Chapter – 2

Conceptual Frame Work

And Methodology
CHAPTER – II

CONCEPTUAL FRAME WORK AND METHODOLOGY

CONCEPTUAL FRAMEWORK

Since SEBI became a statutory body in 1992, a number of steps have been taken to strengthen SEBI and reinforce its autonomy. The SEBI Act, 1992 as amended on March 25, 1995 by the securities laws (Amendment) Act, 1995, has empowered Sebi to register and regulate new intermediates in the capital market such as custodians, depositories, venture capital funds, credit rating agencies and foreign institutional investors. With this empowerment, all intermediates associated with the securities market are now regulated by SEBI. Additional powers were given to SEBI to prescribe regulations related to issue of capital and transfer of securities.
SEBI’s independence was strengthened by allowing it to issue regulations and file suits without the prior approval of the central government. SEBI has also been empowered to impure monetary penalties for a wide range of violations, and accordingly the SEBI to appoint adjudicating officer. The amended Act also envisages the establishment of securities Appellate Tribunal to be set up by the Government to hear appeals against monetary fines imposed by the adjudicating authority.\(^1\)

The securities laws amendment Act, 1995 also made some amendments to the securities contracts (Regulation) Act, 1956, section 20 of the SCR act which prohibited options in securities has been omitted from the Act. Besides the new section has been inserted in the Act which provides that a recognized stock exchange may establish additional trading floor with the power approval of SEBI. It is expected that this

\(^1\) Jain (Nabhi Kumar), Investor’s guidelines. Nabhi Manual of SEBI. 2(1); 1999; 3-4
amendment would enable the stock exchange to set up trading facilities outside their areas of operation in order to provide services to a larger number of investors under a regulatory framework.

During the year 1995-96 the following rules and regulations under the SEBI Act were notified:

1. Rules on procedure for holding enquiry and imposing penalty by Adjudicating officer.

2. Rules on securities Appellate Tribunal (procedure)

3. Regulations on prohibition of fraudulent and unfair trade practices relating to securities markets.

4. Regulations of foreign institutional investors

5. Regulations on payment of fees (Amendment)

6. Regulations for Depositories and Depositories participants.

7. Regulation of custodial services.
Prohibition of fraudulent and Unfair:

Trade practices, inter alia, prohibit manipulation of prices in the stock market, making misleading statement to induce sale or purchase of securities and unfair trade practices relating to the securities. These regulation would promote the orderly working of the securities market.

The regulations define fraudulment and unfair trade practices relating to the securities markets, and empower SEBI to take action against these practices. The regulations bring, for the first time, enforcement against manipulation, misleading statements to induce sale or purchase of securities and unfair trade practices under SEBI’s regulatory purview.

The regulation give SEBI powers to investigate, into the affairs of any person buying, selling or otherwise dealing in securities, on whom it has been made obligatory to produce all books, documents and
records that are sought by the investigating authority. The regulations also permit SEBI to issue directions which disallow any person from dealing in securities and to prohibit the disposal of securities.²

**Inspection and Enforcement:**

An Amendment to the SEBI Act in 1995 has been given SEBI the powers of a civil courts under the code of civil procedures in respect of discovery and production of books, documents, records and accounts, summoning and enforcing attendance of persons and examining them on oath. The Amendment also gives it powers to levy fines for violations related to the failure to submit information to SEBI, failure to submit information to SEBI, failure to enter into agreements with clients, failure to redress investor grievances, for violations by mutual funds, violations by stock, violations of insider trading regulations and violations of the take over regulations SEBI initiated

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investigation in response to investor complaints or Sue moto wherever violations have been noticed.

The action taken by SEBI include launching of prosecution proceeding against certain companies, issuing of show cause notices or initiation of prosecution suspension issue of show – cause notices and warning to a large number of merchant bankers, rejection of renewals for registration of share transfer agents, suspension of stock brokers and initiation of enquiry proceedings, show – cause notices to mutual funds, inspection of unit trust of India for the first time, investigation against price rigging in a number of cases and investigation for alleges violations of SEBI Regulations for substantial Acquisition of shares and takes over.

**Powers Under Securities Contracts (Regulation) Act**

Transferred to SEBI:
Following powers have been given to SEBI with the enactment of SEBI Act, 1992 and repeal of capital issues (control) Act, 1947.

(1) Power to call for periodical returns from recognised stock exchanges.

(2) Power to call for any information as explanation from recognised stock exchange or its members.

(3) Power to direct inquiries to be made in relation to affairs of stock exchanges or its members.

(4) Power to grant approval to bye laws of recognised exchanges.

(5) Power to make or amend bye-laws of recognised exchanges.

(6) Power to declare applicability of sections 17 of the securities contract (regulations) Act in any state or area and to grant licenses to dealers in securities.
(7) Power to compel listing of securities by public companies.

(8) Power to control and regulate stock exchanges.

**Other Powers / Functions:**

(9) Power to grant registration to market intermediaries.

(10) Power to register and regulate working of collective investment schemes including mutual funds.

(11) Power to promote and regulate self regulatory bodies.

(12) Power to prohibit fraudulent and unfair trade practices relating to securities.

(13) Power to prohibit insider trading.

(14) Power to promote investor’s education and trading of intermediaries in capital market.
(15) Power to regulate substantial acquisition of shares and take over of companies.

(16) Power to levy fees.

(17) Power to conduct research and other functions.

**Additional Powers Delegated to SEBI:**

The Government has concurrently delegated to the securities and exchange board of India (SEBI) most of its powers under the securities contracts (regulation) Act, 1956. Delegation of these additional powers to SEBI is aimed at ensuring more effective protection of interests of investors along with creating an efficient and well regulated stock markets.

Since the powers had been delegated. Concurrently, both the ministry and SEBI will continue to exercise dual jurisdiction however, the ministry would prefer all the cases to referred to SEBI.
The Government has issued a Gazette notification, delegating powers to SEBI. As per the notification, the ministry will share the following with SEBI:

(I) Section 3, relating to the submission of applications for recognition of stock exchanges.

(II) Sub-section 1, 2, 3, and 4, are relating to granting of recognition to the stock exchanges.

(III) Section -5, relating to withdraw of recognition of a stock exchanges.

(IV) Sub-section 2 of section 7 A relating to making or amending rules of article of association of a stock exchange regarding voting rights to members of a stock exchange at any meeting.

(V) Section 13, relating to issue of notification declaring this section to apply to an area, consequent upon in which contracts issued in that area other wise than between members of a
recognised stock exchange or through of with such member shall be illegal.

(VI) Sub – section 2 of section 18 relating to regulation and control of business of dealing in spot delivery contracts.

(VII) Section 22, relating to reaming appeals submitted by companies against refusal of a stock exchange to list their securities.

(VIII) Sub – section 2 of section 28, relating to issue of a notification specifying any class of contracts as contracts to which the SCR Act or any provision contained there in shall not apply.  

**Monitoring of Price Manipulation:**

A division has been set up with in SEBI to monitor unusual movement in prices in with the stock exchanges, which are to set up dedicated surveillance

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3 MALLIKARJUNAPPA (T). Regulation of Securities market. SEBI bulletin. 1 (5); 2004, May, 10; 10-12.
departments. SEBI has initiated investigations in several cases where market manipulation was suspended. The exchanges mechanism for monitoring and taking pre-emptive action in cases where unusual rise in prices are noticed are also so sought to be strengthened as follows:

(1) The stock exchanges are to start monitoring the prices of newly listed permitted scrips from the first day of trading. If necessary, circuit breaker system and other market monitoring restrictions would apply from second day of trading. Stock exchanges agreed because of the possible misuse of the 4 days currently available for price formation and stabilisation.

(2) In case of newly / permitted scrips, where there is abnormal price variation, the exchanges would impose a special margin of 25 percentage or more on purchase in addition to the regular margin.
(3) The suspension of trading on account of market manipulation or price rigging is to be immediately advised by the concerned stock exchange to other stock exchanges who would also suspend the trading in that scrip. This would apply to cases where the suspension is for more than a day.

(4) In order to achieve effective coordination between the exchanges as well as to evolve uniform policies on matters of general interests as well as market operations, and specifically surveillance and market monitoring an inter exchange coordination. Group (ICG) would be set up.

**Market Infrastructure and Systems:**

NSE, OTCEI and BSE have already introduced screen based trading. All other exchanges except Guwahati, Magadh and Bhubaneshwar are to introduce for compensation and screen based trading by June 30, 1996. This will bring about a greater
transparency for investors reduced spreads more effective monitoring of prices and volumes and speedy settlement.

In the interest of investors the amount of compensation against a single claim of an investor arising out of default by a member maker of the stock exchange from the investor protection fund is to be raised to Rs. 50,000, except in case of smaller stock exchanges like Guwahati, Bhubaneshwar, Magadh and Madhya Pradesh, where the amount is to Rs. 25,000.

**Capital Adequacy and Insurance:**

Capital adequacy of all securities market intermediates are to be gradually raised to the norms prescribed by the international organization of securities commissions of which SEBI is a member. A beginning was made with the amendment to the securities contract (regulation) rules, 1957 which
allowed for the corporate membership of stock exchanges.

Capital is only one of the methods for protecting market intermediates and consequently investors, from default and other risks. Therefore the stock exchanges are to ensure that by June 30, 1996, all members brokers are insured, so that they are able to ensure that by June 30, 1996, all member brokers are insured, so that they are able to protect against risk in a better way thus protecting them from an erosion of capital.

**Framework of Market Making System:**

The important salient features of the market making system in India are:

(1) Any member of the Indian stock exchanges can act as a market maker with prior approval of SEBI.
(2) Market making would be introduced in a phased manner in the stock exchanges and to begin with it could be in produced only in the stock exchanges of Bombay, Calcutta, Delhi & Madras.

(3) The market maker will also be acting as a broker, he shall have to maintain separate books of accounts for the transactions in the different roles.

(4) Separate trading counters will be provided to the market makers on the floor of the exchange.

(5) The market maker will function with the bye – laws, rules and regulations of the stock exchanges.

(6) No separate margin requirement will be imposed on the trade of the scrips of the market maker which are not included in the national index.
There should not be more than one market maker for the same scrip. The jobbers presently working in different scrips could continue to do so.\(^4\)

**OTHER REGULATORY BODIES:**

**Chinese Securities Regulatory Commission:**

(CSRC) established in Oct 1992

The Chinese securities regulatory commission is an institution of the state council of the people of the republic of China (PRC). It is the main regulator for the mainland of the PRC.\(^5\)

Its functions are same to that of the US securities and exchange commission in the united states. The main responsibilities are:

- Formulating Polices laws and regulations concerning markets in securities and future.


\(^5\) www.crsc.org.
- Overseeing issuing, trading, custody and settlement of equity shares, bonds, investment funds,

- Supervising listing, trading and settlement of futures contracts, future exchanges, securities and futures firms.

Financial regulations area form of regulation or supervision, which subjects.

**Basic Functions:**

(1) To establish a centralised supervising system for securities and future markets and to assume direct leadership over securities and future market supervising bodies.

(2) To strengthen the supervision over securities and future business, stock & future exchange markets the listed companies fund management co. involved in the securities & future business.
(3) To increase the ability to prevent and handle financial crisis.

(4) To organize the drafting of laws & regulations for securities markets.

(5) To exercise centralized supervision.

**US Securities and Exchange Commission**

The mission of the U.S securities and exchange commission is to protect investors maintain fair orderly and efficient markets and facilitate capital formation.

As our nation’s securities exchanges mature into global for profit competitors, there is even greater need for sound market regulation. And the common interest of all Americans in a growing economy that produces jobs, improves our standards of living and protects the value of our savings means that all of the SEC’s actions must be taken with an eye toward promoting
the capital formation that is necessary to sustain economic growth.\textsuperscript{6}

The SEC overseas the key participants in the securities world, including securities exchanges, security brokers and dealers, investment advisors and mutual funds. SEC is concerned primarily with promoting the disclosure of important market related information maintaining fair dealing and protecting against fraud.

**Function of SEC:**

It monitors the securities industry requires a highly coordinated effort congress established the securities and exchange commissions in 1934 to enforce the newly passed securities laws to promote stability in the markers and most importantly to protect investors. There are two securities and exchange commission acts 1933 & 1934.

\textsuperscript{6} [www.sec.org](http://www.sec.org)
FSA [The Financial Services Authority]

FSA is an independent organization responsible for regulating financial services in the U. K. The FSA aim is to promote efficient orderly and fair financial markets and help retail financial service consumers get a fair deal.  

The FSA was set up by govt. The govt. is responsible for the overall scope of the FSA’s regulatory activities and for its powers. It regulate most financial services markets exchanges and firms. It sets the standards that they must meet and can take action against firms if they fall to meet the required standards. This often involves requiring firms to pay compensation to their customers. The FSA is the single statutory regulatory responsible for the authorisation and regulation of.

7 www.fsa.org
Deposit taking  Insurance  Investment
eg. by banks  business
Mortgage  Mortgage  General
Lending  advice  insurance
advice
(eg. Motor, home, etc.)

**METHODOLOGY:**

The present study relies on primary and secondary data. The sources of secondary data are national and international journals relating to the subject. The articles published in various journals can help greatly in finding out required material on SEBI (security and exchange board of India).

In order to cull up the relevant information on SEBI both primary and secondary sources of the following libraries seminars and centers have been consulted.

(1) Maulana Azad Library, AMU. Aligarh.
Different websites related to finance and a website of SEBI have been consulted for the present annotated bibliography.

The present dissertation consists of four chapters. Chapter – 1 deals with introduction scope and purpose and objective of study.

Chapter – 2 deals with conceptual frame work and methodology.

Chapter – 3 consists of review of related literature.

Chapter – 4 constitutes the core of the dissertation dealing with the annotated bibliography on SEBI in general and different aspects of SEBI in India.
Chapter – 5 presents a detail indices on Author, Subject, Title and the list of periodicals, journals & Magazines etc. dealing with SEBI in India.

**STANDARD FOLLOWED:**

In the process of writing this dissertation an endeavor has been made to follow strictly the rules and practices of the Indian standard for bibliographic references (IS: 2381-1963) for each entry of the bibliography. This practice is in fact adopted in order to bring uniformity in the bibliographic reference. The classified catalogue code (CCC) of Dr. S. R. Ranganathan has been followed to make sequencing and choice of authors and subject headings.

**ARRANGEMENTS:**

The entries have been arranged under subject heading that are alphabetically arranged in capital followed by the secondary element in parenthesis using capital and small letters and then the title of the
articles, subtitle (if any) then name of the journal and periodical being underlined followed by the volume number, issue number the year, month and date given by inclusive notation of the pages of the articles. Each entry is then followed by an informative and indicative abstract of the articles.

ENTRIES OF JOURNALS AND PERIODICALS:

Entries of articles appearing in books, journals, periodicals and reports are arranged in the following manner:

(a) Serial number.

(b) Name of the author / authors.

(c) Full stop (.)

(d) The contribution including sub-title and alternative title (if any)

(e) Full stop (.)

(f) Title of periodicals being underlined.
(g) Full stop (.)

(h) Volume number

(i) Issue number (under bracket)

(j) Semi colon (;)

(k) Year

(l) Comma (,)

(m) Month

(n) Comma (,)

(o) Date

(p) Semi colon (;)

(q) Inclusive pages of the articles

(r) Full stop (.)

**SPECIMEN ENTRY:**
BARUA (S. K) and VARMAJAYANT (R). SEBI’s regulatory priorities: need for change. Economic today, 16 (2); 2003, Feb, 22; 529 –532

This article states about the geneses and functions of SEBI since it was created in 1988 to form and regulate the securities markets in India. It was given statutory power in 1992 and assigned the following functions and responsibilities.

The article end with the conclusion that there is a need for change of rules and regulations of SEBI by enacting an Act of law.

EXPLANATION:

This article is written by S. K. Barua and R. Jayant Varma having the title “SEBI’s regulatory priorities: need for change” published in “Economic to day monthly” vol. 16, issue no. 2, dated Feb, 2003, pages 529 – 532.

ABSTRACT:
The entries in the bibliography contain abstracts giving the essential information about the articles. Attempts have been made to prepare informative abstracts, so that in most of the cases user’s needs are fulfilled with the abstract itself.

**SUBJECT HEADING:**

Attempts have been made to give co-extensive subject headings as much as possible; it will facilitate the readers to find out the desired article(s) from the bibliography.

**INDICES:**

The index part contains the author index, subject index and title index arranged alphabetically. The index guides to the specific entry or entries in the bibliography. It is hoped that it will be found useful in the consultation of the bibliography.