

---

## **SECURITIES CONTRACTS (REGULATION) ACT, 1956**

### **42 of 1956**

[ ]

#### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title, extent and commencement
2. Definitions
- 2A. Interpretation of certain words and expressions

#### **CHAPTER 2 :- RECOGNISED STOCK EXCHANGES**

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges
- 4A. Corporatisation and demutualization of stock exchanges
- 4B. Procedure for corporatisation and demutualization
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting of voting rights etc.
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend bye-laws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges
- 12A. Power to issue directions

#### **CHAPTER 3 :- CONTRACTS AND OPTIONS IN SECURITIES**

13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas

18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17

18A. Contract in derivative

19. Stock exchanges other than recognised stock exchanges prohibited

19A. Penalty for failure to furnish information, return, etc

19B. Penalty for failure to enter into an agreement

19C. Penalty for failure to redress Investors grievances

19D. Penalty for delay in dematerialisation or issue of certificate of securities

19E. Penalty for failure to reconcile records

19F. Penalty for failure to comply with directions issued by Board under Section 19 of the Act

19G. Penalty for contravention where no separate penalty has been provided

19H. Power to adjudicate

19I. Factors to be taken into account by adjudicating officer

19J. Crediting sums realised by way of penalties to Consolidated Fund of India

20. Offences

#### **CHAPTER 4 :- LISTING OF SECURITIES[\*\*\*]**

21. Conditions for listing

21A. Delisting of securities

22. Cognizance of offences by courts

22A. Composition of certain offences

22B. Power to grant immunity

22C. Right to legal representation

22D. Limitation

22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

#### **CHAPTER 5 :- PENALTIES AND PROCEDURES**

23. Penalties

23A. Penalty for failure to furnish information, return, etc

23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress Investors grievances

23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with listing conditions or delisting conditions or grounds

23F. Appeal to Supreme Court

23G. Penalty for failure to furnish periodical returns, etc

23H. Penalty for contravention where no separate penalty has been provided

23I. Power to adjudicate

23J. Factors to be taken into account by adjudicating officer

23K. Crediting sums realised by way of penalties to Consolidated

## Fund of India

23L. Appeal to Securities Appellate Tribunal

23M. Offences

23N. Composition of certain offences

23O. Power to grant immunity

24. Offences by companies

25. Certain offences to be cognizable

26. Cognizance of offences by courts

## **CHAPTER 6 :- MISCELLANEOUS**

27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

## **SECURITIES CONTRACTS (REGULATION) ACT, 1956**

**42 of 1956**

**[ ]**

Prefatory Note Statement of Objects and Reasons. In the last few years there have been substantial improvements in the functioning of capital markets in India. Market and credit risks have been reduced by requirement of adequate capitalisation, margining and establishment of clearing corporations in stock exchanges, etc. Systemic improvements have been made by introduction of screen based trading and depositories to allow book entry transfer of securities, etc. However, there are inadequate advanced risk management tools. With a view to provide such tools and to strengthen and deepen markets, there is an urgent need to include derivatives as securities in the Securities Contracts (Regulation) Act, 1956 whereby trading in derivatives may be possible within the framework of that Act. 2. Recently many companies especially plantation companies have been raising capital from investors through schemes which are in the form of collective investment schemes. However, there is not an adequate regulatory framework to allow an orderly development of this market. In order that the interests of investors are protected, it has been decided that the Securities and Exchange Board of India would frame regulations with regard to collective investment schemes. It is, therefore,

proposed to amend the definition of "securities" so as to include within its ambit the derivatives and the units or any other instrument issued by any collective investment scheme to the investors in such schemes. 3. It is also proposed to substitute Section 29-A of the aforesaid Act relating to delegation of powers. At present powers can be delegated to the Securities and Exchange Board of India. It is now proposed to also delegate powers to the Reserve Bank of India. 4. The Securities Contracts (Regulation) Amendment Bill, 1998 was introduced in Lok Sabha on the 4th July, 1998 proposing amendments in the Securities Contracts (Regulation) Act, 1956 to give effect to the amendments mentioned above. The Bill was referred to the Standing Committee on Finance on the 10th July, 1998 for examination and report thereon by the Hon'ble Speaker, Lok Sabha. The Committee submitted its report on the 17th March, 1999. The Committee was of the opinion that the introduction of derivatives, if implemented with proper safeguards and risk containment measures, will certainly give a fillip to the sagging market, result in enhanced investment activity and instil greater confidence among the investors/participants. The Committee after having examined the provisions of the Bill and being convinced of the needs and objectives of the Bill, approved the same for enactment by Parliament with certain modifications/recommendations which, inter alia, are stated as under: (i) A view was expressed before the Standing Committee that since under Section 30 of the Indian Contract Act, 1872, the contracts which are cash settled are classified as wagers and trading in wagers is null and void, the index future which are always cash settled would also be classified as wagers under the said Act. Due to this, no proceedings to enforce an index future contracts either by an exchange against a defaulting broker or client against his broker would stand the legal scrutiny before the court of law. The Committee was, therefore, of the view that there was no harm in having an overriding provision as a matter of abundant caution. They, therefore, suggested the incorporation of the following provision in the Bill, namely: "Notwithstanding anything contained in any other Act, contracts in derivatives as per this Act shall be legal and valid."; (ii) The Committee was convinced that stock exchanges which are presently working would be better equipped to undertake trading in derivatives in a sophisticated environment. They further observed that most of these exchanges have already been modernised having state-of-the-art technology, the facility of depository and

clearance house and moreover, since they are in a better position to handle the risk profiles of the retail investors, institutional investors and corporate bodies, it would be prudent to allow trading in derivatives by such exchanges only. The Committee had, therefore, proposed that the following Explanation may be added in the Bill, namely: "The derivatives shall be traded and settled on the stock exchange and clearing house of the stock exchange respectively in accordance with the rules and bye-laws of the stock exchange."; and (iii) The Committee was of the opinion that there was a need to define collective investment schemes in the Act. They had recommended that a definition of collective investment scheme suitably worded in consonance with the definition recommended by the Dave Committee should be included in the Act. The Central Government have accepted the above recommendations and incorporated the same in the Bill. 5. The Bill seeks to achieve the above objectives. Prefatory Note Statement of Objects and Reasons. The Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996 govern the operations of the capital market. The objectives of these Acts are to prevent undesirable transactions in securities by regulating the business of dealing therein, to provide for the establishment of the Securities and Exchange Board of India to protect the interests of investors in securities and to promote the development of, and to regulate, the securities markets and to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto. 2. The Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 were amended by the Securities Laws (Amendment) Act, 1995, which, inter alia, made provisions in the Securities and Exchange Board of India Act, 1992 for appointment of adjudicating officer for imposition of penalties and for establishment of the Securities Appellate Tribunal to hear appeals against the orders or decisions of such adjudicating officers. 3. The Central Government has been conferred powers to hear appeals in respect of all matters (except hearing of appeals against the orders of adjudicating officer under the Securities and Exchange Board of India Act, 1992) under the Securities Contracts (Regulation) Act, 1956. the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996. In addition to appellate powers, the Central Government, inter alia, has been conferred powers to issue directions and to make rules under these Acts. The Central Government is also represented on the management of the

Securities and Exchange Board of India as well as stock exchanges. 4. The powers of the Central Government to issue directions and to make rules and to appoint members of the Securities and Exchange Board of India as well as on governing body of the stock exchanges are being perceived as compromising its appellate powers. It is, therefore, proposed to transfer the aforesaid appellate functions of the Central Government under all three Acts from the Central Government to the Securities Appellate Tribunal. 5. The Bill seeks to achieve the above objectives.

## CHAPTER 1

### PRELIMINARY

#### **1. Short title, extent and commencement :-**

(1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

20-2-1957 vide SRO 528, dated 16-2-1957.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "contract" means a contract for or relating to the purchase or sale of securities;

<sup>12</sup>(aa) "corporatisation" means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

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

(ac) "derivative" include (A) a security derived from a debt instrument, share, lona, whether secured or unsecured, risk instrurment or contract for differences of any other form of security; (B) a contract which derives its value from the prices, or

index of prices, of underlying securities;

(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 ;

(c) "member" means a member of a recognised stock exchange ;

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

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

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

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

**3**( g a ) "scheme" means a scheme for corporatisation or demutualization of a recognised stock exchange which may provide for-

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

(ii) the restrictions on voting rights;

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

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

(v) any other matter required for the purpose of, or in connection

with, the corporatisation or demutualization, as the case may be, of the recognised stock exchange;'

<sup>4</sup>(gb) "Securities Appellate Tribunal" means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(h) "securities" include-

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

<sup>5</sup>(ia) derivative;

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

<sup>6</sup>(id) units or any other such instrument issued to the investors under any mutual fund scheme;

<sup>7</sup>(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case maybe;

(ii) Government securities;

(iia) such other instruments as may be declared by the Central Govern- ment to be securities; and

(iii) rights or interest in securities;

<sup>8</sup> [(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 despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;

(j) "stock exchange" means-

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualization under Section 4A and Section 4B , or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualization or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities;

[10000]Inserted vide THE SECURITIES LAW§(AMENDMENT) ACT, 1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

clause (aa) shall be re-lettered as clause (ac) thereof and before the clause (ac) . as so re-lettered, clause shall be inserted, by SECURITIES LAWS (AMENDMENT) ACT, 2004

section 2, clause (ga) shall be re-lettered as clause (gb) thereof and before the clause (gb) as so re-lettered, clause shall be inserted, by SECURITIES LAWS (AMENDMENT) ACT, 2004

[10009]Inserted vide THE SECURITIES LAW§(SECOND AMENDMENT) ACT, 1999 (32 Of 1999), Dt. December 16,1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 45, dated December 16,1999

[10001]Inserted vide THE SECURITIES LAW§(AMENDMENT) ACT, 1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

section 2, clause (h), after sub-clause (ic), sub-clause shall be inserted, by SECURITIES LAWS (AMENDMENT) ACT, 2004

In section 2 ,in clause (h), after sub-clause (id), the following sub-clause shall be inserted, namely:- "(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case maybe;" by the Securities Contracts (Regulation) Amendment Act, 2007.

Substituted by the Depositories Act, 1996. w.r.e.f. 20-9-1995.

## **2A. Interpretation of certain words and expressions :-**

**9** .-Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India Act, 1992(15 of 1992) or

the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.

[10010]THE SECURITIES LAWS (SECOND AMENDMENT) ACT, 1999 (32 Of 1999), Dt. December 16,1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 45, dated December 16,1999

## CHAPTER 2

### RECOGNISED STOCK EXCHANGES

#### **3. Application for recognition of stock exchanges :-**

(1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.

(2) Every application under sub-section (1) 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, exclusion 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 authorised representatives and clerks.

#### **4. Grant of recognition to stock exchanges :-**

(1) If the Central Government *f* is satisfied, 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.

(2) The conditions which the Central Government ' may prescribe under clause

(a) of sub-section (1) 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 exchanges 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.

(3) 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<sup>1</sup>.

(4) 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.

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the Central Government<sup>12</sup> .

Powers are exercisable by SEBI also.

#### **4A. Corporatisation and demutualization of stock exchanges :-**

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

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

Explanation. ~ For the purpose of this section, "appointed date" means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchange.

After Section 4, new Sections 4A and 4B shall be inserted, by the securities laws (amendment) act, 2004

#### **4B. Procedure for corporatisation and demutualization :-**

**14**

(1) All recognised stock exchanges referred to in Section 4-A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualization for its approval:

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

(2) On receipt of the scheme referred to in sub-section (1), the

Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

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

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

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India, and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised stock exchange and on a; i persons, creditors, depositors and employees of the recognsied stock exchange ana on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

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

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while

approving the scheme under sub-section (2), by an order in writing, restrict-

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

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

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

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

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

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

After Section 4, new Sections 4A and 4B shall be inserted, by the securities laws (amendment) act, 2004

## **5. Withdrawal of recognition :-**

(1) If the Central Government is of opinion that the recognition granted to a stock exchange under the provisions of this Act 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:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of 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.

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

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

Section 5, after sub-section (1) as so numbered, subsection shall be inserted, by the securities laws (amendment) act, 2004.

## **6. Power of Central Government to call for periodical returns or direct inquiries to be made :-**

(1) Every recognised stock exchange shall furnish to the Securities and Exchange Board of India such periodical returns relating to its affairs as may be prescribed.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, 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 at all reasonable times by the Securities and Exchange Board of India.

(3) Without prejudice to the provisions contained in sub-sections(1) and (2), 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 Securities and Exchange Board of India 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 Securities and Exchange Board of India 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 Securities and Exchange Board of India.

(4) 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 under sub-section (3),-

(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.

**7. Annual reports to be furnished to Central Government by stock exchanges :-**

**16** . Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

Powers are exercisable by SEBI also.

**7A. Power of recognised stock exchange to make rules restricting of voting rights etc. :-**

(1) 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;

(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).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).

**8. Power of Central Government to direct rules to be made or to make rules :-**

**17**

(1) 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 therefore, direct 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 specified in sub-section (2) of section 3 within a period of **18** [two] months from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) 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.

(3) 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 situated, 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, 1956 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.

Powers are exercisable by SEBI also.

Substituted for "six" by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

### **8A. Clearing corporation :-**

**19**

(1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of-

(a) the periodical settlement of contracts and differences

thereunder;

(b) the delivery of, and payment for, securities;

(c) any other matter incidental to, or connected with, such transfer.

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

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

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

After Section 8, new Section 8A shall be inserted, by the securities laws (amendment) act, 2004.

## **9. Power of recognised stock exchanges to make bye-laws**

:-

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

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

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

(b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment 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, recession 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.

(3) The bye-laws made under this section may-

(a) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14 ;

(b) provided that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely:-

(i) fine,

(ii) expulsion from membership,

(iii) suspension from membership for a specified period.

(iv) any other penalty of a like nature not involving the payment of

money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publications as may be prescribed, and, when approved by the Securities and Exchange Board of India, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India : Provided that if the Securities and Exchange Board of India is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefore, dispense with the condition of previous publication.

**10. Power of Securities and Exchange Board of India to make or amend bye-laws of recognised stock exchanges :-**

(1) The Securities and Exchange Board of India 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.

(2) 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 situate, 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.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the Securities and Exchange Board of India on its own motion, it may, within <sup>20</sup> [two] months of the publication thereof in the Gazette of India under sub-section (2), apply to the Securities and Exchange Board of India for revision thereof, and the Securities and Exchange Board of India may, after giving an opportunity to the governing body of the

stock exchange to be heard in the matter, revive 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 as provided in sub-section (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication: Provided that if the Securities and Exchange Board of India is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Substituted for "six" by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

**11. Power of Central Government to supersede governing body of a recognised stock exchange :-**

**21**

(1) 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, notwithstanding anything contained in any other law for the time being in force, the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession 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.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely :-

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) 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 under sub-section (1) 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.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute 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 under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1), shall continue to exercise and perform their powers and duties.

Powers are exercisable by SEBI also.

## **12. Power to suspend business of recognised stock exchanges :-**

**22** . 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 :

Provided that 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.

Powers are exercisable by SEBI also.

**12A. Power to issue directions :-**

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

(a) in the interest of investors, 01 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 interest 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 security 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 interest of investors in securities and the securities market.

After Section 12, Insertion of new Section 12A, by the securities laws (amendment) act, 2004

CHAPTER 3

CONTRACTS AND OPTIONS IN SECURITIES

**13. Contracts in notified areas illegal in certain circumstances :-**

If the Central Government<sup>24</sup> is satisfied, having regard to the nature or the volume of transactions in securities in any State or area, that it is necessary so to do, it may, by notification in the

Official Gazette, declare this section to apply to such State or area, and thereupon every contract in such State or area which is entered into after the date of the notification otherwise than between members of a recognised stock exchange in such State or area or through or with such member shall be illegal.

**25** (a) for the words "between members of a recognised stock exchange", the words "between members of a recognised stock exchange or recognised stock exchange" shall be substituted;

(b) for the words "State or area" wherever they occur, the words "State or States or area" shall be substituted;

(c) the following proviso shall be inserted, namely:-

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

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

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

Powers are exercisable by SEBI also.

In Section 13, Amendment of Section 13, inserted by the securities laws (amendment) act, 2004

### **13A. Additional trading floor :-**

**26** [. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board. Explanation: For the purposes of this section, "additional trading floor" means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Inserted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

### **14. Contracts in notified areas to be void in certain circumstances :-**

(1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void:

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section ( 1 ) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9 .

**15. Members may not act as principals in certain circumstances :-**

No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal : Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract: Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

**16. Power to prohibit contracts in certain cases :-**

**27**

(1) 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.

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

Powers are exercisable by SEBI also.

**17. Licensing of dealers in securities in certain areas :-**

(1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a licence granted by the Securities and Exchange Board of India in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

**18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17 :-**

(1) Nothing contained in section 13 , Section 14 , Section 15 and Section 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government' is of opinion that in the interest of the trade or in the public section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such

securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section shall so apply.

**18A. Contract in derivative :-**

**28** .-Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are -

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye laws of such stock exchange.

[10002]THE SECURITIES LAWS (AMENDMENT) ACT,1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

**19. Stock exchanges other than recognised stock exchanges prohibited :-**

(1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

**19A. Penalty for failure to furnish information, return, etc :-**

**29** . Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,-

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees

for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19B. Penalty for failure to enter into an agreement :-**

**30** . - If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19C. Penalty for failure to redress Investors grievances :-**

**31** . - If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19D. Penalty for delay in dematerialisation or issue of certificate of securities :-**

**32** . - If any issuer or its agent or any person, who is registered as an intermediary under the provisions of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to dematerialize or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19E. Penalty for failure to reconcile records :-**

**33** . - If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19F. Penalty for failure to comply with directions issued by Board under Section 19 of the Act :-**

**34** . - If any person fails to comply with the directions issued by the Board under Section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996

(22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19G. Penalty for contravention where no separate penalty has been provided :-**

**35** . - Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19H. Power to adjudicate :-**

**36**

(1) For the purpose of adjudging under Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F and 19-G, the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

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

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19I. Factors to be taken into account by adjudicating officer**

:-

**37** . - While adjudging the quantum of penalty under Section 19-H, the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default.

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**19J. Crediting sums realised by way of penalties to Consolidated Fund of India :-**

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

After Section 19, Insertion of new Sections 19-A, 19-B, 19-C, 19-D, 19-E, 19-F, 19-G, 19-H, 19-1 and 19-J., the Depositories Act, 1996 (22 of 1996) (hereinafter in this chapter referred to as the principal Act), sections shall be inserted, by the THE SECURITIES LAWS (AMENDMENT) ACT. 2004.

**20. Offences :-**

**39**

(1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

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

Section 20, new Section 20, shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004.

CHAPTER 4

LISTING OF SECURITIES[\*\*\*]

**21. Conditions for listing :-**

**41** 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.

Earlier section 22A was inserted by the Securities Contracts (Regulation) Amendment Act, 1985, w.e.f. 17-1-1986.

**21A. Delisting of securities :-**

**42**

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

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

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

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

After Section 21, Insertion of new Section 21A, section shall be inserted, by THE SECURITIES LAWS (AMENDMENT)ACT, 2004

**22. Cognizance of offences by courts :-**

**43**

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

any person.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

Section 22, new Section 22, shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004

**22A. Composition of certain offences :-**

**44** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Section 22, new Section 22, shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004

**22B. Power to grant immunity :-**

**45**

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

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

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

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or

for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

Section 22, new Section 22, shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004

**22C. 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.

Explanation.- For the purposes of this section,-

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant." means A cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

**22D. Limitation :-**

The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

**22E. Civil court not to have jurisdiction :-**

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal 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.

**22F. Appeal to Supreme Court :-**

**46** Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellate 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.

Section 22-F, new section for Section 22F section shall be substituted, by the securities laws (amendment) act, 2004.

CHAPTER 5

PENALTIES AND PROCEDURES

**23. Penalties :-**

(1) Any person who-

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

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

(c) contravenes the provisions contained in <sup>1</sup> section 17 or section 17A , or section 19 ; or

(d) <sup>2</sup>[\*\*\*] <sup>3</sup>enters into any contract in derivative in contravention of section 18A or the rules made under section 30.

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

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

regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

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

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any <sup>4</sup>shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 <sup>5</sup>[or who fails to comply with the provisions of <sup>6</sup> section 21 or section 21A or with the orders of] or the Central Government under section 22 <sup>7</sup> ["or with the orders of the Securities Appellate Tribunal"] shall, on conviction, be punishable with fine which may extend to one thousand rupees.

In section 23 of the principal Act, in sub-section (1), in clause (c), for the word and figures "section 17", the words, figures and letter "section 17 or section 17A" shall be substituted, by the Securities Contracts (Regulation) Amendment Act, 2007.

Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

[10005]Inserted vide THE SECURITIES LAW (AMENDMENT) ACT, 1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

Section 23, in sub-section (1), after clause (i), for the words "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine or with both", the words "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" shall be substituted, by the securities laws (amendment) act, 2004.

Substituted for "or who fails to comply with the orders of the Securities and Exchange Board of India under section 21" by the Securities Laws (Amendment) Act, 1995, w.e.f. 75-1-1995.

Section 23, in sub-section (2) for word and figures "Section 21," the words, figures and letter "Section 21 or Section 21-A" shall be substituted, by the securities laws (amendment) act, 2004.

[10014]THE SECURITIES LAWS (SECOND AMENDMENT) ACT, 1999 (32 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 45, dated December 16, 1999

**23A. Penalty for failure to furnish information, return, etc :-**

**53** . - Any person, who is required under this. Act or any rules made thereunder,-

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

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23B. Penalty for failure by any person to enter into an agreement with clients :-**

**54** . - If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23C. Penalty for failure to redress Investors grievances :-**

**55** . - If any stockbroker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23D. Penalty for failure to segregate securities or moneys of client or clients :-**

**56** . - If any person, who is registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stockbroker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23E. Penalty for failure to comply with listing conditions or delisting conditions or grounds :-**

**57** . - If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23F. Appeal to Supreme Court :-**

**58** Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the 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.

Section 23F, new Section 23F, shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004.

**23G. Penalty for failure to furnish periodical returns, etc :-**

**59** . - If a recognised stock exchange fails or neglect to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities Exchange Board of India or fails to comply with the directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23H. Penatly for contravention where no separate penalty has been provided :-**

**60** . - Whoever fails to comply with the provisions of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or direction issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23I. Power to adjudicate :-**

**61**

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

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the

adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23J. Factors to be taken into account by adjudicating officer**

**:-**

**62** . - While adjudging the quantum of penalty under Section 23-1, the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23K. Crediting sums realised by way of penalties to Consolidated Fund of India :-**

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

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23L. Appeal to Securities Appellate Tribunal :-**

**64**

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

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

and be accompanied by such fee as may be prescribed :

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

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

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

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

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

### **23M. Offences :-**

**65**

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

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

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23N. Composition of certain offences :-**

**66** . - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**23O. Power to grant immunity :-**

**67**

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

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

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

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

After Section 23, new Sections 23A to 23O sections shall be inserted, by the securities laws (amendment) act, 2004.

**24. Offences by companies :-**

(1) 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, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

**68**(a) the manner of inquiry under sub-section (1) of Section 19-H;

(aa) the time within which an appeal may be preferred under sub-section (1) of Section 23;

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

Section 24, in subsection (2), for clause (a), shall be substituted, by THE SECURITIES LAWS (AMENDMENT) ACT, 2004  
Inserted by the Securities Contracts (Regulation) Amendment Act, 1985, w.e.f. 17-1 -1986.

**25. Certain offences to be cognizable :-**

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), any offence punishable under **70** [\*\*\*] section 23 , shall be deemed to be a cognizable offence within the meaning of that Code.

Section 25, the words brackets and figure "sub-section (1) of" shall be omitted, by the securities laws (amendment) act, 2004.

## **26. Cognizance of offences by courts :-**

**71**

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

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

Section 26, new section for Section 26, shall be substituted, by the securities laws (amendment) act, 2004.

### **CHAPTER 6**

#### **MISCELLANEOUS**

## **27. Title to dividends :-**

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

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

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

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

## **27A. Right to receive income from collective investment scheme :-**

**72**

(1) It shall be lawful for the holder of any securities, being units or

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

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

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

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

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

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

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

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

[10006]THE SECURITIES LAWS (AMENDMENT) ACT,1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

**27B. Right to receive income from mutual fund :-**

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

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

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

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

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

the actual period of the delay.

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

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

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

**28. Act not to apply in certain cases :-**

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

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

(b) any convertible bond or share warrant or any option or right in relation thereto, insofar 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.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government<sup>73</sup> is satisfied that in the interests of trade and commerce or the economic development of the country it is necessary or expedient so to

Powers are exercisable by SEBI also.

**29. Protection of action taken in good faith :-**

No suit, prosecution or other legal proceeding whatsoever shall lie

in any Court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under sub-section (1) of section 11 for anything-which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

**29A. Power to delegate :-**

**74** .-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 (2 of 1934).

[10007]Substituted for " 29A . Power to delegate . The Central Government may, by order published in the Official Gazette, direct that the powers 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. ", vide THE SECURITIES LAWS (AMENDMENT) ACT, 1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

**30. Power to make rules :-**

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

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

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

(b) the manner in which any inquiry for the purpose of 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 punished 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;

**75**(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;

**76**(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of Section 21-A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of Section 21-A 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 22-A and the fees payable in respect of such appeal;

(hd) the manner of inquiry under sub-section (1) of Section 23-1;

(he) the form in which an appeal may be filed before the Securities

Appellate Tribunal under Section 23-L and the fees payable in respect of such appeal;

(i) any other matter which is to be or may be prescribed.

**77** (3) 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 House 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.

[10008]Substituted for " (h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange 1 [\*\*\*]; ", vide THE SECURITIES LAWS (AMENDMENT) ACT, 1999 (31 Of 1999), Dt. December 16, 1999 Published in Received the assent of the President on the 16th December, 1999 and was published in the Gazette of India, (Extra.), Part II Sec.1, No. 44, dated December 16, 1999

Section 30, in sub-section (2), for clause (ha), shall be substituted, by the securities laws (amendment) act, 2004.

section 30, sub-section (3), sub-section shall be substituted, by the securities laws (amendment) act, 2004.

### **31. Power of Securities and Exchange Board of India to make regulations :-**

**1**

(1) Without prejudice to the provisions contained in Section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board or India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

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

(a) the manner, in which at least fifty-one per cent. 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 the shareholders having trading rights under subsection (8) of that section;

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

(3) 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 this regulation.

After Section 30, new Section 31 shall be inserted, by the securities laws (amendment) act, 2004.

In section 31 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:- "(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent 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 4-B by the public other than the shareholders having trading rights under sub-section (8) of that section." by the Securities Contracts (Regulation) Amendment Act, 2007.