share the profits of the company in the form of dividend (cash) and bonus shares. However, even equity shareholders cannot demand declaration of dividend by the company which is left to the discretion of the Board of Directors.
- c) When the company is wound up, payment towards the equity share capital will be made to the respective shareholders only after payment of the claims of all the creditors and the preference share capital

B. SHARES WITH DIFFERENTIAL VOTING RIGHTS

Shares with differential voting rights ("DVR") refer to equity shares holding differential rights as to dividend and/ or voting. Section 43 (a) (ii) of the Companies Act, 2013 allows a company limited by shares to issue DVRs as part of its share capital. Introduced for the first time in 2000 and issued by Tata Motors first, DVRs are seen as a viable option for raising investments and retaining control over the company at the same time Section 43(2) of the Companies Act 2013 read with Companies (Share Capital & Debenture) Rules, 2013 provides that companies can issue equity shares with differential rights subject to the following conditions including:

- Articles of association of the company must authorize the issue;
- The voting power in respect of shares with differential rights of the Company shall not exceed 74% of total voting power including voting power in respect of equity shares with differential rights issued at any point of time;
- Approval of shareholders by passing ordinary resolution in General Meeting;
- The Company should not have defaulted in:
 - filing annual returns and financial statements for the last three years;
 - repayment of matured deposits or declared dividend;
 - redemption of its preference shares/debentures which are due for redemption;
 - repayment of term loan taken from any public financial institution or state level financial institution or from a scheduled bank that has become due and payable;
- statutory dues of the employees of the company.

C. PREFERENCE SHARES

Preference shares are that part of a company's share capital which carry a preferential right to:

- dividend at a fixed rate or amount; and
- repayment of capital in case of winding-up of the company.

Preference shares enjoy a preferential right to dividend and repayment of capital in case of winding-up of the company. Governed by the provisions of Section 55 of the Companies Act, the main drawback of preference shares is that they carry limited voting rights. Generally, an equity share confers on its holder a right to vote on all resolutions that require shareholder approval under the Act, any other law, or the articles of association of the company. A preference share carries voting rights only with respect of matters which directly affect the rights of the preference shareholders.

In this regard, the Act clarifies a resolution relating to winding-up and repayment or reduction of capital is deemed to directly affect the rights of the preference shareholders. Due to these limitations on voting rights, a preference shareholder does not have much control over the company. However, a preference shareholder may acquire voting rights on par with an equity shareholder if the dividend on preference shares is in arrears.

D. DEBENTURES

Section 2(30) of the Companies Act, 2013 defines debentures. “Debenture” includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not. However,

- a) the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and
- b) such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company, shall not be treated as debenture.

The important features of a debenture are:

1. It is issued by a company as a certificate of indebtedness.
2. It usually indicates the date of redemption and also provides for the repayment of principal and payment of interest at specified date or dates.
3. In case of secured debentures, it creates a charge on the undertaking or the assets of the company.
4. Debentures holders do not have any voting rights.
5. Company shall pay interest, irrespective of profits.
6. While issuance of debentures, the company shall ensure that the parameters for designation of deposits under Companies (Acceptance of Deposits) Rules, 2014 are not triggered.

Categories of Debentures

Based on convertibility, debentures can be classified under three categories:

- **Fully Convertible Debentures (FCDs)** : These are converted into equity shares of the company with or without premium as per the terms of the issue, on the expiry of specified period or periods. If the conversion is to take place at or after eighteen months from the date of allotment but before 36 months, the conversion is optional on the part of the debenture holders in terms of SEBI (ICDR) Regulations. Interest will be payable on these debentures upto the date of conversion as per transfer issue.
- **Non Convertible Debentures (NCDs)** : These debentures do not carry the option of conversion into equity shares and are therefore redeemed on the expiry of the specified period or periods. The issuer is required to list its Public issue of NCDs on stock exchange as per SEBI (Issue and Listing of Debt Securities) Regulations, 2008. NCDs can be also issued on private placement basis.
- **Partly Convertible Debentures (PCDs)** : These may consist of two kinds namely-convertible and nonconvertible. The convertible portion is to be converted into equity shares at the expiry of specified period. However, the non-convertible portion is redeemed at the expiry of the stipulated period. If the conversion takes place at or after 18 months, the conversion is optional at the discretion of the debenture holder.

Optionally Fully Convertible Debenture (OFCD)

The Optionally Fully Convertible Debenture is a kind of debenture which can be converted into shares at the expiry of a certain period at a predetermined price, if the debt holder (investor) wishes to do so.

The “securities” as defined u/s 2(81)) of Companies Act, 2013 means securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, and includes hybrids. Hence after analysing the above definition of “OFCD”, “hybrid” and “securities” it could be rightly concluded that an OFCD being a hybrid security falls under the definition of “securities” as defined u/s 2 (h) of securities Contract (Regulation) Act, 1956 and u/s 2(81) of Companies Act, 2013 as it inherits the characteristics of debentures initially and also that of the shares at a later stage if the option to convert the securities into shares being exercised by the security holder. [This section has been discussed in Lesson No. 6 of Company Law Subject (Executive Programme)]

E. BONDS

Bonds are the debt security where an issuer is bound to pay a specific rate of interest agreed as per the terms of payment and repay principal amount at a later time. The bond holders are generally like a creditor where a company

is obliged to pay the amount. The amount is paid on the maturity of the bond period. Generally these bonds duration would be for 5 to 10 years.

Characteristics of a Bond

1. Bond has a fixed face value, which is the amount to be returned to the investor upon maturity.
2. Fixed maturity date, which can range from a few days to 20-30 years or even more.
3. All bonds repay the principal amount after the maturity date.
4. Provides regular payment of interest, semi-annually or annually.
5. Interest is calculated as a certain percentage of the face value known as a 'coupon payment'.
6. Generally considered as less risky investment as compared to equity.
7. It helps to diversify and grow investor's money.

Types of Bonds

1. **Government Bonds:** These are the bonds issued either directly by Government of India or by the Public Sector Undertakings (PSU's) in India. These bonds are secured as they are backed up with security from Government. These are generally offered with low rate of interest compared to other types of bonds.
2. **Corporate Bonds:** These are the bonds issued by the private corporate companies. Indian corporates issue secured or non secured bonds. However care to be taken to consider the credit rating given by Credit Rating Agencies before investing in these bonds.
3. **Banks and other financial Institution Bonds:** These bonds are issued by banks or any financial institution. The financial market is well regulated and the majority of the bond markets are from this segment.
4. **Tax Saving Bonds:** In India, the tax saving bonds are issued by the Government of India for providing benefit to investors in the form of tax savings. Along with getting normal interest, the bond holder would also get tax benefit. In India, all these bonds are listed in National Stock Exchange and Bombay Stock Exchange in India, hence they can be easily liquidated and sold in the open market.

F. FOREIGN CURRENCY CONVERTIBLE BONDS (FCCBS)

'Foreign Currency Convertible Bond' (FCCB) means a bond issued by an Indian company expressed in foreign Currency, and the principal and interest in respect of which is payable in foreign currency. The FCCBs are unsecured instruments which carry a fixed rate of interest and an option for conversion into a fixed number of equity shares of the issuer company. Interest and redemption price (if conversion option is not exercised) is payable in dollars. FCCBs shall be denominated in any freely convertible Foreign Currency. However, it must be kept in mind that FCCB, issue proceeds need to conform to ECB end use requirements. Foreign investors also prefer FCCBs because of the Dollar denominated servicing, the conversion option and, the arbitrage opportunities presented by conversion of the FCCBs into equity shares at a discount on prevailing Indian market price. In addition, 25% of the FCCB proceeds can be used for general corporate restructuring.

G. FOREIGN CURRENCY EXCHANGEABLE BONDS (FCEBS)

The FCEB is used to raise funds from the international markets against the security and exchangeability of shares of another company. Foreign Currency Exchangeable Bond (FCEB) means –

- | A bond expressed in foreign currency.
- | The principal and the interest in respect of which is payable in foreign currency.
- | Issued by an issuing company, being an Indian company.
- | Subscribed by a person resident outside India.
- | Exchangeable into equity shares of another company, being offered company which is an Indian company. Either wholly or partly or on the basis of any equity related warrants attached to debt instruments.

It may be noted that issuing company to be the part of promoter group of offer or company and the offeror company is to be listed and is to be eligible to receive foreign investment. Under this option, an issuer company may issue FCEBs

in foreign currency, and these FCEBs are convertible into shares of another company (off company) that forms part of the same promoter group as the issuer company.

H. INDIAN DEPOSITORY RECEIPTS

According to Section 2(48) of the Companies Act, 2013 “Indian Depository Receipt” means any instrument in the form of a depository receipt created by a domestic depository in India and authorized by a company incorporated outside India making an issue of such depository receipts.

An IDR is an instrument denominated in Indian Rupee in the form of a depository receipt created by a domestic depository (Custodian of securities registered with SEBI) against the underlying equity of issuing company to enable foreign companies to raise funds from Indian Securities Markets. In an IDR, foreign companies would issue shares, to a domestic (Indian) depository, which would in turn issue depository receipts to investors in India. The actual shares underlying the IDRs would be held by an Overseas Custodian, which shall authorize the Indian depository to issue the IDRs. To that extent, IDRs are derivative instruments because they derive their value from the underlying shares. Standard Chartered PLC is only company to offer IDR in the Indian market. The foreign company issuing IDRs need to comply with the requirements of rules prescribed under Companies Act, SEBI Regulations and RBI notifications/circulars.

I. DERIVATIVES

A derivative is a financial instrument that derives its value from an underlying asset. This underlying asset can be stocks, bonds, currency, commodities, metals and even intangible, assets like stock indices. Derivatives can be of different types like futures, options, swaps, caps, floor, collars etc. The most popular derivative instruments are futures and options. The term Derivative has been defined in Securities Contracts (Regulations) Act, as:-

Derivative includes: -

- a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;
- b) a contract which derives its value from the prices, or index of prices, of underlying securities;
- c) commodity derivatives; and
- d) such other instruments as may be declared by the Central Government to be derivatives.

J. WARRANT

Warrant means an option issued by a company whereby the buyer is granted the right to purchase a number of shares (usually one) of its equity share capital at a given exercise price during a given period. The holder of a warrant has the right but not the obligation to convert them into equity shares. Thus in the true sense, a warrant signifies optional conversion. In case the investor benefits by conversion of warrant, then he will convert the warrants, else he may simply let the warrant lapse. The companies listed on the Exchange can issue warrants in accordance with SEBI (ICDR) Regulations, 2018.

K. REAL ESTATE INVESTMENT TRUSTS ('REITS')

A real estate investment trust (“REIT”) is a collective investment scheme that owns, operates or finances income producing real estate. REITs provide all investors the chance to own valuable real estate, present the opportunity to access dividend-based income and total returns, and help communities grow, thrive, and revitalize. REITs allow anyone to invest in portfolios of real estate assets the same way they invest in other industries – through the purchase of individual company stock or through a mutual fund or exchange traded fund (ETF). The stockholders of a REIT earn a share of the income produced through real estate investment – without buying any finance property. Benefits of REITs include:

- **Less Capital Intensive:** Direct investment in real estate property is very capital intensive. But each shares of REITs will be comparatively more affordable (it will not require large capital outflows).
- **Suitable for small Investors:** Investing through REITs will eliminate dealing with builders, thereby avoiding potential exposure to big builders.

- **Transparency:** REITs stocks are listed in stock market, hence details will be available on public domain.
- **Assured Dividends:** REITs generates income in form of dividend. REITs dividend payment is relatively assured as most of their income is in the form of rental (lease) income.
- **Tax Free:** Dividend earned by the investors of REIT will be tax free.
- **Fast Capital Appreciation:** Capital appreciation can be phenomenal.
- **Easy to buy:** Investment in REITs easier than investment in Real Estate properties

L. INFRASTRUCTURE INVESTMENT TRUSTS ('INVITS')

Considering the importance of infrastructure sector with an aim to provide a suitable platform for financing / refinancing infrastructure projects and allow the investors to participate in the growth story of infrastructure, the Government introduced a new investment vehicle named Infrastructure Investment Trusts ('InvITs') in 2014. The primary objective of InvITs is to promote the infrastructure sector of India by encouraging more individuals to invest in it. Typically, such a tool is designed to pool money from several investors to be invested in income-generating assets. The cash flow thus generated is distributed among investors as dividend income. When compared to Real Estate Investment Trust or REITs, the structure and operation of both are quite similar. An InvIT is established as a trust and is registered with the SEBI. Typically, infrastructure investment trust SEBI comprises 4 elements, namely –

- **Trustee :** They are required to be registered with SEBI as debenture trustees. Also, they are required to invest at least 80% into infra assets that generate steady revenue.
- **Sponsor :** Typically, a body corporate, LLP, promoter or a company with a net worth of at least ` 100 crore classifies as a sponsor. Further, they must hold at least 15% of the total InvITs with a minimum lock-in period of 3 years or as notified by any regulatory requirement. When it comes to a public-private partnership or PPP projects, sponsors serve as a Special Purpose Vehicle (SPV).
- **Investment manager :** As a body corporate of LLP, an investment manager supervises all the operational activities surrounding InvITs.
- **Project manager :** The authority is mostly responsible for executing projects. However, in the case of PPP projects, it serves as an entity that also supervises ancillary responsibilities.

M. SECURITIZED DEBT INSTRUMENTS

Securitized debt instruments are financial securities that are created by securitizing individual loans (debt). Securitization is a financial process that involves issuing securities that are backed by assets, most commonly debt. The assets are transformed into securities, and the process is called securitization. The owner of the securities receives an income from the underlying assets; hence, the term asset-backed securities. Securitized debt instruments come with various advantages over conventional forms of investing and are more valuable to a portfolio. One of the most common types of securitized debt is mortgage-backed securities. Securitized debts can lower interest rates and free up capital for the bank, but they can also encourage lending for reasons other than making a profit. SEBI had laid down the framework for public offer and listing of securitized debt instruments vide SEBI (Public Offer and Listing of Securitized Debt Instruments) Regulations, 2008 and had specified listing agreement for Securitized Debt Instruments. A few privately placed SDIs have already been listed on exchanges.

N. MUNICIPAL BONDS

Municipal bonds are also referred to as 'muni bonds'. The urban local government and agencies issue these bonds. Municipal bonds are issued when a government body wants to raise funds for projects such as infra-related, roads, airports, railway stations, schools, and so on. SEBI issued guidelines in 2015 for the urban local bodies to raise funds by issuing municipal bonds. Municipal bonds exist in India since the year 1997. Bangalore Municipal Corporation is the first urban local body to issue municipal bonds in India. Ahmedabad followed Bangalore in the succeeding years. The municipal bonds lost the ground after the initial investors' attraction it received and failed to raise the desired amount of funds. To revive the municipal bonds, SEBI came up with guidelines for the issue of municipal bonds in 2015. Municipality should meet the following eligibility criteria to issue municipal bonds in India:

- The municipality must not have a negative net worth in each of the three previous years.

- The municipality must have no default in the repayment of debt securities and loans availed from the banks or non-banking financial companies in the last year.
- The municipality, promoter and directors must not be enlisted in the willful defaulters published by the Reserve Bank of India (RBI). The municipality should have no record of default in the payment of interest and repayment of principal with respect to debt instruments.

CHAPTER 2 - SECONDARY MARKET IN INDIA

STOCK EXCHANGE

Stock exchange is a market place for buying and selling of securities and ensuring liquidity to them in the interest of the investors. The stock exchanges are virtually the nerve center of the capital market and reflect the health of the country's economy as a whole. The Securities Contracts (Regulation) Act, 1956, has defined Stock Exchange as:

- a) any body of individuals, whether incorporated or not, constituted before corporatization and demutualization under Sections 4A and 4B, or
- b) a body corporate incorporated under the Companies Act, 2013 whether under a scheme of corporatization and demutualization or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

Stock exchange as an organized security market provides marketability and price continuity for shares and helps in a fair evaluation of securities in terms of their intrinsic worth. Thus it helps orderly flow and distribution of savings between different types of investments.

Role of Stock Exchanges

- **Acts as a continuous market for securities:** Investors can invest in any securities, but in case of any risk, they can exit from that security and freshly re-enter into whichever security they feel as secure.
- **Responsible for securities evaluation:** The stock price indicates the performance and stability of the company. Through these investors decide according to their risk appetite whether to enter or exit or hold. The stock exchange acts as a regulator for the securities price evaluation for all the listed stocks.
- **Mobilizes savings:** Most of the public cannot invest the bulk amount in securities, so they invest in indirect ways such as mutual funds and investment trusts, and these are mobilized by stock exchanges.
- **Enables healthy speculation:** Stock exchange encourages businessmen and provides healthy speculation opportunities to speculate and gain profits from fluctuations in stock prices.
- **Protect investors:** Stock exchange ensures the protection of the funds of investors by allowing only genuine companies to be listed in the stock exchange.
- **Ensures liquidity:** Banks and some other institutions like Life Insurance Corporation (LIC) invest their funds in the stocks and earn a profit within a short period and are sold immediately if there is any necessity of funds. Thus there is an opportunity to liquidate immediately at any time if required in the stock market.
- **Acts as an economic barometer:** The country's economic growth is measured with the trends in the stock market. An upward trend in the stock market denotes growth potential and downward trend denotes the fall in the economy. Hence the stock exchange is called as an economic barometer as it indicates conditions prevailing in the country.
- **Exercise vigilance/control on companies:** Every company listed on an exchange must produce their annual reports and an audited balance sheet to the stock exchange. Such reports being available in public domain promotes transparency.
- **Attracts foreign capital:** Foreign Institutional Investors (FII) are likely to invest in developing economy as the rate of returns will be high in developing economies due to growth opportunities.
- **Stock exchanges ensure Safety of Capital and Fair Dealing:** The transactions made in the stock exchange are made available to the public under well-defined rules and regulations abided by laws. This ensures safety and fair dealings for the average investors.
- **Regulate company management:** The firms wanting to get their securities listed must follow certain rules and fulfil certain conditions. Stock exchanges safeguard the interest of the investors and regulate the company management.

INDIAN STOCK EXCHANGES

Trading in the Indian stock market majorly takes place in the below two stock exchanges –

- BSE - BSE Limited (Formerly Bombay Stock Exchange)

- NSE - National Stock Exchange of India

The Bombay Stock Exchange (BSE) has been in existence since 1875, whereas the National Stock Exchange (NSE), on the other hand, was founded in 1992 and started trading in 1994. However, both BSE and NSE exchanges follow the same trading mechanism, trading hours, settlement process, etc.

REGULATOR OF SECONDARY MARKET

The regulation of buying, selling and dealing in securities such as shares of a company, units of mutual funds, Derivatives, etc. and stock exchanges, commodity derivative exchanges and depositories comes within the purview of Securities and Exchange Board of India (SEBI) in terms of SEBI Act, 1992 (SEBI Act) and various SEBI regulations/circulars/ guidelines/ directives. SEBI was established on April 12, 1992 in accordance with the provisions of the SEBI Act. The mandate of SEBI is to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and for matters connected therewith or incidental thereto. At present, the four main legislations governing “the securities market” are:

- A. The SEBI Act, 1992, which empowers SEBI with statutory powers for (i) protecting the interests of investors in securities, (ii) promoting development of the securities market, and (iii) regulating the securities market.
- B. The Companies Act, 2013, which provides regulations for issuance, allotment and transfer of securities, and related matters in public issues of securities.
- C. The Securities Contracts (Regulation) Act, 1956, which provides for recognition and regulation of transactions in securities in a Stock Exchange.
- D. The Depositories Act, 1996, which provides for electronic maintenance and transfer of ownership of dematerialized (demat) shares.

TRADING MECHANISM

- In the Indian securities market various products are trading like equity shares, warrants, debenture, etc. The trading in the securities of the company takes place in dematerialised form in India.
- Trading in the securities of the company takes place on the screen based platforms provided by the Exchanges. Currently for equity shares the settlement cycle is (T+2 days) (T means trading day/Transaction day).
- Any shares which are traded on the Exchange are required to be settled by the clearing corporation of the exchange on 2 working day.
- In electronic trading order received are matched electronically on a strict price/time priority and hence cuts down on time, cost and risk of error, as well as on fraud resulting in improved operational efficiency.
- It enables market participants, irrespective of their geographical locations, to trade with one another simultaneously. It provides full anonymity by accepting orders, big or small, from brokers without revealing their identity, thus providing equal access to everybody. It also provides a perfect audit trail, which helps to resolve disputes by logging in the trade execution process in entirety.
- Regulation 40 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulates that except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in the dematerialized form with a depository.
- In accordance with the Rule 9A of The Companies (Prospectus and Allotment of Securities) Rules, 2014, every unlisted public company shall issue the securities only in dematerialised form and facilitate dematerialisation of all its existing securities in accordance with provisions of the Depositories Act, 1996 and regulations made there under.

TYPES OF SECURITIES

- **Listed Securities:** The securities of companies, which have signed the listing agreement with a stock exchange, are traded as “Listed Securities” in that exchange.
- **Permitted Securities:** To facilitate the market participants to trade in securities of such companies, which are actively traded at other stock exchanges in India but are not listed on an exchange, trading in such securities is facilitated as “permitted securities” provided they meet the relevant norms specified by the stock exchange.

MARKET PARTICIPANTS

Market Participants in Securities Market include buyers, seller and various intermediaries between the buyers and sellers. Some of these entities are briefed below:

- **Market Intermediaries**

Intermediaries are service providers and are an integral part of any financial system. The Market Regulator, i.e., SEBI regulates various intermediaries in the primary and secondary markets through its regulations for these respective intermediaries. SEBI has defined the role of each of the intermediary, the eligibility criteria for granting registration, their functions and responsibilities and the code of conduct to which they are bound. These regulations also empower SEBI to inspect the functioning of these intermediaries and to collect fees from them and to impose penalties on erring entities.

- **Stock Exchanges**

Stock Exchanges offer a trading platform for buyers and sellers to carry out transaction in issued securities. Trading occurs on the stock exchanges like NSE, BSE through electronic trading terminals which attribute anonymous order matching. Stock exchanges also appoint clearing and settlement agencies and clearing banks that manage the funds and securities settlement that arise out of these trades.

- **Depositories**

Depositories are institutions that hold securities (like shares, debentures, bonds, government securities, mutual fund units) of investors in electronic form.

- **Depository Participant**

A Depository Participant (DP) is an agent of the depository through which it interfaces with the investors and provides depository services. Investors enable depository participants to hold and transact in securities in the dematerialized form. While the investor-level accounts in securities are held and maintained by the DP, the company level accounts of securities issued is held and maintained by the depository. With the approval of SEBI Depository Participants are appointed by the depository. Investors can open a demat account with a registered Depository Participant. They also provide services related to transactions in the securities held in dematerialized form.

Demat account is essential as:

- No stocks can be brought or sold without a demat account
- Direct investment cannot be made without a demat account
- Mandated by SEBI for transactions of listed company securities.

- **Trading Members/Stock Brokers & Sub-Brokers**

- Trading members or Stock Brokers are registered members of a Stock Exchange, who assist the investors in buying/selling of securities.
- All secondary market transactions on stock are conducted through registered brokers of the stock exchange. Trading members can be individuals (sole proprietor), Partnership Firms or Corporate bodies, who are permitted to become members of recognized stock exchanges subject to completion of prescribed requirements.
- A sub-broker is an entity who is not a member of Stock Exchange but who acts on behalf of a trading member or Stock Broker as an agent for assisting the investors in buying, selling or dealing in securities all the way through such trading member or Stock Broker with whom he is connected. Sub-brokers assist in increasing the reach of brokers to a larger number of investors.
- Trades have to be routed only through the trading terminals of registered brokers of an exchange, to be accepted and executed on the electronic system.
- SEBI registration to a broker is approved based on aspects such as capital competence, availability of adequate office space, equipment and manpower to successfully perform his activities, experience in securities trading etc.
- Brokers receive a commission for their services, which is called as brokerage. Maximum brokerage chargeable to customers is fixed by individual stock exchanges.
- Several brokers offer research, analysis and advice about securities to buy and sell, to their investors.

- **Custodians**

A Custodian is a body that is charged with the accountability of holding funds and securities of its large clients, characteristically institutions such as banks, insurance companies, and foreign portfolio investors. In addition to safeguarding securities, a custodian also settles transactions in these securities and keeps record of corporate actions on behalf of its clients and aids in:

- Maintaining a client's securities and funds account
- Collecting the benefits or rights accruing to the client in respect of securities held
- Keeping the client informed of the actions taken or to be taken on their portfolios.

- **Clearing Corporation**

Clearing Corporations play a vital role in protecting the interest of investors in the securities market. Clearing agencies ensure that members on the Stock Exchange meet their obligations to deliver funds or securities. These agencies act as a legal counter party to all trades and guarantee settlement of all transactions on the Stock Exchanges. It can be a part of an exchange or a separate entity.

- **Merchant Bankers**

Merchant bankers are bodies registered with SEBI and act as issue managers, investment bankers or lead managers. Investors were enabled through depository participants to hold and transact in securities in the dematerialized form. They are single point contact for issuers during a new issue of securities. They connect and co-ordinate with other mediators such as registrars, brokers, bankers, underwriters and credit rating agencies in managing the issue process.

EXCHANGE TRADED FUNDS (ETF)

- An Exchange traded fund (ETF) is a security that tracks an index, commodity, bonds, or a basket of assets like an index fund and is traded in the securities market. In simple words, ETFs are funds that track indexes such as Sensex, Nifty, etc.
- When any investor buy shares/ units of an ETF, he buys shares/ units of a portfolio that tracks the performance of the index. ETFs just reflect the performance of the index they track.
- Unlike regular mutual funds, ETFs trade like a common stock on the stock exchange and the price of an ETF changes as per the trading in the market takes place.
- The trading value of an ETF depends on the net asset value of the underlying stock that it represents. ETFs, generally, have higher daily liquidity and lower fees than mutual fund schemes

DERIVATIVES

A derivative is a financial instrument that derives its value from an underlying asset. This underlying asset can be stocks, bonds, currency, commodities, metals and even intangible, assets like stock indices. Derivatives can be of different types like futures, options, swaps, caps, floor, collars etc. The most popular derivative instruments are futures and options. The term Derivative has been defined in Securities Contracts (Regulations) Act, as:-

Derivative includes: -

- a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;
- b) a contract which derives its value from the prices, or index of prices, of underlying securities;
- c) commodity derivatives; and
- d) such other instruments as may be declared by the Central Government to be derivatives.

- Currency derivatives:**

Currency derivatives are financial contracts between the buyer and seller involving the exchange of two currencies at a future date, and at a stipulated rate. Currency Derivative Trading is similar to Stock Futures and Options trading. However, the underlying asset are currency pairs (such as USDINR or EURINR) instead of Stocks. Currency Options and Currency Futures trading is done in the Foreign Exchange markets. Forex rates are the value of a foreign currency

relative to domestic currency. The major participants of Currency Trading in India are banks, corporations, exporters and importers. Benefits of currency derivatives include:

- Offers diversification to investments
- Hedging opportunities to importers & exporters, for their future payables and receivables
- Gives trading opportunities because of volatility in currency
- Provides transparent rates to traders as it is exchange-traded.

ii. Commodity Derivatives:

- Commodity is a physical good attributable to a natural resource that is tradable and supplied without substantial differentiation by the general public.
- Commodities trade in physical (spot) markets and in futures and forward markets.
- Spot markets involve the physical transfer of goods between buyers and sellers; prices in these markets reflect current (or very near term) supply and demand conditions.
- Commodity derivatives are financial instruments whose value is based on underlying commodities, such as oil, gas, metals, agricultural products and minerals. Other assets such as emissions trading credits, freight rates and even the weather can also underlie commodity derivatives.
- Commodity Derivatives markets are a good source of critical information and indicator of market sentiments.

FUTURE

Future refers to a future contract which means an exchange traded forward contract to buy or sell a predetermined quantity of an asset on a predetermined future date at a predetermined price. Contracts are standardized and there's centralized trading ensuring liquidity. There are two positions that one can take in a future contract:

- **Long Position** - This is when a futures contract is purchased and the buyer agrees to receive delivery of the underlying asset. (Stock/Indices/Commodities)
- **Short Position** - This is when a futures contract is sold and the seller agrees to make delivery of the underlying asset. (stock/Indices/Commodities)

Currency Futures: A currency future, also known as FX future, is a futures contract to exchange one currency for another at a specified date in the future at a price (exchange rate) that is fixed on the purchase date. Generally, the price of a future contract is in terms of INR per unit of other currency e.g. US Dollars. Currency future contracts allow investors to hedge against foreign exchange risk. Currency Derivatives are available on four currency pairs viz. US Dollars (USD), Euro (EUR), Great Britain Pound (GBP) and Japanese Yen (JPY). Cross Currency Futures & Options contracts on EUR-USD, GBP-USD and USD-JPY are also available for trading in Currency Derivatives segment.

Currency Future and Options Contracts (involving Indian Rupee) on Exchanges in International Financial Services Centres (IFSC)

SEBI (International Financial Services Centres) Guidelines, 2015 specified currency derivatives as permissible securities in which dealing may be permitted by stock exchanges in IFSC. RBI, announced its decision to allow Rupee derivatives (with settlement in foreign currency) to be traded in IFSC Currency futures and options contracts involving Indian Rupee (with settlement in foreign currency), the position limits for eligible market participants, per currency pair per stock exchange, shall be as follows:

- **Trading Members (positions on proprietary basis as well as clients' position)** – Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.
- **Institutional Investors** – Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.
- **Eligible Foreign Investors** – Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.
- **Other Clients** – Gross open position across all contracts not to exceed 6% of the total open interest or USD 100 million equivalent, whichever is higher.

OPTIONS

Options Contract give its holder the right, but not the obligation, to take or make delivery on or before a specified date at a stated price. But this option is given to only one party in the transaction while the other party has an obligation to take or make delivery. Since the other party has an obligation and a risk associated with making the good the obligation, he receives a payment for that. This payment is called as option premium.

Option contracts are classified into two types **on the basis of which party has the option**:

- **Call option** - A call option is with the buyer and gives the holder a right to take delivery.
- **Put option** - The put option is with the seller and gives the right to take delivery.

Option Contracts are classified into two types **on the basis of time at which the option can be exercised**:-

- **European Option** – European style options are those contacts where the option can be exercised only on the expiration date. Options traded on Indian stock exchanges are of European Style.
- **American Option** – American style options are those contacts where the option can be exercised on or before the expiration date.

RIGHTS ENTITLEMENTS

Rights Entitlement (RE) is the rights issued by the company to the existing shareholders to subscribe to the new shares / other securities that the shareholder of a company is eligible to apply for under the rights offer. REs are offered to shareholders based on a ratio of existing equity shares held as on the record date. Rights Entitlements (REs) are issued in dematerialised form under a separate ISIN created by the Company.

- **Options available to an Eligible Equity Shareholder in rights Issue**

Eligible Equity Shareholder can:

- apply for their Rights Equity Shares to the full extent of their Rights Entitlements; or
- apply for their Rights Equity Shares to the full extent of their Rights Entitlements and apply for additional Rights Equity Shares; or
- apply for their Rights Equity Shares to the extent of a part of their Rights Entitlements (without renouncing the other part); or
- apply for Rights Equity Shares to the extent of a part of their Rights Entitlements and renounce a part / rest of their Rights Entitlements; or
- renounce their Rights Entitlements in full.

- **Renunciation of Rights Entitlements**

- On Market Renunciation** - The Investors may renounce the Rights Entitlements, credited to their respective demat accounts by trading/selling them on the secondary market platform of the Stock Exchanges through a registered stock broker in the same manner as trading / selling Equity Shares of the Company.
- Off Market Renunciation** - The Investors may renounce the Rights Entitlements, credited to their respective demat accounts by way of an off-market transfer through a depository participant. The Rights Entitlements can be transferred in dematerialised form only. Eligible Equity Shareholders are requested to ensure that renunciation through offmarket transfer is completed in such a manner that the Rights Entitlements are credited to the demat account of the Renounees on or prior to the Issue Closing Date.

TRADING PLATFORM IN INDIA

1. MAIN BOARD

An applicant who desires to list its securities with NSE or BSE must fulfill the pre-requisites as defined by respective stock exchange. An Issuer has to take various steps prior to making an application for listing its securities on the stock exchange. These steps are essential to ensure the compliance of certain requirements by the Issuer before listing its securities on the stock exchange. The various steps to be taken include:

- In-principal approval of draft prospectus
- Submission of Application

- IPO registration

Debt – Public Issue

All Non-Convertible Debentures (NCDs) issued through Initial Public Offer gets listed on the Capital Market segment of the Exchange. Every security in the trading system is given a symbol with series representative of the security. SEBI (Issue and Listing of Non- Convertible Securities) Regulations, 2021 and amendments thereon govern the issues relating to NCDs.

2. SME PLATFORM

a) BSE SME Platform

Established in 2012, BSE SME is the market leader amongst the SME platform in India. BSE SME Platform offers an entrepreneur and investor friendly environment, which enables the listing of SMEs from the unorganized sector scattered throughout India, into a regulated and organized sector.

Requirements of Listing at BSE SME Platform

Incorporation	The Company shall be incorporated under the Companies Act, 2013.
Post Issue Paid up Capital	The post issue paid up capital of the company (face value) shall not be more than Rs. 25 crores.
Network	Positive Network
Tangible Asset	Net Tangible Assets should be Rs 1.5 Crore.
Track Record	<p>The company or the partnership/proprietorship/LLP Firm or the firm which have been converted into the company should have combined track record of at least 3 years. Or</p> <ul style="list-style-type: none"> • In case it has not completed its operation for three years then the company/partnership/ proprietorship/LLP should have been funded by Banks or financial institutions or Central or state government or the group company should be listed for at least two years either on the main board or SME board of the Exchange. • The company or the firm or the firm which have been converted into the company should have combined positive cash accruals (earnings before depreciation and tax) in any of the year out of last three years and its net worth should be positive.
Other Requirements	<ul style="list-style-type: none"> • It is mandatory for a company to have a website. • It is mandatory for the company to facilitate trading in demat securities and enter into an agreement with both the depositories. • There should not be any change in the promoters of the company in preceding one year from date of filing the application to BSE for listing under SME segment.

b) NSE EMERGE PLATFORM

- NSE's SME platform "EMERGE", offers emerging businesses a new and viable option for raising equity capital from a diversified set of investors in an efficient manner.
- These companies have the potential to unlock value and emerge on a bigger stage. EMERGE can play the critical role of significantly improving access to risk capital for emerging companies. At the same time, this platform will provide investors with exciting opportunities to invest in promising SME's / technology Startups.
- EMERGE is a credible and efficient market place to bring about convergence of sophisticated investors and emerging corporates in the country. It offers opportunities to informed investors to invest in emerging businesses with exciting growth plans, innovative business models and commitment towards good governance and investor interest.

3. INNVATORS' GROWTH PLATFORM

The Securities and Exchange Board of India ("SEBI") had, in its circular dated December 12, 2018 reviewed the erstwhile framework for Institutional Trading Platform ("ITP") and proposed modifications to the existing guidelines of ITP including a change of name to Innovators Growth Platform ("IGP"). "Innovators growth platform" means the trading

platform for listing and trading of specified securities of issuers that comply with the eligibility criteria specified in regulation 283 of SEBI (ICDR), 2018.

Applicability

Company with intensive use of technology, information technology, intellectual property, data analytics, biotechnology or nano-technology in their businesses. As on the date of filing of draft information document or draft offer document with the Board, as the case may be, 25% (twenty five per cent) of the pre-issue capital of the Issuer Company for at least a period of 2 (two) years, should have been held by:

1. Qualified Institutional Buyers.
2. Family trust with net-worth of more than INR 500 Cr (Five hundred crore rupees), as per the last audited financial statements.
3. Accredited Investors (AI) for the purpose of Innovators Growth Platform.
4. The following regulated entities:
 - A. Category III Foreign Portfolio Investor.
 - B. An entity meeting all the following criteria:
 - a) It is a pooled investment fund with minimum assets under management of one hundred and fifty million USD.
 - b) It is registered with a financial sector regulator in the jurisdiction of which it is a resident.
 - c) It is resident of a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to Bilateral Memorandum of Understanding with the Board.
 - d) It is not resident in a country identified in the public statement of Financial Action Task Force as:
 1. a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
 2. a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

Investor Allocation

The allotment to Institutional Investors as well as Non-institutional investors shall be on a proportionate basis. Any under-subscription in the Non-institutional Investor category shall be available for subscription under the Institutional Investors' category.

4. SOCIAL STOCK EXCHANGE

The Hon'ble Finance Minister as part of the Budget Speech for FY 2019-20 had proposed to initiate steps towards creating a Social Stock Exchange (SSE), under the regulatory ambit of SEBI, for listing social enterprise and voluntary organizations. A working group on SSE and a Technical Group (TG) was constituted by SEBI to review and make recommendations on certain critical operational issue. After detailed deliberations, the SEBI vide notification dated July 25, 2022 inserted Chapter X-A on Social Stock Exchange in SEBI (ICDR) Regulations, 2018.

As per regulation 292A (i) "Social Stock Exchange" means a separate segment of a recognized stock exchange having nationwide trading terminals permitted to register Not for Profit Organizations and / or list the securities issued by Not for Profit Organizations in accordance with provisions of these regulations.

• Applicability

The provisions of Social Stock Exchange as mentioned in Chapter X-A of SEBI (ICDR) Regulations, 2018 shall apply to the following:

- a) a Not for Profit Organization seeking to only get registered with a Social Stock Exchange;
- b) a Not for Profit Organization seeking to get registered and raise funds through a Social Stock Exchange;
- c) a For Profit Social Enterprise seeking to be identified as a Social Enterprise

• Eligibility conditions for being identified as a Social Enterprise

1. As per these regulations, a Not for Profit Organization or a For Profit Social Enterprise, to be identified as a Social Enterprise, shall establish primacy of its social intent.
2. In order to establish the primacy of its social intent, such Social Enterprise shall meet the following eligibility criteria:-
 - a) the Social Enterprise shall be indulged in at least one of the following activities:
 - i. eradicating hunger, poverty, malnutrition and inequality;
 - ii. promoting health care including mental healthcare, sanitation and making available safe drinking water;
 - iii. promoting education, employability and livelihoods;
 - iv. promoting gender equality, empowerment of women and LGBTQIA+ communities;
 - v. ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation;
 - vi. protection of national heritage, art and culture;
 - vii. training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports;
 - viii. supporting incubators of Social Enterprises;
 - ix. supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building;
 - x. promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector;
 - xi. slum area development, affordable housing and other interventions to build sustainable and resilient cities;
 - xii. disaster management, including relief, rehabilitation and reconstruction activities;
 - xiii. promotion of financial inclusion;
 - xiv. facilitating access to land and property assets for disadvantaged communities;
 - xv. bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection;
 - xvi. promoting welfare of migrants and displaced persons;
 - xvii. any other area as identified by the Board or Government of India from time to time
 - b) the Social Enterprise shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of central or state governments;
 - c) the Social Enterprise shall have at least 67% of its activities, qualifying as eligible activities to the target population, to be established through one or more of the following:
 1. at least 67% of the immediately preceding 3-year average of revenues comes from providing eligible activities to members of the target population;
 2. at least 67% of the immediately preceding 3-year average of expenditure has been incurred for providing eligible activities to members of the target population;
 3. members of the target population to whom the eligible activities have been provided constitute at least 67% of the immediately preceding 3-year average of the total customer base and/or total number of beneficiaries.
3. Corporate foundations, political or religious organizations or activities, professional or trade associations, infrastructure and housing companies, except affordable housing, shall not be eligible to be identified as a Social Enterprise.

MARGINS

- An advance payment of a portion of the value of a stock transaction. The amount of credit a broker or lender extends to a customer for stock purchase.
- **“Initial margin”** in this context means the minimum amount, calculated as a percentage of the transaction value, to be placed by the client, with the broker, before the actual purchase. The broker may advance the balance amount to meet full settlement obligations.
- **“Maintenance margin”** means the minimum amount, calculated as a percentage of market value of the securities, calculated with respect to last trading day’s closing price, to be maintained by client with the broker.

- When the balance deposit in the client's margin account falls below the required maintenance margin, the broker shall promptly make margin calls. However, no further exposure can be granted to the client on the basis of any increase in the market value of the securities.
- The broker may liquidate the securities if the client fails to meet the margin calls made by the broker or fails to deposit the cheques on the day following the day on which the margin call has been made or the cheque has been dishonored.
- The broker may also liquidate the securities in case the client's deposit in the margin account (after adjustment for mark to market losses) falls to 30% or less of the latest market value of the securities, in the interregnum between making of the margin call and receipt of payment from the client.
- The broker must disclose to the stock exchange details on gross exposure including the name of the client, unique identification number, name of the scrip and if the broker has borrowed funds for the purpose of providing margin trading facilities, name of the lender and amount borrowed, on or before 12 Noon on the following day.
- Stock exchanges disclose scrip wise gross outstanding in margin accounts with all brokers to the market. Such disclosures regarding margin trading done on any day shall be made available after the trading hours on the following day through the website.

BOOK CLOSURE AND RECORD DATE

- Book closure is the periodic closure of the Register of Members and Transfer Books of the company, to take a record of the shareholders to determine their entitlement to dividends or to bonus or right shares or any other rights pertaining to shares.
- Record date is the date on which the records of a company are closed for the purpose of determining the stock holders to whom dividends, proxy rights etc. are to be sent.
- In accordance with Section 91 of the Companies Act, 2013 a company may close the register of members for a maximum of 45 days in a year and for not more than 30 days at any one time subject to giving of previous notice by advertisement at least once in a vernacular newspaper in the principal vernacular language of the district and having a wide circulation in the place where the registered office of the company is situated, and at least once in English language in an English newspaper circulating in that district and having wide circulation in the place where the registered office of the company is situated.
- Book closure/record date is necessary for the purpose of paying dividend, rights issue, bonus issue, etc. For the companies whose securities are listed on the Exchange are required to comply with the SEBI (LODR) Regulations, 2015. As per SEBI (LODR) Regulations, 2015 the companies are required to give 7 working days advance notice of book closure or record date to stock exchange where the securities of the companies are listed

BLOCK DEAL

The SEBI vide letter MRD/DoP/SE/Cir - 19/05 dated September 02, 2005 and CIR/MRD/DP/118/2017 dated October 26, 2017 issued guidelines outlining a facility of allowing Stock Exchanges to provide separate trading window to facilitate execution of large trades. The Exchanges have introduced new block window mechanism for the block trades from January 01, 2018.

- **Session Timings:**
 - a) Morning Block Deal Window: This window shall operate between 08:45 AM to 09:00 AM.
 - b) Afternoon Block Deal Window: This window shall operate between 02:05 PM to 2:20 PM.
- In the block deal the minimum order size for execution of trades in the Block deal window shall be ₹10 Crore.
- The orders placed shall be within $\pm 1\%$ of the applicable reference price in the respective windows as stated above.
- The stock exchanges disseminates the information on block deals such as the name of the scrip, name of the client, quantity of shares bought/sold, traded price, etc to the general public on the same day, after the market hours.

BULK DEAL

Bulk deal is a trade, where total quantity bought or sold is more than 0.5% of the number of equity shares of a listed company. Bulk deal can be transacted by the normal trading window provided by brokers throughout the trading hours in a day. Bulk deals are market driven and take place throughout the trading day. The stock broker, who facilitates the trade, is required to reveal to the stock exchange about the bulk deals on a daily basis. Bulk orders are visible to everyone. If the bulk deal happens through a single trade, it should be notified to the exchange immediately upon the execution of the order. If it happens through multiple trades, it should be notified to the exchange within one hour from the closure of the trading.

STOCK MARKET INDEX

An Index is used to give information about the price movements of products in the financial, commodities or any other markets. Financial indexes are constructed to measure price movements of stocks, bonds, T-bills and other forms of investments. Stock market indexes are meant to capture the overall behaviour of equity markets. A stock market index is created by selecting a group of stocks that are representative of the whole market or a specified sector or segment of the market. An Index is calculated with reference to a base period and a base index value.

Stock market indexes are useful for a variety of reasons. Some of them are:

- They provide a historical comparison of returns on money invested in the stock market against other forms of investments such as gold or debt.
- They can be used as a standard against which to compare the performance of an equity fund.
- It is a lead indicator of the performance of the overall economy or a sector of the economy.
- Stock indexes reflect highly up to date information.
- Modern financial applications such as Index Funds, Index Futures, Index Options play an important role in financial investments and risk management.

BASIS OF SENSEX

Sensitive Index or Sensex is the stock market index indicator for the BSE. It is also sometimes referred to as BSE S&P Sensex. It was first published in 1986 and is based on the market weighed stock index of 30 companies based on the financial performance. The large, established companies that represent various industrial sectors are a part of this. The calculation of Sensex is done by a Free-Float method that came into existence from September 1, 2003. The level of Sensex is a direct indication of the performance of 30 stocks in the market. The free-float method takes into account the proportion of the shares that can be readily traded in the market. This does not include the ones held by various shareholders and promoters or other locked-in shares not available in the market. Steps to calculate Sensex:

- The market capitalization is taken into account. This is done by multiplying all the shares issued by the company with the price of its stock.
- BSE determines a Free-Float factor that is a multiple of the market capitalization of the company. This helps in determining the Free-Float market capitalization based on the details submitted by the company.
- Ratio and Proportion are used based on the base index of 100. This helps to determine the Sensex.

NIFTY

National Stock Exchange Fifty or Nifty is the market indicator of NSE. It is a collection of 50 stocks. It is also referred to as Nifty 50. It is owned and managed by India Index Services and Products Ltd. (IISL).

Nifty is calculated through the Free-Float market capitalization weighted method. It multiplies the Equity capital (expressed in terms of number of shares outstanding) with a price, to derive the market capitalization. To determine the Free-Float market capitalization, equity capital (as stated earlier) is multiplied by a price which is further multiplied with IWF (Investible Weight Factors) which is the factor for determining the number of shares available for trading freely in the market. The Index is determined on a daily basis by taking into consideration the current market value (Free Float market capitalization) divided by base market capital and then multiplied by the Base Index Value of 1000.

These indices are broad-market indices, consisting of the large, liquid stocks listed on the Exchange. They serve as a benchmark for measuring the performance of the stocks or portfolios such as mutual fund investments.

Some of them are:

- NIFTY 50 Index
- NIFTY Next 50 Index
- NIFTY 100 Index
- NIFTY 200 Index
- NIFTY 500 Index
- NIFTY Midcap 150 Index
- NIFTY Midcap 50 Index
- NIFTY Midcap 100 Index
- NIFTY Smallcap 250 Index
- NIFTY Smallcap 50 Index
- NIFTY Smallcap 100 Index
- NIFTY Large Midcap 250 Index
- NIFTY Mid Smallcap 400 Index

BASICS OF INVESTING – A GUIDANCE TO BUDDING INVESTORS

Before one starts investing in securities market, one needs to understand and identify their investment goals, objectives and risk appetite (the extent up to which they are willing to take risk). Every investment decision should reflect needs and requirements and should be as per investors desired preferences. For example, whether investor is willing to invest in safe products which give steady returns or if he want to take slightly higher risk and invest in products which may give you higher returns. Every investment comes with the risk of change in the inherent value of that investment. For example, investment in shares of automobile industry will attract the risk attached with the automobile industry (sales may go up or down or one brand of cars may be sold more than other brand, etc.). Investors should make informed decision before investing in the shares of a company. They should carefully read all the information related to the company such as disclosures related to the company, its promoters, the project details, financial details, etc. These details can be found on the websites of the stock exchanges.

Key risks in investing in securities market:

- i. **Market risk or Systematic Risk:** It means that an investor may experience losses due to factors affecting the overall performance of financial markets and general economy of the country.
- ii. **Unsystematic Risk:** Unsystematic risk can be described as the uncertainty attached with a particular company or industry.
- iii. **Inflation risk:** Inflation risk is also called as purchasing power risk. It is defined as the chance that the cash flows from an investment would lose their value in future because of a decline in its purchasing power due to inflation.
- iv. **Liquidity risk:** Liquidity risk arises when an investment can't be bought or sold quickly enough.
- v. **Business Risk:** It refers to the risk that a business of a company might be affected or may stop its operations due to any unfavorable operational, market or financial situation.
- vi. **Volatility Risk:** Volatility risk arises as the Companies' stock prices may fluctuate over time.
- vii. **Currency Risk:** It refers to the potential risk of loss from fluctuating foreign exchange rates that an investor may face when he has invested in foreign currency or made foreign currency-traded investments.

Pre-requisites for investing in securities market:

- Bank account.
- Trading account or broking account with a SEBI registered stock broker of a recognized Stock Exchange. This account is used to buy and sell securities on the Stock Exchanges. To open a trading account, you have to fill account opening form and submit the signed Know Your Client (KYC) documents.
- Demat account provides the facility of holding of securities in dematerialized/electronic form. The demat account can be opened with depository participant (DP) of any of the Depositories.

CLEARING CORPORATION

Role of Clearing Corporation

Clearing Corporation is responsible:-

- for clearing and settlement of all trades executed on Stock Exchange and deposit and collateral management and risk management functions;
- to bring and sustain confidence in clearing and settlement of securities;
- to promote and maintain, short and consistent settlement cycles;
- to provide counter-party risk guarantee; and
- to operate a tight risk containment system.

Section 8A(1) provides that a recognized stock exchange may, with the prior approval of the SEBI, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 2013, for the purpose of –

- a) the periodical settlement of contracts and differences thereunder;
- b) the delivery of, and payment for, securities;
- c) any other matter incidental to, or connected with, such transfer. Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation, make bye-laws and submit the same to the SEBI for its approval.

SEBI may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it and approve transfer of the duties and functions of a clearing house to a clearing corporation.

MARKET SURVEILLANCE

Market surveillance plays a vital role in ensuring market integrity which is the core objective of regulators. Market integrity is achieved through combination of surveillance, inspection, investigation and enforcement of relevant laws and rules. Globally market surveillance is either conducted by the Regulators or Exchanges or both. In India, the primary responsibility of market surveillance has been entrusted to Stock Exchanges and is being closely monitored by SEBI. Millions of orders are transmitted electronically every minute and therefore surveillance mechanisms to detect any irregularities must also be equally developed. Exchanges adopt automated surveillance tools that analyze trading patterns and are installed with a comprehensive alerts management system. Market Surveillance is broadly categorised in 2 parts viz, Preventive Surveillance and Post trade Surveillance.

A. Preventive Surveillance –

- **Stringent On boarding norms for Trading Members** - Stringent net worth, back ground, viability etc. checks while on boarding Trading Members.
- **Index circuit filters** - It brings coordinated trading halt in all equity and equity derivative markets at 3 stages of the index movement, either way viz., at 10%, 15% and 20% based on previous day closing index value.
- **Trade Execution Range** - Orders are matched and trades take place only if the trade price is within the reference price and execution range.
- **Order Value Limitation** - Maximum Order Value limit allowed per order.
- **Cancel on logout** - All outstanding orders are cancelled, if the enabled user logs out.
- **Kill switch** - All outstanding orders of that trading member are cancelled if trading member executes kill switch.
- **Risk reduction mode** - Limits beyond which orders level risk management shall be initiated instead of trade level.
- **Compulsory close out** - Incoming order, if it results in member crossing the margins available with the exchange, such order will be partially or fully cancelled, as the case may be, and further disallow the trading member to create fresh positions.
- **Capital adequacy check** - Refers to monitoring of trading member's performance and track record, stringent margin requirements, position limits based on capital, online monitoring of member positions and automatic disablement from trading when limits are breached.

- **Fixed Price Band/Dynamic Price band** - Limits applied within which securities shall move; so that volatility is curbed orderliness is brought about. For non-derivative securities price band is 5%, 10% & 20%. For Derivative products an operating range of 10% is set and subsequently flexed based on market conditions. Trade for Trade Settlement - The settlement of scrip's available in this segment is done on a trade for trade basis and no netting off is allowed.
- **Periodic call auction** - Shifting the security from continuous to call auction method.
- **Rumour Verification** - Any unannounced news about listed companies is tracked on online basis and letter seeking clarification is sent to the companies and the reply received is disseminated.

B. Post trade surveillance –

- **End of day alert** – Alerts generated using statistical tools. The tool highlights stocks which have behaved abnormally from its past behaviour.
- **Pattern recognition model** – Models designed using high end tools and trading patterns which itself identifies suspects involving in unfair trading practice.
- **Transaction alerts for member** - As part of surveillance obligation of members the alerts are downloaded to members under 14 different heads.

Preventive approach adopted by Stock Exchange/SEBI has been fruitful. However, they are fully aware that the suite of measure in force have to be upgraded, expanded and added to be able to successful in this preventive approach. SEBI has introduced various market surveillance measure like price band, circuit filter, trade for trade segment

RISK MANAGEMENT IN SECONDARY MARKET

A number of measures were taken to modernise the stock exchanges in the country. These measures focused on infrastructure development, transparency, efficiency and enhanced investor protection. Risk management was further strengthened during the year by implementing a comprehensive system of margins, exposure limits and improving the efficiency of clearing and settlement systems through the introduction of settlement guarantee funds. With a view to enhancing market safety, SEBI fixed intra-day trading and gross exposure limits for brokers. SEBI continued to maintain a constant interface with the stock exchanges on various issues concerning investor protection, automated market infrastructure and overall improvement in quality of intermediation. SEBI also directed its efforts towards encouraging the stock exchanges to become effective as self-regulatory institutions.

Automated screen based trading which was introduced in the country through the setting up of the OTCEI and NSE and subsequently introduced by the BSE had brought about a qualitative improvement in the market and its transparency. Transaction costs and time were also significantly reduced. During the year several of the smaller exchanges also introduced on-line screen based trading. The key risk management measures initiated by SEBI include-

- Categorization of securities into groups 1, 2 and 3 for imposition of margins based on their liquidity and volatility.
- VaR (value at risk) based margining system.
- Specification of mark to Market margins.
- Specification of Intra-day trading limits and Gross Exposure Limits.
- Real time monitoring of the Intra-day trading limits and Gross Exposure Limits by the Stock Exchanges.
- Specification of time limits of payment of margins.
- Collection of margins on upfront basis.
- Index based market wide circuit breakers.
- Automatic de-activation of trading terminals in case of breach of exposure limits.
- VaR based margining system has been put in place based on the categorization of stocks based on the liquidity of stocks depending on its impact cost and volatility. It addresses 99% of the risks in the market
- Additional margins have also been specified to address the balance 1% cases.
- Collection of margins from institutional clients on T+1 basis.

IMPACT OF VARIOUS POLICIES ON STOCK MARKETS

1. FED POLICY

The Federal Reserve System is the central bank of the United States. It performs five general functions to promote the effective operation of the U.S. economy and, more generally, the public interest. The Federal Reserve:

- conducts the nation's monetary policy to promote maximum employment, stable prices, and moderate longterm interest rates in the U.S. economy;
- promotes the stability of the financial system and seeks to minimize and contain systemic risks through active monitoring and engagement in the U.S. and abroad;
- promotes the safety and soundness of individual financial institutions and monitors their impact on the financial system as a whole;
- fosters payment and settlement system safety and efficiency through services to the banking industry and the U.S. government that facilitate U.S. dollar transactions and payments; and
- promotes consumer protection and community development through consumer-focused supervision and examination, research and analysis of emerging consumer issues and trends, community economic development activities, and the administration of consumer laws and regulations.

How change in US Fed rate can impact India?

The Fed Funds Rate is the interest rate at which the top US banks borrow overnight money from common reserves. All American banks are required to park a portion of their deposits with the Federal Reserve in cash, as a statutory requirement. Actually, fed fund rate gives the direction in which US interest rates should be heading at any given point of time. If the Fed is increasing the interest rates, lending rates for companies and retail borrowers will go up and vice versa.

In India, hike in repo rate may not impact the countries outside India. On the other hand, US interest rates matter a lot to global capital flows. Some of the world's richest institutions and investors have their base in USA. They constantly compare Fed rates with interest rates across the world to make their allocation decisions. In the globalised world, markets are connected. An increase in Fed rates will be negative in general for the US stock market and if it leads to another round of sell-offs, it will also have ripple effects on the Indian market. Any changes in the Fed Fund Rates impact the domestic borrowing market to a large extent. For instance, if the Fed rates go up, it will make the RBI hesitant in cutting rates at that time. The reason is that if RBI cut rates it will lead to heavy pullout of foreign investors from the Indian bond market.

Bond market pressure:

Due to the higher Fed rates, US' 10-year bond yields are expected to go up, which will also put pressure on India's 10-year government bond yields.

RBI repo rate:

With higher Fed rates weakening the Rupee, India's imports bill is likely to go up putting pressure on the RBI to either increase repo rates or at least refrain from cutting rates in the upcoming monetary policy meetings.

2. CREDIT POLICY OF RBI

The Reserve Bank of India has a credit policy which aims at pursuing higher growth with price stability. Higher economic growth means to produce more quantity of goods and services in different sectors of an economy; The term monetary policy is also known as RBI's credit policy or money management policy. It is basically the central bank's view on what should be the supply of money in the economy and also in what direction the interest rates should move in the banking system. The credit policy aims at increasing finance for the agriculture and industrial activities. When credit policy is implemented, the role of other commercial banks is very important. The objectives of a monetary policy are similar to the five year plans of our country. In a nutshell it is basically a plan to ensure growth and stability of the monetary system.

The significance of the monetary policy is to attain the following objectives.

- a) **Rapid Economic Growth:** It is an important objective as it can play a decisive role in the economic growth of country. It influences the interest rates and thus has an impact on the investment. If the RBI adopts an easy credit policy, it would be doing so by reducing interest rates which in turn would improve the investment outlook in the country. This would in turn enhance the economic growth. However faster economic growth is possible if the monetary policy succeeds in maintaining income and price stability.
- b) **Exchange Rate Stability:** Another important objective is maintaining the exchange rate of the home currency with respect to foreign currencies. If there is volatility in the exchange rate, then the international community loses confidence in the economy. So it is necessary for the monetary policy to maintain the stability in exchange rate. The RBI by altering the foreign exchange reserves tries to influence the demand for foreign exchange and tries to maintain the exchange rate stability.
- c) **Price Stability:** The monetary policy is also supposed to keep the inflation of the country in check. Any economy can suffer both inflation and deflation both of which are harmful to the economy. So the RBI has to maintain a fair balance in ensuring that during recession it should adopt an 'easy money policy' whereas during inflationary trend it should adopt a 'dear money policy'.
- d) **Balance of Payments (BOP) Equilibrium:** Another key objective is to maintain the BOP equilibrium which most of the developing economies don't tend to have. The BOP has two aspects which are 'BOP surplus' and 'BOP deficit'. The former reflects an excess money supply in the domestic economy, while the later stands for stringency of money. If the monetary policy succeeds in maintaining monetary equilibrium, then the BOP equilibrium can be achieved.
- e) **Neutrality of Money:** RBI's policy should regulate the supply of money. It is possible that the change in money supply causes disequilibrium and the monetary policy should neutralize it. However this objective of a monetary policy is always criticized on the ground that if money supply is kept constant then it would be difficult to attain price stability.

Bank Rate: is the rate at which RBI discount bills for commercial banks. This banking system involves commercial and Co-operative Banks, Industrial Development Bank of India, IFC, EXIM Bank and other approved financial institutions. Funds are provided through lending directly or rediscounting or buying money market instruments like Commercial Bills or Treasury Bills. Increase in Bank Rate increases the cost of borrowing by commercial banks which results in the reduction of credit volume to the banks and hence declines the money supply. Increase in Bank Rate means tightening of RBI's Monetary Policy.

Various Quantitative instrument of Credit Policy:

- a) **Repo Rate:** The rate at which the Commercial Banks borrow money from RBI. Reduction in Repo Rate helps the Commercial Banks to get money at a cheaper rate and an Increase in Repo Rate discourages the Commercial Banks to get money as the rate increases and becomes expensive. The increase in the Repo Rate will increase the cost of borrowing and lending of the banks which will discourage the public to borrow money and encourages them to deposit.
- b) **Cash Reserve Ratio (CRR) :** Cash reserve ratio is the amount which the commercial banks have to maintain as cash deposit with the Reserve Bank of India. RBI may increase the CRR if it thinks that there is large amount of money supply in the economy. Conversely, it will decrease the CRR if it is of the opinion that inflation is in control and the industry needs a monetary boost up. The reduction in CRR will provide more money in the hands of commercial banks which it will pass it on to the industry. More money in the hands of industry will boost up production, consumption and employment.
- c) **Statutory Liquidity Ratio (SLR) :** Statutory Liquidity Ratio is the amount which commercial banks have to keep it with itself. So, SLR is the amount of money which banks have to keep in its custody at all times. SLR is also a very powerful tool to control liquidity in the economy. To encourage industries to boost up their production, SLR may be decreased to put more money in the hands of commercial banks. An increase in SLR is used as an inflation control measure to control price rise.
- d) **Reverse Repo Rate (RRR):** is the rate at which the RBI borrows money from the Commercial Banks. An increase in the reverse repo rate will decrease the money supply and vice-versa, other things remaining constant. An increase

in Reverse Repo Rate means that Commercial Banks will get more incentives to park their funds with the RBI, therefore decreasing the supply of money in market. An increase in the Repo Rate and the Reverse Repo Rate indicates strengthening of RBI's Monetary Policy.

3. INFLATION INDEX

An index is just a collection of data that serves as a baseline for future reference. We use the index model in all areas of life, from the stock market, to inflation. We index wage levels, corporate profits as a percentage of GDP, and almost anything else that can be measured. We do this to compare where we are now to where we have been in the past. An inflation index is an economic tool used to measure the rate of inflation in an economy. There are several different ways to measure inflation, leading to more than one inflation index with different economists and investors preferring one method to another, sometimes strongly.

► INFLATION INDICES

In India, Consumer Price Index (CPI) and Wholesale Price Index (WPI) are two major indices for measuring inflation. In United States, CPI and PPI (Producer Price Index) are two major indices.

The Wholesale Price Index (WPI) was main index for measurement of inflation in India till April 2014 when RBI adopted new Consumer Price Index (CPI) (combined) as the key measure of inflation.

a) Wholesale Price Index

Wholesale Price Index (WPI) is computed by the Office of the Economic Adviser in Ministry of Commerce & Industry, Government of India. It was earlier released on weekly basis for Primary Articles and Fuel Group. However, since 2012, this practice has been discontinued. Currently, WPI is released monthly. Salient notes on WPI are as follows:

Base Year

Current WPI Base year is 2004-05=100. It's worth note that the base year for CPI is 2012 currently. This is one reason for increasing difference between CPI and WPI in recent times.

Items

There are total 676 items in WPI and inflation is computed taking 5482 price quotations. These items are divided into three broad categories viz. (1) Primary Articles (2) Fuel & power and (3) Manufactured Products. WPI does not take into consideration the retail prices or prices of the services.

b) Consumer Price Index

Consumer Price Indices (CPI) released at national level are:

- CPI for Industrial Workers (IW)
- CPI for Agricultural Labourers (AL)/ Rural Labourers (RL)
- CPI (Rural/Urban/Combined).

While the first two are compiled and released by the Labour Bureau in the Ministry of Labour and Employment, the third by the Central Statistics Office (CSO) in the Ministry of Statistics and Programme Implementation. In India, RBI uses CPI (combined) released by CSO for inflation purpose. Important notes on this index are as follows:

Base Year

Base year for CPI (Rural, Urban, Combined) is 2012=100.

Number of items

The number of items in CPI basket include 448 in rural and 460 in urban. Thus, it makes it clear that CPI basket is broader than WPI basket. The items in CPI are divided into 6 main groups.

► KEY DIFFERENCES BETWEEN WPI & CPI

- Primary use of WPI is to have inflationary trend in the economy as a whole. However, CPI is used for adjusting income and expenditure streams for changes in the cost of living.

- WPI is based on wholesale prices for primary articles, administered prices for fuel items and ex-factory prices for manufactured products. On the other hand, CPI is based on retail prices, which include all distribution costs and taxes.
- Prices for WPI are collected on voluntary basis while price data for CPI are collected by investigators by visiting markets.
- CPI covers only consumer goods and consumer services while WPI covers all goods including intermediate goods transacted in the economy.
- WPI weights primarily based on national accounts and enterprise survey data and CPI weights are derived from consumer expenditure survey data.

IMPACT OF POLICIES ON INDIAN STOCK MARKET

- Since monetary policies are influenced by inflation and inflationary expectations in the economy it is therefore, critical that inflation index should be able to predict future inflation with reasonable accuracy.
- Generally, when a country is operating in a low interest rate regime, borrowers can borrow money at a lower interest rate. This aids in increased purchasing power of the consumers. The demand for the goods increase and subsequently sensing a higher demand, the prices will also rise. This condition drives the inflation rates higher.
- When the inflation rates have raised more than the optimal levels, the Reserve Bank of India (RBI) steps in to increase interest rate to control inflation rate.
- When inflationary pressure starts building in the economy, RBI hikes the repo rate and/or cash reserve ratio (CRR) to manage the money supply causing higher inflation.
- Maintaining an optimal inflation rate is the primary task of Monetary Policy decision makers of any nation. An optimal inflation rate ensures a healthy economy.
- It becomes a the prime responsibility of Reserve Bank to monitor Wholesale Price Index (WPI) and Consumer Price Index (CPI) to ensure that economy is balance.
- A rise in the inflation rate impacts market sentiments. A higher inflation rate drives the interest rates higher and hence borrowing becomes costly for the banks, corporates and financial institutions. Therefore, the valuations of capital-intensive companies and sectors may come under pressure as their margins decrease due to the higher interest burden.
- However, the markets are governed by many factors and the direction cannot be determined by reading just one factor. Global sentiments and global funds inflows are other crucial factors that impact the direction of stock markets significantly

CHAPTER 3 - SECURITIES CONTRACTS (REGULATION) ACT, 1956

INTRODUCTION

In order to prevent undesirable transactions in securities by regulating the business of dealing therein, and by providing for certain other matters connected therewith, the Securities Contracts (Regulation) Act, 1956 was enacted by Parliament. The provisions of this Act came into force with effect from February 20, 1957.

OBJECTIVE /PREAMBLE

The Preamble of SCRA reads as under: An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, by providing for certain other matters connected therewith.

The statement of objects and reasons as provided in the Securities Contracts (Regulation) Bill, 1954 as introduced in Lok Sabha provides as under: The object of this Bill is to provide for the regulation of stock exchanges, and of transactions in securities dealt in on them with a view to preventing undesirable speculation in them.

The Securities Contracts (Regulation) Act, 1956, extends to the whole of India.

BROAD FRAMEWORK OF SCRA

The Securities Contracts (Regulation) Act, 1956, provides for direct and indirect control of all aspects of the securities trading including the running of stock exchanges which aims to prevent undesirable transaction in securities by regulating the business of dealing therein. It gives the Central Government regulatory jurisdiction over:

- a) Stock exchanges through a process of recognition and continued supervision,
- b) contracts in securities, and
- c) listing of securities on stock exchanges.

As a condition of recognition, a stock exchange complies with the requirements prescribed by the Central Government. The stock exchanges frame their own listing regulations in consonance with the minimum listing criteria set out in Securities Contracts (Regulations) Rules, 1957.

REGULATIONS/RULES MADE UNDER SCRA

1. **Securities Contracts (Regulations) Rules, 1957:** The Government promulgated the Securities Contracts (Regulations) Rules, 1957 for carrying into effect the objects of the Securities Contracts (Regulation) Act. These rules provide among other things-
 - the procedure to be followed for recognition of Stock Exchanges
 - submission of periodical returns and annual reports by recognized stock exchanges inquiry into the affairs of the stock exchanges and their members
 - requirements for listing of securities.
2. **The Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018:** SEBI also issued the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 to regulate the recognition, ownership and governance in stock exchanges and clearing corporations.
3. **Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005:** The Central Government has made the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 for holding inquiry for the purpose of imposing penalty under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G3, 23GA and 23H of the Act.
4. **Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 :** The appeal filed before the Securities Appellate Tribunal is as per the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000.

NON-APPLICABILITY

Section 28 provides that the provisions of SCRA shall not apply to –

- The Government, the Reserve Bank of India, any local authority or any corporation set up by a special law

- any convertible bond or share warrant or any option or right, in so far as it entitles the person in whose favour any of the foregoing has been issued, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.
- the Central Government, in the interest of trade and commerce or the economic development of the country, may specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply.

KEY DEFINITIONS

- ▶ **Spot Delivery Contract [Section 2(i)]:** Spot delivery contract means a contract which provides for –
 - a) actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;
 - b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository.
- ▶ **Stock Exchange [Section 2(j)]:** Stock Exchange means –
 - a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under Sections 4A and 4B, or
 - b) a body corporate incorporated under the Companies Act, 2013 whether under a scheme of corporatisation and demutualisation or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.
- ▶ **Recognised Stock Exchange [Section 2(f)]:** Recognised Stock Exchange means a stock exchange which is for the time being recognised by the Central Government.
- ▶ **Government security [Section 2(b)]:** Government security means a security created and issued whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944.
- ▶ **Derivative [Section 2(ac)]:** Derivative includes –
 - a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;
 - b) a contract which derives its value from the prices or index of prices, of underlying securities;
 - c) commodity derivatives; and
 - d) such other instruments as may be declared by the Central Government to be derivatives.

“Commodity derivative” means a contract –

 - i. for the delivery of such goods, as may be notified by the Central Government in the Official Gazette, and which is not a ready delivery contract; or
 - ii. for differences, which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified by the Central Government, in consultation with the SEBI, but does not include securities as referred to in sub-clauses (A) and (B) above.

RECOGNITION OF STOCK EXCHANGES

▶ APPLICATION FOR RECOGNITION OF STOCK EXCHANGE (SECTION 3)

Any stock exchange, desirous of being recognized for the purposes of this Act may make an application in the prescribed manner to the Central Government. Every application shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular to –

- a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;
- b) the powers and duties of the office bearers of the stock exchange;
- c) the admission into the stock exchange of various classes of members, the qualifications, for membership, and the exclusion, suspension, expulsion and re-admission of members therefrom or thereinto;
- d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorized representatives and clerks.

► **GRANT OF RECOGNITION TO STOCK EXCHANGE (Section 4)**

If the Central Government is satisfied (powers are exercisable by SEBI also) after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require;

- a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;
- b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and
- c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange.

It may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed. The conditions which the Central Government (powers are exercisable by SEBI also) may prescribe for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to-

- i. the qualifications for membership of stock exchanges;
- ii. the manner in which contracts shall be entered into and enforced as between members;
- iii. the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and
- iv. the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situated, and such recognition shall have effect as from the date of its publication in the Gazette of India.

No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.

► **WITHDRAWAL OF RECOGNITION (Section 5)**

- If the Central Government is of opinion that the recognition granted to a stock exchange should in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange.
- However, the withdrawal shall not affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.
- Where the recognized stock exchange has not been corporatized or demutualised or it fails to submit the scheme within the specified time therefore or the scheme has been rejected by the SEBI, the recognition granted to such

stock exchange, shall stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition.

- However, such withdrawal shall not affect the validity of any contract entered into or made before the date of the notification, and SEBI may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette

POWERS CONFERRED UNDER SCRA

- a. Powers of central government
- b. Powers of SEBI
- c. Powers of Stock Exchanges

POWERS OF CENTRAL GOVERNMENT

a) To call for periodical returns and direct enquiries to be made [Section 6]

Every recognised stock exchange shall furnish to the SEBI, such periodical returns relating to its affairs as may be prescribed.

- **Preservation of Books of Accounts and other documents:** Every recognised stock exchange and every member thereof shall maintain and preserve for not exceeding five years such books of accounts, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection to all reasonable times by SEBI.
- **Powers of SEBI in public interest to seek information/explanation:** The Securities and Exchange Board of India, if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing, –
 - a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the SEBI may require; or
 - b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a 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 inquiry to the SEBI within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the SEBI.
- **Stock exchanges bound to produce documents sought:** Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken:
 - a) every director, manager, secretary or other officer of such stock exchange;
 - b) every member of such stock exchange;
 - c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and
 - d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

b) To Direct Rules or make Rules [Section 8]

- **Recognised Stock Exchanges to make/amend rules :** Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the

reasons therefor, direct the recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters or to amend any rules already made in respect of all or any of the matters as specified, within a period of two months from the date of the order.

If any recognised stock exchange fails or neglects to comply with any order, within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

- **Rules so made or amended be published in the Official Gazette**

Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 2013 or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

- c) **To Supersede governing bodies of a recognised stock exchange [Section 11]**

Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, the Central Government may serve on the governing body a written notice that the Central Government is considering the super session of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

On the publication of a notification in the Official Gazette, the following consequences shall ensure, namely –

- a) the members of the governing body which has been superseded shall, as from the date of the notification of super session, cease to hold office as such members;
- b) the person or persons appointed may exercise and perform all the powers and duties of the governing body which has been superseded;
- c) all such property of the recognised stock exchange as the person or persons appointed may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

The Central Government, may at any time before the determination of the period of office of any person or persons appointed call upon the recognised stock exchange to reconstitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed, shall vest or re-vest, as the case may be, in the governing body so re-constituted.

However, until a governing body is so re-constituted, the person or persons appointed, shall continue to exercise and perform their powers and duties.

- d) **To Suspend business of Recognised Stock Exchange [Section 12]**

If in the opinion of the Central Government, an emergency has arisen and for the purpose of meeting the emergency, the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and if, in the opinion of the Central Government, the interest of the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time. However, where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be

issued unless the governing body of the recognised stock exchange has been given an opportunity of being heard in the matter

e) To Prohibit Contracts in Certain Cases [Section 16]

If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein. All contracts in contravention of the above provisions entered into after the date of the notification issued thereunder shall be illegal.

f) To Grant Immunity [Section 23-O]

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

However, no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity. Provided further that the recommendation of the SEBI are not binding upon the Central Government. An immunity granted to a person as mentioned 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.

g) To Delegate or to Make Rules [Section 29A & 30]

The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934. Power to Make Rules Section 30 empowers the Central Government to make rules for the purpose of carrying into effect the objects of this Act by notification in the Official Gazette. In particular, such rules may provide for,—

- a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications;
- b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted
- c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;
- d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;
- e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;
- f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

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

Every rule 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 both Houses agree that the rule should not be made, the rule 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.

POWERS OF RECOGNISED STOCK EXCHANGE

1. To make Rules restricting voting rights etc. [Section 7A]

A recognised stock exchange may make rules or amend any rules made by it to provide for all or any of the following matters, namely: –

- a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;
- b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;
- c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange; and
- d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a) (b) and (c).

Powers have been delegated concurrently to SEBI also.

No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) shall have effect until they have been approved by the Central Government (Powers are exercisable by SEBI also) and published by that Government in the Official Gazette.

2. To make Bye-laws [Section 9]

Any recognised stock exchange may, subject to the previous approval of the SEBI, make bye-laws for the regulation and control of contracts. In particular, such bye-laws may provide for :

- a) the opening and closing of markets and the regulation of the hours of trade;

- b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- c) the submission to the Securities and Exchange Board of India by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the Securities and Exchange Board of India may, from time to time, require, namely:—
 - i. the total number of each category of security carried over from one settlement period to another;
 - ii. the total number of each category of security, contracts in respect of which have been squared up during the course of each settlement period;
 - iii. the total number of each category of security actually delivered at each clearing.
- d) the publication by the clearing house of all or any of the particulars submitted to the Securities and Exchange Board of India under clause (c) subject to the directions, if any, issued by the Securities and Exchange Board of India in this behalf;
- e) the regulation or prohibition of blank transfers;
- f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;
- g) the regulation, or prohibition of budlas or carry-over facilities;
- h) the fixing, altering or postponing of days for settlements;
- i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;
- j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;
- k) the regulation of the entering into, making, performance, rescission and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;
- l) the regulation of taravani business including the placing of limitations thereon;
- m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;
- n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;
- o) the levy and recovery of fees, fines and penalties;
- p) the regulation of the course of business between parties to contracts in any capacity;
- q) the fixing of a scale of brokerage and other charges;
- r) the making, comparing, settling and closing of bargains;
- s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in such emergencies, including the power to fix maximum and minimum prices for securities;
- t) the regulation of dealings by members for their own account;
- u) the separation of the functions of jobbers and brokers;
- v) the limitations on the volume of trade done by any individual member in exceptional circumstances;
- w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

Section 9(3) of the Act provides that the bye-laws made may :

- a) specify the bye-laws, the contravention of which shall make a contract entered into otherwise than in accordance with the bye- laws void.
- b) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely;

- (i) fine,
- (ii) expulsion from membership,
- (iii) suspension from membership for a specified period,
- (iv) any other penalty of a like nature not involving the payment of money.

Any bye-laws shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the SEBI, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situated, and shall have effect as from the date of its publication in the Gazette of India. However, if the SEBI is satisfied in any case that in the interest of the trade or in the public interest any byelaws should be made immediately, it may, by order in writing specify the reasons therefor, dispense with the condition of previous publication.

POWERS OF THE SEBI

a) To make or amend Bye-laws of Recognised Stock Exchanges [Section 10]

The 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, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws, for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

Where in pursuance of this section any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situated, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

Where the governing body of a recognised stock exchange objects to any bye-laws made or amended by SEBI on its own motion, it may, within two months of the publication thereof in the Gazette of India apply to SEBI for revision thereof and SEBI may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective.

The making or the amendment or revision of any bye-laws shall in all cases be subject to the condition of previous publication. However, if the SEBI is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

b) To Issue Directions [Section 12A]

Section 12A provides that if, after making or causing to be made an inquiry, the SEBI is satisfied that it is necessary—

- a) in the interest of investors, or orderly development of securities market; or
- b) to prevent the affairs of any recognised stock exchange, or, clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause(b).

It may issue such directions –

- i. to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or
- ii. to any company whose securities are listed or proposed to be listed in a recognised stock exchange, as may be appropriate in the interests of investors in securities and the securities market

c) To make Regulations [Section 31]

The SEBI may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act. In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matter namely :

- a) the manner, in which at least fifty-one percent of equity share capital of a recognised stock exchange is held, within twelve months from the date of publication of the order under sub-section (7), of Section 4B by the public other than shareholders having trading rights under sub-section (8) of that section;
- b) the eligibility criteria and other requirements under Section 17A;
- c) the terms determined by the SEBI Board for settlement of proceeding under sub-section (2) of section 23JA; and
- d) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulation.

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 regulation or both Houses agree that the regulation should not be made, the 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 regulation.

d) To adjudicate [Section 23-I]

The SEBI may appoint any officer not below the rank of a Division Chief of SEBI 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.

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

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

However, no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter. Further, 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, whichever is earlier.

PUBLIC ISSUE AND LISTING OF SECURITIES

Public Issue

Section 17A provides that no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

Section 2(h)(ie) provides that any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be.

- Every issuer intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.
- Where the permission applied for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of

the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

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

RIGHT OF APPEAL

Right of appeal to Central Government against refusal of stock exchanges to list securities of public companies

Where a recognised stock exchange refuses to list the securities of any public company or collective investment scheme, the company or scheme shall be entitled to be furnished with reasons for such refusal, and may, –

- a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or
- b) where the stock exchange has omitted or failed to dispose of, within the time specified in section 40 of the Companies Act, 2013 (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange,

within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow, appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,–

- i. vary or set aside the decision of the stock exchange, or
- ii. where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government.

Right of appeal to Securities Appellate Tribunal (SAT) against refusal to list securities of public companies by Stock exchanges

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

- i. within fifteen days from the date on which the reasons for such refusal are furnished to it, or
- ii. where the stock exchange has omitted or failed to dispose of, within the time specified in section 40 of the Companies Act, 2013, the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard, –
 - a) vary or set aside the decision of the stock exchange; or
 - b) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal. Every appeal shall be in such form and be accompanied by such fee as may be prescribed. The Securities Appellate Tribunal shall send a copy of every order made by it to SEBI and parties to the appeal. The appeal filed before the Securities Appellate Tribunal shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose off the appeal finally within six months from the date of receipt of the appeal. The appeal filed before the Securities Appellate Tribunal is as per the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000.

Right to Legal Representation

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.

Appeal to Supreme Court

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 of the Securities Appellate Tribunal to him on any question of law arising out of such order. However the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

PENALTIES AND PROCEDURES**Any person who –**

- i. without reasonable excuse fails to comply with any requisition made under sub-section (4) of section 6; or
- ii. enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or
- iii. contravenes the provisions contained in section 17 or section 17A or section 19; or
- iv. enters into any contract in derivative in contravention of section 18A or the rules made under section 30; or
- v. owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or
- vi. manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or
- vii. not being a member of a recognised stock exchange or his agent authorised as such under the rules or byelaws of such stock exchange or not being a dealer in securities licensed under section 17 willfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or
- viii. not being a member of a recognised stock exchange or his agent authorised as such under the rules or byelaws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other person for any business connected with contracts in contravention of any of the provisions of this Act; or
- ix. joins, gathers or assists in gathering at any place other than the place of business specified in the byelaws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act,

shall, without prejudice to any award of penalty by the Adjudicating Officer or the SEBI under this Act, on conviction, be punishable with imprisonment for a term which may extend to 10 years or with fine, which may extend to 25 crore rupees or with both. Any person who enters into any contract in contravention of the provisions contained in section 15 or who fails to comply with the provisions of section 21 or section 21A or with the orders of or the Central Government under section 22 or with the orders of the Securities Appellate Tribunal shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine which may extend to twenty five crore rupees, or with both.

APPEAL TO SECURITIES APPELLATE TRIBUNAL

Section 23L stipulates that any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under or sub-section of section 23-I, may prefer an appeal before the Securities Appellate Tribunal.

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

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

On receipt of an appeal 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 parties to the appeal and to the concerned adjudicating officer. The appeal filed before the Securities Appellate Tribunal shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

The appeal may be preferred before the Securities Appellate Tribunal as per the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000.

OFFENCES (SECTION 23M)

If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or byelaws made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both. If any person fails to pay the penalty imposed by the adjudicating officer or the SEBI or fails to comply with the direction or order, 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.

SECURITIES CONTRACTS (REGULATION) RULES, 1957

These rules were made by the Central Government in exercise of the powers conferred by Section 30 of the Securities Contracts (Regulation) Act, 1956 and notified on February 21, 1957. The Government promulgated the Securities Contracts (Regulation) Rules, 1957 ('SCRR') for carrying into effect the objects of the Securities Contracts (Regulation) Act. These rules provide among other things, for the

- a) procedure to be followed for recognition of Stock Exchanges
- b) Submission of periodical returns and annual reports by recognised stock exchanges
- c) inquiry into the affairs of stock exchanges and their members
- d) requirements for listing of securities on a recognised stock exchange

The rules are statutory and they constitute a code of standardized regulations uniformly applicable to all the recognised stock exchanges. Under the SCRR, the Government and the Securities and Exchange Board of India (SEBI) issue notifications, guidelines, and circulars which need to be complied with by market participants.

REQUIREMENTS OF LISTING OF SECURITIES WITH RECOGNISED STOCK EXCHANGES

Rule 19(1)

This is one of the most important provisions of the Securities Contracts (Regulation) Rules, 1957. Rule 19 provides for the complete procedure in this regard. A public company as defined under the Companies Act, 2013, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars:

- a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- d) Copies of balance sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- e) A statement showing – i. dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company), ii. dividends or interest in arrears, if any.

- f) Certified copies of agreements or other documents relating to arrangements with or between –
 - i. vendors and/or promoters,
 - ii. underwriters and sub-underwriters,
 - iii. brokers and sub-brokers.
 - g) Certified copies of agreements with –
 - i. managing agents and secretaries and treasurers
 - ii. selling agents,
 - iii. managing directors and technical directors,
 - iv. general manager, sales manager, managers or secretary.
 - h) Certified copy of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
 - i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
 - j) A brief history of the company since its incorporation giving details of its activities including any reorganization, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any.
 - k) Particulars of shares and debentures issued –
 - i. for consideration other than cash, whether in whole or part,
 - ii. at a premium or discount, or
 - iii. in pursuance of an option.
 - l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.
 - m) Certified copies of –
 - i. acknowledgment card or the receipt of filing offer document with the SEBI;
 - ii. agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.
 - n) Particulars of shares forfeited.
 - o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.
 - p) Particulars of shares or debentures for which permission to deal is applied for.
- However, a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

Rule 19(2)

Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that;

- (a) Its articles of association provide for the following among others –
 - i. that the company shall use a common form of transfer;
 - ii. that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares;
 - iii. that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared;
 - iv. there will be no forfeiture of unclaimed dividends before the claim becomes barred by law;
 - v. that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting.

However, a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfill the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

RULE 19(2)(b): THE MINIMUM OFFER AND ALLOTMENT TO PUBLIC IN TERMS OF AN OFFER DOCUMENT SHALL BE-

- i. at least twenty five per cent of each class or kind of equity shares or debenture convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is less than or equal to one thousand six hundred crore rupees;
- ii. at least such percentage of each class or kind of equity shares or debentures convertible into equity shares issued by the company equivalent to the value of four hundred crore rupees, if the post issue capital of the company calculated at offer price is more than one thousand six hundred crore rupees but less than or equal to four thousand crore rupees;
- iii. at least ten percent of each class or kind of equity shares or debentures convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is above four thousand crore rupees but less than or equal to one lakh crore rupees;
- iv. at least such percentage of each class or kind of equity shares or debentures convertible into equity shares issued by the company equivalent to the value of five thousand crore rupees and at least five per cent of each such class or kind of equity shares or debenture convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is above one lakh crore rupees.

However, the company referred to in sub-clause (ii) or sub-clause (iii), shall increase its public shareholding to at least twenty five per cent within a period of three years from the date of listing of the securities.

The company referred to in this sub-clause (iv) shall increase its public shareholding to at least ten per cent within a period of two years and at least twenty-five per cent. within a period of five years, from the date of listing of the securities.

The applicant company, who has issued equity shares having superior voting rights to its promoters or founders and is seeking listing of its ordinary shares for offering to the public under this rule and the regulations made by the SEBI in this regard, shall mandatorily list its equity shares having superior voting rights at the same recognized stock exchange along with the ordinary shares being offered to the public.

APPLICATION FOR LISTING OF NEW SECURITIES

Rule 19(4) stipulates that an application for listing shall be necessary in respect of the following:

- a) all new issues of any class or kind of securities of a company to be offered to the public;
- b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.

SUSPENSION OR WITHDRAWAL OF ADMISSION TO DEALINGS IN SECURITIES ON STOCK EXCHANGE

- A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action.
- However, no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action.
- Further, where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the SEBI Act, 1992 and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal.
- The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.

- A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal restore or re-admit to dealings any securities suspended or withdrawn from the list.
- All requirements with respect to listing prescribed by these rules shall, so far as they may be, also apply to a public sector company.
- The SEBI may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.
- The minimum offer and allotment requirements as prescribed under clause (b) of sub-rule (2) shall not be applicable to the listing of such equity shares having superior voting rights issued to the promoters or founders as the case may be, in cases where the applicant company is seeking listing of its ordinary shares for offering to the public in accordance with the provisions of this rule and the regulations made by the Securities and Exchange Board of India in this regard.

MINIMUM SHAREHOLDING (RULE 19A)

- every listed public sector company other than public sector company shall maintain public shareholding of at least 25%.
- However, any listed company which has public shareholding below 25% on the commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at least 25% , **within a period of three years** from the date of such commencement, in the manner specified by the SEBI.
- For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of clause (b) of sub-rule (2) of rule 19, shall maintain minimum 25% public shareholding from the date on which the public shareholding in the company reaches the level of 25% in terms of said sub-clause.
- Where the public shareholding in a listed company falls below 25 % at any time, such company shall bring the public shareholding to 25% **within a maximum period of twelve months** from the date of such fall in the manner specified by the SEBI.
- However every listed public sector company whose public shareholding falls below twenty five per-cent. at any time after the commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at least twenty five per-cent, **within a period of two years** from such fall, in the manner specified by the SEBI.
- Where the public shareholding in a listed company falls below 25% in consequence to SCRR (Amendment) Rules, 2015, such company shall increase its shareholding to atleast 25%, in the manner specified by the SEBI within a period of three years, as the case may be, from the date of notification of:
 - the Depository Receipts Scheme, 2014, in cases where the public shareholding falls below 25% as a result of such scheme;
 - the SEBI (Share Based Employee Benefits) Regulations, 2014, in cases where the public shareholding falls below 25%, as a result of such regulations.
- Where the public shareholding in a listed company falls below twenty-five per cent, as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016, such company shall bring the public shareholding to twenty-five per cent within a maximum period of three years from the date of such fall, in the manner specified by the Securities and Exchange Board of India.
However, if the public shareholding falls below ten per cent, the same shall be increased to at least ten per cent, within a maximum period of 12 months from the date of such fall, in the manner specified by the Securities and Exchange Board of India. It is further provided that every listed company shall maintain public shareholding of at least five per cent as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016.
- The Central Government may, in the public interest, exempt any listed public sector company from any or all of the provisions of minimum shareholding.

CHAPTER 4 - SECURITIES AND EXCHANGE BOARD OF INDIA

INTRODUCTION

The Securities and Exchange Board of India was established on April 12, 1992 in accordance with the provisions of the Securities and Exchange Board of India Act, 1992. The first statutory regulatory body that the Government of India set up post the reforms of 1991 was the Securities and Exchange Board of India (SEBI). The SEBI –

- can specify the matters to be disclosed and the standards of disclosure required for the protection of investors in respect of issues;
- can issue directions to all intermediaries and other persons associated with the securities market in the interest of investors or of orderly development for securities market; and
- can conduct enquiries, audits and inspection of all concerned and adjudicate offences under the Act.

It has been given necessary autonomy and authority to regulate and develop an orderly securities market. As per Section 1 of the Act, this Act may be called the Securities and Exchange Board of India Act, 1992. It extends to the whole of India. It shall be deemed to have come into force on the 30th day of January, 1992.

OBJECTIVES OF SEBI

- a. To protect the interests of investors in securities
- b. To promote the development of Securities Market
- c. To regulate the securities market and for matters connected therewith or incidental thereto

SEBI ACT, 1992

Establishment and Incorporation of SEBI Section 3 of the SEBI Act provides that there shall be a Board by the name of the Securities and Exchange Board of India (SEBI) established as –

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

MANAGEMENT OF THE SEBI

- Section 4(1) of the SEBI Act provides that the SEBI shall consist of the following members (appointed by the Central Government), namely:
 - ✓ Chairman
 - ✓ Two members from amongst the officials of the Ministry of the Central Government dealing with finance and administration of the Companies Act, 2013
 - ✓ One member from amongst the officials of the Reserve bank
 - ✓ Five other members of whom at least three shall
 - ✓ be the whole time members, to be appointed by
 - ✓ the Central Government
- 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.
- The Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.
- The Chairman and the other members 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.

POWERS OF THE SEBI

Chapter IV of the SEBI Act, 1992 deals with the powers and functions of SEBI.

- Section 11 Functions of the SEBI
- Section 11A To Regulate or Prohibit issue of Prospectus, Offer Document or Advertisement Soliciting Money for Issue of Securities
- Section 11AA To Regulate Collective Investment Schemes
- Section 118 Power to Issue Directions and Levy Penalty
- Section 11C Investigation
- Section 11D Cease and Desist Proceedings

FUNCTIONS OF THE SEBI

Duty of the SEBI:

1. Regulate the securities market
2. Promote the development of securities market
3. Protect the interests of investors of securities

It shall be the duty of SEBI to protect the interests of the investors in securities and to promote the development of, and to regulate the securities markets by **such measures** as it thinks fit.

MEASURES

- Regulating the business in stock exchanges and any other securities markets;
- Registering and regulating the working of stock brokers, sub-broker, 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;
- Registering and regulating the working of the depositories, participants, custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the SEBI, may by notification specify in this behalf;
- Registering and regulating the working of venture capital funds and collective investment schemes, including mutual funds;
- Promoting and regulating self-regulatory organisations;
- Prohibiting fraudulent and unfair trade practices relating to securities markets;
- Promoting investors' education and training of intermediaries of securities markets;
- Prohibiting insider trading in securities;
- Regulating substantial acquisition of shares and takeover of companies;
- Calling for information, undertaking inspection, conducting inquiries and audits of the stock exchanges, mutual funds, other persons associated with the securities markets, intermediaries and self regulatory organisations in the securities market;
- Calling for information and records:
 - ✓ from any person including any bank or any authority or board or corporation established or constituted by or under any central or state Act, which in the opinion of the SEBI, shall be relevant to any investigation or inquiry by the SEBI in respect of any transaction in securities;
 - ✓ from any such agencies, as may be specified by the SEBI, such information as may be considered necessary by it for the efficient discharge of its functions;
 - ✓ from other authorities, whether in India, or outside India having functions similar to those of the SEBI, in the matters relating to the prevention or detection of violation in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard.
- 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;
- Levying fees or other charges for carrying out the purposes of this section;

- Conducting research for the above purposes;
- Calling from or furnishing to any such agencies, as may be specified by the SEBI such information as may be considered necessary by if for the efficient discharge of its functions;
- Performing such other functions as may be prescribed.

POWERS WITH RESPECT TO INSPECTION OF BOOKS AND DOCUMENTS

Section 11(2A) prescribes that SEBI 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 SEBI has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.

SEBI IS VESTED WITH THE SAME POWER AS THAT OF CIVIL COURT

Section 11(3) of the SEBI Act provides that the SEBI has been vested with the same powers as are available to a Civil Court under the Code of Civil Procedure, 1908 for trying a suit in respect of the following matters:

- the discovery and production of books of account and other documents at such place and such time indicated by SEBI.
- summoning and enforcing the attendance of persons and examining them on oath.
- inspection of any books, registers and other documents of any person listed referred in section 12 of the Act at any place.
- inspection of any book or register or other document or record of any listed company or a public company which intends to get its securities listed on any recognized stock exchange.
- issuing commissions for the examination of witnesses or documents.

ORDER BY SEBI

As per Section 11(4), the SEBI, may, by an order or 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 enquiry namely:

- suspend the trading of any security in a recognised stock exchange;
- restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;
- suspend any office-bearer of any stock exchange or self regulatory organisation from holding such position;
- impound and retain the proceeds or securities in respect of any transaction which is under investigation;
- 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.

However, the SEBI 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.

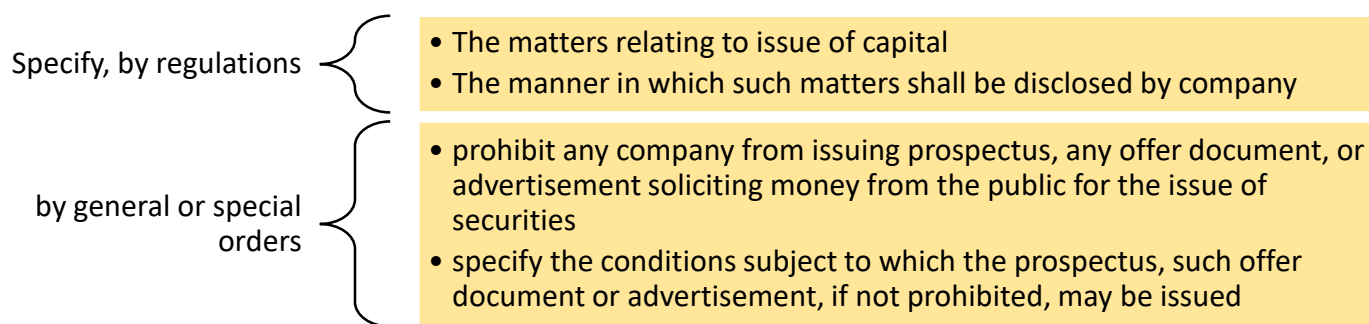
Further, only property, bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached.

- 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 SEBI shall give an opportunity of hearing to such intermediaries or persons concerned either before or after passing such orders.

POWER OF THE SEBI TO REGULATE OR PROHIBIT ISSUE OF PROSPECTUS, OFFER DOCUMENT OR ADVERTISEMENT SOLICITING MONEY FOR ISSUE OF SECURITIES

the SEBI may, for the protection of investors, –



Power to Regulate Collective Investment Schemes

Section 11AA (1) of the SEBI Act, provides that any scheme or arrangement which satisfies the conditions referred to in sub-section (2) or sub-section (2A) shall be a collective investment scheme. However, any pooling of funds under any scheme or arrangement, which is not registered with the SEBI or is not covered under sub-section (3), involving a corpus amount of Rs. 100 crore or more shall be deemed to be a collective investment scheme.

POWER TO ISSUE DIRECTIONS AND LEVY PENALTY

Issue of Directions

Section 11B of the Act provides that if the SEBI is satisfied, after making or causing to be made an enquiry that it is necessary:

SEBI may issue such directions:

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

to any company in respect of matters relating to issue of capital, transfer of securities and other matter incidental thereto. as may be appropriate in the interests of investors in securities and the securities market.

1. in the interest of investors, or orderly development of securities market; or
2. to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interests of investors or securities market; or
3. to secure the proper management of any such intermediary or person

INVESTIGATIONS

1. Grounds for Investigation (Section 11C):

where the SEBI has reasonable ground to believe that:

- a) the transactions in securities are being dealt within 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 SEBI thereunder;

it may, at any time by order in writing, direct any person specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the SEBI.

2. Duty to produce Accounts and Records:

It is the duty of –

- every manager, managing director, officer and other employee of the company;
- every intermediary; 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. Powers of Investigating Authority:

The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary.

4. 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. However, the investigating officer may call for any book,, register, other document and record if they are needed again. Further, 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.

5. 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.

6. Failure in compliance

If any person fails without reasonable cause or refuses	Person shall be punishable with
<ul style="list-style-type: none"> • 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 • to furnish any information which it is his duty to furnish; or • to appear before the Investigating Authority personally when required to do so or to answer any question which is put to him by the Investigating Authority; or • to sign the notes of any examination. 	<ul style="list-style-type: none"> • imprisonment for a term which may extend to 1 year; or • with fine, which may extend to 1 crore rupees; or • with both; and • 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.

7. Notes of 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.

8. Seizure of Records

Where the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to any, 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 records.

9. Order of the Magistrate or Judge of such designated Court authorising the Investigating Authority

After considering the application and hearing the Investigating Authority, if necessary, the Magistrate or Judge of the Designated Court may, by order, authorize the investigating authority –

- a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and records are kept;
- b) to search that place or those places in the manner specified in the order; and
- c) to seize books, registers and other documents and records, if it considers necessary for the purpose of the investigation.

Exemptions

However, the Magistrate or Judge of the Designated Court shall not authorize seizure of books, registers, other documents and record of any listed public company or a public company (not being the intermediary specified under section 12) which intends to get its securities listed on any recognized stock exchange unless such company indulges in insider trading or market manipulation.

10. Returning of records

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. 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 relating to searches or seizures made under that Code.

CEASE AND DESIST PROCEEDINGS

Section 11D deals with the cease and desist powers of the SEBI. If the SEBI 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. However, the SEBI shall not pass such order in respect of any listed public company or a public company which intends to get its securities listed on any recognized stock exchange unless SEBI has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING ETC.

Chapter VA of the Act deals with prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control. Section 12A of the Act provides that a person shall not directly or indirectly:

- a) 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;
- b) 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 recognized stock exchange;
- c) 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 recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;
- d) engage in insider trading;
- e) 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;

- f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognized stock exchange in contravention of the regulations made under this Act.

PENALTIES AND ADJUDICATION

Chapter VIA of the SEBI Act deals with penalties which can be imposed under the Act for various failures, defaults, non-disclosure and other offences.

Penalties for Failures

Section	Contravention	Penalty
15A	Failure to furnish information, return, etc.	Penalty of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees.
15B	Failure by any person to enter into agreement with clients.	
15C	Failure to redress investors' grievances.	
15D	Certain defaults in case of mutual funds.	
15E	Failure to observe rules and regulations by an asset management company.	
15EA	In case of alternative investment funds, infrastructure investment trusts and real estate investment trusts fails to comply with the regulations made by the SEBI or directions issued by the SEBI.	Penalty of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees or 3 times the amount of gains made out of such failure, whichever is higher.
15EB	In case investment adviser and research analyst fails to comply with the regulations made by the SEBI or directions issued by the SEBI.	Penalty of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees.
15F	Default in case of stock brokers. If any stock broker fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member	Penalty of at least 1 lakh rupees but which may extend to 1 crore rupees for which the contract note was required to be issued by that broker
	fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations.	Penalty of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees.
	charges an amount of brokerage which is in excess of the brokerage specified in the regulations.	penalty of at least 1 lakh rupees but which may extend to five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher
15G	Insider Trading. If any insider who, — <ul style="list-style-type: none"> • either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or • communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or 	Penalty of at least 10 lakh rupees but which may extend to 25 crore rupees or 3 times the amount of profits made out of insider trading, whichever is higher.

	<ul style="list-style-type: none"> counsels, or procures for any other person to deal in any securities of anybody corporate on the basis of unpublished price-sensitive information. 	
15H	Non-disclosure of acquisition of shares and takeovers.	Penalty of at least 10 lakh rupees but which may extend to 25 crore rupees or 3 times the amount of profits made out of such failure, whichever is higher.
15HA	Fraudulent and unfair trade practices.	Penalty of at least 5 lakh rupees but which may extend to 25 crore rupees or 3 times the amount of profits made out of such failure, whichever is higher
15HAA	Alteration, destruction, etc., of records and failure to protect the electronic database of Board.	Penalty of at least 1 lakh rupees but which may extend to 10 crore rupees or 3 times the amount of Profits made out of such act, whichever is higher.
15HB	Contravention where no separate penalty has been provided.	Penalty of at least 1 lakh rupees but which may extend to 1 crore rupees.

ADJUDICATIONS

Section 15-I deal with the SEBI's power to adjudicate.

- The SEBI may appoint any of its officers not below the rank of 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.
- The adjudicating officer has powers 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, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.
- The SEBI may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify.
- However, no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter. Further, nothing contained in this 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 15-T, whichever is earlier.

FACTORS TO BE TAKEN INTO ACCOUNT WHILE ADJUDGING QUANTUM OF PENALTY

While adjudging the quantum of penalty, the SEBI or the adjudicating officer shall have due regard to the following factors, viz. –

- The amount of loss caused to an investor or group of investors as a result of the default
- The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default
- The repetitive nature of the default

Section 15JA provides that 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 15JB deals with settlement of administrative and civil proceeding by SEBI.

- a) **Filing of an application:** Any person against where any proceedings have been initiated or may be initiated under section 11, Section 11B, section 11D, section 12(3) or section 15I, may file an application in writing to the SEBI proposing for settlement of proceeding initiated or to be initiated for the alleged defaults.
- b) **SEBI may consider for settlements of defaults:** The SEBI, may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such by the defaulter or on such other terms as may be determined by the SEBI in accordance with the regulations made under this Act.
- c) **Procedure of settlement proceedings:** The settlement proceedings shall be conducted in accordance with the procedure specified in the regulations made under this Act.
- d) **No appeal shall be made:** No appeal shall lie under section 15T against any order passed by the SEBI or adjudicating officer as the case may be.
- e) **Settlement amounts shall be credited to the Consolidated Fund of India:** All the settlement amounts excluding the disgorgement amount and legal costs, realised under this Act shall be credited to the Consolidated Fund of India.

RECOVERY OF AMOUNTS

Section 28A(1) provides that if a person:

- Fails to pay the penalty imposed under this Act
- Fails to comply with any direction of the SEBI 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 SEBI

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).

The Recovery Officer shall proceed to recover 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.

"Recovery Officer" means any officer of the SEBI who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer. Sub-section (2) empowered the Recovery Officer to seek the assistance of the local district administration while exercising the powers. The recovery of amounts by a Recovery Officer, pursuant to non-compliance with any direction issued by the SEBI under section 11B, shall have precedence over any other claim against such person.

Explanation 1 –

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.

CONTINUANCE OF PROCEEDINGS

Section 28B (1) lays down that where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, in the like manner and to the same extent as the deceased. However, in case of any penalty payable under this Act, a legal representative shall be liable only in case the penalty has been imposed before the death of the deceased person. For the purposes of sub-section (1), –

- a) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, initiated against the deceased before his death, shall be deemed to have been initiated against the legal representative, and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased and all the provisions of this Act shall apply accordingly;
- b) any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer under this Act, except a proceeding for levy of penalty, which could have been initiated against the deceased if he had survived, may be initiated against the legal representative and all the provisions of this Act shall apply accordingly.

Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while his liability for such sum remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with. The liability of a legal representative under this section shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.

SECURITIES APPELLATE TRIBUNAL (SAT)

In order to afford proper appellate remedies, Chapter VIB of the SEBI Act provides for the establishment of the Securities Appellate Tribunals (SAT) to consider appeals against the SEBI's orders, or penalties.

► Establishment of Securities Appellate Tribunals

- As per Section 15K, the Central Government is empowered to establish a Tribunal by notification, to be known as the Securities Appellate Tribunal to exercise the jurisdiction, power and authorities conferred on it or under the Act or any other law for the time being in force.
- The Central Government shall also specify in the notification the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

► Composition of Securities Appellate Tribunal

According to Section 15 L, 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. 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; However, 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.

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

► Appeal to the Securities Appellate Tribunal

Section 15T and 15U deal with the appeal procedure and powers of Securities Appellate Tribunal.

- Any person aggrieved by an order of the SEBI made or by an order made by an adjudicating officer under this Act or by an order of the IRDA or the PFRDA may prefer an appeal to a SAT having jurisdiction in the matter.

- Within a period of forty-five days from the date on which a copy of the order made by the SEBI or the Adjudicating Officer or the IRDA or the PFRDA as the case may be, is received by him and it shall be in such form and be accompanied by such fee as prescribed.
- On receipt of appeal and after giving the parties to opportunity of being heard SAT, pass order as thinks fit, confirming, modifying or setting aside the order appealed against.
- 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
- SAT shall dispose of the appeal within 6 months.
- a memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar. A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.
- Every memorandum of appeal shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be typewritten, cyclostyled or printed neatly, legibly and numbered consecutively.

▶ Procedure of SAT

Section 15U lays down that the Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 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.

▶ Right to Legal Representation

As per 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

As per the Section 15W, the provisions of the Limitations Act, 1963 shall apply to an appeal made to Securities Appellate Tribunal.

▶ Jurisdiction of Civil Court

Section 15Y lays down that no civil court has 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 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 lays down 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 of the Securities Appellate Tribunal to him on any question of law arising out of such order. It has been 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 60 days.

BAR OF JURISDICTION

Section 20A lays down that –

- a) no order passed by the SEBI or the Adjudicating Officer under this Act shall be appealable except as provided in section 15T or section 20 and

- b) no civil court shall have jurisdiction in respect of any matter which the SEBI (or the adjudicating officer) is empowered by or under, this Act to pass any order and
- c) 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 order passed by the SEBI or the adjudicating officer by, or under, the SEBI Act

OFFENCES (SECTION 24)

- 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.
- If any person fails to pay the penalty imposed by the Adjudicating Officer or the SEBI or fails to comply with 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.
- Section 24A provides that any offence punishable under this Act, not being an offence punishable with imprisonment only or with imprisonment and also with fine, may before or after the institutions of any proceeding, be compounded by a Securities Appellate Tribunal or a Court before which such proceedings are pending.

COGNIZANCE OF OFFENCES BY COURTS [Section 26]

The court shall not take cognizance of any offence punishable under this Act or any rules or regulations made thereunder save on a complaint made by the SEBI.

ESTABLISHMENT OF SPECIAL COURTS [Section 26A]

- For providing speedy trial of offences under this Act, the Central Government may establish or designate Special Courts by notification.
- 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.
- A person shall not be qualified for appointment as a Judge of a Special Court unless he is holding the office of a Sessions Judge or an Additional Sessions Judge immediately before such appointment.

CONTRAVENTION BY COMPANIES

Section 27 lays down that:

1. Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly.
Exemption: However, this provision shall not render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.
2. Where a contravention under this Act has been committed by a company and it is proved that the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly.

SCORES (SEBI COMPLAINTS REDRESS SYSTEM)

SEBI launched a centralized web based complaints redress system 'SCORES' in June 2011. The purpose of SCORES is to provide an administrative platform for aggrieved investors, whose grievances, pertaining to the securities market,

remain unresolved by the concerned listed company, registered intermediary or recognized market infrastructure institutions (MIIs). The salient features of SCORES are:

- Centralised database of investor complaints
- Online movement of complaints to the concerned listed company or SEBI registered intermediary
- Online upload of Action Taken Reports (ATRs) by the concerned listed company or SEBI registered intermediary
- Online viewing by investors of actions taken on the complaint and its current status
- SCORES is web enabled and provides online access 24 x7
- Complaints and reminders thereon can be lodged online at the above website at anytime from anywhere
- An email is generated instantaneously acknowledging the receipt of complaint and allotting a unique complaint registration number to the complainant for future reference and tracking
- The complaint forwarded online to the entity concerned for its redressal.

▶ **Direct Complaint**

The complainant may use SCORES to submit the complaint or grievance directly to the listed companies / intermediaries / MIIs for resolution. Such a complaint is called a “Direct Complaint” and shall be redressed by the entity within 30 days without any intervention of SEBI, failing which the complaint shall be registered on SCORES. Thereafter, SEBI shall take it up with the entity concerned. The investors may contact the Investor Associations (IAs) recognized by SEBI for any assistance in filing complaints on SCORES. The list of IAs are available on SEBI website (www.sebi.gov.in). Investors may also seek assistance in filing complaints on SCORES from SEBI's toll free helpline number 1800 266 7575 or 1800 22 7575.

▶ **Process for lodging online complaint on SCORE by investor**

- a) Investors who wish to lodge a complaint on SCORES (complainant) are required to register themselves on www.scores.gov.in by clicking on "Register here" under the "Investor Corner"
- b) While filing the registration form, details like Name of the investor, Permanent Account Number (PAN), contact details, email id, Aadhaar card number(optional), Central KYC (CKYC) ID (optional) etc. are required to be provided for effective communication and speedy redressal of the grievances.
- c) Upon successful registration, a unique user id and a password shall be generated and communicated through an acknowledgement email to the complainant

▶ **Timeline for lodging complaint on SCORES**

In order to enhance ease, speed and accuracy in the redressal of grievance, the complaint shall be lodged on SCORES within 1 year from the date of cause of action, where

- i. the complainant has approached the listed company or registered intermediary / MII, as the case may be, for redressal of the complaint and,
- ii. The concerned listed company or registered intermediary/ MII has rejected the complaint or,
- iii. The complainant has not received any communication from the concerned listed company or the registered intermediary / MII or, iv. The complainant is not satisfied with the reply received or the redressal action taken by the concerned listed company or an intermediary / MII.

SEBI reserves its right to reject a complaint lodged on SCORES, if the date of cause of action is more than one-year-old and/or the complainant has not taken up the complaint with the concerned entity prior to the said date.

▶ **One-time 'Review' option**

To enhance investor satisfaction on complaint redressal, a one-time 'Review' option is also available under SCORES wherein a complainant, if not satisfied with the extent of redressal of grievance by the concerned listed company/ intermediary/ MII, opts for review of the extent of the redressal, within 15 days from the date of closure of the complaint on SCORES. Thereafter, the complaint shall be escalated to the supervising official of the dealing officer of SEBI.

► Types of complaints shall not be dealt through SCORES

The following types of complaints shall not be dealt through SCORES:

- Complaints against companies which are unlisted/delisted and companies on Dissemination Board of Stock Exchanges (except complaints on valuation of securities).
- Complaints relating to cases pending in a court or subject matter of quasi-judicial proceedings, etc.
- Complaints falling under the purview of other regulatory bodies such as Reserve Bank of India, (RBI), Insurance Regulatory and Development Authority of India (IRDAI), Pension Fund Regulatory and Development Authority of India (PFRDAI), Competition Commission of India (CCI), or complaints falling under the purview of other ministries.
- iv. Complaints against a company under resolution under the relevant provisions of the Insolvency and Bankruptcy Code, 2016 (IBC).
- Complaints against the companies where the name of company is struck off from Register of Companies (RoC) or a vanishing company as published by MCA.
- Liquidated Companies or companies under liquidation

► SCORES Authentication for intermediaries and MIs

The procedure for generation of SCORES user id and password is fully automated for all new SEBI registered intermediaries and MIs who got registered/ recognised with / by SEBI after August 02, 2019. SCORES user id and password details shall be sent through auto-generated e-mails, upon completion of process of online grant of registration by SEBI. Stock Brokers and Depository Participants are not required to obtain SCORES authentication since complaints against these intermediaries shall continue to be routed through the platforms of the concerned Stock Exchange/ Depository.

► SCORES Authentication for companies intending to list their securities on SEBI recognized stock exchanges

An online mechanism for obtaining SCORES credentials for all “companies intending to list their securities on SEBI recognized stock exchanges” was introduced on October 14, 2021. The online form can be accessed on the SCORES website www.scores.gov.in. This has been done as part of SEBI’s green initiative and to streamline the redressal of investor grievances against companies before listing. The SCORES credentials shall be sent to the e-mail id of the Compliance Officer/Dealing Officer as provided in the online form.

Complaints against listed companies can be processed by companies in-house or through its Registrar to Issue and Share Transfer Agent (RTI/STA). In case the complaints are processed by the RTI/STA on behalf of the listed company, any failure on the part of the RTI/STA to redress the complaints or failure to update Action Taken Report (ATR) in SCORES, will be treated as failure of the listed company to furnish information to SEBI and non redressal of investor complaints by the listed company.

Timelines for handling of complaints and actions in case of non-compliances

Sr. No.	Activity	No of calendar days
1.	Complaint handling:	
a.	Complaint received in SCORES by the listed company	T
b.	Response to be obtained from Listed Company	Within T+30
c.	If no response received, alert to Listed Company in the form of reminder for non-redressal of complaint	T+31
d.	Response to be obtained from Listed Company	Within T+60
2.	Action in case of non-compliances	
a.	Notice to Listed company intimating the fine @ Rs. 1000/- per day, per complaint to be levied for not resolving the complaints within 60 days	T+61
b.	Notice to Promoters for non-resolution of complaints and nonpayment of fine to the stock exchange	T+76

c.	Freezing of promoters shareholdings (i.e. entire shareholding of the promoters in listed company as well as all other securities held in the demat account of the promoters) in demat account	T+86
d.	Stock exchanges may take any other actions, as deemed appropriate	
e.	Once Stock exchange has exhausted all options and if number of pending complaints exceed 20 or the value involved is more than Rs. 10 lakhs, the Exchange to forward the details of such Listed companies to SEBI for further action, if any.	

SEBI MOBILE APPLICATION

- In its efforts to improve the ease of doing business, SEBI dated March 5, 2020, launched a Mobile Application for the convenience of investors to lodge their grievances in SEBI Complaints Redress System (SCORES).
- SCORES mobile app will make it easier for investors to lodge their grievances with SEBI, as they can now access SCORES at their convenience of a smart phone.
- The Mobile App will encourage investors to lodge their complaints on SCORES rather than sending letters to SEBI in physical mode.
- This is another effort of SEBI in improving digitalization in securities market.
- The App has all the features of SCORES which is presently available electronically where investors have to lodge their complaints by using internet medium.
- After mandatory registration on the App, for each grievance lodged, investors will get an acknowledgement via SMS and e-mail on their registered mobile numbers and e-mail ID respectively. Investors can, not only file their grievances but also track the status of their complaint redressal. Investors can also key in reminders for their pending grievances.
- Tools like FAQs on SCORES for better understanding of the complaint handling process can also be accessed. Connectivity to the SEBI Toll Free Helpline number has been provided from the App for any clarifications/help that investors may require. The Mobile App “SEBI SCORES” is available on both iOS and Android platforms.

SEBI (INFORMAL GUIDANCE) SCHEME, 2003

In the interests of better regulation of and orderly development of the Securities market, SEBI has issued SEBI (Informal Guidance) Scheme 2003 w.e.f. 24.06.2003. The following persons may make a request for informal Guidance under the scheme:

- a) any intermediary registered with the SEBI.
- b) any listed company.
- c) any company which intends to get any of its securities listed and which has filed either a listing application with any stock exchange or a draft offer document with the SEBI or the Central Listing authority.
- d) any mutual fund trustee company or asset management company.
- e) any acquirer or prospective acquirer under the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997. (Now the SEBI Takeover Regulation, 2011)

The Guidance Scheme, further deals with various aspects such as the nature of request, fees to be accompanied alongwith request letter, disposal of requests, the SEBI’s discretion not to respond certain types of requests and confidentiality of requests etc

The informal guidance may be sought for and given in two forms:

- **No-action letters:** The SEBI indicates that the Department would or would not recommend any action under any Act, Rules, Regulations, Guidelines, Circulars or other legal provisions administered by SEBI to the Board if the proposed transaction described in a request made under para 6 is consummated.
- **Interpretive letters:** The SEBI provides an interpretation of a specific provision of any Act, Rules, Regulations, Guidelines, Circulars or other legal provision being administered by the SEBI in the context of a proposed transaction in securities or a specific factual situation.

The request seeking informal guidance should state that it is being made under this scheme and also state whether it is a request for a no-action letter or an interpretive letter and should be accompanied with prescribed fees and addressed to the concerned Department of the SEBI.

It should also describe the request, disclose and analyse all material facts and circumstances involved and mention all applicable legal provisions. The SEBI may dispose off the request as early as possible and in any case not later than 60 days after the receipt of the request.

The Department may give a hearing or conduct an interview if it feels necessary to do so. The request or shall be entitled only to the reply. The internal records or views of the SEBI shall be confidential. The SEBI may not respond to the following types of requests:

- a) those which are general and those which do not completely and sufficiently describe the factual situation;
- b) those which involve hypothetical situations;
- c) those requests in which the requestor has no direct or proximate interest;
- d) where the applicable legal provisions are not cited;
- e) where a no-action or interpretive letter has already been issued by that or any other Department on a substantially similar question involving substantially similar facts, as that to which the request relates;
- f) those cases in which investigation, enquiry or other enforcement action has already been initiated;
- g) those cases where connected issues are pending before any Tribunal or Court and on issues which are subjudice; and
- h) those cases where policy concerns require that the Department does not respond.

Where a request is rejected for non-compliance, the fee, if any, paid by the requestor shall be refunded to him after deducting therefrom a sum of Rs. 5,000/- towards processing charges. However, SEBI is not be under any obligation to respond to a request for guidance made under this scheme, and shall not be liable to disclose the reasons for declining to reply the request.

CONFIDENTIALITY OF REQUEST

- Any person submitting a letter or written communication under this scheme may request that it receive confidential treatment for a specified period of time not exceeding 90 days from the date of the Department's response.
- The request shall include a statement of the basis for confidential treatment.
- If the Department determines to grant the request, the letter or written communication will not be available to the public until the expiration of the specified period.
- If it appears to the Department that the request for confidential treatment should be denied, the requestor will be so advised and such person may withdraw the letter or written communication within 30 days of receipt of the advise, in which case the fee, if any, paid by him would be refunded to him. In case a request has been withdrawn under clause (c), no response will be given and the letter or written communication will remain with the SEBI but will not be made available to the public.
- If the letter or written communication is not withdrawn, it shall be available to the public together with any written staff response.

A no-action letter or an interpretive letter issued by a Department constitutes the view of the Department but will not be binding on the SEBI, though the SEBI may generally act in accordance with such a letter. The letter issued by a Department under this scheme should not be construed as a conclusive decision or determination of any question of law or fact by the SEBI. Such a letter cannot be construed as an order of the SEBI under Section 15T of the Act and shall not be appealable. Where a no action letter is issued by a Department affirmatively, it means that the Department will not recommend enforcement action to the SEBI, subject to other provisions of this scheme.

Where the Department finds that a letter issued by it under this scheme has been obtained by the requestor by fraud or misrepresentation of facts, notwithstanding any legal action that the Department may take, it may declare such letter to be non est and thereupon the case of the requestor will be dealt with as if such letter had never been issued. Where the SEBI issues a letter under this scheme, it may post the letter, together with the incoming request, on the SEBI website in accordance with the Guidance Scheme.

CHAPTER 5 - LAWS GOVERNING TO DEPOSITORIES AND DEPOSITORY PARTICIPANTS

INTRODUCTION

The Depositories Act was enacted by the Indian Parliament in 1996 to provide a legal framework for the establishment of depositories. It provided a dematerialisation route to book entry-based transfer of securities and settlement of securities trade. A depository facilitates holding investors' securities in electronic form and enables transactions to be processed by depository participants. A depository participant can be a financial institution, bank, broker, or any other entity eligible as per SEBI guidelines.

▶ ROLE OF DEPOSITORY AND ITS FUNCTIONS

- i. Dematerialisation i.e., converting physical certificates to electronic form
- ii. Rematerialisation i.e., conversion of securities in demat form into physical certificates
- iii. Facilitating repurchase / redemption of units of mutual funds
- iv. Electronic settlement of trades in stock exchanges
- v. Pledging/hypothecation of dematerialised securities against loan
- vi. Electronic credit of securities allotted in public issues, rights issue
- vii. Receipt of non-cash corporate benefits such as bonus, in electronic form
- viii. Freezing of demat accounts, so that the debits from the account are not permitted
- ix. Nomination facility for demat accounts
- x. Services related to change of address
- xi. Effecting transmission of securities
- xii. Other facilities viz. holding debt instruments in the same account, availing stock lending/borrowing facility, etc.

▶ BANK-DEPOSITORY - AN ANALOGY

BANK	DEPOSITORY
Holds funds in an account	Holds securities in an account
Transfers funds between accounts on the instruction of the account holder	Transfers securities between accounts on the instruction of the Beneficial owner account holder
Facilitates transfer without having to handle money	Facilitates transfer of ownership without having to handle securities
Accountable for the safe keeping of funds	Accountable for the safe keeping of securities

▶ DIFFERENCE BETWEEN DEPOSITORY AND CUSTODIAN

Both depository and custodian services are responsible for safe keeping of securities but they are different in the sense that the Depository can legally transfer beneficial ownership, while a custodian cannot. The main objective of a Depository is to minimize the paper work involved with the ownership, trading and transfer of securities.

BENEFITS OF DEPOSITORY SYSTEM

The system provides numerous direct and indirect benefits, like:

1. **Elimination of bad deliveries** - In the depository environment, once the holdings of an investor are dematerialised, the question of bad delivery does not arise i.e. they cannot be held "under objection". In the physical environment, buyer of shares was required to take the risk of transfer and face uncertainty of the quality of assets purchased, while in a depository environment good money certainly begets good quality of assets.
2. **Elimination of all risks associated with physical certificates** - Dealing in physical securities have associated security risks of theft, mutilation of certificates, loss of certificates during movements through and from the registrars, thus exposing the investors to the cost of obtaining duplicate certificates, loss of certificates and advertisements, etc. This problem does not arise in the depository environment.

3. **Immediate transfer and registration of securities** - In the depository environment, once the securities are credited to the investor's account on pay out, he becomes the legal owner of the securities. There is no further need to send it to the company's registrar for registration.
4. **Faster disbursement of non-cash corporate benefits like rights, bonus, etc.** – Depository system provides for direct credit of non-cash corporate entitlements to an investors account, thereby ensuring faster disbursement and avoiding risk of loss of certificates in transit.
5. **Reduction in brokerage by many brokers for trading in dematerialized securities** – Brokers provide this benefit to investors as dealing in dematerialized securities reduces their back office cost of handling paper and also eliminates the risk of being the introducing broker. | Reduction in handling of huge volumes of paper and periodic status reports to investors on their holdings and transactions, leading to better controls.
6. **Elimination of problems related to change of address of investor, transmission, etc.** – In case of change of address or transmission of demat shares, investors are saved from undergoing the entire change procedure with each company or registrar. Investors have to only inform their DP with all relevant documents and the required changes are effected in the database of all the companies, where the investor is a registered holder of securities.
7. **Elimination of problems related to selling securities on behalf of a minor** – A natural guardian is not required to take court approval for selling demat securities on behalf of a minor.

DEPOSITORY PARTICIPANT (DP)

A depository interfaces with the investors through its agents called Depository Participants (DPs). If an investor wants to avail the services offered by the depository, the investor has to open an account with a DP. Just as a brokers act an agent of the investor at the Stock Exchange, a Depository Participant (DP) is the representative (agent) of the investor in the depository system providing the link between the Company and investor through the Depository. The Depository Participant maintains securities' account balances and intimates the status of holding to the account holder from time to time.

▶ CHARACTERISTICS OF A DP

- Transmission requests/nomination
- Acts as an Agent of Depository
- Customer interface of Depository
- Functions like Securities Bank
- Account opening
- Facilitates dematerialisation/rematerialisation
- Instant transfer on pay-out
- Enables off market transfers
- Settles trades in electronic segment
- Pledge/enforcement of pledge etc.

A DP is one with whom an investor needs to open an account to deal in shares in electronic form. While the Depository can be compared to a Bank, DP is like a branch of that bank with which an account can be opened.

ISSUER

“Issuer” means person making an issue of securities. Any entity such as a corporate / State or Central Government organizations issuing securities which can be held by depository in electronic form.

▶ FUNCTIONS OF ISSUER

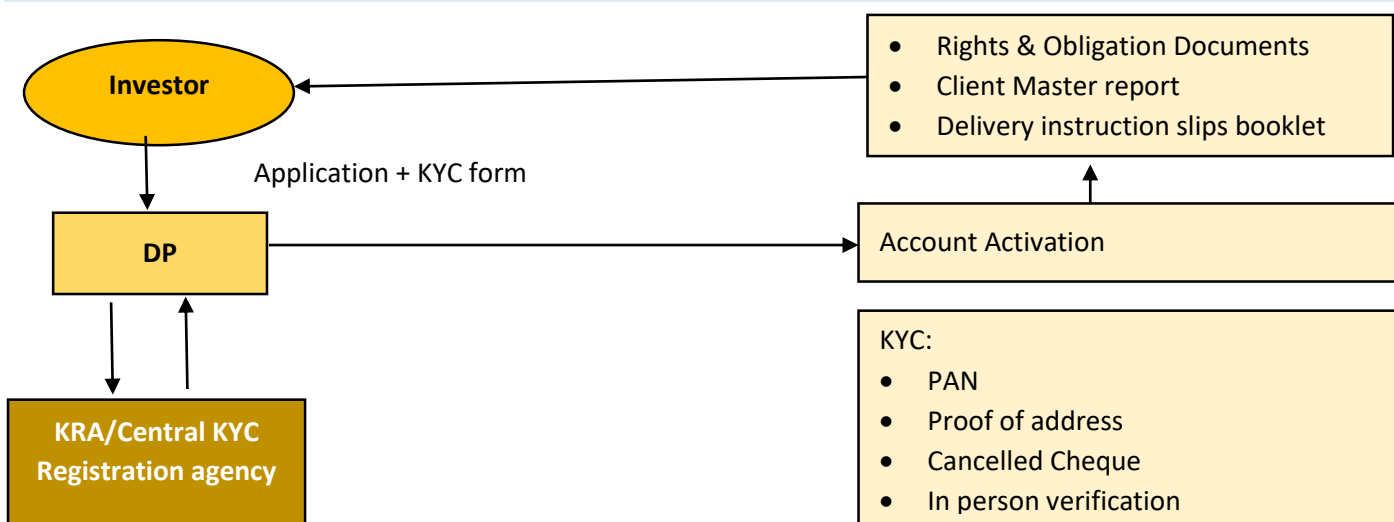
- Dematerialisation
- Confirmation of Beneficiary Holdings
- Corporate Actions – Rights, Bonus, etc.
- Reconciliation of Depository Holdings
- Rematerialisation

DEMATERIALIZATION	REMATERIALIZATION
Dematerialization is a process by which the physical share certificates of an investor are taken back by the Company and an equivalent number of securities are credited his account in electronic form at the request of the investor.	Rematerialisation is the process of converting securities held in electronic form in a demat account back in physical certificate form. A client can rematerialise his dematerialised holdings at any point of time. The securities sent for rematerialisation cannot be traded.
<p>▶ PROCEDURE FOR DEMATERIALIZATION</p> <ul style="list-style-type: none"> Investor opens account with DP DP sends certificates and DRF to Registrar/Issuer Fills Dematerialisation Request Form (DRF) for registered shares along with share certificate Investor lodges DRF and certificates with DP DP intimates the Depository Registrar/Issuer confirms demat to Depository Depository intimates Registrar/Issuer Depository credits investor a/c 	<p>▶ PROCEDURE FOR REMATERIALIZATION</p> <ol style="list-style-type: none"> Client submits Rematerialisation Request Form (RRF) to DP DP enters the request in its system which blocks the client's holdings DP intimates to Depository and simultaneously, Disends the RRF to the Registrar/Issuer Registrar/Issuer prints certificates and dispatch to the client Registrar/Issuer electronically confirms remat to Depository Client's account with DP debited

INTERNATIONAL SECURITIES IDENTIFICATION NUMBER (ISIN)

The ISIN standard is used worldwide to identify specific securities such as bonds, stocks (common and preferred), futures, warrant, rights, trusts, commercial paper and options. ISINs are assigned to securities to facilitate clearing and settlement procedures. An ISIN is a 12-digit alphanumeric code that uniquely identifies a specific security. It is issued by the National Numbering Agency, present in each respective country. It is structured in a way that it includes the country code where the headquarters of the issuing company are present, the specific security identification number, and a check digit.

DEMAT ACCOUNT OPENING PROCESS



LEGAL LINKAGE

The investors opting to join depository mode are required to enter into an agreement with depository through a participant who acts as an agent of the depository. The agencies such as custodians, banks, financial institutions, large corporate brokerage firms, non-banking financial companies etc. act as participants of depositories. The companies issuing securities are also required to enter into an agreement with the Depository.

ELECTRONIC CREDIT IN NEW ISSUES

- Investor opens account with DP

- Submits application with option to hold securities in depository giving DP-Id and Client-Id
- Registrar uploads list of allottees to Depository
- Depository credits allottee's account with DP.

CORPORATE ACTIONS

- Dividends/cash benefits, these benefits are directly forwarded to the investors by the company or its registrar and transfer agent.
- Non-cash benefits, viz. Bonus, Rights Issue, etc. these benefits are electronically credited to the beneficial owner's account through Depository.

DEPOSITORIES ACT, 1996

▶ OBJECTIVES

The depositories' legislation as per the Statement of Objects and Reasons appended to the Depositories Act, 1996 aims at providing :

- A legal basis for establishment of depositories to conduct the task of maintenance of ownership records and effecting changes in ownership records through book entry;
- Dematerialisation of securities in the depositories mode as well as giving option to an investor to choose between holding securities in physical mode and holding securities in a dematerialized form in a depository;
- Making the securities fungible;
- Making the shares, debentures and any interest thereon of a public limited company freely transferable; and
- Exempting all transfers of shares within a depository from stamp duty

▶ IMPORTANT DEFINITION

- "Beneficial owner" means a person whose name is recorded as such with a depository.
- "Bye-laws" means bye-laws made by a depository under section 26.
- "Depository" means a company formed and registered under the Companies Act, and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992. | "Issuer" means any person making an issue of securities.
- "Registered owner" means a depository whose name is entered as such in the register of the issuer

▶ CERTIFICATE OF COMMENCEMENT OF BUSINESS BY DEPOSITORIES

Section 3 of the Depository Act, stipulates that no depository shall act as a depository unless it obtains a certificate of commencement of business from the SEBI in such form as may be specified by the SEBI (Depositories and Participants) Regulations, 2018. The SEBI shall not grant a certificate unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions. However no certificate shall be refused unless the depository concerned has been given a reasonable opportunity of being heard.

▶ ELIGIBILITY CONDITION FOR DEPOSITORY SERVICES

Any company or other institution to be eligible to provide depository services must:

- has a net worth of not less than rupees one hundred crores.
- be formed and registered as a company under the Companies Act, 2013.
- be registered with SEBI as a depository under SEBI Act, 1992.
- has framed bye-laws with the previous approval of SEBI.
- has one or more participants to render depository services on its behalf.
- has adequate systems and safeguards to prevent manipulation of records and transactions to the satisfaction of SEBI.
- complies with Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 2018.
- Meets eligibility criteria in terms of constitution, network, etc.

Any person, through a participant, may enter into an agreement, in such form as may be specified by the byelaws, with any depository for availing its services

▶ RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

- **Agreement between depository and participant** : A depository shall enter into an agreement with one or more participants as its agent in such form as may be specified by the bye-laws.
- **Services of depository** : Any person, through a participant, may enter into an agreement, in such form as may be specified by the byelaws, with any depository for availing its services.
- **Surrender of certificate of security**: Any person who has entered into an agreement through a participant shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations. The issuer, on receipt of certificate of security, shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly. A depository shall, on receipt of the information from issuer, enter the name of the person in its records, as the beneficial owner.
- **Registration of transfer of securities with depository** : Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee. If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

▶ OPTIONS TO RECEIVE SECURITY CERTIFICATE OR HOLD SECURITIES WITH DEPOSITORY

Section 8 states that –

1. Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
2. Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

However, Section 29 of the Companies Act, 2013 read with the Companies (Prospectus and Allotment of Securities) Rules, 2014, provides that –

- every company making public offer and such other class or classes of companies as may be prescribed, shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 and the regulations made thereunder.
- Further, in case of such class or classes of unlisted companies as may be prescribed, the securities shall be held or transferred only in dematerialised form in the manner laid down in the Depositories Act, 1996 and the regulations made thereunder.
- Any company, other than a company mentioned above, may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 and the regulations made thereunder.

It is not necessary that all eligible securities must be in the depository mode. In the scheme of the Depositories legislation, the investor has been given supremacy. The investor has the choice of holding physical securities or opts for a depository-based ownership record. However, in case of fresh issue of securities all securities issued have to be in dematerialized form. However, after that investor will also have the freedom to switch from depository mode to physical mode and vice versa. The decision as to whether or not to hold securities within the depository mode and if in depository mode, which depository or participant, would be entirely with the investor.

▶ RESTRICTION ON TRANSFER OF SECURITIES

SEBI has amended relevant provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 to disallow listed companies from accepting request for transfer of securities which are held in physical form.

The shareholders who continue to hold shares and other types of securities of listed companies in physical form even after this date, will not be able to lodge the shares with company / its RTA for further transfer. They will need to

convert them to demat form compulsorily if they wish to effect any transfer. Transmission or transposition of securities held in physical or dematerialised form shall also be effected only in dematerialised form.

This amendment will help in curbing fraud and manipulation risk in physical transfer of securities by unscrupulous persons. Further, with shares held in demat form will improve ease, convenience and safety of transactions for investors.

▶ REQUIREMENTS WITH THE PROMOTERS AND PROMOTER GROUP SHAREHOLDING

As per SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the listed entity shall ensure that hundred percent of shareholding of promoter and promoter group is in dematerialized form and the same is maintained on a continuous basis in the manner as specified by the SEBI.

▶ FUNGIBILITY

The Act envisages that all securities held in depository shall be fungible i.e. all certificates of the same security shall become interchangeable in the sense that investor loses the right to obtain the exact certificate he surrenders at the time of entry into depository. It is like withdrawing money from the bank without bothering about the distinctive numbers of the currencies.

▶ RIGHTS OF DEPOSITORIES AND BENEFICIAL OWNER

A depository should be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner. The depository as a registered owner should not have any voting rights or any other rights in respect of securities held by it. The beneficial owner is entitled to all the rights and benefits and is subject to all the liabilities in respect of his securities held by a depository.

▶ REGISTER OF BENEFICIAL OWNER

Every depository is required to maintain a register and an index of beneficial owners in the manner provided in the Companies Act, 2013

▶ PLEDGE OR HYPOTHECATION OF SECURITIES HELD IN A DEPOSITORY

A beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository. Every beneficial owner should give intimation of such pledge or hypothecation to the depository and such depository is required to make entries in its records accordingly. Any entry in the records of a depository should be evidence of a pledge or hypothecation.

▶ FURNISHING OF INFORMATION AND RECORDS BY DEPOSITORY AND ISSUER

Depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws. Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository

▶ OPTION TO OPT OUT IN RESPECT OF ANY SECURITY

Section 14 of the Act provides that if a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly. After the receipt of intimation the depository should make appropriate entries in its records and also inform the issuer. Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfillment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

▶ DEPOSITORIES TO INDEMNIFY LOSS IN CERTAIN CASES

As per section 16, any loss caused to the beneficial owner due to the negligence of the depository or the participant, would be indemnified by the depository to such beneficial owner. Where the loss due to the negligence of the participant is indemnified by the depository, the depository has the right to recover the same from such participant.

POWERS OF THE SEBI

1. To Call for Information and Enquiry

The SEBI in the public interest or in the interest of investors may by order in writing,-

- call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
- authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject matter of such enquiry or inspection.

2. To Give Directions

Section 19 provides that the SEBI, if after making or causing to be made an enquiry or inspection, the SEBI is satisfied that it is necessary in the interest of investors or the securities market or to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or the securities market, it may issue such directions, –

- a) to any depository or participant or any person associated with the securities market; or
- b) to any issuer, as may be appropriate in the interest of investors or the securities market.

3. To Make Regulations

Section 25 of the Act provides that the SEBI may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act. In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for –

- the form in which record is to be maintained;
- the form in which the certificate of commencement of business shall be issued;
- the manner in which the certificate of security shall be surrendered ;
- the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner;
- the conditions and the fees payable with respect to the issue of certificate of securities ;
- the rights and obligations of the depositories, participants and the issuers ;
- the eligibility criteria for admission of securities into the depository ;
- the terms determined by the Board for settlement of proceedings ;
- any other matter which is required to be, or may be, specified by regulations or in respect of which provision to be made by regulations.

PENALTIES

The SEBI may, by order, for reasons to be recorded in writing, levy, penalty after holding an inquiry in the prescribed manner.

Contravention where 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.
<ul style="list-style-type: none"> • Failure to Furnish information/return etc. • Failure to enter in to agreement • Failure to redress investor's grievances • Delay in demat or issue of certificate of securities • failure to reconcile records • Failure to comply with the directions issued by SEBI 	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.

Failure to conduct business in a fair manner	shall be liable to penalty which shall not be less than five crore rupees but which may be extend to twenty five crore rupees or three times the amount of gains made out of such failure, whichever is higher.
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ADJUDICATION

The adjudication procedure, Settlement of Administrative Civil Proceedings, Recovery of amounts, Continuance of Proceedings, as mentioned under Section 19H to 19-IC of the Depositories Act, 1996 are same as the adjudication procedure prescribed under the SEBI Act, 1992. (Lesson-4)

OFFENCES

If any person

Contravenes or attempts to contravene or abets the contravention of the provisions of the acts the provisions of the Act or any rules or regulations or bye-laws 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.

Fails to pay the penalty imposed by the adjudicating officer or the SEBI or fails to comply with any 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.

▶ CONTRAVENTION BY COMPANIES

- Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company, every person who at the time the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly.
- However, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.
- Where a contravention of any of the provisions of this Act or any rule, regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention 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 contravention and shall be liable to be proceeded against and punished accordingly.

▶ COGNIZANCE OF OFFENCES BY COURTS

Section 22 provides that no court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made there under, save on a complaint made by the Central Government or State Government or the SEBI or by any person.

▶ COMPOSITION OF CERTAIN OFFENCES

Section 22A provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

▶ POWER TO GRANT IMMUNITY

Section 22B provides that the Central Government if satisfied and on recommendation by the SEBI, may grant immunity to any person 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, if such person has made a full and true disclosure in respect of alleged violation.

However, 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.

An immunity granted to a person 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.

POWER OF DEPOSITORIES TO MAKE BYE-LAWS

A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations. In particular, and without prejudice to the generality of the foregoing power, such bye-laws shall provide for –

- the eligibility criteria for admission and removal of securities in the depository;
- the conditions subject to which the securities shall be dealt with;
- the eligibility criteria for admission of any person as a participant;
- the manner and procedure for dematerialisation of securities;
- the procedure for transactions within the depository;
- the manner in which securities shall be dealt with or withdrawn from a depository;
- the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;
- the conditions of admission into and withdrawal from a participant by a beneficial owner;
- the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;
- the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;
- the manner of creating pledge or hypothecation in respect of securities held with a depository;
- inter se rights and obligations among the depository, issuer, participants, and beneficial owners;
- the manner and the periodicity of furnishing information to the Board, issuer and other persons;
- the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;
- the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;
- the internal control standards including procedure for auditing, reviewing and monitoring.

Where the SEBI considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf. If the depository fails or neglects to comply with such order within the specified period, the SEBI may make the byelaws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the SEBI thinks fit.

SEBI (DEPOSITORIES AND PARTICIPANTS) REGULATIONS, 2018

The Depositories Act, 1996 requires that the registration of the depository, depository participant and the custodian, is mandatory with the SEBI. The SEBI, on October 3, 2018, notified the SEBI (Depositories and Participants) Regulations, 2018 ('New DP Regulations'), repealing the SEBI (Depositories and Participants) Regulations, 1996 ('Old DP Regulations') introducing amendments largely related to structuring, shareholding and governance of depositories.

These regulations also contain provisions for operations and functioning of depositories, form for application and certificates used and schedule of fees for participants, etc. It also contains provisions for registration of depository and depository participants, rights and obligations of various users and constituents, inspection and procedure for action in case of default.

RECONCILIATION

Regulation 75 of SEBI (Depositories and Participants) Regulations, 2018 provides that the issuer or its agent shall reconcile the records of dematerialised securities with all the securities issued by the issuer, on a daily basis, where the State or the Central Government is the issuer of Government securities, the depository shall, on a daily basis, reconcile the records of the dematerialised securities.

AUDIT UNDER SEBI (DEPOSITORIES AND PARTICIPANTS) REGULATIONS, 2018

Regulation 76 of SEBI (Depositories and Participants) Regulations, 2018 provides that every issuer shall submit audit report on a quarterly basis to the concerned stock exchanges audited by a practising Company Secretary or a qualified Chartered Accountant or a practicing Cost Accountant, for the purposes of reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, the details of changes in share capital during the quarter and the in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital.

The audit report is required to give the updated status of the register of members of the issuer and confirm that securities have been dematerialized as per requests within 21 days from the date of receipt of requests by the issuer and where the dematerialization has not been effected within the said stipulated period, the report would disclose the reasons for such delay.

The issuer is under an obligation to immediately bring to the notice of the depositories and the stock exchanges, any difference observed in its issued, listed, and the capital held by depositories in dematerialized form.

INTERNAL AUDIT AND CONCURRENT AUDIT OF DEPOSITORY PARTICIPANTS

▶ OBJECTIVES OF AUDIT

To assure the management that the operations of the Participant are in compliance with the requirements of The Depositories Act, 1996, SEBI (Depositories & Participants) Regulations, 2018, Bye Laws and Business Rules, agreement and Rights and Obligations of Beneficial Owner and Depository Participant and various circulars issued by Depositories from time to time.

▶ INTERNAL AUDIT

The two Depository service providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have allowed Company Secretaries in whole-time practice to undertake internal audit of the operations of Depository Participants (DPs).

NSDL Bye Laws 10.3.1 reads as follow: “Every Participant shall ensure that an internal audit in respect of its depository operations is conducted at intervals of not more than six months by a qualified Chartered Accountant or a Company Secretary or a Cost and Management Accountant, holding a Certificate of Practice and a copy of the internal audit report shall be furnished to the Depository.”

CDSL Bye Laws 16.3.1 reads as follows: Every participant shall ensure that an internal audit shall be conducted in respect of the participant’s operations relating to CDSL by a qualified Chartered Accountant in accordance with the provisions of the Chartered Accountants Act, 1949, or by a Company Secretary in accordance with the provisions of the Company Secretaries Act, 1980 or by a Cost Accountant in accordance with the provisions of the Cost and Works Accountants Act, 1959; in practice, at such intervals as may be specified by CDSL from time to time. A copy of Internal Audit report shall be furnished to CDSL.

▶ SCOPE OF AUDIT

The scope of such audit shall cover the existence, scope and efficiency of the internal control system, compliance with the provisions of the Act, Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018,

Bye Laws, Business Rules, agreement and systems security in the office of the Participant in respect of the operations of the Depository. Concurrent audit includes following areas:

- i. Account opening,
- ii. Delivery Instruction Slip (DIS) book issuance,
- iii. Execution of DIS,
- iv. Power of Attorney modifications,
- v. Account closure requests initiated by Participant,
- vi. Investor grievances received by Participant,
- vii. Providing Transaction Statements to clearing members (process level)
- viii. KYC reconfirmation intimated by NSDL and initiated by Participant,
- ix. Replacement of Original DIS image in tamper proof storage,
- x. Non Disposal Undertakings (NDU),
- xi. Modification in the name of client (including minor correction in name),
- xii. Client data modifications,
- xiii. Accreditation of investors (IGP),
- xiv. Freezes due to statutory orders,
- xv. Pledge & Hypothecation,
- xvi. Margin Pledge / Re-Pledge,
- xvii. Online account closure by client,
- xviii. Execution of Electronic/ E DIS.

SEBI'S CYBER SECURITY & CYBER RESILIENCE FRAMEWORK FOR STOCK BROKERS / DEPOSITORY PARTICIPANTS

Cyber-attacks and threats attempt to compromise the Confidentiality, Integrity and Availability (CIA) of the computer systems, networks and databases (Confidentiality refers to limiting access of systems and information to authorized users, Integrity is the assurance that the information is reliable and accurate, and Availability refers to guarantee of reliable access to the systems and information by authorized users). Cyber security framework includes measures, tools and processes that are intended to prevent cyber-attacks and improve cyber resilience. Cyber Resilience is an organization's ability to prepare and respond to a cyber-attack and to continue operation during, and recover from, a cyber-attack. The Frameworks inter-alia prescribes the following:

▶ DEPOSITORY PARTICIPANTS

- are mandated to conduct comprehensive cyber audit at least once in a financial year.
- shall submit with Stock Exchange/Depository a declaration from the MD/ CEO / Partners/ Proprietors certifying compliance with all SEBI Circulars and advisories related to Cyber security from time to time, along with the Cyber audit report.
- shall identify and classify critical assets based on their sensitivity and criticality for business operations, services and data management. The critical assets shall include business critical systems, internet facing applications /systems, systems that contain sensitive data, sensitive personal data, sensitive financial data, Personally Identifiable Information (PII) data, etc.
- shall maintain up-to-date inventory of its hardware and systems, software and information assets (internal and external), details of its network resources, connections to its network and data flows.
- shall carry out periodic Vulnerability Assessment and Penetration Tests (VAPT) which inter-alia include critical assets and infrastructure components like Servers, Networking systems, Security devices, load balancers, other IT systems pertaining to the activities done as Depository Participants etc., in order to detect security vulnerabilities in the IT environment and in-depth evaluation of the security posture of the system through simulations of actual attacks on its systems and networks.
- Brokers / Depository Participants shall conduct VAPT at least once in a financial year.

CHAPTER 6 - SECURITIES MARKET INTERMEDIARIES

INTRODUCTION

Intermediaries are service providers and are an integral part of any financial system. SEBI regulates various intermediaries in the primary and secondary markets through its regulations for these respective intermediaries. SEBI has defined the role of each of the intermediary, the eligibility criteria for granting registration, their functions and responsibilities and the code of conduct to which they are bound. These regulations also empower SEBI to inspect the functioning of these intermediaries and to collect fees from them and to impose penalties on erring entities.

As per Section 11 of SEBI Act, it is the duty of SEBI to register and regulate the working of stock brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers, custodians, credit rating agencies and such other intermediaries who may be associated with securities market in any manner.

The capital market intermediaries are vital link between investor, issuer and regulator.

THE OBJECTIVES OF THESE INTERMEDIARIES ARE-

- To smoothen the process of investment;
- To establish a link between the investors and the users of funds;
- Corporations and Governments do not market their securities directly to the investors. Instead, they hire the services of the market intermediaries to represent them to the investors;
- Investors, particularly small investors, find it difficult to make direct investment. A small investor desiring to invest may be able to diversify across issuers to reduce risk. He may not be equipped to assess and monitor the credit risk of issuers. Market intermediaries help investors to select investments by providing investment consultancy, market analysis and credit rating of investment instruments;
- In order to operate in secondary market, the investors have to transact through share brokers. Registrars and Share Transfer Agents, Custodians and Depositories Participants are capital market intermediaries that provide important infrastructure services for both primary and secondary markets.

Primary Market Intermediaries	Secondary Market Intermediaries
<ul style="list-style-type: none"> • Merchant Bankers • Bankers to the Issue • Registrars to an issue and share transfer agents • Underwriters • Debenture Trustees 	<ul style="list-style-type: none"> • Stock brokers • Depository • Share Transfer Agents

SECURITIES AND EXCHANGE BOARD OF INDIA (INTERMEDIARIES) REGULATIONS, 2008

The SEBI introduced the Intermediaries Regulations in order to regulate the activities of intermediaries in the financial markets such as registrars to an issue, participants, asset management companies, clearing member of a clearing corporation or clearing house, foreign portfolio investors and trading members of a derivative segment or currency derivatives segment of a stock exchange.

In order to act as an intermediary, a person is required to apply to the SEBI for the grant of a certificate to act as an intermediary, as per the SEBI Intermediaries Regulations. The SEBI grants a certificate in the form specified in the relevant regulations on satisfaction of the eligibility of the applicant. A person may carry on the activities of one or more intermediaries only if it obtains a separate certificate to carry on each such activity.

According to SEBI (Intermediaries) Regulations, 2008, “intermediary” means a person mentioned in clauses (b) and (ba) of sub-section (2) of section 11 and sub-section (1) and (1A) of section 12 of the SEBI Act and includes an asset management company in relation to the SEBI (Mutual Funds) Regulations, 1996, a clearing member of a clearing corporation or clearing house, foreign portfolio investors and a trading member of a derivative segment or currency derivatives segment of a stock exchange but does not include foreign venture capital investor, mutual fund, collective investment scheme and venture capital fund.

REGISTRATION OF INTERMEDIARIES

- **Application for Registration:** An application, for grant of a certificate to act as an intermediary, has to be made to the SEBI in Form A of Schedule I with such additional information as required to be provided under the relevant regulations, and the application fee, as specified in the relevant regulations.
- **Process of Application:** The stock exchange, the clearing corporation, the depository or the specified self regulatory organization, as the case may be, has to examine the eligibility of the applicant in terms of these regulations, relevant regulations and the rules, regulations or bye-laws of the concerned stock exchange, clearing corporation, depository or the self regulatory organization and forward the application with the application fees to the SEBI along with its recommendation as early as possible but not later than 30 days of receipt of the complete application with the specified application fees.
- **Additional Information or clarifications:** The SEBI may require the applicant to furnish further information or clarifications, regarding matters relevant to the activity of such an intermediary or which may otherwise be considered necessary by the SEBI, to consider and dispose of the application. The applicant has to furnish such information and clarification to the satisfaction of the SEBI, within the time specified in this regard by the SEBI.
- **Verification / Inspection:** While considering the application, the information furnished by the applicant and its eligibility, the SEBI may, if it so desires, verify the information by physical verification of documents, office space, and inspect the availability of office space, infrastructure, and technological support which the applicant is required to have.
- **Consideration of Application:** For considering the eligibility of the applicant and grant of certificate to such applicant, the SEBI shall take into account all matters which it deems relevant to the activities in the securities market, including but not limited to the following –
 - a) whether the applicant have in the past been refused certificate by the SEBI and if so, the ground for such refusal;
 - b) whether the applicant, its directors or partners, or trustees, as the case may be or its principal officer is involved in any pending litigation connected with the securities market which has an adverse bearing on the business of the applicant or on development or functioning of the securities markets;
 - c) whether the applicant satisfies the eligibility criteria;
 - d) whether the grant of a certificate to the applicant is in the interest of the investors ;
 - e) whether the grant of a certificate to the applicant is in the interest of the development of the securities market.
- **Rejection of Application:** Any application for grant of certificate:-
 - a) which is not complete in all respects and does not conform to the requirements in Form A and the requirements specified in the relevant regulation;
 - b) which does not contain such additional information as required by the SEBI;
 - c) which is incorrect, false or misleading in nature;
 - d) where the applicant is not in compliance with the eligibility requirements as set out under these regulations or the relevant regulations;
 - e) where the applicant is not a fit and proper person;
 - f) where the principal officer does not have the requisite qualification or experience as required under the relevant regulations;

can be rejected by the SEBI for reasons to be recorded by the SEBI in writing; However, the applicant has to be given an opportunity in writing to make good the deficiencies within the time specified by the SEBI, for the purpose. Further, where an application is rejected for the reason that it contains false or misleading information, no such opportunity may be given and the applicant cannot make any application for grant of certificate under these regulations or any other regulations for a period of 1 year from the date of such rejection.
- **Granting of Certificate:** The SEBI on being satisfied that the applicant is eligible, shall grant a certificate in the form specified in the relevant regulations and send an intimation to the applicant in this regard.
- **Conditional Registration:** Where a pending proceeding before the Board or any court or tribunal may result in the suspension or cancellation of the certificate, the SEBI may give a conditional registration.

- **Separate Certificate for other activity:** When an intermediary, who has been granted a certificate and who has filed Form A under these regulations, wishes to commence a new activity which requires a separate certificate under the relevant regulations, it has to, while seeking such certificate, not be required to file Form A, and has to furnish to the SEBI only such additional information as is required under the relevant regulations.
- **Conditions of Certificate:** Any certificate granted by the SEBI to an intermediary has to be subject to the conditions that: -
 - a) where the intermediary proposes to change its status or constitution, it has to obtain prior approval of the SEBI for continuing to act as an intermediary after such change in status or constitution;
 - b) it has to pay the applicable fees in accordance with the relevant regulations;
 - c) it has to abide by the provisions of the securities laws and the directions, guidelines and circulars as may be issued thereunder;
 - d) it has to continuously comply with the requirements of Regulation 4;
 - e) it has to meet the eligibility criteria and other requirements specified in these regulations and the relevant regulations.

The SEBI may impose other conditions as it may deem fit in the interest of investors.

- **Deemed Approval:** A request for prior approval which is complete in all respects has to be disposed off by the SEBI within a period of 60 days from the date of receipt of such request and where the decision of the SEBI has not been communicated to the intermediary within the said period of 60 days, the prior approval has to be deemed to have been granted.
- **Effect of refusal to grant certificate or expiry of certificate:** Where an intermediary has failed to make an application or where an existing intermediary has been refused grant of certificate under these regulations, the intermediary has to:
 - a) forthwith cease to act as such intermediary;
 - b) transfer its activities to another intermediary which has been granted a certificate for carrying on such activity and allow its clients or investors to withdraw or transfer their securities or funds held in its custody without any additional cost to such client or investor;
 - c) make provisions as regards liability incurred or assumed by the intermediary;
 - d) take such other action, within the time period and in the manner, as may be required under the relevant regulations or as may be directed by the SEBI.

- **Period of validity of certificate**

The certificate granted to an intermediary has to be permanent unless surrendered by the intermediary or suspended or cancelled in accordance with these regulations.

REDRESSAL OF INVESTOR GRIEVANCES

The intermediary shall make endeavours to redress investor grievances promptly but not later than 45 days of receipt thereof and when called upon by the SEBI to do so it shall redress the grievances of investors within the time specified by the SEBI. The intermediary shall maintain records regarding investor grievances received by it and redressal of such grievances. The intermediary shall at the end of each quarter of a Financial Year ending on 31st March upload information about the number of investor grievances received, redressed and those remaining unresolved beyond three months of the receipt thereof by the intermediary on the website specified by the SEBI .

APPOINTMENT OF COMPLIANCE OFFICER

An intermediary shall appoint a compliance officer for monitoring the compliance by it of the requirements of the Act, rules, regulations, notifications, guidelines, circulars and orders made or issued by the SEBI or the Central Government, or the rules, regulations and byelaws of the concerned stock exchanges, or the self regulatory organization, where applicable. However, the intermediary may not appoint compliance officer if it is not carrying on the activity of the intermediary.

INVESTMENT ADVICE

An intermediary, its directors, officers, employees or key management personnel shall not render, directly or indirectly, any investment advice about any security in the publicly accessible media, whether real-time or non-real-time, unless a disclosure of its interest, direct or indirect, including its long or short position in the said security has been made, while rendering such advice. If an intermediary's directors, officers, employees or key management personnel are rendering such advice, the intermediary shall ensure that while rendering such advice he discloses his interest, the interest of his dependent family members and that of the employer including employer's long or short position in the said security.

An intermediary shall not make a recommendation to any client or investor who may be expected to rely thereon to acquire, dispose of or retain any securities unless he has reasonable grounds to believe that the recommendation is suitable. Code of conduct An intermediary and its directors, officers, employees and key management personnel shall continuously abide by the code of conduct specified in Schedule III of the SEBI (Intermediaries) Regulation, 2008.

REGULATORY FRAMEWORK FOR INTERMEDIARIES

SEBI has issued regulations in respect of each intermediary to ensure proper services to be rendered by them to the investors and the capital market.

Sl No.	1
Intermediary Name	Merchant Banker
Definition	'Merchant Banker' means any person engaged in the business of issue management either by making arrangements regarding selling buying or subscribing to securities or acting as manager/ consultant/advisor or rendering corporate advisory services in relation to such issue management.
Role and Responsibilities	It is necessary for an issuer to appoint a merchant banker for: <ol style="list-style-type: none"> Managing of public issue of securities Underwriting connected with the aforesaid public issue management business Managing/Advising on international offerings of debt/ equity i.e. GDR, ADR, bonds and other instruments Private placement of securities Primary or satellite dealership of government securities Corporate advisory services related to securities market including takeovers, acquisition and disinvestment Stock broking Advisory services for projects Syndication of rupee term loans International financial advisory services.
SEBI Regulation	SEBI (Merchant Bankers) Regulations, 1992
Net worth Requirement	Not less than Rs. 5 crore
Sl No.	2
Intermediary Name	Registrars and Share Transfer Agents
Definition	"Registrar to an Issue' means the person appointed by a body corporate or any person or group of persons to carry on the following activities on its or his or their behalf : <ol style="list-style-type: none"> collecting application for investor in respect of an issue;

	<ul style="list-style-type: none"> ii. keeping a proper record of applications and monies received from investors or paid to the seller of the securities; and iii. assisting body corporate or person or group of persons in – <ul style="list-style-type: none"> a) determining the basis of allotment of the securities in consultation with the stock exchange b) finalising the list of person entitled to allotment of securities c) processing and dispatching of allotment letters, refund orders or certificates and other related documents in respect of the issue <p>‘Share Transfer Agent’ means:</p> <ul style="list-style-type: none"> i. any person who on behalf of any body corporate, maintains the records of holders of securities issued by such body corporate and deals with all matters connected with the transfer and redemption of its securities; ii. the department or division, by whatever name called, of a body corporate performing the activities as share transfer agents if at any time the total number of holders of its securities issued exceed one lakh.
Role and Responsibilities	<p>Pre-issue Activities</p> <ul style="list-style-type: none"> • Sending instructions to Banks for reporting of collection figures and collection of applications. • Providing Practical inputs to the Lead Manager and Printers regarding the design of the Bid cum-Application form. • Facilitate and establish information flow system between clients, Banks and Managers to the issue. • Liaisoning with Regulatory Authorities such as SEBI & Stock Exchanges. <p>Activities during the Issue</p> <ul style="list-style-type: none"> • Collection and Reporting of daily Collection figures. • Collection of Data and Forms from Banks. • Liaisoning with clients and Intermediaries to the Issue. <p>Post Issue Activities</p> <ul style="list-style-type: none"> • Data capturing & validation • Reconciliation • Provide Allotment Alternatives in consultation with Client/ Merchant Banker and Stock Exchanges • Facilitating Listing • Uploading of data to the Depositories for crediting of securities electronically • Dispatch of Refund orders/ Share Certificates / Credit Advise • Periodic Report submission to Regulatory Authorities • Reconciliation of Refund payments • Attending to post issue Investor queries • Web-based investor enquiry system for allotment / refund details
SEBI Regulation	SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993
Net worth Requirement	For category I is Rs. 50,00,000 and category II is Rs. 25,00,000.
SI No.	3
Intermediary Name	Bankers to an issue

Definition	'Banker to an Issue' means a scheduled bank or such other banking company as may be specified by the SEBI from time to time, carrying on all or any of the following activities: i. Acceptance of application and application monies; ii. Acceptance of allotment or call monies; iii. Refund of application monies; iv. Payment of dividend or interest warrants.
Role and Responsibilities	Bankers to the issue, as the name suggests, carries out all the activities of ensuring that the funds are collected and transferred to the Escrow accounts. While one or more banks may function as Bankers to the Issue as well as collection banks, others may do the limited work of collecting the applications for securities along with the remittance in their numerous branches in different centres. The banks are expected to furnish prompt information and records to the company and to the lead manager for monitoring and progressing the issue work.
SEBI Regulation	SEBI (Bankers to an Issue) Regulations, 1994
Net worth Requirement	--
SI No.	4
Intermediary Name	Debenture Trustees
Definition	"Debenture Trustee" means a trustee appointed in respect of any issue of debentures of a body corporate.
Role and Responsibilities	Duties of the debenture trustees are: - <ul style="list-style-type: none"> • satisfy itself that the prospectus or letter of offer does not contain any matter which is inconsistent with the terms of the issue of debentures or with the trust deed. • satisfy itself that the covenants in the trust deed are not prejudicial to the interest of the debenture holders. • call for periodical status/ performance reports from the issuer company within 7 days of the relevant board meeting or within 45 days of the respective quarter whichever is earlier. • communicate promptly to the debenture holders defaults, if any, with regard to payment of interest or redemption of debentures and action taken by the trustee therefor. I ensure that the company does not commit any breach of the terms of issue of debentures or covenants of the trust deed and take such reasonable steps as may be necessary to remedy any such breach. • inform the debenture holders immediately of any breach of the terms of issue of debentures or covenants of the trust deed. • ensure the implementation of the conditions regarding creation of security for the debentures. • ensure that the assets of the company issuing debentures and of the guarantors, if any, are sufficient to discharge the interest and principal amount at all times and that such assets are free from any other encumbrances except those which are specifically agreed to by the debenture holders. • call for reports on the utilization of funds raised by the issue of debentures. • do such acts as are necessary in the event the security becomes enforceable.
SEBI Regulation	SEBI (Debenture Trustees) Regulations, 1993
Net worth Requirement	Not less than Rs. 10 crore
SI No.	5

Intermediary Name	Stockbrokers
Definition	"Stock Broker" means a person having trading rights in any recognised stock exchange and includes a trading member
Role and Responsibilities	<ul style="list-style-type: none"> • A stock broker plays a very important role in the secondary market helping both the seller and the buyer of the securities to enter into a transaction. • The buyer and seller may be either a broker or a client. • When executing an order, the stock broker may on behalf of his client buy or sell securities from his own account i.e. as principal or act as an agent. • For each transaction he has to issue necessary contract note indicating whether the transaction has been entered into by him as a principal or as an agent for another. • While buying or selling securities as a principal, the stock broker has to obtain the consent of his client and the prices charged should be fair and justify by the conditions of the market. Stock broker may also act as an underwriter.
SEBI Regulation	SEBI (Stock Brokers) Regulations, 1992
Net worth Requirement	The stock broker shall have such net worth and shall deposit with the stock exchange such sum as may be specified by the SEBI/ stock exchange from time to time
SI No.	6
Intermediary Name	Portfolio managers
Definition	<p>"Portfolio manager" means a body corporate, which pursuant to a contract with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or goods or funds of the client, as the case may be: Provided that the Portfolio Manager may deal in goods received in delivery against physical settlement of commodity derivatives.</p> <p>"Discretionary portfolio manager" means a portfolio manager who under a contract relating to portfolio management, exercises or may exercise, any degree of discretion as to the investment of funds or management of the portfolio of securities of the client, as the case may be.</p>
Role and Responsibilities	A portfolio manager plays a pivotal role in deciding the best investment plan for an individual as per his income, age as well as ability to undertake risks. A portfolio manager is responsible for making an individual aware of the various investment tools available in the market and benefits associated with each plan. Make an individual realize why he actually needs to invest and which plan would be the best for him. A portfolio manager is responsible for designing customized investment solutions for the clients according to their financial needs.
SEBI Regulation	SEBI (Portfolio Managers) Regulations, 2020
Net worth Requirement	Not less than Rs. 5 crores.
SI No.	7
Intermediary Name	Custodians
Definition	"Custodian" is a person who carries on or propose to carry on the business of providing custodial services to the client. The custodian keeps the custody of the securities of the client. The custodian also provides incidental services such as maintaining the accounts of securities of the client, collecting the benefits or rights accruing to the client in respect of securities.

Role and Responsibilities	The custodian- <ul style="list-style-type: none"> • Administrate and protect the assets of the clients. • Open a separate custody account and deposit account in the name of each client. • Record assets. • Conduct registration of securities.
SEBI Regulation	SEBI (Custodian) Regulations, 1996
Net worth Requirement	Minimum of Rs. 50 crores.
SI No.	8
Intermediary Name	Investment Advisers
Definition	“Investment Adviser” means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called.
Role and Responsibilities	Investment advisers are those, who provide investment advice. “Investment advice” means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning. However, investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations.
SEBI Regulation	SEBI (Investment Advisers) Regulations, 2013
Net worth Requirement	Investment advisers who are non-individuals shall have a net worth of not less than Rs. 50 lakh Investment advisers who are individuals shall have net tangible assets of value not less than Rs. 5 lakh
SI No.	9
Intermediary Name	Research Analysts
Definition	“Research analyst” means a person who is primarily responsible for,- i. preparation or publication of the content of the research report; or ii. providing research report; or iii. making ‘buy/ sell/hold’ recommendation; or iv. giving price target; or v. offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of ‘research analyst’ and includes any other entities engaged in issuance of research report or research analysis
Role and Responsibilities	Research analyst study Companies and industries, analyses raw data, and make forecasts or recommendations about whether to buy, hold or sell securities. They analyses information to provide recommendations about investments in securities to their clients. Investors often view analysts as experts and important sources of information about the securities they review and often rely on their advice. There are basically three broad types of analysts, viz. sell-side analysts, buy-side analysts and independent analysts.
SEBI Regulation	SEBI (Research Analysts) Regulations, 2014
Net worth Requirement	<ul style="list-style-type: none"> • In case of a Body corporate or limited liability partnership firm –net worth not less than Rs 25 Lakh.

	<ul style="list-style-type: none"> In case of individual or partnership firm - net tangible assets of value not less than Rs. 1 Lakh.
Sl No.	10
Intermediary Name	Credit Rating Agencies
Definition	“Credit rating agency” means a body corporate which is engaged in, or proposes to be engaged in, the business of rating of securities that are listed or proposed to be listed on a stock exchange recognized by the SEBI.
Role and Responsibilities	Credit rating is extremely important as it not only plays a role in investor protection but also benefits industry as a whole in terms of direct mobilization of savings from individuals. Rating also provide a marketing tool to the company and its investment bankers in placing company’s debt obligations with a investor base that is aware of, and comfortable with, the level of risk. Ratings also encourage discipline amongst corporate borrowers to improve their financial structure and operating risks to obtain a better rating for their debt obligations and thereby lower the cost of borrowing.
SEBI Regulation	SEBI (Credit Rating Agencies) Regulations, 1999
Net worth Requirement	Minimum Rs. 25 crores
Sl No.	11
Intermediary Name	Depository
Definition	As per section 2(e) of Depository Act, 1996 “Depository” means a company formed and registered under the Companies Act, 2013, and which has been granted a certificate of registration under subsection (1A) of section 12 of the Securities and Exchange Board of India Act, 1992
Role and Responsibilities	Depositories are institutions that hold securities of investors in dematerialized / electronic form and provide demat services to the investors through their Depository Participants (DP). There are two depositories in our country namely, National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL). Under each Depository, there are registered Depository Participants (DPs), which provide various services to the investors like opening and maintaining of a Demat account, dematerialization of shares, etc.
SEBI Regulation	Depositories Act, 1996; SEBI (Depositories and Participants) Regulations, 2018
Net worth Requirement	not less than Rs. 100 crores
Sl No.	12
Intermediary Name	Depository Participant (DP)
Definition	A DP is an agent of the depository through which it interfaces with the investor and provides depository services.
Role and Responsibilities	Depository Participant (DP) is described as an Agent (law) of the depository. They are the intermediaries between the depository and the investors. They execute pledge requests and

	off market transfers and on market transfer request of the investors who hold shares in demat form. Further transmission requests of investors shall also be handled. Demat/Remat requests also handled in consultation with RTI/ STAs.
SEBI Regulation	Depositories Act, 1996; SEBI (Depositories and Participants) Regulations, 2018
Net worth Requirement	In case of a non-banking finance company - net worth of not less than Rs. 50 fifty lakhs. In case of a registrar to an issue or share transfer agent -minimum net worth of Rs. 10 crores
Sl No.	13
Intermediary Name	Foreign Portfolio Investor
Definition	“Foreign Portfolio Investor” means a person who has been registered under Chapter II of Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 and shall be deemed to be an intermediary in terms of the provisions of the SEBI Act, 1992.
Role and Responsibilities	Foreign Portfolio Investor means a person who buy, sell or otherwise deal in securities as a foreign portfolio investor by obtaining a certificate granted by a designated depository participant on behalf of the SEBI.
SEBI Regulation	SEBI (Foreign Portfolio Investors) Regulation, 2019
Net worth Requirement	–

INTERNAL AUDIT OF INTERMEDIARIES BY COMPANY SECRETARY IN PRACTICE

Efficient internal control systems and processes are pre-requisite for good governance. The governance being a dynamic concept requires constant evaluation and monitoring of the systems and processes. In the context of Capital Markets, capital markets intermediaries are an important constituent of overall governance framework. Being an important link between regulators, investors and issuers, they are expected to ensure that their internal controls are so efficient that ensure effective investor service at all times and provide regulators comfort as to the compliance of regulatory prescription. In this direction, SEBI has authorised Practising Company Secretaries to undertake internal audit of various capital market intermediaries and issue quarterly certificate with respect to reconciliation of share capital audit.

- a) Internal Audit of Portfolio Managers:** Practicing Company Secretary is authorized for conducting the internal audit of Portfolio Manager. The report is to be submitted twice a year, as on 31st of March and 30th of September. The scope of internal audit comprises the checking of compliance of SEBI (Portfolio Managers) Rules, 1993, SEBI (Portfolio Managers) Regulations, 1993 and circulars, notifications or guidelines issued by SEBI and internal procedures followed by the Portfolio Manager.
- b) Internal Audit of Stock Brokers / Trading Members / Clearing Members:** Practicing Company Secretary is authorized to carry out Internal Audit of Stock Brokers/Trading Members/Clearing Members on a half yearly basis. The scope of internal audit of stock brokers, being wide enough, covers inter alia the existence, scope and efficiency of the internal control system, compliance with the provisions of the SEBI Act, 1992, Securities Contracts (Regulation) Act, 1956, SEBI (Stock Brokers) Regulations, 1992, circulars issued by SEBI, agreements, KYC requirements, Bye Laws of the Exchanges, data security and insurance in respect of the operations of stock brokers/clearing members.
- c) Internal Audit for Credit Rating Agencies (CRAs):** Half yearly audit, Report to be submitted within two months of the half year end. It shall cover all aspects of CRA operations and procedures, including investor grievance redressal mechanism, compliance with the requirements stipulated in the SEBI Act, Rules and Regulations made thereunder, and guidelines issued by SEBI from time to time.

- d) **Compliance audit of an investment adviser:** Yearly audit in order to check the whether Requirements of Regulation 19 of the SEBI (Investment Advisers) Regulations, 2013 are complied with respects to the records to be maintained.
- e) **Annual audit of Research analyst or research entity:** Yearly audit in order to check the whether Requirements of SEBI (Research Analysts) Regulations, 2014 are complied with respects to the records to be maintained.
- f) **Internal Audit of Registrar and Share Transfer Agent (RTA):** All RTAs are required to carry out internal audit on annual basis by independent qualified Company Secretaries who don't have any conflict of interest. The audit shall cover all aspects of RTA operations including investor grievance redressal mechanism and compliance with the requirements stipulated in the SEBI Act, Rules and Regulations made thereunder, and guidelines/circulars Issued by SEBI from time to time. The scope of the audit shall cover all issues concerning the functioning of RTAs.

CHAPTER 7 - INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

INTERNATIONAL FINANCIAL SERVICES CENTRE

Financial Services Centres those which cater to customers outside their own jurisdiction are referred to as International Financial Services Centres (IFSCs). These centres are 'international' in the sense that they deal with the flow of finance and financial products/services across borders.

International financial services (IFS) are those cross-border services, that deal with the flow of finance and financial products and services such as raising of funds such as debt and equity, risk management, mutual funds and pension funds, asset management done by insurance companies, corporate treasury management operations among others. In common parlance, an IFSC is a jurisdiction with high concentration of financial institutions such as Banks, Stock Markets & related entities, Insurance firms, Fund Managers, FinTech firms, etc., which offer specialized financial services to non-residents and residents, in an environment that promotes financial innovation and facilitates cross border transactions.

IMPORTANCE OF IFSCS

- Globally, IFSCs have assumed prominence in the financial services ecosystem primarily because of three reasons-
 - they have contributed enormously to the growth of international financial transactions,
 - these centres have played a pivotal role in accelerating the pace of financial globalization, and
 - these centres have played an invaluable role in accelerating the socio-economic growth of host countries.
- The Percy Mistry committee report in 2007 highlighted the need for setting up an IFSC in India to bring back the financial services and transactions, that are currently carried out in offshore financial centres by Indian corporate entities to a centre which is physically on Indian soil.
- Further, the IFSC has been designed as a special international financial jurisdiction by virtue of Foreign Exchange Management Act, 2002 ("FEMA"). Under this, the units in IFSC enjoy the benefits of a non-resident under exchange control provisions. This special carve out enables transactions to be conducted in any freely convertible foreign currency.

The Gujarat International Finance Tech-city (GIFT) SEZ is India's maiden International Financial Services Centre (IFSC) set up under Section 18 of the Special Economic Zone Act, 2005. It is being developed as a global financial services hub. GIFT IFSC is a Multi Services Special Economic Zone which has commenced its business in April 2015.

FISCAL BENEFITS AND TAX EXEMPTIONS FOR GIFT-IFSC

To make IFSC competitive in comparison to other jurisdictions and to attract entities and investors into IFSC, certain fiscal benefits and tax exemptions are provided to IFSC. The major tax benefits in an IFSC are summarized below: -

Taxes and Duties	Benefits for Units in IFSC	Benefits for Investors
Income-tax	a) 100% tax exemption for 10 consecutive years out of 15 years b) IFSC Unit has the flexibility to select any 10 years out of 15 years block c) MAT / AMT @ 9% of book profits applies to Company / others setup as a unit in IFSC – MAT not applicable to companies in IFSC opting for new tax regime. d) Dividend paid to shareholders of company in IFSC- From 01 April 2020, dividend income distributed by Company in IFSC to be taxed in the hands of the shareholder.	(a) Interest income paid to non-residents on: - (i) Monies lent to IFSC units not taxable (ii) Long Term Bonds and Rupee Denominated Bonds listed on IFSC exchanges taxable at lower rate of 4%. (b) Transfer of specified securities* listed on IFSC exchanges by a non-resident not treated as transfer - Gains accruing thereon not chargeable to tax in India. *Specified securities include Bond, GDR, Foreign currency denominated bond, Rupee denominated bond of an Indian company, Derivatives, Unit of a Mutual Fund, Unit of a business trust, Unit of Alternative Investment Fund and Foreign currency denominated equity share of a company.
Goods and	a) No GST on services –	No GST on transactions carried out in IFSC

Services Tax (GST)	(i) received by unit in IFSC; (ii) provided to IFSC / SEZ units, Offshore clients. b) GST applicable on services provided to Domestic Tariff Area.	exchanges.
Other taxes duties	State Subsidies – Lease rental, PF contribution, electricity charges.	Exemption from Securities Transaction Tax, Commodity Transaction Tax, stamp duty in respect of transactions carried out on IFSC exchanges.

- **Following taxes are at NIL rates: -**

- I. Security Transaction Tax (STT)
- II. Commodity Transaction Tax (CTT)
- III. Dividend Distribution Tax (DDT)
- IV. Long Term Capital Gain (LTCG)
- V. Short Term Capital Gain (STCG)

NECESSITY OF IFSC FOR DOMESTIC ECONOMY

- **Onshoring the offshore international financial services:** One of the fundamental factors which incentivized India to set up its own IFSC was the fact that as one of the largest and fastest growing major economies in the world, India could no longer afford to play a passive role in the international financial services ecosystem. India had been heavily relying on overseas financial centres for the purchase of international financial services. Therefore, GIFT-IFSC was set up to transform India from being an importer of international financial services to becoming self-sufficient as well as an exporter of international financial services. Thus, the vision was of “onshoring the offshore international financial services”.
- **India’s economic growth trajectory:** More significantly, a vibrant IFSC has the potential to act as a growth catalyst for domestic Indian economy which is striving to become a USD 5 Trillion economy. Services offered in an IFSC, including Banking, Asset Management, Insurance and Capital Markets attract huge amounts of global capital inflows, such inflows can be channelized for the social economic development of India as well as to meet the Sustainable Development Goals - 2030. Therefore, the development of an IFSC was an imperative step in India’s economic growth trajectory.

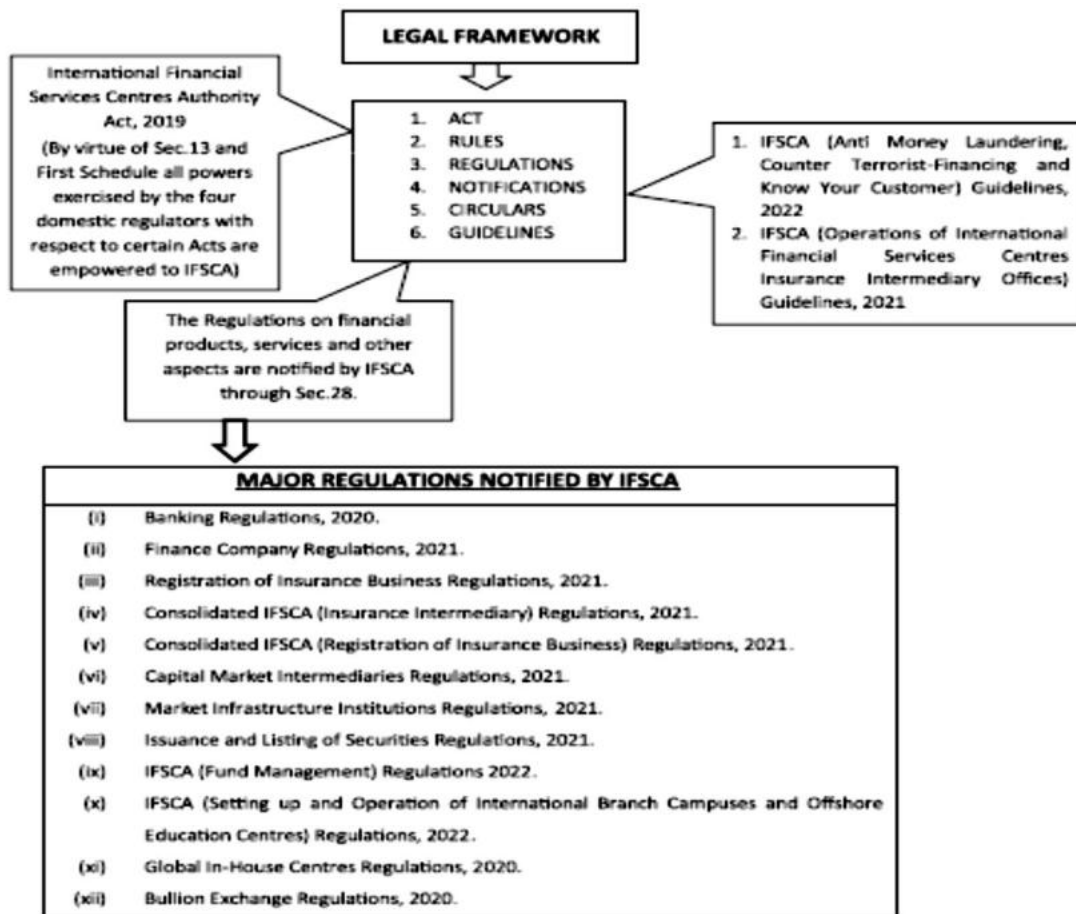
Another driving force for setting up an IFSC within the country was to allow bright young Indian talent especially in finance and information technology field to fully exhibit & showcase their talent and expertise, who hitherto, had to travel and work in overseas financial centres.

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

- Government of India through the International Financial Services Centres Authority Act, 2019 (hereafter referred to the Act) established the International Financial Services Centres Authority (IFSCA) as a dedicated and unified financial regulator for IFSCs in India.
- The IFSCA has been statutorily empowered to develop and regulate the financial markets in the IFSCs in India.
- The Act empowers IFSCA to exercise powers of four domestic regulators namely Reserve Bank of India (“RBI”), Securities & Exchange Board of India (“SEBI”), Insurance & Regulatory Development Authority of India (“IRDAI”) & Pension Fund Regulatory & Development Authority (“PFRDA”) under 14 (Now 15) Central Acts in so far as development and regulation of financial products, financial institutions and financial services within the IFSCs is concerned. Thus, IFSCA can perform all such quasi-legislative, executive, and quasi-judicial functions in IFSCs as are being performed by these regulators in domestic areas under these 15 Acts.
- With effect from 1st October 2020, the IFSCA assumed powers of the four domestic regulators and has started the development and regulatory affairs of India’s maiden IFSC in GIFT City. To develop the IFSC, the Authority has adopted a multi-pronged and calibrated approach which inter alia, includes creating an internationally aligned regulatory framework across all business verticals such as Banking, Capital Markets, Fund Management, Insurance, etc. Secondly, the authority is working to onshore new and niche international financial services which were previously being procured entirely from overseas financial jurisdictions

- The IFSCA is a unique Authority which has been vested with a dual mandate of developing and regulating the IFSCs in India. Section 12 of the Act specifically provides that in addition to the regulatory powers of IFSCA, it shall be the duty of the IFSC Authority to develop financial institutions, financial services and financial products within the IFSCs.

LEGAL AND REGULATORY FRAMEWORK IN GIFT-IFSC



POWERS AND FUNCTIONS OF THE IFSCA

FUNCTIONS OF THE AUTHORITY (SECTION 12 OF IFSCA ACT, 2019)

- to develop and regulate the financial products, financial services and financial institutions in an IFSC, by such measures as it deems fit.** Further, the authority can take all developmental steps such as authorizing the service providers who aid in assisting the financial service providers, which are an important pillar in providing support services for the entities to function effectively and to build a supporting ecosystem around for the entities in IFSC. Presently the role of the Authority has broadened as it regulates Bullion exchange, Foreign Universities and Institutions, Aircraft leasing, Ancillary service providers, Finance Companies and Fintech entities, etc. These services are either not regulated in the domestic sector or are not regulated as a financial service, like in the IFSC. Thus, Section 12 has enabled the Authority to adopt flexibility in handling the diverse regulatory landscape.
- to regulate those financial products, financial services and financial institutions in an IFSC:**
 - which are permitted to operate in IFSC before the commencement of IFSCA Act, by any regulator; and
 - those which are notified by Central Government from time to time.

Prior to the establishment of IFSCA the entities in IFSC were regulated by domestic financial regulators such as SEBI, RBI, IRDAI and PFRDA. Post the establishment of IFSCA through Section 4 of IFSCA Act, 2019 the entities are regulated by the IFSCA. For the initial period many regulations and guidelines of the domestic financial regulators were applicable to entities/products and services in the IFSC. Subsequently, IFSCA has gradually come up with multiple regulations, circulars, guidelines superseding the earlier regulatory regime.

- c) **to recommend to the Central Government to notify other financial products, services and institutions in an IFSC.** IFSC can also be perceived as a laboratory for financial experimentation which would enable the government to experiment with new financial services and based on their adoption and risk perception can be replicated in the domestic economy. IFSCA as a unified regulator exercises control over all the financial services and hence is equipped to provide better oversight on these new generation initiatives.

POWERS OF THE AUTHORITY (SECTION 13 OF IFSCA ACT, 2019)

- a) all powers exercisable by an appropriate regulator specified in First Schedule of the IFSCA Act, 2019 under respective acts, in an IFSC shall be exercised by the IFSCA, in so far as it relates to financial products, financial services and financial institutions.
- b) Central Government has power to amend the First Schedule by including or omitting any financial sector regulator and the law administered by it, through notification.

By virtue of Section 13 (2) of IFSCA Act, the Central Government has recently notified the Factoring regulation Act, 2011 under the First Schedule, which is administered by RBI in the domestic market.

FINANCIAL PRODUCTS AND FINANCIAL SERVICES

▶ Financial Products

Section 3(1)(d) of the IFSCA Act defines “Financial product” as

- I. Securities;
- II. Contracts of insurance;
- III. Deposits;
- IV. Credit arrangements; E.g., Trade Financing Services is one such activity which comes under Credit arrangements.
- V. Foreign currency contracts other than contracts to exchange one currency for another that are to be settled immediately; and
- VI. Any other product or instrument that may be notified by the Central Government from time to time.

▶ New Financial Products notified by the Central Government:

- i. **Aircraft lease** including operating and financial lease and any hybrid of operating and financial lease of aircraft or helicopter and engines of aircraft or helicopter or any other part thereof; The Government of India (GOI) vide Gazette notification dated October 06, 2020, notified aircraft operating lease as a financial product.
- ii. **Bullion spot delivery** contract;
- iii. **Bullion depository receipt** with underlying bullion; GOI notified bullion spot trading and bullion depository receipts (BDR) with underlying bullion, as financial products and bullion related services as financial services respectively on August 31, 2020.
- iv. **Operating lease including any hybrid of operating and financial lease** of such product or equipment as financial product. Under this, IFSCA has been empowered to bring framework for products such as ship leasing and other equipment; In view of the Authority’s assessment of a huge potential for operating lease of ships and for various other equipments in the IFSC, the Government of India vide notification dated December 14, 2021, notified operating lease including any hybrid of operating and financial lease of such product or equipment, as specified by the Authority, as a financial product;
- v. **Ship lease** including operating lease, and hybrid of operating and financial lease, of a ship or ocean vessel, engines of ship or ocean vessel, or any other part thereof, as a financial product.

▶ Financial Services

Section 3(1)(e) of the IFSCA Act defines “Financial service” as

- i. Buying, selling, or subscribing to a financial product or agreeing to do so;
- ii. Acceptance of deposits;
- iii. Safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;
- iv. Effecting contracts of insurance;
- v. Offering, managing or agreeing to manage assets consisting of financial products belonging to another person;
- vi. Exercising any right associated with a financial product or financial service;

- vii. Establishing or operating an investment scheme;
- viii. Maintaining or transferring records of ownership of a financial product;
- ix. Underwriting the issuance or subscription of a financial product;
- x. Providing information about a person's financial standing or creditworthiness; e.g., Credit Information Companies, Credit rating agencies.
- xi. Selling, providing, or issuing stored value or payment instruments or providing payment services;
- xii. Making arrangements for carrying on any of the services in sub-clauses (i) to (xi); (under this a framework on Ancillary Services was issued, which provides for support services such as Auditing, Accounting, Taxation and Assets Management);
- xiii. Rendering or agreeing to render advice on or soliciting for the purposes of—
 - a. buying, selling, or subscribing to, a financial product; or
 - b. availing any of the services in sub-clauses (i) to (xi); or
 - c. exercising any right associated with a financial product or any of the services in clauses (i) to (xi);
- xiv. Any other service that may be notified by the Central Government from time to time.

Considering the importance of professional and other service providers for the development of financial products, financial services and financial institutions in the IFSC, a framework for enabling ancillary services has been issued by IFSCA by exercising Sec.3 (1) (e) (xiii). This provision enables IFSCA to authorize such entities which are important in developing ancillary services ecosystem for the existing entities in IFSC. The framework allows the following permissible activities under ancillary services: -

- a. Legal, Compliance and Secretarial;
- b. Auditing, Accounting, Bookkeeping and Taxation Services;
- c. Professional & Management Consulting Services;
- d. Administration, Assets Management Support Services and Trusteeship Services;
- e. Any other services as approved by IFSCA from time to time.

Under the said framework more than 34 Ancillary Services firms have been authorized by IFSCA as of now.

► **New financial services notified by the central government**

- i. **Global in-House Centres (GIC)**, as financial service to provide services relating to financial products and financial services; To enable the GIC business in GIFT IFSC, the Central Government on the recommendation of the IFSCA, vide Gazette notification dated October 06, 2020, notified GICs as a financial service to provide services relating to financial products and financial services. Subsequently, the IFSCA notified the Global In- House Centres Regulations, 2020 which permitted an entity belonging to a financial services group to set up a GIC in the IFSC.
- ii. Trading in **bullion depository receipts** with underlying bullion in relation to bullion spot delivery contracts;
- iii. Provision of bullion financing, bullion-based loans, bullion loans against collateral, **bullion vaulting**, clearing and settlement services in relation to bullion spot delivery contracts and bullion depository receipts;
- iv. **Courses offered** in Financial Management, Fin-Tech, Science, Technology, Engineering and Mathematics by **foreign universities or foreign institutions in IFSC.**

LISTING AND TRADING OF SECURITIES IN IFSC

Section 23 (3) of the Companies Act, 2013 has been notified on September 28, 2020, enabling listing of equity shares of public Indian companies in permissible foreign jurisdictions, including IFSC. Previously, the listing of equity in IFSC by companies incorporated in India and foreign jurisdiction is regulated by a combination of SEBI (IFSC) Guidelines, 2015, relevant provisions of SEBI (Issue of Capital and Disclosure requirements) Regulations, 2018, Companies Act, 2013 and Foreign currency depository receipt scheme and circulars issued thereunder

The countries worldwide are investing into Environment, Social, Governance (ESG) projects, pursuant to the Paris Agreement and Sustainable Development Goals. The financial sector has been identified as being instrumental in advancing the zero-carbon energy transition. Considering the importance of Environment, Social and Governance issues and the ESG targets, there is a need for the regulators to provide an ecosystem for sustainable financing. IFSCA aims to move towards becoming a prominent international centre for sustainable finance, supporting the needs for ESG financing. Towards this direction, IFSCA has enabled the listing of green bonds, social bonds, sustainable bonds and sustainability linked bonds.

▶ LISTING OF SECURITIES

- a) The IFSCA (Issuance and Listing of Securities) Regulations, 2021 (“Listing Regulations”) enables the following types of listing:
 - i. an initial public offer of specified securities by an unlisted issuer;
 - ii. a follow-on public offer of specified securities by a listed issuer;
 - iii. Listing of specified securities by a start-up company or a SME;
 - iv. Secondary listing;
 - v. An initial public offer of specified securities by a SPAC;
 - vi. Listing of depository receipts;
 - vii. Listing of debt securities (including SMART City bonds); and
 - viii. Listing of ESG focused debt securities.
- b) The following entities would be eligible for listing of securities on the recognised stock exchanges in IFSC:
 - I. A company incorporated in an IFSC;
 - II. A company incorporated in India; and
 - III. A company incorporated in a foreign jurisdiction.
- c) Further, in respect of listing of debt securities, the following entities are also eligible to list on the recognised stock exchanges in IFSC:
 - i. any supranational, multilateral or statutory organisation/ institution/agency provided such organization/ institution/ agency is permitted to issue securities as per its constitution; and
 - ii. any municipality or any Statutory Body or Board or corporation, Authority, Trust or Agency established or notified by any Central or State Act or any Special Purpose Vehicle notified by the State Government or Central Government including for the purpose of raising fund by the issuer to develop SMART city;
 - iii. An entity whose securities are irrevocably guaranteed by a Sovereign (India or a Foreign Jurisdiction).

▶ LISTING OF SPECIFIED SECURITIES THROUGH IPO (INCLUDING OFFER FOR SALE)

The salient features for raising of capital through IPOs on a recognised stock exchange in IFSC are as follows:

A. Eligibility:

An issuer shall be eligible to make an initial public offer only if:

- a) the issuer has an average pre-tax profit, based on consolidated audited accounts, of at least USD 1 million during the preceding three financial years; or
- b) the issuer has an operating revenue of at least USD 20 million in the preceding financial year; or
- c) any other eligibility criteria that may be prescribed by IFSCA.

B. Issue size:

The issue size shall not be less than USD 15 million or any other amount as may be specified by IFSCA from time to time.

C. Minimum subscription:

The minimum number of subscribers should be 200 and at least 75% of the offer size should be subscribed for the offer to be successful.

D. Lock-up:

The pre-issue shareholding shall be locked-up for a period of 180 days from the date of allotment in the initial public offer.

▶ LISTING OF START-UP AND SMALL AND MEDIUM SIZED ENTERPRISE (SME) COMPANIES

The start-up fulfilling the following criteria shall be eligible to list on the recognised stock exchanges in IFSC:

- a) Less than 10 years from the date of incorporation;
- b) The turnover of the company for any of the financial years since incorporation should not have exceeded USD 20 million.
- c) The company is working towards innovation, development or improvement of products or processes or services, or it is a scalable business model with a high potential of employment generation or wealth creation. The SME

Companies, as defined in their respective home jurisdiction, shall be eligible to list on specified securities on a recognised stock exchange.

The salient features for the framework for listing of start-up and SME companies are as follows:

- a) **Direct Listing:** The start-ups and SMEs are also permitted to list on the recognised stock exchanges in IFSC without public offer. This would encourage start-ups (including Fintech companies) to list in IFSC and would be a step towards developing IFSC as a hub for Fintech companies.
- b) **Offer size in case of public offer:** Not less than USD 2 million or any other amount as may be specified by IFSCA from time to time.
- c) **Minimum subscription:** The minimum number of subscribers should be 50 and at least 75% of the offer size should be subscribed for the offer to be successful.

▶ **LISTING OF SPAC**

A SPAC shall be eligible to raise capital through IPO of specified securities on the recognised stock exchanges in IFSC, only if:

- a) The primary objective of the issuer is to effect a merger or amalgamation or acquisition of shares or assets of a company having business operations (“business acquisition”);
- b) The issuer does not have any operating business.

The salient features of the framework for listing of SPACs are as follows:

- a) **Offer size:** Not less than USD 50 million or any other amount as may be specified by the Authority from time to time. Further, the sponsor shall hold at least 20% of the post issue paid up capital.
- b) **Minimum application size:** The minimum application size in an initial public offer of SPAC shall be USD 250,000.
- c) **Minimum subscription:** At least 75% of the offer size.
- d) **SPAC specific obligations:** Requirements have also been prescribed with respect to maintenance of escrow account, eligible investments pending utilisation, acquisition timeline of 3 years extendable upto 1 year, right of dissenting shareholders, liquidation provisions, etc.

▶ **LISTING OF DEBT SECURITIES**

The following categories of debt securities (including ESG focused bonds, SMART City bonds) shall be eligible for listing on recognised stock exchanges in IFSC:

- a. Debt securities issued by issuers incorporated in IFSC;
- b. Debt securities issued by issuers incorporated in India or foreign jurisdiction in any currency other than INR;
- c. Masala Bonds;
- d. Any other debt securities as permitted by relevant authority from time to time.

SEBI (IFSC) GUIDELINES, 2015

The SEBI (IFSC) Guidelines, 2015 provides a comprehensive regulatory framework for Market Infrastructure Institutions (MII) such as Stock exchanges, Clearing corporation, Depositories. Some of the important provisions under the guidelines are provided below: -

Eligibility and shareholding

1. Eligibility and shareholding limit for stock exchanges desirous of operating in IFSC:

Any Indian recognised stock exchange or any stock recognised exchange of a foreign jurisdiction may form a subsidiary to provide the services of stock exchange in IFSC wherein at least fifty-one per cent. of paid-up equity share capital shall be held by such stock exchange and the remaining share capital shall be held by the following:

- a) any other stock exchange,
- b) a depository,
- c) a banking company,
- d) an insurance company,
- e) commodity derivatives exchange, whether Indian or of foreign jurisdiction, and
- f) a public financial institution of Indian jurisdiction.

However, any one of the aforesaid entities may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, up to fifteen per cent of the paid-up equity share capital of such stock exchange.

2. Eligibility and shareholding limit for clearing corporations desirous of operating in IFSC:

Any Indian recognised stock exchange or clearing corporation, or any recognised stock exchange or clearing corporation of a foreign jurisdiction shall form a subsidiary to provide the services of clearing corporation in IFSC wherein at least fifty-one per cent. of paid-up equity share capital shall be held by such stock exchange or clearing corporation, and remaining share capital shall be held by the following:

- a) any other stock exchange,
- b) a clearing corporation,
- c) a depository,
- d) a banking company,
- e) an insurance company, whether Indian or foreign jurisdiction, and
- f) a public financial institution of Indian jurisdiction.

However, any one of the aforesaid entities may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, up to fifteen per cent. of the paid-up equity share capital of such clearing corporation.

3. Eligibility and shareholding limit for foreign depositories desirous of operating in IFSC:

- a) Any regulated depository of a foreign jurisdiction shall form a subsidiary to provide the depository services in IFSC where atleast fifty-one per cent of paid-up capital is held by such depository or recognised stock exchange or clearing corporation, whether Indian or of foreign jurisdiction.
- b) Setting up of IFSC Depositories Services by Indian registered depositories: Any Indian registered depository may set up a branch – IFSC Depository Services (IDS) at IFSC. The interested depositories shall be required to obtain prior approval of the Board for setting up an IDS. Such Indian depository shall be required to ring fence its domestic operations, financially, operationally, and technologically, from its operations at IFSC.

4. Permissible securities:

The stock exchanges operating in IFSC may permit dealing in following types of securities and products in such securities in any currency other than Indian rupee, with a specified trading lot size on their trading platform subject to prior approval of the SEBI:

- i. Equity shares of a company incorporated outside India;
- ii. Depository receipt(s);
- iii. Debt securities issued by eligible issuers;
- iv. Currency and interest rate derivatives;
- v. Index based derivatives;
- vi. Commodity Derivatives;
- vii. Derivatives on Equity shares;
- viii. Such other securities as may be specified by the Board.