

# **SECURITIES LAWS & CAPITAL MARKETS**

**FOR CS EXECUTIVE MODULE 2 PAPER 6A**

**By CS ADITI PANT**



*According to encyclopaedia, bulls eat hay and bears eat berries.*

*My dad says they only eat money.*

All due care and caution have been taken to provide interpretations, discussions and explanations in a manner useful for the students. However, possibility of errors, omissions and/or discrepancies cannot be ruled out. Should there be any errors, omissions and/or discrepancies noted in this work, suggestions for further improvement can be communicated to us via link <https://pareekshaacademy.com/>.

**Disclaimer**

The Author and/or Consultants and/or Editors, herein after referred to as “We”, expressly disclaim all and any liability and responsibility to any person, whether a purchaser or reader of this work, in respect of anything, and of the consequences of anything, done or omitted to be done by any such person in reliance, wholly or partially, upon whole or any part of contents in this work. Without limiting the generality of the above, we shall not have any responsibility for any act or omission of any other Author and/or Consultants and/or Editors.

©Pareeksha Commerce Academy

**Author**

**CS ADITI PANT**

<https://pareekshaacademy.com/>

**Contact Us:**

*For queries WhatsApp us at +91 90398 60194 / +91 77738 99997*

# TABLE OF CONTENTS

<b>SECURITIES CONTRACTS (REGULATION) ACT, 1956.....</b>	<b>1</b>
1.1 INTRODUCTION.....	1
1.2 NON-APPLICABILITY.....	1
1.3 IMPORTANT DEFINITIONS/TERMINOLOGIES.....	1
1.4 RECOGNITION OF STOCK EXCHANGES.....	2
1.5 WITHDRAWAL OF RECOGNITION.....	3
1.6 POWERS OF CENTRAL GOVERNMENT.....	4
1.7 POWERS OF RECOGNIZED STOCK EXCHANGE.....	5
1.8 CLEARING CORPORATION.....	5
1.9 POWERS OF SEBI.....	5
1.10 PUBLIC ISSUE AND LISTING OF SECURITIES.....	6
1.11 CONDITIONS FOR LISTING.....	6
1.12 DELISTING OF SECURITIES.....	6
1.13 RIGHT OF APPEAL TO SECURITIES APPELLATE TRIBUNAL AGAINST REFUSAL OF STOCK EXCHANGE TO LIST SECURITIES OF PUBLIC COMPANIES.....	6
1.14 PENALTIES.....	7
1.15 FACTORS TO BE TAKEN INTO ACCOUNT BY THE ADJUDICATING OFFICER.....	8
1.16 RECOVERY OF AMOUNTS.....	8
1.17 COMPOSITION OF CERTAIN OFFENCES.....	8
1.18 OFFENCES BY COMPANIES.....	8
1.19 ESTABLISHMENT OF SPECIAL COURTS.....	8
<b>SECURITIES AND EXCHANGE BOARD OF INDIA, 1992.....</b>	<b>11</b>
2.1 INTRODUCTION.....	11
2.2 SCHEME OF THE ACT.....	11
2.3 COMPOSITION OF SEBI.....	11
2.4 FUNCTIONS OF SEBI.....	12
2.5 POWERS OF SEBI.....	12
2.6 PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING ETC. [CHAPTER VA].....	13
2.7 PENALTIES FOR FAILURES.....	14
2.8 ADJUDICATION [SECTION 15-I].....	16
2.9 FACTORS CONSIDERED WHILE ADJUDICATION [SECTION 15J].....	17
2.10 SECURITIES APPELLATE TRIBUNAL.....	17
2.11 APPEAL TO SUPREME COURT.....	18
2.12 POWERS OF CENTRAL GOVERNMENT.....	18
2.13 APPEAL TO THE CENTRAL GOVERNMENT [SECTION 20].....	19
2.14 OFFENCES AND PUNISHMENTS (SECTION 24).....	19
2.15 COGNIZANCE OF OFFENCES BY COURTS.....	19
2.16 SPECIAL COURTS.....	19
2.17 RECOVERY OF AMOUNTS [SECTION 28A(1)].....	19
2.18 CONSENT ORDER.....	20
2.19 ROLE OF COMPANY SECRETARY.....	20
<b>DEPOSITORIES ACT, 1996.....</b>	<b>21</b>
3.1 INTRODUCTION.....	21
3.2 BENEFITS OF DEPOSITORY SYSTEM.....	21
3.3 AN OVERVIEW OF DEPOSITORY SYSTEM.....	21
3.4 DEPOSITORY PARTICIPANT.....	22
3.5 DEMATERIALIZATION.....	22
3.6 REMATERIALISATION.....	22
3.7 DEPOSITORIES ACT, 1996.....	23
3.8 PENALTIES AND ADJUDICATION.....	24
3.9 PENALTIES.....	25
3.10 OFFENCES.....	25
3.11 SEBI (DEPOSITORIES AND PARTICIPANTS) REGULATIONS, 1996.....	26
3.12 CONCURRENT AUDIT.....	27
3.13 ROLE OF COMPANY SECRETARY.....	27
<b>OVERVIEW OF SEBI (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009.....</b>	<b>29</b>
4.1 INTRODUCTION.....	29
4.2 ISSUE OF EQUITY SHARES.....	29
4.3 ELIGIBILITY CRITERIAS FOR PUBLIC ISSUE.....	29
4.4 TYPES OF ISSUE.....	30
4.5 DRAFT OFFER DOCUMENT.....	31
4.6 OFFER DOCUMENT.....	31

4.7 RED HERRING PROSPECTUS (RHP) .....	31
4.8 FILING OF OFFER DOCUMENT .....	32
4.9 FAST-TRACK ISSUES.....	32
4.10 DIFFERENTIAL PRICING .....	32
4.11 PRICE AND PRICE BAND .....	33
4.12 FACE VALUE OF EQUITY SHARES .....	33
4.13 PROMOTERS' CONTRIBUTION.....	33
4.14 EXEMPTION FROM REQUIREMENT OF PROMOTERS' CONTRIBUTION.....	34
4.15 UNDERWRITING.....	34
4.16 OTHERS .....	35
4.17 PERIOD OF SUBSCRIPTION .....	35
4.18 ADVERTISEMENTS .....	35
4.19 RESTRICTION ON FURTHER CAPITAL ISSUES.....	35
4.20 MINIMUM OFFER TO PUBLIC .....	36
4.21 RESERVATION ON COMPETITIVE BASIS.....	36
4.22 ALLOCATION TO NET OFFER TO PUBLIC (IMPORTANT POINTS).....	36
4.23 PROCEDURE FOR ISSUE OF SECURITIES .....	37
<b>AN OVERVIEW OF SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 .....</b>	<b>39</b>
5.1 INTRODUCTION .....	39
5.2 SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015.....	39
5.3 APPLICABILITY OF LODR .....	39
5.4 OBLIGATIONS OF LISTED ENTITIES.....	39
5.5 COMPLIANCES UNDER SEBI LISTING REGULATIONS .....	40
5.6 CORPORATE GOVERNANCE UNDER SEBI (LODR) REGULATIONS, 2015.....	42
5.7 BOARD COMMITTEES UNDER LISTING REGULATIONS.....	43
5.8 VIGIL MECHANISM [ REGULATION 22 ] .....	43
5.9 RELATED PARTY TRANSACTIONS [ REGULATION 23 ].....	43
5.10 IN-PRINCIPLE APPROVAL OF RECOGNIZED STOCK EXCHANGE(S) [ REGULATION 28 ].....	44
5.11 ROLE OF COMPANY SECRETARY.....	44
<b>AN OVERVIEW OF SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011 .....</b>	<b>45</b>
6.1 INTRODUCTION .....	45
6.2 SCHEME OF SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011.....	45
6.3 IMPORTANT DEFINITIONS.....	45
6.4 TRIGGER POINT FOR MAKING AN OPEN OFFER BY AN ACQUIRER .....	48
6.5 OPEN OFFER TRIGGERS.....	48
6.6 CONDITIONAL OFFER.....	49
6.7 PUBLIC ANNOUNCEMENT .....	49
6.8 PUBLICATION OF PUBLIC ANNOUNCEMENT AND DETAILED PUBLIC STATEMENT.....	51
6.9 OFFER PRICE.....	52
6.10 SUBMISSION OF DRAFT LETTER OF OFFER.....	52
6.11 DISPATCH OF LETTER OF OFFER.....	52
6.12 OPENING OF THE OFFER.....	52
6.13 PROVISION OF ESCROW.....	52
6.14 MODE OF PAYMENT.....	53
6.15 WITHDRAWAL OF OPEN OFFER.....	53
6.16 OBLIGATIONS OF THE TARGET COMPANY.....	54
6.17 DISCLOSURES.....	54
6.18 EXEMPTIONS.....	55
<b>SEBI (BUYBACK OF SECURITIES) REGULATIONS 1998.....</b>	<b>57</b>
7.1 INTRODUCTION .....	57
7.2 OBJECTIVES OF BUY-BACK.....	57
7.3 IMPORTANT DEFINITIONS.....	57
7.4 METHODS OF BUY-BACK.....	58
7.5 APPROVALS REQUIRED.....	58
7.6 BUY-BACK FROM EXISTING SECURITY-HOLDERS THROUGH TENDER OFFER.....	58
<b>SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009.....</b>	<b>61</b>
8.1 INTRODUCTION .....	61
8.2 SUSPENSION VIS-À-VIS DELISTING.....	61
8.3 SCHEME OF SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009 .....	61
8.4 APPLICABILITY.....	61
8.5 VOLUNTARY DELISTING.....	62
8.6 COMPULSORY DELISTING.....	64

8.7 ROLE OF COMPANY SECRETARY IN DELISTING .....	65
<b>SEBI (SHARE BASED EMPLOYEE BENEFITS) REGULATIONS, 2014 .....</b>	<b>67</b>
9.1 INTRODUCTION .....	67
9.2 SEBI (SHARE BASED EMPLOYEE BENEFITS) REGULATIONS, 2014 .....	67
9.3 ENTITIES COVERED.....	67
9.4 IMPORTANT DEFINITIONS.....	68
9.5 IMPLEMENTATION AND PROCESS OF SCHEMES.....	68
9.6 COMPLIANCES AND CONDITIONS.....	71
9.7 AUDITOR'S CERTIFICATE .....	71
9.8 ACCOUNTING POLICIES.....	71
9.9 ROLE OF COMPANY SECRETARY.....	73
<b>SEBI (ISSUE OF SWEAT EQUITY) REGULATIONS, 2002 – AN OVERVIEW .....</b>	<b>75</b>
10.1 INTRODUCTION.....	75
10.2 PROVISIONS AS PER THE COMPANIES ACT, 2013 .....	75
10.3 SEBI (ISSUE OF SWEAT EQUITY) REGULATIONS, 2002.....	76
10.4 IMPORTANT PROVISIONS REGARDING SPECIAL RESOLUTION .....	76
10.5 ISSUE OF SWEAT EQUITY SHARES TO PROMOTERS.....	76
10.6 PRICING NORMS OF SWEAT EQUITY SHARES.....	76
10.7 VALUATION OF INTELLECTUAL PROPERTY.....	77
10.8 ACCOUNTING POLICIES.....	77
10.9 OTHER IMPORTANT PROVISIONS.....	77
<b>SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2014 .....</b>	<b>79</b>
11.1 INTRODUCTION.....	79
11.2 SCHEME OF THE ACT .....	79
11.3 IMPORTANT DEFINITIONS .....	79
11.4 COMMUNICATION OR PROCUREMENT OF UNPUBLISHED PRICE SENSITIVE INFORMATION.....	81
11.5 TRADING WHEN IN POSSESSION OF UNPUBLISHED PRICE SENSITIVE INFORMATION (UPS) .....	81
11.6 TRADING PLANS.....	82
11.7 DISCLOSURES OF INTEREST BY CERTAIN PERSONS.....	83
11.8 CODE OF FAIR DISCLOSURE.....	83
11.9 CODE OF CONDUCT.....	84
11.10 INSTITUTIONAL MECHANISM FOR PREVENTION OF INSIDER TRADING .....	84
11.11 MINIMUM STANDARDS FOR CODE OF CONDUCT .....	85
11.12 PENALTY.....	85
11.13 ROLE OF COMPANY SECRETARY AS COMPLIANCE OFFICER.....	86
<b>MUTUAL FUNDS.....</b>	<b>87</b>
12.1 INTRODUCTION.....	87
12.2 STRUCTURE OF A MUTUAL FUND .....	87
12.3 TYPES OF MUTUAL FUND .....	87
12.4 INVESTMENT PLANS IN MUTUAL FUNDS .....	88
12.5 SCHEMES ACCORDING TO INVESTMENT OBJECTIVE.....	88
12.6 ADVANTAGES OF MUTUAL FUNDS .....	90
12.7 RISK INVOLVEMENT.....	91
12.8 KEY PLAYERS IN MUTUAL FUND.....	91
12.9 NET ASSET VALUE.....	92
12.10 EXPENSE RATIO .....	94
12.11 HOLDING PERIOD RETURN.....	94
12.12 HOLDING PERIOD RETURN.....	95
12.13 SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015.....	95
<b>COLLECTIVE INVESTMENT SCHEME.....</b>	<b>97</b>
13.1 INTRODUCTION.....	97
13.2 STRUCTURE OF CIS.....	97
13.3 SEBI (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999.....	97
13.4 COLLECTIVE INVESTMENT MANAGEMENT COMPANY (CIMC) .....	98
13.5 RESTRICTION ON BUSINESS ACTIVITIES .....	99
13.6 OBLIGATIONS OF CIMS.....	99
13.7 TRUSTEE/S AND THEIR OBLIGATION .....	99
13.8 CIS MANAGEMENT COMPANY .....	100
13.9 DISCLOSURES IN THE OFFER DOCUMENT .....	100
13.10 ALLOTMENT OF UNITS AND REFUNDS OF MONEY .....	101
13.11 ALLOTMENT OF UNITS AND REFUNDS OF MONEY .....	101

13.12 UNIT CERTIFICATES.....	101
13.13 TRANSFER OF UNITS.....	101
13.14 LISTING OF CIS.....	102
13.15 WINDING UP OF COLLECTIVE INVESTMENT SCHEME.....	102
13.16 GENERAL OBLIGATIONS OF CIMC.....	102
13.17 PROCEDURE FOR ACTION IN CASE OF DEFAULT.....	103
13.18 DIRECTIONS BY SEBI.....	103
13.19 PENAL PROVISIONS.....	103
<b>SEBI (OMBUDSMAN) REGULATIONS, 2003.....</b>	<b>105</b>
14.1 INTRODUCTION.....	105
14.2 INVESTOR GRIEVANCES.....	105
14.3 SCORES (SEBI COMPLAINTS REDRESS SYSTEM).....	105
14.4 COMPLAINTS INCLUDED / EXCLUDED FROM THE PURVIEW OF SCORES.....	106
14.5 PROCESS FOR LODGING COMPLAINT ONLINE IN SCORE BY INVESTOR.....	107
14.6 WHEN CAN A CASE BE REFERRED FOR ARBITRATION.....	107
14.7 SEBI MOBILE APPLICATION: RECENT DEVELOPMENT.....	108
14.8 OMBUDSMAN.....	108
14.9 POWERS & FUNCTIONS OF OMBUDSMAN.....	109
14.10 NATURE OF GRIEVANCE.....	109
14.11 POWER TO CALL FOR INFORMATION.....	109
14.12 SETTLEMENT BY MUTUAL AGREEMENT.....	110
14.13 AWARD & ADJUDICATION.....	110
14.14 EVIDENCE ACT NOT TO APPLY IN THE PROCEEDINGS BEFORE OMBUDSMAN.....	111
14.15 IMPLEMENTATION OF THE AWARD.....	112
14.16 SEBI (INFORMAL GUIDANCE) SCHEME, 2003.....	112

PAREEKSHA COMMERCE ACADEMY

## CHAPTER 1

# SECURITIES CONTRACTS (REGULATION) ACT, 1956

## 1.1 INTRODUCTION

The Securities Contracts (Regulation) Act, 1956 also known as SCRA is an Act of the Parliament of India enacted to prevent undesirable exchanges in securities and to control the working of stock exchange in India. SCRA 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 and also giving the Central Government regulatory jurisdiction over:

- Stock exchanges through a process of recognition and continued supervision
- Contracts in securities, and
- Listing of securities on stock exchanges

## 1.2 NON-APPLICABILITY

Section 28 provides that the provisions of this Act shall not apply to:

- The Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;
- Any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders' or duly appointed agents, shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

If the Central Government is satisfied that in the interest of trade and commerce or the economic development of the country, it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.

## 1.3 IMPORTANT DEFINITIONS/TERMINOLOGIES

Section 2 of the SCRA deals with the definition of various terms which are listed below.

### 1.3.1 SECURITIES

- Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or body corporate;
- Derivative;
- Units or any other instrument issued by any Collective Investment Scheme to the Investors in such schemes;
- Security receipt as defined in clause (zg) of Section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- Units or any other such instrument issued to the investors under any Mutual Fund Scheme;
- Any certificate or instrument (by whatever name called) issued to an investor by any issuer being a special purpose distinct entity which possess 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;

- Government securities;
- Such other instruments as may be declared by the Central Government to be securities;
- Rights or interests in securities

### 1.3.2 CORPORATIZATION

Corporatisation for the purpose of this act means succession and re-organizing the structure of a recognised stock exchange into a legal entity with the corporate structure.

### 1.3.3 DEMUTUALISATION

Demutualization is when a mutual company owned by its members converts into a company owned by shareholders with the specific segregation of ownership and management in accordance with the scheme approved by the SEBI.

### 1.3.4 SPOT DELIVERY CONTRACT

A contract of buying or selling a commodity, security or currency for immediate settlement including payment and delivery on the spot date, which is normally two business days after the trade date.

If the parties to the contract do not reside in the same town or locality, the actual period taken for the dispatch of the securities or the remittance of money through the post is excluded from the computation of the aforesaid period.

### 1.3.5 STOCK EXCHANGE

- Any body of individuals, whether incorporated or not, constituted before Corporatisation and Demutualisation under Sections 4A and 4B, or
- 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.

*Note: Recognized Stock Exchange is the stock exchange which is for the time being recognised by the Central Government.*

### 1.3.6 DERIVATIVE

A derivative is a financial security whose value is dependent upon or derived from an underlying asset or group of assets. The derivative itself is a contract between two or more parties based upon the performance of the asset or assets and the price is determined by fluctuations in the underlying asset. The definition of a derivative is an inclusive definition.

## 1.4 RECOGNITION OF STOCK EXCHANGES

Section 3 deals with the application to Central Government for recognition of stock exchanges. Every application shall contain such particulars as may be prescribed, and shall be accompanied by a copy of 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. The matters been paid special attention are as follows:

- Governing body of such stock exchange
- Powers and duties of the office bearers of the stock exchange



- Admission of various classes of members, their qualifications for membership and the exclusion, suspension, expulsion and re-admission of members
- Procedure for the registration of partnerships as members of the stock exchange, if the rules so provide

**Section 4** deals with the grant of recognition to the stock exchanges. If the Central Government is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information it may require, grant recognition to the stock exchange upon the fulfilment of the following conditions:

- 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 protection of the interest of investors;
- The stock exchange is willing to comply with any other conditions which the Central Government, may impose for the purpose of carrying out the objects of this Act; and
- It would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange.

*Note:*

- *Conditions as stated above include qualifications for membership of stock exchanges; the manner of entering and enforcing the contract between members; the representation of the Central Government on each of the stock exchanges by such number of persons not exceeding 3 as the Central Government may nominate in this behalf; and 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*
- *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. Also, the reasons for such refusal shall be communicated to the stock exchange in writing.*

## 1.5 WITHDRAWAL OF RECOGNITION

If the Central Government is of the opinion that recognition of the stock exchange:

- In the interest of the trade;
- In the public interest, should be withdrawn

Then it can do so by serving a written notice along with the reasons on the governing body of the stock exchange. Opportunity of being heard is given to the concerned stock exchange before withdrawing recognition.

*Note:*

- *The withdrawal shall not affect the validity of any contract entered into or made before the date of the notification of withdrawal.*
- *Where the recognized stock exchange has not been corporatized or demutualized or if the said stock exchange fails to submit the scheme within the specified time 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.*

**Important:** *It is to be noted that the powers under Section 4(3), 4(5) and Section 5 have been delegated concurrently to SEBI also. Hence, SEBI may exercise these powers.*

## 1.6 POWERS OF CENTRAL GOVERNMENT

### 1.6.1 TO CALL FOR PERIODICAL RETURNS AND MAKE DIRECT ENQUIRIES [SECTION 6]

Every such 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 may prescribe in the interest of the trade or in the public interest. Such books of account, and other documents shall be subject to inspection to all reasonable times by SEBI and shall be preserve for a period not exceeding five years. Every recognised stock exchange shall furnish to SEBI, such periodical returns relating to its affairs as may be prescribed. Also, every stock exchange shall furnish to the Central Government and to SEBI a copy of its annual report.

### 1.6.2 TO DIRECT RULES OR MAKE RULES [SECTION 8]

Section 8 deals with the power of Central Government to make rules or direct rules to be made in respect of recognised stock exchange.

### 1.6.3 TO SUPERSEDE COMPANIES OF STOCK EXCHANGES [SECTION 11]

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 said matter. Until a governing body is re-constituted, the person or persons appointed by the Central Government, shall continue to exercise and perform their powers and duties.

### 1.6.4 TO SUSPEND BUSINESS OF RECOGNISED STOCK EXCHANGE [SECTION 12]

The Central Government may direct a recognised stock exchange to suspend such of its business for such period not exceeding 7 days and subject to such conditions as may be specified in the notification. 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.

### 1.6.5 TO ISSUE DIRECTIONS [SECTION 12A]

If the SEBI is satisfied, then it can issue directions:

- In the interest of investors, or orderly development of securities market;
- To prevent the affairs being conducted in a manner detrimental to the interests of investors or securities market;
- To secure the proper management

**Explanation:** *The power to issue directions includes the power to direct any person to disgorge an amount equivalent to the wrongful gain made or loss averted by such contraventions.*

### 1.6.6 TO PROHIBIT CONTRACTS IN CERTAIN CASES [SECTION 16]

If the Central Government is of the view that it is desirable that no person in the State or area specified in the notification shall, without 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.

### **1.6.7 TO GRANT IMMUNITY [SECTION 23-0]**

The Central Government may, on recommendation by SEBI grant immunity from prosecution for any offence under this Act for the alleged violation only upon the satisfaction of certain conditions.

No such immunity shall be granted by the Central Government if the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity.

### **1.6.8 TO DELEGATE OR TO MAKE RULES [SECTION 29A]**

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.

## **1.7 POWERS OF RECOGNIZED STOCK EXCHANGE**

Section 7A of the Act stipulates that a recognised stock exchange may make rules or amend any rules made by it, with the approval of Securities and Exchange Board of India, to provide for the following matters:

- The restriction of voting rights;
- The regulation of voting rights in respect of any matter placed before the stock exchange;
- 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;
- Such incidental, consequential and supplementary matters necessary for the furtherance of the matters specified above

## **1.8 CLEARING CORPORATION**

A clearing corporation is an organization associated with the Stock Exchange to handle the confirmation, settlement and delivery of transactions. Clearing Corporations are registered under the Companies Act, 2013 for the settlement of contracts and handling matters incidental thereto. Every clearing corporation shall make bye-laws and submit the same to the SEBI for its approval.

## **1.9 POWERS OF SEBI**

SEBI is empowered to regulate the business of stock exchanges, intermediaries associated with the securities market including keeping an eye on the fraudulent and unfair trade practices relating to securities and also to regulate acquisition of shares and takeovers of companies. The powers of SEBI are discussed in the following sections.

### **1.9.1 TO MAKE OR AMEND BYE-LAWS OF RECOGNISED STOCK EXCHANGES [SECTION 10]**

SEBI may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, make bye- laws, for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

### **1.9.2 TO MAKE REGULATIONS [SECTION 31]**

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.

### **1.9.3 TO ADJUDICATE [SECTION 23-I]**

SEBI shall 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.

## **1.10 PUBLIC ISSUE AND LISTING OF SECURITIES**

- Section 17A deals with public issue and listing of securities. No securities shall be offered to the public or listed on any recognized stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by SEBI.
- 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 recognized 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 recognized stock exchange/s, the issuer shall forthwith repay all moneys received from applicants in pursuance of the offer document
- If any such money is not repaid within 8 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 8 day, be jointly and severally liable to repay that money with interest at the rate of 15 % per annum.

## **1.11 CONDITIONS FOR LISTING**

Section 21 of the Act provides that where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

## **1.12 DELISTING OF SECURITIES**

Section 21A provides that a recognised stock exchange may delist the securities from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act. Also, the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

## **1.13 RIGHT OF APPEAL TO SECURITIES APPELLATE TRIBUNAL AGAINST REFUSAL OF STOCK EXCHANGE TO LIST SECURITIES OF PUBLIC COMPANIES**

Where a recognized stock exchange refuses to list securities of any company, the company shall:

- Within 15 days from date on which the reasons for such refusal are furnished to it; or
- Where the stock exchange has omitted or failed to dispose of the application for permission for the shares or debentures to be dealt with on the stock exchange, within 15 days from the date of expiry of the specified time or within such further period, not exceeding 1 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.

The SAT may give the concerned Stock Exchange an opportunity of being heard before varying or setting aside the decision of the stock exchange.

## 1.14 PENALTIES

TITLE	DESCRIPTION	PENALTY
<b>Failure to furnish periodical returns, etc.</b>	If a recognized stock exchange fails or neglects to furnish periodical returns to SEBI or fails or neglects to make or amend its rules or bye-laws as directed by SEBI or fails to comply with directions issued by SEBI, such recognized stock exchange.	Not be less than: <b>5 lac rupees</b> May extend to: <b>25 crore rupees</b>
<b>Contravention where no separate penalty has been provided</b>	Where contravenes of any provision of this Act, the rules or articles or bye-laws or the regulations of the recognized stock regulations of the recognized stock exchange or directions issued by SEBI for which no separate penalty has been provided.	Not less than: <b>1 lac rupees</b> May extend to: <b>1 crore rupees</b>
<b>Failure to furnish information, return, etc.</b>	Any person, who is required under this Act or any rules made thereunder, fails to furnish any information, document, books, returns or report to a recognized stock exchange or fail to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognized stock exchange.	Not less than: <b>1 lac rupees</b> May extend to: <b>1 crore rupees</b> for each day during which such failure continues
<b>Failure by any person to enter into an agreement with clients</b>	Any person, who is required under this Act or any by- laws of a recognized stock exchange made thereunder, fails to enter into an agreement with his client.	Not be less than: <b>1 lac rupees</b> May extend to: <b>1 crore rupees</b> for each day during which such failures continues
<b>Failure to redress investor's grievances</b>	Any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognized stock exchange, after having been called upon by SEBI or a recognized stock exchange in writing, to redress the grievances of investors, fails to redress such grievances within the time.	Not less than: <b>1 lac rupees</b> May extend to: <b>1 crore rupees</b> for each day during which such failure continues
<b>Failure to segregate securities or monies of client or clients</b>	Any person, who is registered as a stock broker or sub- broker with SEBI, fails to segregate securities or monies of the client or clients or uses the securities or the monies of a client or clients for self or for any other client.	Not less than: <b>1 lac rupees</b> May extend to: <b>1 crore rupees</b>
<b>Failure to comply with provision of listing conditions or delisting conditions or grounds</b>	If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof	Not less than: <b>5 lac rupees</b> May extend to: <b>25 crore rupees</b>
<b>Excess dematerialization or delivery of unlisted securities</b>	If any company dematerializes securities more than the issued securities of a company or delivers in stock exchanges the securities which are not listed in the recognized stock exchange or delivers securities where no trading permission has been given by the recognized stock exchange	Not less than: <b>5 lac rupees</b> May extend to: <b>25 crore rupees</b>

## 1.15 FACTORS TO BE TAKEN INTO ACCOUNT BY THE ADJUDICATING OFFICER

Section 23J provides for the factors to be considered by the adjudicating officer while adjudging the quantum of penalty:

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

## 1.16 RECOVERY OF AMOUNTS

Section 23JB deals with recovery of amounts when a person fails to pay the penalty imposed on him, the Recovery Officer shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes:

- Attachment and sale of the person's movable property;
- Attachment of the person's bank accounts;
- Attachment and sale of the person's immovable property;
- Arrest of the person and his detention in prison;
- Appointing a receiver for the management of the person's movable and immovable properties.

*Note: All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.*

## 1.17 COMPOSITION OF CERTAIN OFFENCES

Notwithstanding anything contained in 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.

## 1.18 OFFENCES BY COMPANIES

Where an offence has been committed by a company:

- Every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company shall be deemed to be guilty of the offence
- Every director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Note: However, any such person shall not be liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*

## 1.19 ESTABLISHMENT OF SPECIAL COURTS

- For the purpose of speedy trial, Section 26A lays down the provisions for establishment of special courts by the Central Government. A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.