The year 1991 witnessed a big push being given to liberalization and reforms in the Indian financial sector. For sometime thereafter, the volume of business in the primary and secondary securities markets increased significantly. As a part of the same reform process, globalization, internationalization of the Indian financial system made it vulnerable to external shocks. The multi-crore securities scam shocked the IFS in 1992. All these developments impressed on the authorities the need to have in place a vigilant regulatory body or an effective and efficient
watchdog. It was felt that the then existing regulatory framework was fragmented, ill co-ordinate, and inadequate and that there was a need for an autonomous, statuary, integrated organization to ensure the smooth functioning of the IFS. The SEBI came in to being as a response to these requirements.

The SEBI was established on 2nd April 1988 through an administrative order, but it became a statutory and powerful organization only since 1992. The CICA was repealed and the office of the CCI was abolished in 1992, and the SEBI was set up on 21 Feb 1992 through an ordinance issued on 30th Jan 1992. The SEBI Act replaced the ordinance on 4th April 1992 certain powers under certain sections of SCRA and CA have been delegated to the SEBI. The regulatory powers of the SEBI were increased through the Securities Laws (amendment) ordinance of Jan 1995, which was subsequently replaced, by an act of Parliament. The SEBI is under the overall control of the Ministry of Finance, and has its head office at Mumbai. It has now become a very important constituent of the financial regulatory framework in India.

The philosophy underlying in creation of the SEBI is that multiple regulatory bodies for securities industry mean that the regulatory system gets divided, causing confusion among market participants as to who is really in command. In a multiple regulatory structure, there is also an overlap of functions of different regulatory bodies. Through the SEBI, the regulation model which is sought to be put in place in India is one in which every aspect of securities market regulation is entrusted to a single highly visible and independent organization, which is backed by a statue, and which is accountable to the Parliament and in which investors can have trust.
The past models of regulation appear, albeit in hindsight (but no less relevant for that), to have suffered from the following deficiencies.

<table>
<thead>
<tr>
<th>Deficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of clarity of objectives or tendency to burden the regulatory functions with many objectives.</td>
</tr>
<tr>
<td>The regulatory regime, instead of ‘managing by objectives’ tended to control operational details.</td>
</tr>
<tr>
<td>The regulations, while wearing the garb of generally applicable rules, tended to be discretionary in their application.</td>
</tr>
<tr>
<td>Regulatory functions were fragmented and carried out as they were by a multiplicity of government departments.</td>
</tr>
<tr>
<td>The regulation did not work towards maintaining health, efficiency and healthy growth of regulated organizations, but tended to restrict entry and competition.</td>
</tr>
<tr>
<td>The regulators tended to be empires and the cost of regulation began very high in relation to the benefits.</td>
</tr>
<tr>
<td>Finally, the approach to regulation was not dynamic; in the sense it did not allow for modifications in keeping with the technological and market changes.</td>
</tr>
</tbody>
</table>

As seen earlier, the liberalized milieu does require regulation, but of a different kind. Many of the regulatory concepts and mechanisms of the past have now been given up or substantially modified not only because they do not fit into the mode of liberalization, but also they have been proved to be inadequate and often counter-productive. The practice of regulation of banking and the capital market has taken an entirely new look. Obviously the new models have to draw some lessons from the weaknesses of the past. To my mind, these lessons are:
• The regulatory function should have a sharp objective of fostering a fair competition and correcting market deficiencies and irregularities with a view to bring about healthy growth of the sector and protection of participants.
• The regulatory body should be autonomous and fragmentation of regulating agencies and laws should be avoided.
• While enactment's empowering a regulatory body are important, the practices of regulations as well as the organizations of the regulatory body are much more so.
• No amount of regulation can be a substitute for efficient and honest management of the regulated entities and for internal system of checks and balances. Let us look at the entire gamut of and changes that are taking place in the securities market regulation in India against this background.

The need for setting up an independent government agency to regulate and develop the stock and capital market in India was recognized when the sixth plan was launched in 1985.

The SEBI ensures that the interest of the investors is protected and the development of the securities market is well promoted. It regulates the business in stock exchanges and any other securities market, registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, merchant bankers, underwriters, etc. and regulating the working of collective investment schemes including mutual funds. It also promotes self-regulatory organizations, prohibits fraudulent and unfair trade practices in the securities market and promoting investors'
Profile of SEBI

education. Its other functions are to regulate substantial acquisition of shares and take covers, calling for information, undertaking inspection, conducting inquiries and audits of the stock exchanges and intermediaries, etc.

**TABLE: 3.1 Awareness of Controlling Authority SEBI in ICM**

<table>
<thead>
<tr>
<th>SL. No.</th>
<th>RESPONDANTS INVESTORS</th>
<th>YES</th>
<th>%</th>
<th>NO</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>PROFESSIONALS</td>
<td>43</td>
<td>86</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>REGULAR</td>
<td>40</td>
<td>80</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>OCCATIONAL</td>
<td>34</td>
<td>68</td>
<td>16</td>
<td>32</td>
</tr>
</tbody>
</table>

About the controlling Authority of Indian share market the survey discloses – 86% professional investors are aware of SEBI as the present controlling authority and remaining 14% don't know about SEBI as the controlling authority. Regular investors 80% know about SEBI and 20% are not aware of controlling authority. In the case of occasional investors this awareness rate is lower – only 68% know about SEBI and 32% claims that they don't know. In total 78% investors know the authority as SEBI and 22% of investors says that they don't know SEBI as the regulator.

The role of a regulatory body for securities market in a country is determined by the stage of development of the securities market in the country. In the Indian context, with regard to the emerging nature of the market, the regulatory body must necessarily have the twin role of development and
regulation. Regulatory and developmental functions are strongly inter linked and have the same objectives in the long run. Very often, the outcome of such well-regulated structures is rapid and healthy development. The twin role of SEBI has accordingly been enshrined in the preamble of the SEBI Act, 1992. The regulatory measures taken by SEBI therefore would always be subservient to the needs of market development and enough to enforce the required degree of discipline and foster high standards of fairness and integrity of the market and thereby protect the interest of the investors.

SEBI's efforts would always be to create an effective surveillance mechanism for the securities market, and encourage responsible and accountable autonomy on the part of all players in the market, who should discipline themselves and observe the rules of the game.

For its part, the SEBI has done a good job in introducing some radical reforms for improved transparency, computerization of the trading and settlement systems, enactment's against insider trading, phasing out of the Badla system, introducing compulsory rolling settlement, banning naked short sales shortly after the scam, etc. However, the debits in its books far outnumber the credits and that's what ultimately counts in the final reckoning. ¹

SEBI endeavors to provide a regulatory framework, which would facilitate an efficient mobilization and allocation of resources through the securities market. This will ensure that the necessary services are provided to industry and commerce and

¹. Drastic need for restructuring! by: Sujay_Marthi Business Line Feb-26-02
private investors in the most efficient and economical manner, stimulate competition, encourage innovation and are responsive to international developments. Then SEBI has also formed a framework, which is flexible, and the same time cost effective, thereby providing it with the clarity to guide and not cramp the changes. It also serves the purpose of inspiring confidence on the part of the investors and other users of the market by ensuring the market place is clean to do business in a fair, transparent and efficient manner.

3.2 OBJECTIVES

The SEBI also aims at facilitating an efficient mobilization and allocation of funds through the securities markets, stimulating competition, and encouraging innovations. Its regulation is expected to be flexible, cost-effective and confidence inspiring. To investors, the SEBI provides a high degree of protection of their rights and interests through adequate, accurate, and authentic information and disclosure of such information on a continuous basis. To issuers, it provides a market place in which they can confidently raise all the finance they need in an easy, fair, and efficient manner. To the market intermediaries, it offers a competitive, professionals and expanding market with adequate and efficient infrastructure so that they can render better and more responsible service to the investors and issuers.²

²V.A. Avadhani: Marketing of Financial Services, Himalaya Publishing House, and Delhi
The following are the Objectives of SEBI:

(1) To protect the interests of investors.
(2) To promote the development and regulate the securities market.
(3) To create investor confidence and steady the flow of savings into capital markets.
(4) To ensure the fair practices by the issues.
(5) To promote efficient services.
(6) To induce transparency in work.
(7) To create an effective surveillance mechanism for secondary market.
(8) To encourage responsibility and accountability on the part of all players in capital market.
(9) To provide a regulatory framework to facilitate the efficient functioning of capital market.
(10) To create a proper and conducive atmosphere required for raising money from capital market include rules, regulations trade practices, customs and among institutions, brokers, investors and companies.
(11) To educate investors and make them aware of their rights in clear and specific terms and to provide investors with information's.
(12) To develop a proper infrastructure, so that the market facilitate expansion and growth in business to middlemen.

3.3 CONSTITUTION AND ORGANIZATION

The SEBI is a body of six members comprising the chairman, two members from amongst the officials of the ministries of the central government dealing with finance and law,
two members who are professionals and have experience or special knowledge relating to securities market and one member from the RBI. The government, who also lays down their terms of office, tenure, and conditions of service, and it can remove any member from office under certain circumstances, appoints all members, except the RBI member. The central government is empowered to supersede the SEBI in public interest, or if, on account of grave emergency, when it is unable to discharge its functions or duties, or if it persistently defaults in complying with any direction issued by the government, or if its financial position and administration deteriorates.

The work of SEBI has been organized into five operational departments, each of which is headed by an executive director who reports to the chairman. Besides, there is legal department and investigation department. The departments have been divided into divisions. The various departments and the scope of their activities are as follows:

1. **The Primary Market Policy, Intermediaries, Self-Regulatory Organizations, and Investor Grievance and Guidance Department.** It looks after all policy matters and regulatory issues in respect of primary market, registration, merchant bankers, portfolio management services, investment advisers, debenture trustees, underwriters, SROs and investor grievance, education, and association.

2. **The Issue Management and Intermediaries Department:** it is responsible for vetting of all prospectus and letters of offer for public and rights issues, for co-coordinating with the primary market policy, for registration, regulation and monitoring of issues related intermediaries.
3. The Secondary Market Policy: Operations and Exchange Administration, New Investment Products and Insider Trading Department: it is responsible for all policy and regulatory issues for secondary market and new investment products, registration and monitoring of members of stock exchanges, administration of some of the stock exchanges, market surveillance and monitoring of price movements and insider trading and EDP and SEBI's data base.

4. The Secondary Market Exchange Administration, Inspection and Non-Member Intermediaries Department: it looks after the smaller stock exchanges of Guwahati, Magadh, Indore, Mangalore, Hyderabad, Bhubaneshwar, Kanpur, Ludhiana and Cochin. It is also responsible for inspection of all stock exchanges and registration, regulation and monitoring of non-member intermediaries such as sub-brokers.

5. Institute Investment (Mutual Funds and Foreign Institutional Investment), Mergers and Acquisitions, Research and Publications, and International Relations and IOSCO Department: It looks after policy, registration, regulation and monitoring of foreign institutional investors (FIIs), domestic mutual funds, mergers and substantial acquisitions of shares, and IOSCO (International Organization of Securities Commissions) membership, international relations, and research, publication and annual report of SEBI.

6. Legal Department looks after all legal matters under the supervision of general counsel.

7. Investigation Department carries out inspection and investigation under the supervision of chief of investigation.
The SEBI has regional offices at Calcutta, Chennai and Delhi. It has also formed two non-statutory advisory committees namely; the primary market advisory committee and secondary market advisory committee with members from market players, recognized investor associations, and other eminent.

**Table: 3-2 SEBI OFFICE BEARERS**

<table>
<thead>
<tr>
<th>Executive Directors</th>
<th>Portfolios</th>
</tr>
</thead>
<tbody>
<tr>
<td>G.N.Bajpai</td>
<td>Chairman</td>
</tr>
<tr>
<td>Pratip Kar</td>
<td>□ Secondary Market Department</td>
</tr>
<tr>
<td>Executive Director</td>
<td>□ Policy, Operations and Exchange Administration of Stock Exchanges</td>
</tr>
<tr>
<td></td>
<td>□ Research, Policy Planning &amp; Publications</td>
</tr>
<tr>
<td></td>
<td>□ Debt Securitisation</td>
</tr>
<tr>
<td></td>
<td>□ Broker Administration</td>
</tr>
<tr>
<td></td>
<td>□ Inspection of Stock Exchanges</td>
</tr>
<tr>
<td></td>
<td>□ Derivatives</td>
</tr>
<tr>
<td></td>
<td>□ Credit Rating</td>
</tr>
<tr>
<td></td>
<td>□ Matters relating to High Level Committee (HLC)</td>
</tr>
<tr>
<td></td>
<td>□ Information System Department (ISD)</td>
</tr>
<tr>
<td>D.N.Raval</td>
<td>Legal Department</td>
</tr>
<tr>
<td>Executive Director</td>
<td>□ Primary Market Department</td>
</tr>
<tr>
<td>Pratip Kar</td>
<td>□ Foreign Institutional Investors Division</td>
</tr>
<tr>
<td>Executive Director</td>
<td>□ Takeovers Division</td>
</tr>
<tr>
<td>Additional In</td>
<td>□ Depositories &amp; Custodians Division</td>
</tr>
<tr>
<td>charge</td>
<td>□ Investor Grievance &amp; Guidance Division / Collective Investment Schemes</td>
</tr>
<tr>
<td></td>
<td>Mutual Funds Department / Venture Capital</td>
</tr>
<tr>
<td>C.S.Kahlon</td>
<td>Investigation, Enforcement and Surveillance Department</td>
</tr>
<tr>
<td>Executive Director</td>
<td>□ Prosecution Division</td>
</tr>
<tr>
<td></td>
<td>□ General Services Department</td>
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<tr>
<td></td>
<td>□ Vigilance Cell</td>
</tr>
<tr>
<td></td>
<td>□ Matters relating to IOSCO</td>
</tr>
<tr>
<td></td>
<td>□ Coordination work relating to COED Meetings / Parliament</td>
</tr>
<tr>
<td></td>
<td>Questions</td>
</tr>
</tbody>
</table>
persons. SEBI is a member of IOSCO, an international body comprising of security regulators from over 100 countries. It participates in the development committee of IOSCO, which provides a platform for regulators from emerging markets to share their views and experiences.

**Human resources**

As on March 31, 2000, SEBI had 196 Officers and 161 Staff Members (Total 357) in various other cadres. During the year, the Board recruited 34 candidates in various cadres. Of the total staff 357, 18 persons belong to SC, 44 to OBC and 2 to ST categories.

**3.4 Functions of the Board**

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

**(A) Regulatory**

(1) Regulating the business in stock exchanges and any other securities markets;

(2) Registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, under-writers, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

(3) Registering and regulating the working of collective investment schemes including mutual funds;
(4) Regulating self-regulatory organizations;
(5) Prohibiting fraudulent and unfair trade practices relating to securities markets;
(6) Prohibiting insider trading in securities;
(7) Regulating substantial acquisition of shares and takeover of companies;
(8) Calling for information from, undertaking inspection, conducting inquiries and audits of the stock exchanges, intermediaries and self-regulatory organizations in the securities market;
(9) Levying fees or other charges for carrying out the purposes of this section.

(B) Developmental

(1) Promoting investors education;
(2) Promoting self-regulating organizations;
(3) Training of intermediaries of securities markets;
(4) Promotion of fair practices and code of conduct for all SROs;
(5) Conducting research and publishing information useful to all market participants.

3.4.1 DUTIES

Under the SEBI Act, duties of the SEBI are

(I) To protect the interests of the investors in securities,

(II) To promote the development of the securities market and,

(III) To regulate the securities market. The Act also entrusts SEBI with the following specific functions in order to exercise its powers/discharge its duties:
(a) Regulating the business in stock exchanges and any other securities markets;

(b) Registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with the securities markets in any manner Registering and regulating the working of the depositories, custodians of Securities, foreign institutional investors, credit rating agencies and such other intermediaries as the SEBI may notify in this behalf;

(c) Registering and regulating the working of venture capital funds, collective investment schemes, including mutual funds.

(d) Promoting and regulating self-regulatory organizations;

(e) Prohibiting fraudulent and unfair trade practices relating to the securities markets;

(f) Promoting investors' education and training of intermediaries of the securities markets;

(g) Prohibiting insider trading in securities;

(h) Regulating substantial acquisition of shares and takeover of companies;

(i) Calling for information, undertaking inspection, conducting inquiries a audits of the stock exchanges, mutual funds, intermediaries and self-regulatory organizations in the securities market. The SEBI has been given since 1995, the same powers as are vested in
a civil court under the code of civil court, under the code of civil procedures, while trying a suit in respect of (a) the discovery and production of books of accounts and other documents at such place and time as may be specified by it, (b) summoning and enforcing the attendance of persons and examining them on oath and (c) inspection of books, registers/other documents of any intermediary in the securities market.

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

(k) Levying fees/other charges for carrying out the functions/duties;

(l) Conducting research for discharging its functions; and

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

In addition to the above duties/functions, the SEBI is empowered with effect from 1995, for the protection of investors to specify by regulations the matters relating to the issue of capital, transfer of securities and other related matter together with the manner in which such matters are to be disclosed by companies.

If on the basis of an enquiry, it is satisfied that in the interest of investors/orderly development of the securities market or to prevent the affairs of the securities market intermediary being conducted in a manner detrimental to the interest of investors/securities market, to ensure the proper management of any such intermediary, the SEBI, since its inception, has powers to issue appropriate directions.
3.4.2 POWERS

The scope of operations of SEBI is very wide: it can frame or issue rules, regulations, directives, guidelines, norms in respect of both the primary and secondary markets, intermediaries operating in these markets, and certain financial institutions. It has powers to regulate:

- Depositaries and participants,
- Custodians,
- Debenture trustees, and trust deeds,
- FIs,
- Insider trading,
- Merchant bankers,
- Mutual funds,
- Portfolio managers, and investment advisers,
- Registers to issues and share transfer agents,
- Stock brokers and sub-brokers,
- Substantial acquiring of shares and takeovers,
- Underwriters,
- Venture capital funds, and
- Bankers to issues.

The SEBI can issue guidelines in respect of:

(a) information disclosure, operational transparency, and investor protection,

(b) development of financial institutions,

(c) pricing of issues,

(d) bonus issues,

(e) preferential issues,

(f) Financial instruments, firm allotment and transfer of shares among promoters.
The SEBI is empowered to register any agency or intermediary who may be associated with the securities market and none of them shall buy, sell or deal in securities except under and in accordance with the conditions of a certificate of registration issued by the SEBI. However, the GOI is empowered to exempt any person or class of persons from registration with the SEBI. The SEBI can suspend or cancel a certificate of registration issued by it to anyone, after giving him a reasonable opportunity of being heard. The SEBI Act lays down the civil and criminal penalties for contravention of the Act; anyone who contravenes or attempts to contravene or attempts to contravene or abets contravention of the provisions of the Act or of any rules or regulations made hereunder, is punishable with imprisonment or fine or both.

As said earlier, with the repeal of the CICA, all matters related to the issue of capital are now governed by the guidelines issued by the SEBI. Similarly, as a result of the delegation of certain powers under the SCRA to the SEBI, the latter can conduct inquiries into the working of the stock exchange which have to submit their annual reports to the SEBI and seek its approval for amending their rules and bye-laws; it can direct them to amend their bye-laws and rules including reconstitution of their governing boards/councils.

Consequent on the amendments to the SEBI Act in 1995, the regulatory powers over corporate in the issuance of capital, transfer of securities and other related matters are now vested with the SEBI. The amendments also provide for the deletion of the existing provision relating to disqualification of a member of the SEBI Board on his being appointed as a director of a company. The SEBI has also been empowered to notify its
regulations and file complaints in courts without the prior approval of the GOI.

However, in the exercise of its powers in performing its functions, such directions on questions of policy bind the SEBI as the GOI may give in writing from time to time. Although it has the opportunity to express its views before any directions is given; the decision of the GOI is final in every case.

3.4.3 Delegation of powers

In addition, under section 28a of the Securities Contracts (Regulation) Act (SCRA) inserted by the SEBI act, the government may delegate power exercisable by it also to the SEBI, subject to such limitation/conditions as may be stipulated by the government. While delegating the powers to the SEBI, the government may retain the power in relation to any matter under the act. In respect of the following matters, the SEBI has been authorized to exercise powers under the SCRA, which were formerly exercised by the government;

(1) Of certain documents by the exchanges;
(2) Call upon the exchange/any member(s) to furnish explanation/information relating the affairs of the exchange/any member of the exchange:
(3) Approve bylaws of the exchange(s) for regulation and control of contracts:
(4) Licensing of dealers in securities in certain areas; and
(5) Compel a public company to list its shares.

In the exercise of its powers under Section 29A of the SCRA, the Government delegated the following powers to the SEBI with effect from July 30, 1992:

(1) Amendment of rules relating to matters specified in Section 3(2) of the Act;
(2) Furnishing of annual report by recognized stock exchanges;
(3) Directions to stock exchanges in general or a stock exchange in particular to make rules or to amend rules;
(4) Superseding the governing body of a recognized stock exchange;
(5) Suspension of business of a recognized stock exchange; and
(6) Prohibit contracts in certain cases.

More powers have been delegated with effect from September 13, 1994. These powers are:
(1) Submission of applications of stock exchanges;
(2) Grant of recognition to stock exchange;
(3) Withdrawal of recognition of a stock exchange;
(4) Making or amending rules or articles of association of a stock exchange regarding voting rights of members of a stock exchange at any meeting;
(5) Issue of notification declaring Section 13 to apply to an area, consequent upon which contracts issued in that area, otherwise than between members of a recognized stock exchange or through or with such members would be illegal;
(6) Regulation and control of the business of dealing in spot delivery contracts;
(7) Hearing appeals submitted by companies against refusal of a stock exchange to list their securities; and
(8) Issue of a notification specifying any class of contracts as contracts to which the SCRA or any provision contained therein would not apply.

With those delegations, the SEBI is now exercising most of the powers under the SCRA.
3.4.4 Directions from Government

The Government of India can issue directions to the SEBI on question of policy in writing from time to time. It is bound to follow and observe such directions in the exercise of its powers/the performance of its functions. The Government has absolute discretion to determine whether a question is one of policy or not. Its inability to discharge its functions/duties or non-compliance to follow and act upon any direction given by the Government or requirement in the public interest may lead to its suppression by the Government.

3.4.5 Power to Make Rules

The Government is authorized to make rules for carrying out the purposes of the SEBI Act. The important matter for which rules may be framed, include, the additional functions to be performed by it, its constitution, maintenance of its accounts, manner of inquiry to impose penalty for defaults, constitution of the Securities Appellate Tribunal (SAT), the forms of appeal and fee before the SAT, the form in which reports have to be submitted to the Government. The Government was also empowered to frame rules regarding the conditions for certificate of registration for intermediaries. With effect from 1995, this power was withdrawn from the Government and rests with SEBI now.

3.4.6 Power to Make Regulations

To carry out its functions, the SEBI is empowered to make regulations. Every regulation made by it must have the prior approval of the Government. All such regulations must be published as notification in the official gazette. The matters for which regulations may be framed include (a) the conditions for registration certificate, fee for registration, cancellation/suspension of registration
of intermediaries and (b) matters relating to issue of capital, transfer of securities and so on.

3.4.7 Penalties

With effect from 1995, the SEBI has been empowered to impose penalties on different intermediaries for defaults. Penalty for failure to furnish information and return: The SEBI can impose penalties as detailed below:

(1) For failure to furnish any document, return, report not exceeding one lakh and fifty thousand rupees for each such failure;
(2) For failure to file any return/furnish any information, books or documents within the specified time not exceeding fifty thousand rupees for each day;
(3) Failure to maintain books of accounts/records not exceeding ten thousand rupees for each day.

Penalty for failure to enter into agreement with clients: by a registered intermediary not to exceed Rs 5 lakh for every failure.

Penalty for failure to redress investor's grievances: by a registered intermediary having been called upon by the SEBI not to exceed Rs 10,000 for each such failure.

Penalty for Certain Defaults in Case of Mutual Funds:

(1) Default in not obtaining certificate of registration not to exceed Rs. 10,000 for each day or Rs.10 lakh whichever is higher;
(2) Default in not complying with the terms and conditions of the certificate of registration not to exceed Rs. 10,000 for each day or Rs 10 lakh, whichever is higher;
(3) Default in failing to make an application for listing of schemes not to exceed Rs 5,000 per day or Rs 5 lakh, whichever is higher;
(4) Default in not dispatching unit certificates not to exceed Rs 5,000 for each day of default;
(5) Default in failing to refund application money not to exceed Rs 1,000 for each day of default and

Penalty for failure by an Asset Management Company: To observe rules and regulations providing for restrictions on its activities not to exceed Rs 5 lakh for each such failure.

Penalty for Default in Case of Stock Brokers:

(1) For failure to issue contract notes in the form and manner prescribed by the stock exchange, not to exceed five times the amount for which the contract note was required to be issued;

(2) Failure to deliver any security/payment; the amount due to the investor in the manner and within the period specified in the regulations not to exceed Rs 5,000 for each day of default;

(3) For charging brokerage in excess of that prescribed by the regulation not to exceed Rs 5,000 or five times the excess charge, whichever is higher?

Penalty for insider trading:

If an Insider

(1) Deals in securities on his behalf or on behalf of others on the basis of an unpublished price sensitive information or

(2) Communicates any unpublished price sensitive information required in the course of business or under any law, or

(3) Counsels or procures for any person to deal in such securities on the basis of unpublished price sensitive information, he is liable to a penalty not exceeding Rs 5 lakh.

Penalty for Non-disclosure of Acquisition of Shares and Takeovers: Failure to disclose the aggregate of shareholdings in a company, and also to make a public announcement for acquiring shares at a minimum price is liable to a penalty not exceeding Rs 5 lakh.
Power to adjudicate

The SEBI is empowered since 1995, to appoint any of its officers of the rank of a division chief as the adjudicating officer, to hold an enquiry in the prescribed manner for determining the amount of penalty on any intermediary. The quantum of penalty is to fixed with due regard to (a) the amount of disproportionate gain or unfair advantage made as a result of the default, (b) the amount of loss caused to an investor/group of investors as a result of the default and (c) the repetitive nature of the default.

3.4.8 Securities Appellate Tribunal

Any securities market intermediary/person aggrieved by an order of an adjudicating officer has a right to appeal to the securities Appellate Tribunal (SAT). The adjudicating officer must file the appeal within a period of 45 days from the date of receipt of the order. The SAT can entertain an appeal after the expiry of 45 days for a sufficient cause. It can confirm/modify/set aside the order appealed against within six months from the date of receipt of appeal.

In order to enable the SAT to dispose off appeals expeditiously, it is not bound by the procedure laid down by the criminal procedure code; instead it would be guided by the principles of natural justice. It has powers to regulate its own procedure including the place of sitting. For discharging its functions, the SAT has the same powers as are vested in a civil procedure code while trying a suit in respect of

(1) Summoning and enforcing the attendance of any person and examining him on oath.
(2) Requiring the delivery and production of documents
(3) Receiving evidence on affidavits
(4) Issuing commission for the examination of witness/documents
(5) Reviewing the decisions
(6) Dismissing an application for default or deciding it ex parte

No civil court has jurisdiction over the adjudicating officers and the SAT. The only remedy available to any aggrieved party against the decision/order of the SAT is, an appeal within 60 days to a High Court or within a further period not exceeding 60 days for a sufficient cause.

3.4.9 Job Entrusted to SEBI

(1) SEBI shall create a proper and conducive atmosphere required for raising money from the capital market. The atmosphere includes the rules, regulations, trade practices, customs and relations among institutions, brokers, investors and companies. It shall endeavor to restore the trust of investors and particularly to safeguard the interest of the small investors. This can be achieved by meeting the needs of the persons connected with the security market and establishing proper coordination among the three main groups; directly connected with its operations, namely, (a) Investors, (b) Corporate Sectors, and (c) Intermediaries.

(2) SEBI shall educate investors and make them aware of their rights in clear and specific terms. It shall provide investors with information and see that the market maintains liquidity, safety and profitability of the securities, which are crucial for any investment.

(3) SEBI shall create a proper investment climate and enable the corporate sector to raise industrial securities easily, efficiently and at affordable minimum cost.
(4) SEBI shall develop a proper infrastructure so that the market automatically facilitate expansion and growth of business to middlemen like brokers, jobbers, commercial banks, merchant bankers, mutual funds, etc. Thus, it will ensure that they provide efficient service to their constituents, namely, investors and the corporate sector at a competitive price.

(5) SEBI shall make more effective the law in the existing status as far as they relate to the industrial securities, mutual funds investments, in units, LIC savings plan, chit-fund companies and securities issued by housing/industrial societies and corporations with the purpose of making investment in housing/industrial projects.

(6) SEBI shall create the framework for more open, orderly, and unprejudiced conduct in relation to takeover and mergers in the corporate sector to ensure fair and equal treatment to all the security holders, and to facilitate such takeovers and mergers in the interest of efficiency by prescribing a mechanism for more orderly conduct.

The Securities and Exchange Board of India (SEBI) has chalked out a vision of becoming the "Most Dynamic and Respected Regulator-Globally".

SEBI has drawn a comprehensive Strategic Action Plan in order to realize this vision. The Plan envisages achievement of strategic aims laid down for: (a) investors, (b) corporate, (c) markets and (d) regulatory regime
The Strategic Action Plan has identified four key spheres and has set strategic aims for each of the following spheres:

**Table: 3-3 The Strategic Action Plan of SEBI**

<table>
<thead>
<tr>
<th>Sphere</th>
<th>Strategic Aim</th>
</tr>
</thead>
<tbody>
<tr>
<td>INVESTORS (CONSUMERS),</td>
<td>'Investors are enabled to make informed choices and decisions and achieve fair deals in their financial dealings'</td>
</tr>
<tr>
<td>FIRMS (CORPORATE)</td>
<td>'Regulated firms and their senior management understand and meet their regulatory obligations'</td>
</tr>
<tr>
<td>FINANCIAL MARKETS (EXCHANGES, INTERMEDIARIES) AND</td>
<td>'Consumers and other participants have confidence that markets are efficient, orderly and clean'</td>
</tr>
<tr>
<td>REGULATORY REGIME.</td>
<td>'An appropriate, proportionate and effective regulatory regime is established in which all the stakeholders' have confidence'.</td>
</tr>
</tbody>
</table>

The overall objective of the SEBI, as enshrined in the preamble of the SEBI Act 1992 is "to protect the interests of investors in securities and to development of, and to regulate the securities market and for matters connected therewith or incidental thereto". To elaborate, the SEBI regulates stock exchanges and securities industry to promote their orderly functioning. It prevents trading malpractice's and aims at achieving a balance between self-regulation by securities industry and its statutory regulation.
Having regard to the emerging nature of the securities markets in India, the SEBI necessarily has the twin task of regulation and development. Its regulatory measures are always meant to be subservient to the needs of the market development. Underlying those measures is the logic that rapid and healthy market development is the outcome of well-regulated structures. In this spirit, the SEBI endeavors to create an effective surveillance mechanism and encourage responsible and accountable autonomy on the part of all players in the market. Who are expected and required to discipline themselves and observe the rules of the market. The self-regulation and regulation by exception are thus the corner stones of its regulatory framework. The SEBI believes that self-regulation can work only if there is an effective regulatory body overseeing the activities of self-regulatory organizations.

3.5 Approach of SEBI

To achieve its objectives, the Board shall play a dual role by working as a controlling authority and development institution. Briefly its role is described below:

(1) It shall devise laws with a unified set of objectives, single administrative authority and an integrated framework to deal with all the aspects of the securities market.

(2) It shall also play an active role, line interaction with the Institute of Chartered Accountants of India in upgrading and making more effective accounting and auditing standards. It shall try to bring in discipline in management in financial reporting and act firmly with cases where window dressing and accounting tricks are employed to the
detriment of the interest of users of such financial statements.

(3) It shall introduce a system of two-stage disclosure at the time of initial issue and make compulsory for the companies to provide detailed information to all the stock exchanges, journalists and investors on demand.

(4) It will examine the feasibility of introducing a dealer's network by which securities can be bought or sold over the counter as in a retail shop. This will smoothen liquidity and investment opportunities.

(5) It shall work as an authoritative institution to see that the intermediaries are financially sound and equipped; with professional and competent manpower.

It shall make law making and observance flexible enough to suit the prevailing market conditions and circumstances. It will ensure that the rules are versatile and non-rigid to provide automatic and self-regulatory growth.

### 3.5.1 Limitations.

The principal drawbacks in the functioning of SEBI are as follows.

1. Limited transparency;
2. Bureaucratic administration;
3. Lack of professionalism;
4. Long and complex procedures;
5. Lack of serious approach to investors needs;
6. Fraudulent activities;
7. Counter productive regulations;
8. Lack of adequate powers;
9. Weak legislation;
(10) Too mechanical procedures;
(11) Minimum accountability; and
(12) Lack of confidence of all players in the capital market including investors, especially small.

3.6 REVIEW OF POLICIES AND PROGRAMMES

The major policies and programs adopted by the SEBI have been reviewed below:

I. Primary Securities Market

The SEBI took a number of policy initiatives to strengthen and streamline the procedures for raising the resources from the primary market by listed and unlisted companies and allocation of issues to various categories of investors. In order to facilitate the investment activity, and to improve the quality of issues, disclosure norms, accounting standards and conduct of the intermediaries in the primary market, the SEBI issued several guidelines and amended rules and regulations related to securities market. These policy changes were affected broadly to protect the interests of investors and to promote more healthy and vibrant primary market. The major policy changes relating to primary market are set out below:

a. Issues Through Book-Building

The SEBI issued further guidelines to be followed by the issuers for rising of capital through book building and for allocation of these issues among various categories of investors. In case an issuer company makes an issue of 100 per cent of the net offer to public through 100 per cent book-building process, the guidelines stipulated that not less than 25 per cent of the net offer
to the public shall be available for allocation to retail individual
investors i.e., investors applying for up to 1000 shares and not
less than 15 per cent of the net offer to the public shall be
available for allocation to non-institutional investors i.e., investors
applying for more than 1000 shares.

b. Issuance of Debt Instruments Prior to Equity Issue

Public issue and listing of non-convertible debt securities

To facilitate the resource mobilization by unlisted
companies the SEBI issued the following guidelines:

An unlisted company making a public issue of non-
convertible debt securities (NCDS) may, subject to other
applicable provisions of these guidelines, make a public issue and
make an application for listing its NCDS in the stock exchange/s
without making a prior public issue of equity and listing thereof, if
the following conditions are fulfilled: NCDS shall carry a credit
rating not below investment grade at least from one Credit Rating
Agency registered with the SEBI. Where the issue size of the
NCDS is Rs. 100 crore or more, such rating shall be obtained
from at least two Credit Rating Agencies

The promoter's contribution of at least 20 per cent of the project
cost.

The issuer company shall agree to comply with the requirements
of continuing disclosures as specified under the listing agreement.

The Issuer Company shall agree to obtain prior consent of the
holders of the NCDS through special resolution to be passed at
the general meeting of the NCDS holders.

There shall be no partly paid-up shares/other securities at the
time of filing of draft offer document with the SEBI.
c. Debt Securities Convertible into Equity after Allotment

An unlisted company making a public issue of debt securities convertible into equity (DSCE) may, subject to other applicable provisions of these guidelines, make a public issue and make an application for listing on the stock exchanges without making a prior public issue of its equity and listing thereof, if the following conditions are fulfilled:

1. The NCDS shall carry a credit rating not below investment grade at-least from one Credit Rating Agency registered with the Board.
2. The promoter's contribution of at least 20 per cent of the project cost
3. The issuer company shall agree to comply with the requirements of continuing disclosures as specified under the listing agreement to be entered into with concerned stock exchanges as is applicable for listing of equity shares.
4. The equity held by the promoters and others may be listed along with the listing of equity in initial public offering of equity/security convertible into equity after allotment or at the time of listing if equity arising on conversion of the DSCE.

d. Price band and lock-in period

The SEBI stipulated that the lead merchant banker can mention a price band of 20 per cent (cap in the coupon rate/ price band should not be more than 20 per cent of the floor coupon rate/price) in the offer document filed with the Board and the specific coupon rate/price can be determined by an issuer in consultation with the lead manager at a later date before filing of the offer document with the ROC.
e. Post-issue monitoring reports

SEBI laid down the revised requirements for filing the post-issue monitoring reports with the Board for both book-built portion and fixed price portion.

f. Offer to public

Public offer of at least 10 per cent instead of 25 per cent subject to certain conditions, provided by SEBI has been withdrawn. Further, unlisted companies, which have allotted shares to holders of securities in a listed company pursuant to a scheme of reconstruction or amalgamation sanctioned by the appropriate High Court, have been approaching the Board for seeking exemption from making a public offer for listing their shares.

g. Corporate Governance

The Accounting Standards Committee of the SEBI as well as the Kumar Mangalam Birla Committee on Corporate Governance had recommended the following financial disclosures for listed companies:
- Consolidation of Accounts
- Segment Reporting
- Deferred Taxes
- Related Party Transactions
- Earning per Share

As part of SEBI’s efforts to enhance financial disclosure standards, the SEBI has been closely interacting with the ICAI. The issuance of the accounting standards on the above areas was take-up by the SEBI with ICAI, which is represented in the SEBI's Accounting Standards Committee.
h. **Consolidated financial results**
   Companies were given the option to publish consolidated quarterly financial results in addition to the un-audited quarterly financial results of the parent company as currently required under the Clause 41 of the Listing Agreement.

i. **Consolidated financial statement**
   Companies were mandatory required to publish Consolidated Financial Statements in the annual report in addition to the individual financial statements.

j. **Accounting for taxes on income**
   Companies were required to comply with the accounting standard on "Accounting for Taxes on Income" in respect of the quarterly un-audited financial results with effect from the quarters ending on or after September 30, 2001.

k. **Related party disclosures**
   Companies were required to make disclosures in compliance with the Accounting Standard on" Related Party Disclosures" in the annual reports.

l. **Qualifications in audit reports**
   Companies were required to disclose the audit qualifications along with the audited financial results in addition to the explanatory statement as to how audit qualifications in respect of the audited accounts of the previous accounting year.

m. **Alternative format for un-audited financial results**
   The manufacturing and trading / service companies which have followed functional (secondary) classification of expenditure in the annual profit and loss account in their most recent annual report were given the facility to furnish un-audited financial results on a quarterly basis in the alternative format as prescribed.
n. Compliance with accounting standards

Companies were mandatory to comply with all the Accounting Standards issued by ICAI from time to time by incorporating a new clause in the Listing Agreement.

o. Disclosures and Accounting for “Dot Com” Companies

The Accounting Standard Committee adopted the report of the Accounting Standards Sub-Committee on “dot com” Companies. The Sub-Committee was of the view that the traditional valuation models applicable to “brick and mortar” companies may not be applicable to “dotcom” companies in view of their uncertain revenue streams and unpredictable and rapidly changing business models.

3.6.2 Secondary Securities Market

1. Trading of all Scrip’s in Rolling Settlement made Compulsory

Rolling settlement was introduced on voluntary T+5 basis in the demat segment of the Stock Exchanges on January 15, 1998 to expedite the trading and settlement process and improve efficiency of the securities market. Thus, the total number of scrip’s traded on rolling settlement increased to 414. By December 31, 2001 rolling settlement had been extended to the remaining Scrip’s listed on all exchanges.

2. Settlement Cycle from T+5 basis to T+3 basis

Further to derive benefits of increased efficiency of the Rolling Settlement, the rolling settlement cycle was shortened from T+5 to T+3 basis with effect from April 01, 2002.

3. Unique Client Identification (ID)

SEBI made mandatory for all brokers and sub-broker to use unique client codes for all clients. For this purpose, brokers would collect and maintain in their back office the
Permanent Account Number (PAN) allotted by Income Tax Department for all their clients. These requirement have become applicable for clients having order value of Rs.1 lakh or more

4. Risk Containment Measures: Margins

a. Value at risk (VaR) margin
The equity markets moved to margins based on Value at Risk (VaR) as prevalent in the derivatives market. The modalities for the implementation of the margins based on VaR were informed to the stock exchanges. VaR based margin system was introduced with effect from July 02, 2001.

b. Additional level of margin
While the above calculations would address 99 percent of the cases, therefore, additional 12 per cent margin was imposed to address 1 percent of the cases. The VaR calculations would be based either on BSE Sensex or S&P CNX Nifty.

c. Margins on institutional trades
In VaR based margin, institutions like the financial institutions, FIIs, Banks and Mutual Funds etc. would be required to pay margin on the sale side calculated on the basis of differential i.e. positive differential between the minimum VaR (1.75 times index VaR) and the actual margin percentage calculated.

d. Market wide circuit breakers
SEBI introduced the index based market wide circuit breaker system from July 2, 2001. These circuit breakers would apply at three stages of the index movement either way at 10 per cent, 15per cent and 20 per cent and would bring about a coordinated halt trading in all equity and equity derivative markets nationwide.

f. Scrip-wise price bands
In addition to the market wide index based circuit filters, there would be individual scrip wise price bands of 20 per cent either...
way, for all scrip's in the compulsory rolling settlement scrip's that are not in compulsory rolling settlement, the existing price bands would continue.

5. Enhancement of Financial Disclosure by the Listed Companies

In order to enhance the level of disclosure by the listed companies in the light of new Accounting Standards issued by the Institute of Chartered Accountants of India (ICAI), the Accounting Standards Committee (ASC) of SEBI recommended the following, which were implemented through the amendment to the Listing Agreement.

6. Demutualisation and Corporatisation of the Stock Exchanges

The Government had announced that the stock exchanges would be corporatised by which ownership, management and trading membership would be segregated from each other and that administrative steps will be taken and legislative changes, if required, will be proposed accordingly.

7. Adoption of Model Rules by the Stock Exchanges

SEBI had constituted a Committee for examining the existing Articles and Memorandum of Association, Rules, Bylaws and Regulations of Stock Exchanges and framing a uniform set of Rules and Bylaws to be followed by all the stock exchanges. The Committee had submitted the model rules for Stock Exchanges to SEBI for implementation across the stock exchanges.

8. Delay in transfer of shares by the companies

SEBI has given the direction to the stock exchanges for speedy redressal of grievances pertaining to pending transfer of shares, dealing with objection memos in future and duplicate share certificates.
9. Grant of trading terminals

SEBI had advised the Stock Exchanges to grant trading terminals only at the members' registered office, branch offices and their registered sub-brokers' offices. Trading terminals granted earlier in places other than locations mis-utilised for unregistered sub-broking activities should be withdrawn immediately.

10. No-delivery period

The stock exchanges were advised that in case of any short delivery by any member in the previous settlement where the delivery of securities is to be given on cum basis, then the exchange may close out to the extent of the short delivery if the shares cannot be acquired in auction on cum basis and there would be no "no delivery" period on account of book closure/record dates for corporate actions such as issue of dividend and bonus shares in respect of the scrip's which are traded in the compulsory dematerialized mode.

11. Reference price for close out

Since in the rolling settlement the auction and the close out takes place during trading hours, hence the reference price in the rolling settlement for close out procedures would be taken as the previous day's closing price.

12. Fees payable by stockbrokers

Following the judgment of the Hon'ble Supreme Court on the issue of fees payable by stockbrokers and directing SEBI to amend the regulations incorporating the recommendations of S. Bhatt Committee Report, SEBI has amended the regulations on February 20, 2002.
13. Disclosure of the scrip wise delivery ratio

For transparency purpose, the stock exchanges were advised to disclose scrip wise deliverable positions grossed across clients for that day’s trading session.

14. Practice of granting conditional listing permission

The stock exchanges were advised to desist from the practice of granting conditional listing to the companies since Section 73 of the Companies Act, 1956 does not envisage any qualified conditional listing permission.

15. The Securities Lending Scheme, 1997

The Securities Lending Scheme was introduced by SEBI in 1997. The scheme provides for lending of securities through an approved Intermediary to a borrower under an agreement for a specified period. It also provides for mobilization of idle stock in the hands of lenders such as FIs, MFs, FIs and large investors. Securities lending contributes to the liquidity in the market. It smoothens the settlement system and improves efficiency of the settlement system by facilitating timely delivery of securities and correcting temporary imbalances between demand and supply.

16. Amendments to SEBI (Insider Trading) Regulations, 1992

The SEBI constituted a committee under the Chairmanship of Shri Kumarmangalam Birla to strengthen the existing Insider Trading Regulations and create a framework for prevention of insider trading.

17. Derivatives Trading, Risk Management and New Derivatives Products

The SEBI has been constantly pursuing the promotion of derivatives market in India. It has made efforts to widen the
market by introducing derivative trading, derivative products and risk management associated with derivative trading.

18. Technical group on new derivative products

The SEBI Technical group on new derivative products discussed the eligibility criterion and risk containment measures for options on individual stocks and decided that stocks to be eligible for options trading should figure in the list of top 200 scrips, on the basis of average market capitalization, during the last six months and average free float market capitalization should not be less than Rs. 750 crore.

Stock should appear in the list of top 200 scrips, based on the average daily volume, during the last six months.

Stock has to be traded at least on 90 per cent of the trading days, during the last six months.

Non-promoters holding in the company should be at least 30 per cent; and the group also decided that for initial period of six months, stock options would be cash settled and after that exchanges would move to physical settlement.

19. Trading member level positions limits

At trading member level, the position limits in derivative contracts on individual stocks would beat 7.5 per cent of the open interest or Rs.50 crore whichever is higher for the derivative contract in a particular underlying at an exchange.

20. Market-wide limits

The market-wide limit of open positions on all derivative contracts on a particular underlying stock would be lower of 30 times the average number of shares traded daily during the previous calendar month in cash segment of the Exchange or;
10 percent of the number of shares held by non-promoters i.e. 10 per cent of the free float market cap.

21. FII allowed trading in derivative products

FII were, hitherto, allowed to trade only in index futures to the extent of their exposure in the cash market according to restrictions laid down by the RBI. In order to encourage FII to participate in the derivative market in all products, it was decided that FII might be allowed to trade in all derivative products subject to the position limits now applicable to a trading member.

22. Margin trading

The committee discussed the issue of introduction of margin trading. In this context the proposal on margin trading submitted by the newly constituted 'Securities Industry Association' (under incorporation) was discussed and further clarifications were sought on the proposal.

23. Registration Fees Payable by Stock Brokers

The brokers in the cash segment have been given a facility of payment of at least 50 per cent of the registration fees payable by them as per Schedule III to the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and balance fees along with interest @ 15 per cent p.a. can be paid within a period of two years.

24. Depositories, Paperless Trading and Other Related Issues

Dematerialization of securities is one of the major steps for improving and modernizing market and enhancing the level of investor protection through elimination of bad deliveries, forgery of shares and expediting the transfer of shares. SEBI continued its policy to enhance the growth of paperless trading and electronic book entry transfer but in a phased manner to allow time for required infrastructure to develop and to gain in acceptance of the investors and the market.
3.6.3 Mutual Funds

1. Policy Initiatives, 2001-02

The regulations were amended accordingly and necessary guidelines were issued to the mutual funds. The details of major policy decisions taken are as follows:

2. Disclosure of half-yearly un-audited results and portfolios by mutual funds

In order to provide the investors with meaningful and relevant information on mutual fund schemes, the SEBI simplified the format for the half-yearly un-audited results published by mutual funds. The mutual funds are now required to disclose performance in terms of rise/fall in NAV during the half-year period, yield for the last 1 year, 3 years, 5 years period. Thus, the investors will get all relevant information in a concise format. Further, the mutual funds are required to publish the disclosures within one month from the close of each half-year instead of earlier requirement of 2 months. It was also made mandatory for mutual funds to disclose the half-yearly scheme portfolios on their websites, in the prescribed format before the expiry of one month from the close of each half-year.

3. Disclosure of large unit holdings in scheme

The SEBI directed mutual funds to disclose large unit holdings (holding of over 25 per cent of the net assets of a scheme by an investor) in their schemes so that the investors are aware of concentration of holdings.

4. Brokerage payment not to be made to sponsor's investments in the Mutual fund schemes

The mutual funds were advised not to make payment of brokerage/commission on the subscription of units received from their sponsors in their schemes.
3.6.4 Primary Market Intermediaries

1. Portfolio managers

SEBI has set up a working group to review the provisions of SEBI (Portfolio Managers) Rules and Regulations, 1993. The group has submitted its report. Recommendations of the group are under consideration of SEBI.

2. Debenture trustees

SEBI (Investment advised by intermediaries) Regulations 2001, were amended vide notification in the Gazette of India dated 29.05.2001. Accordingly, SEBI (Debenture Trustee) Rules and Regulations, 1993 were amended via insertion of a new regulation 17A

3. Bankers to an issue

In the interest of development of primary securities market, it has been a continuous endeavor of SEBI to reduce the time involved between closure of the issue and listing of the securities. In order to attain this objective, SEBI vide its circular BTI (GI Series) Circular No. 1 dated May 11, 2001 advised all 'Bankers to an Issue' that the applications, details regarding the Application and application monies received from the investors investing in the issue of a body corporate and the final certificate are furnished to the Registrar to the Issue, the Lead Manager and the Body Corporate, before the expiry of 7 working days after the date of closure.

4. Registrar to an issue and share transfer agent

SEBI (Investment advised by intermediaries) Regulations 2001, were amended vide notification in the Gazette of India dated 29.05.2001.
### 3.6.5. Foreign Institutional Investors (FII's)

#### 1. Developments of International Co-operation

The SEBI continued to play an important role at the international forum by extending co-operation to international regulatory bodies and other international organizations.

<table>
<thead>
<tr>
<th>SL. No</th>
<th>Reforms</th>
<th>Useful</th>
<th>Not Useful</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No.</td>
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</tr>
<tr>
<td>1</td>
<td>Dematerialization</td>
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<tr>
<td>2</td>
<td>Free pricing</td>
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<td>46</td>
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<tr>
<td>3</td>
<td>On line trading</td>
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<td>5</td>
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</tr>
<tr>
<td>6</td>
<td>Circuit breakers</td>
<td>124</td>
<td>83</td>
</tr>
</tbody>
</table>

Regarding the reforms taking place in the Indian capital market in the recent times the investors response is observed in the survey. The major reforms considered in this survey are given in the above table to find out whether they are useful or not in investors view.

With regards to dematerialization 58% of respondents are in the opinion of it is useful for them, and 42% it is not useful but difficult as facilities of depositories are not available at town level.
Chart 3.1 Investor Opinion on SEBI

No of Respondents

Opinion

<table>
<thead>
<tr>
<th>Opinion</th>
<th>21</th>
<th>16</th>
<th>38</th>
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<tr>
<td>No Idea</td>
<td>20</td>
<td></td>
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</tr>
</tbody>
</table>
About the free pricing of issue of shares only 46% are in opinion of it is useful and remaining 54% of investors says it is beneficial only to companies but not to investors.

**TABLE: 3.5 Opinion on Role of SEBI**

<table>
<thead>
<tr>
<th>SL NO</th>
<th>RESPONSE</th>
<th>INVESTORS</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>5</td>
<td>No idea</td>
<td>5</td>
</tr>
</tbody>
</table>

Regarding the effectiveness of the SEBI in controlling the market the investor’s opinions are collected in the survey. In total 36% are in opinion of SEBIs performance is good, 25% told its average, 14% of investors claimed it very good. And only 11% in the opinion of poor performance and 14% has given their response as no idea.

In the categories also the same pattern of observations are revealed. Majority opinion of good followed by average, very good and finally poor performance.
For its part, the SEBI has done a good job in introducing some radical reforms for improved transparency, computerization of the trading and settlement systems, enactment's against insider trading, phasing out of the Badla system, introducing compulsory rolling settlement, banning naked short sales shortly after the scam, etc. However, the debits in its books far outnumber the credits and that's what ultimately counts in the final reckoning.

3.7 Policy Developments

Government and market regulators have taken several policy measures over last one decade or so to improve efficiency in the working of the stock exchanges and market intermediaries. The measures aimed at improving market infrastructure, and upgradation of risk containment measures so as to protect the integrity of the market and interest of investors. The policy developments pertaining to trading of securities during 2001-02 And April-June 2002 is discussed below:³

3.7.1 Initiatives from Government

I. Joint Parliamentary Committee

A Joint Committee of both the Houses of Parliament consisting of 30 members, 20 from the Lok Sabha and 10 from the Rajya Sabha, was constituted in April 2001:

i. To go into the irregularities and manipulations in all their ramifications in all transactions, including insider trading, relating to shares and other financial instruments and the role of banks, brokers and promoters, stock exchanges, financial institutions, corporate entities and regulatory authorities,

ii. To fix the responsibility of the persons, institutions or authorities in respect of such transactions,

iii. To identify the misuse, if any of and failures/inadequacies in the control and the supervisory mechanisms,

iv. To make recommendations for safeguard and improvement in the system to prevent recurrence of such failures,

v. To suggest measures to protect small investors, and

vi. To suggest deterrent measures against those found guilty of violating the regulations.

The committee has been granted time up to end of winter session of 2002 of Parliament for submission of its report.

II. Definition of Securities

Government promulgated the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance in June 2002 which amended the definition of the securities in the Securities Contracts (Regulation) Act, 1956 to include security receipt within its ambit. The security receipt means a receipt or other security, issued by a Securitisation or reconstruction company to any qualified institutional buyer pursuant to a scheme, evidencing the purchase or acquisition by the holder thereof, of an undivided right, title or interest in the financial asset involved in Securitisation.

III. Listing Requirement
Government amended in June 2001 the Securities Contracts (Regulation) Rules, 1957 to relax the listing requirement on a stock exchange. A public company seeking listing of its securities on a stock exchange is required to satisfy the exchange that at least 10% of each class or kind of securities issued by it was offered to the public for subscription through advertisement in newspapers for a period not less than 2 days and applications received in pursuance of such offer were allotted. However, this requirement is subject to the following conditions:

a. Minimum 20 lakh securities (excluding reservations, firm allotment and promoters contribution) was offered to the public;
b. The size of the offer to the public, i.e. the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crore; and
c. The issue was made only through book building method with allocation of 60% of the issue size to the qualified institutional buyers as specified by SEBI. If, however, a company does not fulfill the above conditions, it has to satisfy the exchange.

That at least 25% of each class or kind of securities were offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted.

IV. Union Budgets

The Union Budget, 2001-02 proposed the following measures, which impact the secondary market:

a. In order to liberalize capital account,
* ADRs/GDRs will be provided two-way fundability. Converted local shares may be reconverted to ADRs/GDRs while being subject to sectional caps, wherever applicable.

* Indian companies will be permitted to list in foreign stock exchanges by sponsoring ADR/GDR issues against block shareholding. This facility would be offered to all categories of shareholders.

b. Foreign Institutional Investors (FII) can invest in a company under the portfolio investment route up to 24% of the paid up capital of the company. This can be increased to 49% with the approval of the general body of the shareholders by a special resolution.

The Union Budget for 2002-03 proposed the following measures that have bearing on the functioning of the secondary market:

i. The process of demutualisation and corporatisation of stock exchanges is expected to be completed during the course of the year, to implement the decision to separate ownership, management and operation of stock exchanges.

ii. Legislative changes would be proposed, during the Budget Session, in the SEBI Act, 1992 for investor protection, and to enhance the effectiveness of SEBI as the capital market regulator.

iii. Following certain developments overseas, and within the country, regarding accounting standards and effectiveness of auditors, regulation in this area would be strengthened.

iv. Presently foreign institutional investors (FII) can invest in a company under the portfolio investment route beyond 24% of the paid up capital of the company with the approval of the general body of the shareholders by a special resolution. These investments would not be subject to the sectoral limits for foreign direct investment except in specified sectors.
v. Indian mutual funds can invest in rated securities in countries with fully convertible currencies, within the existing limits. Earlier such investment was only permitted in ADR/GDRs issued by Indian companies in overseas markets.

In order to promote demutualization of stock exchanges, the Finance Act, 2001 amended the Income Tax Act, 1961 to provide that any transfer of capital asset from an association of persons or body of individuals to a company in the course of corporatisation of a recognized stock exchange shall not be regarded as transfer for the purposes of capital gains tax. This one time exemption from capital gains is available only if all the assets and liabilities of the stock exchange immediately before the succession become assets and liabilities of the corporatised stock exchange, and the corporatisation is carried out in accordance with the scheme of corporatisation approved by SEBI.

V. PAN for Securities Trading
The Income Tax (Eighth Amendment) Rules, 2002 made it mandatory for a person to quote permanent account numbers issued by the Income Tax Department for securities transactions of over Rs. 1 lakh. This reduced threshold for quoting PAN for the sale and purchase of securities from Rs. 10 lakh.

VI. The Companies (Amendment) Ordinance
The Companies (Amendment) Ordinance was promulgated on October 23, 2001 to provide that Section 77 A of the act shall not apply in any case where the buyback is less than 10% of total paid up equity capital and free reserves of the Company. Such buyback has to be authorized by the Board of the Company by means of resolution passed at its meeting. No offer of buyback shall be made within a period of 365 days from the date of preceding offer of buyback.
VII. Permission for Listing

The Securities Appellate Tribunal (SAT) upheld the order of The Stock Exchange, Mumbai which had rejected the application of the appellant seeking permission for listing of 210 lakh shares issued on a preferential basis to eight associate companies. While doing so, it reiterated that before granting listing permission, the concerned Stock Exchange has to satisfy that in the given set of facts, listing would not be detrimental to the interest of the market and the investors. Exchanges role is not confined to that of a passive infrastructure provider for trading in securities, it is required to provide some thing more to protect the interests of the investors in securities. It observed that the standard of scrutiny in the case of a public issue through prospectus is rather rigorous and done at different levels. But when it comes to preferential allotment, it is not so.

The requirement is self-compliance of the SEBI guidelines. This puts, all the more, added responsibility to the stock exchanges in deciding the request for listing. If there is sufficient justification to hold that listing of the securities of a company, whether made by way of public issue through prospectus or on preferential basis, is not in the interest of the securities market and or in the interests of the investors at large, the exchange is at liberty to deny listing permission.

While disposing off another appeal (Ask me Info Hubs Ltd. vs. The Stock Exchange, Mumbai), the SAT raised a policy issue for the consideration of the Ministry of Finance and the SEBI. As per the current practice, further issue of securities requires fresh listing approval for trading on exchanges. It is not clear why fresh approval is required for listing of the same class of securities, especially a preferential issue which is made with the approval of
the shareholders and the pricing of the issue is done as per SEBI guidelines. The authorities concerned should examine the matter and decide as to whether such afresh listing requirement of same type securities by exchanges can be dispensed with subject to compliance of certain guidelines, which SEBI should be in a position to provide taking into consideration the interests of shareholders.

3.7.2 Initiatives from SEBI

I. Corporatisation/Demutualisation of Stock Exchanges

SEBI directed all the recognized stock exchanges in January 2002 to suitably amend their Rules, Articles etc. within a period of two months from the date of the order to provide that no broker member of the stock exchanges shall be an office bearer of an exchange, i.e. hold the position of President, Vice President, Treasurer etc. This would give effect to the decision taken by SEBI and the policy decision of Government in regard to Demutualisation/corporatisation of exchanges by which ownership, management and trading membership would be segregated from each other.

Corporatisation and Demutualisation of stock exchanges are complex subjects and involve a number of legal, accounting, Companies Act related and tax issues. Therefore, SEBI set up in March 2002 a group under the Chairmanship of Justice M. H. Kania, former Chief Justice of India, to recommend the steps that need to be taken to implement the decision regarding demutualisation and corporatisation of the exchanges. The terms Of references of this group were: (I) to review and examine the present structure of stock exchanges including stock exchanges which are set up as company and those set up as un-incorporated bodies and in this regard examine the legal, financial and fiscal
issues involved to corporate and demutualise the stock exchanges, (ii) to recommend the specific steps that need to be taken for implementation and (iii) to advise on the consolidation and merger of the stock exchanges.

II. Listing Agreement

The stock exchanges were advised by SEBI to desist from the practice of granting conditional listing to the companies as it does not comply with section 73 of the Companies Act, 1956. The section 73 envisages a final decision of granting or refusing listing permission to the companies.

The listing agreement was amended in the following manner:

non-promoter holding on a continuous Basis: SEBI directed the stock exchanges in May 2001 to amend their listing agreement to incorporate the requirement of quantitative continuous listing conditions to ensure availability of floating stock on a continuous basis. The listing agreement would provide the following:

i. The company agrees that in the event of the application for listing being granted by the exchange, the company shall maintain on a continuous basis, the minimum level of non-promoter holding at the level of public shareholding as required at the time of listing.

ii. Where the non-promoter holding of an existing listed company as on April 01, 2001 is less than the limit of public shareholding as required at the time of initial listing, the company shall within one year raise the level of non-promoter holding to at least 10%. In case the company fails to do so, it shall buy back the public shareholding in the manner provided in the Takeover Regulations, 1997.

iii. The company agrees that it shall not make preferential allotment or an offer to buy back its securities, if such allotment
or offer would result in reducing the non-promoter holding below the limit of public shareholding specified under the DIP Guidelines, as applicable at the time of initial listing or the limit specified in sub-clause (ii) above for the existing listed company, as the case may be.

These conditions shall not apply to the companies referred to BIFR. The stock exchanges were advised by SEBI to monitor the level of non-promoter holding on a half-yearly basis from the returns submitted by the companies. The non-promoter holding would be a part of half-yearly disclosures by the companies.

The following shall also be the condition for continued listing:

a. When any person acquires or agrees to acquire 5% or more of the voting rights of any securities, the acquirer and the company shall comply with the relevant provisions of the Takeover Regulations, 1997.

b. When any person acquires or agrees to acquire any securities exceeding 15% of the voting rights in any company or if any person who holds securities which in aggregate carries less than 15% of the voting rights of the company and seeks to acquire the securities exceeding 15% of the voting rights, such person shall not acquire any securities exceeding 15% of the voting rights of the company without complying with the relevant provisions of the Takeover Regulations, 1997.

The requirement of at least 5 public shareholders for every Rs. 1 lakh capital issued was withdrawn.

Level of Disclosure: In order to enhance the level of disclosure by the listed companies, SEBI decided to amend the Listing Agreement in August 2001 to incorporate the following recommendations of the Accounting Standards Committee of SEBI:
Amendment to Clause 41

a. Segment Reporting: Companies shall be required to furnish segment wise revenue, results and capital employed along with the quarterly un-audited financial results with effect from the quarters ending on or after September 30, 2001.

b. Accounting for Taxes on Income: Companies shall be required to comply with the accounting standards on accounting for taxes on income in respect of the quarterly un-audited financial results with effect from the quarters ending on or after September 30, 2001.

c. Consolidated Financial Results: Companies shall have the option to publish consolidated quarterly financial results in addition to the un-audited quarterly financial results of the parent company.

Amendment to Clause 32

a. Consolidated Financial Statements: Companies shall be mandatory required publishing Consolidated Financial Statements in the annual report in addition to the individual financial statements. Audit of Consolidated Financial Statements by the statutory auditors of the company and the filing of Consolidated Financial Statements audited by the statutory auditors of the company with the stock exchanges shall be mandatory.

b. Related Party Disclosures: Companies shall be required to make disclosures in compliance with the Accounting Standard on related Party Disclosures in the annual reports.

Insertion of new clause 50

A new Clause shall be added to the Listing Agreement as Clause 50 to provide those companies shall mandatory comply with all the Accounting Standards issued by ICAI from time to time.
Amendment to clauses 19 and 20

SEBI advised stock exchanges in January 2002 to amend the Listing Agreement with immediate effect to ensure transparency and disclosures to the investors on buy back of securities. It advised amendment to clause 19 to require the Companies to give prior notice of at least 7 days to the stock exchanges about the board meetings at which the proposal for buy back of securities is to be considered. It advised amendment to Clause 20 requiring the Companies to intimate the stock exchanges within 15 minutes of the closure of the board meeting about the decision on buy back of Securities Compensation to Aggrieved Party

The Exchanges were advised in May 2002 to amend the listing agreement to provide that the company would compensate the aggrieved party/parties for the opportunity losses caused during the period of delay in cases where there is a delay on the part of the company in either transferring the shares or communicating the objection to the transfer of shares, within the stipulated time period of one month. In addition, the company would provide all benefits, which accrued, to the investor during the intervening period on account of such delay.

III. Takeover Regulations

SEBI amended the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 in October 2001 to increase the creeping acquisition limit provided under Regulation 11(1) from 5% to 10%. This relaxation would be for the period upto September 30, 2002, subject to review, as and when required depending upon the experience. The Regulation 7 of the regulations has also been amended to provide for disclosure of
acquisition under the Regulation 11(1) as well as the pre and post acquisition shareholding and voting rights of the acquirer, in the target company when such acquisition aggregates to 5% and 10% of the voting rights.

SEBI Committee under the Chairmanship of Shri P. N. Bhagwati to review the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997 submitted its report in May 2002. The major recommendations made by the Committee are:

* Change in control would be brought only pursuant to a special resolution passed by the shareholders in a General Meeting and postal ballot should be allowed in respect of such meetings.
* An offer should always be for 20% or above, but the offer may be subject to an acceptance level of less than 20%.
* The provisions relating to public announcement shall not apply to acquisitions (I) by a person in pursuance to an open offer for exchange of shares, (ii) in excess of creeping acquisition limit pursuant to offer of safety net made my promoters/ merchant bankers, and (iii) by international development organizations such as IBRD, ADB, CDC, IFC.
* The acquirers/persons acting in concert would be jointly and severally responsible for fulfillment of obligations under the regulations.
* The offer document would also include an undertaking from the acquirer not to strip substantial assets except with the prior approval of the shareholders of the target company.
* Disclosures would be made at every stage when the acquirer crosses the limits of 5%, 10% and 14%. For acquirers holding 15% and above, purchases or sales at every 2% level should be disclosed.
* Transfer amongst different promoters or groups of promoters made at a price not exceeding 25% price as determined in terms of Regulation 20 would merit automatic exemption.

* Any acquisition of shares in breach of Regulations 10, 11 or 12 of the takeover regulation would be null and void. In case where SEBI feels that as a result of acquisition of any shares, breach of regulations 10, 11 or 12 is likely to take place, it may direct the target company or the depository not to give effect to transfer of any such shares and also not to permit exercise of any voting or other rights attached to such shares.

* Where it is not possible to restore status quo ante for any reason, SEBI can appoint a merchant banker for the purpose of causing disinvestment of shares acquired in breach of regulations either through public auction or market mechanism, in its entirety or in small lots, or through offer for sale. In case of non-compliance with the disclosure requirements, SEBI may have the power to direct disinvestment of such shares as well as impose monetary penalty.

IV. Insider Trading Regulations

SEBI amended the SEBI (Insider Trading) Regulations, 1992 in February 2002 to provide for the following:

i. The amended regulation would be called SEBI (Prohibition of Insider Trading) Regulations, 1992.

ii. The regulation would now cover subscription in the primary issue based on inside information.

iii. A person, who is an intermediary, investment company, trust company, asset management company or an employee or director
thereof or an official of a stock exchange or of a clearing house or corporation, would be deemed to be a connected person.

iv. Price sensitive information would mean any information, which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of a company. Periodical financial results of the company, intended declaration of dividends (both interim and final), issue of securities or buy-back of securities, any major expansion plans or execution of new projects, amalgamation, mergers or takeovers, disposal of the whole or substantial part of the undertaking, and any significant changes in policies, plans or operations of the company would be deemed to be price sensitive information.

v. Speculative reports in print or electronic media would not be considered as published information.

vi. Only dealing in securities based on unpublished price sensitive information is prohibited and communication of price sensitive information per se is not an offence.

vii. Corporate dealing in securities of another company based on inside information is specifically prohibited.

viii. All listed companies and organizations associated with securities market including the intermediaries, asset management company, trustees of MFs, self regulatory organizations, stock exchanges, clearing house/corporations, public financial institutions, professional firms such as auditors, accounting firms, law firms, analysts, consultants etc. assisting or advising listed companies shall frame a code on internal procedure and conduct on lines of model code specified in regulations. These entities shall abide by the Code for Corporate Disclosure Practices specified in the regulations. They shall adopt appropriate mechanisms and procedures to enforce these codes.
ix. Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company, the number of shares or voting rights held by such person, within four working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights, as the case may be. He shall also disclose to the company the change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure and such a change exceeds 2% of total shareholding or voting rights in the company. Any person, who is the director or Officer of a listed company, shall disclose to the company, the number of shares or voting rights held by such person within four working days of becoming director or officer of the company. He shall also disclose the change in shareholding or voting rights, if there has been a change in such holdings from the last disclosure made and the change exceeds Rs. 5 lakh in value or 5,000 shares or 2% of total shareholding or voting rights, whichever is lower. Every listed company within 5 days of receipts of these disclosures shall disclose to all stock exchanges on which the company is listed.

V. Stock Brokers and Sub-Brokers Regulations

SEBI amended the SEBI (stockbrokers and Sub-Brokers) Regulations, 1992 in February 2002 to provide for the following:

i. The fees on jobbing transactions, i.e., deals which are squared off during the same day, which have not been undertaken by the brokers on behalf of clients, shall be computed at the rate of one two hundredth of 1% in respect of sale side of the deal.

ii. In case of Government securities, the fee payable on bonds issued by any public undertaking and the units traded in a similar
manner, shall be computed at the rate of one thousandth of 1% of the turnover.

iii. In case of carry forward, renewal or Badla transactions, the fees shall be charged at one hundredth of 1% of the turnover and the reverse offsetting transactions shall not be counted as part of the turnover.

iv. In case of brokers carrying out transactions in securities without reporting to the exchanges, those transactions shall be taken into account for the purpose of turnover and the fees would be computed at one hundredth of 1% of the turnover. But the trade put through on other exchanges shall be included in the turnover of that exchange if the market for that security does not exist on the exchange of which he is a member and the fees shall be computed at one hundredth of 1% of the turnover.

v. Underwriting and collection of deposits shall however, not be taken into account for computing turnover.

vi. The broker members would be required to pay a sum of Rs. 5,000 for every block of 5 financial years from the 6th financial year after initial registration.

vii. The amendments brought into effect from January 21, 1998 would deem to be in continuation of the old entity in respect of conversion of individual or partnership membership card of the exchange into corporate entity. No fee shall be collected again from the converted corporate entity for the period for which the erstwhile entity has paid the fee as per the regulation.

viii. Any financial liability by broker, which is due, and payable to SEBI under these regulations shall be a factor to be taken into consideration for grant of registration under derivative segment.
SEBI advised the Stock Exchanges to ensure that their brokers/sub-brokers do not advertise their business, including in their internet sites, subsidiaries, group companies etc. SEBI also advised Exchanges to grant trading terminals only at members registered office, branch offices and their registered sub-brokers registered offices to avoid misutilisation of trading terminals for unregistered sub-broking activities. They were also advised to amend their bylaws suitably to prohibit their members from dealing with sub-brokers who are not registered with SEBI.

VI. Investment Advice by Intermediaries

SEBI notified in June 2001 the SEBI (Investment Advice by Intermediaries) (Amendment) Regulations, 2001. This amended a number of SEBI regulations requiring market intermediaries to appoint a Compliance Officer who shall be responsible for monitoring the compliance requirements of the SEBI Act, rules, regulations, notifications, guidelines, instructions, etc. issued by SEBI or Central Government and for redressal of investors grievances. The Compliance Officer shall independently report to the SEBI about any non-compliance observed by him. It also requires that the intermediaries or any of its employees shall not render any investment advice about any security in the publicly accessible media unless a disclosure of his/employees or his dependent family members interest in the said security has been made while rendering such advice.

The intermediaries mandated to have a Compliance Officer are Bankers to an Issue, Credit Rating Agencies, Custodian of Securities, Debenture Trustees, Depositories and Participants, Foreign Institutional Investors, Merchant Bankers, Mutual Funds, Portfolio Managers, Registrars to an Issue and Share Transfer Agents, Stock Brokers and Sub-Brokers and Underwriters. The
Intermediary/Compliance Officer contravening the provisions of the regulations shall be liable for action under the concerned regulation and the SEBI Act.

VI. Rules and Bye-Laws of Stock Exchanges

SEBI had constituted a committee in May 1997 for examining the existing Articles and Memorandum of Association, Rules, Bylaws and Regulations of stock exchanges and framing a uniform set of Rules and Bylaws to be followed by all the stock exchanges in the country. The Committee submitted its report recommending that the NSE, OTCEI and ISE may continue with their existing Articles of Association and Rules. Other recommendations of the committee are:

Membership

In order to be eligible to become a member of a stock exchange, a person may be a graduate or have such higher education as may be prescribed by the Governing Board of the exchange. An existing member not having prescribed qualification may undergo a prescribed refresher course. The new member may pass an SEBI-recognized certificate/diploma course/examination. The members may undergo at least once in three years a refresher course on the syllabus governing the stock market/capital market as may be prescribed by the Governing Board of the Exchange and/or SEBI from time to time.

The membership requirements may apply to at least two designated partners in case of partnership firms and two designated directors/nominees in the case of a company/ body corporate.

Any body and everybody fulfilling the condition legal, educational, financial- should be able to acquire membership.
There may be arrangement for buy back/surrender of membership rights. Every member may appoint compliance officer.

There may be a class of clearing members who can clear and settle trades executed by him/others. A member may be deemed to have become inactive if he fails either to achieve a turnover of at least one-tenth of the average turnover of the members of the stock exchange or fails to trade for a minimum period of 50 trading days in an immediately preceding financial year.

The Governing Boards of stock exchanges may have power to declare a deceased member a deemed defaulter.

Management

In addition to Arbitration, Defaulters and Disciplinary Action Committees, there may be four other standing committees viz., Audit Committee, Membership Selection Committee, Investors Services Committee and Ethics Committee. No committee, other than the Standing Committees, may be formed, the functions of which would either overlap or conflict with the functions of the Managing Director (MD).

* The President of the Stock Exchange shall be renamed as its Chairman who would be non-executive. He would deal with any matter relating to the administration, functions, working and affairs of the stock exchange only at the meetings of the Governing Board and shall not deal with any of the operational or administrative matters. There shall not be any Vice-President and Honorary Treasurer and Trustees.

* SEBI may issue to the public representative’s directions with regard to affairs of an exchange and they may report to SEBI in that behalf. No person may hold the office as a member of the Governing Board after he completes seventy-five years of age.
The president of the Governing Board may be elected from amongst the members of the Governing Board. This would enable a nominated member of the Governing Board also to become the Chairman of the stock exchange.

The Executive Director may be redesigned as MD, who would be the sole deciding authority on all matters concerning the day-to-day management, operations and administration of the stock exchange. The powers of the MD need to be clearly spelt out in order to enable him to discharge the duties cast on him promptly and efficiently.

The appointment of MD shall ordinarily be for tenure of five years, and will be normally renewed, subject to superannuating upon completion of 60 years of age.

The stock exchanges may publish on half-yearly basis details of size and utilisation of Settlement Guarantee Fund, Investors Protection Fund and Investors Services Fund, number of cessation of membership rights including declaration of defaulters and expulsions and number of surrender of membership rights, etc.

The annual statement of income and expenditure and balance sheet and half-yearly report may be posted on the stock exchanges in their respective websites and copies may be made available to investors, intermediaries and general public at a reasonable cost.

VII. Unique Client Code

SEBI made it mandatory for all brokers to use unique client codes for all clients. Brokers shall collect and maintain in their back office the Permanent Account Number (PAN) allotted by Income Tax Department for all their clients. Sub-brokers will similarly maintain the same for their clients. Where an individual
client does not have PAN, such a client shall be required to give a declaration to that effect and until the PAN is allotted, such client shall furnish passport number and place and date of issue. Where the client does not have a PAN or a passport, such client shall furnish driving license number, place and date of issue. If none of the above is available, the client shall give his voter ID number. Until the PAN is allotted, SEBI registration number for FIIs and sub-account shall be used for FIIs (where FII itself is the investing entity) and their sub-accounts, and the unique registration number issued by the relevant regulatory authority shall be used for tax paying body corporate and non-tax paying entities. SEBI registration number followed by any number given by mutual fund to denote Scheme/Plan shall be used for mutual funds.

Brokers shall verify the documents with respect to the unique code and retain a copy of the document. They shall also be required to furnish the above particulars of their clients to the stock exchanges/clearing corporations and the same would be updated every quarter. The stock exchanges shall be required to maintain a database of client details submitted by brokers. Historical records of all quarterly submissions shall be maintained for a period of seven years by the exchanges. The above requirement shall be applicable for clients having order value of Rs. 1 lakh or more and shall be enforced w.e.f. August 01, 2001.

Initiatives from RBI

I. Bank Financing for Margin Trading

Based on the recommendations of the RBI-SEBI Technical Committee, RBI had permitted banks to extend finance to stockbrokers for margin trading. RBI reviewed the
Guidelines in consultation with major commercial banks and decided in November 2001 that the Board of each bank should formulate detailed guidelines for lending for margin trading subject to the following parameters:

i. The finance extended for margin trading should be within the overall ceiling of 5% prescribed for exposure to capital market.

ii. A minimum margin of 40% should be maintained on the funds lent for margin trading.

iii. The shares purchased with margin trading should be in dematerialized mode, under pledge to the lending bank. The bank should put in place an appropriate system for monitoring and maintaining the margin of 40% on a regular basis.

iv. The banks Board should prescribe necessary safeguards to ensure that no nexus develops between inter-connected stock broking entities/stockbrokers and the bank in respect of margin trading. A bank among a reasonable number of stockbrokers and stock broking entities should spread margin trading out.

The Audit Committee of the Board should monitor periodically the banks exposure by way of financing for margin trading and ensure that the guidelines formulated by the banks Board, subject to the above parameters, are complied with.

II. FII Investments

Under the FEMA (Transfer on Issue of Security by a Person Resident outside India) 2000, the total holdings of all FIIIs put together shall not exceed 24% of the paid-up capital. These regulations were amended in September 2001 to provide that the limit of 24% can be increased up to the sectoral cap/statutory ceiling, as applicable, provided this has the approval of the Indian companies board of directors and also its general body.
III. ADR/GDR Fundability

RBI issued in February 2002 the guidelines for the limited two-way fundability of Drs/GDRs under the Foreign Exchange Management Act, 1999. Under the said guidelines, re-issuance of ADRs/GDRs would be permitted to the extent of ADRs/GDRs that have been redeemed into underlying shares and sold in the domestic market. No specific permission from RBI would be needed for re-conversion. The re-conversion of shares into depository receipts would be distinct from portfolio investment by Foreign Institutional Investors (FIIs). The transactions would be demand driven and as such would not require company involvement or fresh permissions. The custodian would be responsible for monitoring the reissuance of the depository receipts within the sectoral cap fixed by the Government. Each purchase transaction would be only against delivery and payment received in foreign exchange through banking channels. The transaction would be effected through SEBI registered stock brokers as intermediaries between foreign investors and domestic shareholders. The acquisition of shares through the intermediary on behalf of overseas investors would fall within regulatory purview of SEBI.

3.8 OPERATIONAL REVIEW

The Securities and Exchange Board of India Act, 1992 provides for the establishment of the Board to:

Protect the interest of the investors in securities

Promote the development of, and

Regulate the securities market and matters connected therewith or incidental to.
The Securities and Exchange Board of India (SEBI) has chalked out a vision of becoming the "Most Dynamic and Respected Regulator-Globally".

The Strategic Action Plan has identified four key spheres and has set strategic aims for each of the following spheres:

**INVESTORS (CONSUMERS).**

'Investors are enabled to make informed choices and decisions and achieve fair deals in their financial dealings'

**FIRMS (CORPORATE)**

'Regulated firms and their senior management understand and meet their regulatory obligations'

**FINANCIAL MARKETS (EXCHANGES, INTERMEDIARIES) AND**

'Consumers and other participants have confidence that markets are efficient, orderly and clean'

**REGULATORY REGIME.**

'An appropriate, proportionate and effective regulatory regime is established in which all the 'stakeholders' have confidence'.

**INVESTORS**

A Number of steps have been taken to ensure that investors are enabled to make informed choices and decisions and achieve fair deals in their financial dealings. Some of them are:

Electronic Data Filing and Retrieval System (EDIFAR) was made operational in July 2002. This is an automated web based system for filing, retrieval and dissemination of information pertaining to corporate. For period ending December 2002, 1200 companies are required to electronically file the documents.

Benchmarking has been made compulsory for debt oriented and balanced funds for providing objective analysis of the performance of the mutual fund schemes. A Code of conduct for Mutual fund intermediaries has been prescribed.
Guidelines for Risk Management System issued and implemented for the Mutual Funds in order to eliminate/minimize the risks in operations of Mutual Funds.

Guidelines have been issued for the valuation of unlisted equity shares by Mutual Funds with a view to bringing about uniformity in the calculation of NAV. A provision of nomination for the unit holders has been introduced. This also was an investor friendly measure. Mutual Funds have been advised to follow a uniform method to calculate the sale and repurchase price. This would avoid creation of confusion in the minds of the investors.

SEBI prohibited rebating and discounting by the Mutual Funds, thus, ensuring that all investors get fair treatment. Guidelines were issued to Mutual Funds for exercising due diligence while making investments in unlisted equity shares. The mutual funds now cannot buy unlisted equity shares at a price higher than the price worked out in accordance with detailed pricing formula. Thus mutual funds cannot buy unlisted equity shares at arbitrary high prices. A detailed study done on unit holding pattern in mutual funds industry for the first time and the same is available on the SEBI web site.

With a view to improving corporate governance standards, trustees who act as first line regulators are now required to meet on bi-monthly basis instead of earlier requirement of meeting on quarterly basis. They are required to review the performance and
compliance of regulations on bi-monthly basis. Depository charges for investors were rationalized after a SEBI initiative. Depository Participants have been directed that any depository participant shall impose no Account closure charges on the closure of any Beneficial Owner accounts. Quarterly secretarial audit has been made mandatory for listed entities to reconcile the issue capital and electronic shares. 65 orders were passed against Collective Investment Schemes (Plantation Schemes) entities under Section 11B of the SEBI Act, 1992 and 43 cases of prosecutions launched against errant promoters of these entities. Out of the 25,929-investor complaints received during this the respective companies redressed period 15066 complaints.

3.8.1 CORPORATES

Prof Varma committee reviewed SEBI (Employee Stock Option Scheme & Employee Stock Purchase Scheme) Guidelines, 1999 to strengthen the same and to remove glitches, if any, in the operations of the same. The committee inter-alia recommended mandatory disclosure of the fair value of the ESOPs (i.e. using Black Schools or similar models), the impact on profits and on EPS of the company, had the company expensed the ESOPs on fair value basis and also relaxation from lock-in requirement subject to certain disclosures in the offer document in case company is going for IPO after the grant of options.

The Accounting Standards Committee has recommended additional disclosures for investment in associate and subsidiaries. It also recommended introduction of half yearly audited consolidates results and quarterly audit review.
Credit Rating Agencies have been asked to develop models for rating corporate governance on the principles of wealth creation, wealth management and wealth sharing. This would ensure that corporate adhere to the 'substance' element of corporate governance. Code of conduct has been specified for listed entities and regulated firms under the Insider Trading Regulations. SEBI brought a scheme to enable individuals and companies to disclose the irregularities in reporting of acquisition of shares under the SEBI (SAST) Regulations, 1997.

3.8.2 MARKETS and INTERMEDIARIES

Due to a downturn in economic activity, the Primary Market remained sluggish during this period. 8 equity issues for Rs. 1238.65 crore and 4 debt issues for Rs. 750 crore had hit the markets till November 30, 2002. 39 mutual funds (including UTI, which is not registered with SEBI) and their 392 schemes, which are managing assets worth Rs. 121392.80 crore, mobilized Rs. 182741 crore during this period. After adjustment of repurchases/redemption there has been net inflow of Rs. 16369 crore in the mutual funds industry during April- November 2002. 489 FIIs with their 1337 sub accounts made a net investment of Rs. 313 crore during this period (as on December 30, 2002). The FIIs have made a cumulative net investment of Rs. 58,960 crore in the securities markets since 1992.
Table: 3-6 Detailed List Of Other Market Intermediaries Registered with SEBI is as follows:

<table>
<thead>
<tr>
<th>Intermediaries As on 30.11.02</th>
<th>No.s</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchant Bankers</td>
<td>134</td>
</tr>
<tr>
<td>Underwriters</td>
<td>52</td>
</tr>
<tr>
<td>Portfolio Managers</td>
<td>49</td>
</tr>
<tr>
<td>RTI/STA</td>
<td>118</td>
</tr>
<tr>
<td>Debenture Trustees</td>
<td>37</td>
</tr>
<tr>
<td>Bankers to Issue</td>
<td>70</td>
</tr>
<tr>
<td>Depositories</td>
<td>2</td>
</tr>
<tr>
<td>Depository Participants NSDL</td>
<td>213</td>
</tr>
<tr>
<td>CSDL</td>
<td>183</td>
</tr>
<tr>
<td>Custodians</td>
<td>11</td>
</tr>
<tr>
<td>Credit Rating Agencies</td>
<td>4</td>
</tr>
<tr>
<td>Venture Capital Funds – Foreign</td>
<td>6</td>
</tr>
<tr>
<td>Venture Capital Funds – Domestic</td>
<td>39</td>
</tr>
<tr>
<td>Mutual Funds</td>
<td>39</td>
</tr>
<tr>
<td>Stock Exchanges</td>
<td>23</td>
</tr>
<tr>
<td>Subsidiaries of Stock Exchanges</td>
<td>12</td>
</tr>
<tr>
<td>Brokers</td>
<td>11379</td>
</tr>
<tr>
<td>Sub-Brokers</td>
<td>13301</td>
</tr>
</tbody>
</table>

During the period under review, 89 open offers worth Rs. 10454 crore were made to the Public. The derivative markets also witnessed keen participation by investors. Though derivatives are new to the Indian markets, a turnover of Rs. 39836 crore in derivative segments was recorded in November 2002.

In order to achieve the aim of ensuring that consumers and other participants have confidence that markets are efficient, orderly and clean, SEBI has initiated many steps. Some of these are:
The exchanges were directed to follow compulsorily T+3 rolling settlement for all listed securities with effect from April 1, 2002.

SEBI directed the stock exchanges to implement the decision to abolish no delivery period by May 1, 2002 because both closure/record dates for corporate actions in respect of securities compulsorily traded in demat mode.

Dual fungibles of AD/GDR were made operational after the issuance of the necessary guidelines by SEBI. Inter - depository transfer through on-line connectivity was established between CDSL and NSDL.

The first phase of Straight Through Processing (STP) on the securities market was made operational on December 2, 2002. The recommendations of the Advisory Committee on Derivatives have been approved. Exchanges have been directed to establish a comprehensive surveillance mechanism for tracking the derivative markets.

A committee under the Chairmanship of Justice M.H. Kania was constituted to review and examine the present structure of stock exchanges and examine the legal, financial and fiscal issues involved to corporatise and demutualise the stock exchanges. The recommendations have been approved by the Board and are under implementation. As a prelude to this, non-member directors now manage the exchanges.

A SEBI committee on Delisting of Securities has made recommendation with a view to ensure just and fair deal to investors. The Committee recommended setting up of Central Listing Authority and made recommendations to make the delisting process transparent, efficient and investor friendly.
A group set up to review SEBI (Debenture Trustees) Regulations, examined various aspects of the regulations and recommended harmonization of the regulations with the similar provisions in the Companies Act, strengthening of eligibility criteria for Debenture Trustees, mandatory dissemination of information by the company through various means, sharing of information by Debenture Trustees with the Credit rating agencies etc. The group also gave recommendations calling for amendments in other Acts like Companies Act etc. Step by step procedure of registration of Mutual Funds, VCFs, and Foreign Venture Capital Investors put on SEBI website for transparency and to expedite the registration process.

3.8.3 REGULATORY REGIME

The SEBI Act, 1992 was amended in October 2002 and SEBI's powers were enhanced to check cases of insider trading, fraudulent and unfair trading practices in securities markets and market manipulation in order to protect the investors. SEBI has been given powers to levy deterrent penalties against individuals, corporate and individuals in the matters related to market manipulation, insider trading and fraudulent practices.

As per the amendments, the SEBI Board has been enlarged with the provision of three full times Board members. The Securities Appellate Tribunal has been converted into a three-member body with a sitting or retired judge of Supreme Court or a sitting or retired Chief Justice of High Court as the presiding officer. In an effort to enhance regulatory transparency all the orders passed by the Securities Appellate Tribunal and Chairman, SEBI are being posted on the SEBI website with effect from June 20, 2002.
It was felt that participation of regulates, as also the nation at large in the process of designing the regulation will improve the efficacy of regulations. With this end in view, a consultative mechanism was established by placing reports of committees and draft regulations on the SEBI website and seeking comments, suggestions and opinions.

The following reports were posted on the website during this period:
* Report of the Justice Bhagwati Committee to review the SEBI Regulations, 1997
* Bhave Committee Report on Reduction of Cost for the investors relating to demat operation
* Draft Regulations on procedure for holding enquiry by enquiry officer and imposing penalty
* Report of the Committee on Delisting of Shares
* Report of the committee for implementation of Straight through Processing (STP) in Indian Securities Market
* Report of the Group on Corporatisation and Demutualisation of Stock Exchanges in India
* Report of SEBI Advisory Committee on derivative on the Development and Regulation of Derivative Markets in India
* Report of the Committee on formation of an "SRO" for Merchant Bankers
* AMFI Report for launch of Real Estate Investment Schemes
* Report of the Committee on formation of an "SRO" for Underwriters
* Recommendations of the Committee on review of SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines 1999.

**Recommendations of the Primary Market Advisory Committee**

Report of the committee on review of SEBI (Debenture Trustee) regulations and of relevant provisions in SEBI (DIP) Guidelines. Apart from the involvement of regulates in this process, this exercise also has the profound impact of the regulates being aware of the changes in the regulations framework in advance.

The Chairman against intermediaries and individuals passed 452 orders and directions. 73 entities and individuals were debarred from dealing in securities/accessing the capital markets, while registration of 121 entities was cancelled.

During this period 143 prosecution cases were initiated against 429 individuals pursuant to prosecutions, conviction orders against 6 individuals was passed. 7 exchanges and 6 subsidiaries of exchanges were inspected during this period. 140 brokers were inspected and inquiries were initiated against 36 brokers. Adjudication proceedings were initiated against 14 brokers and registrations of 110 brokers have been cancelled. Notices were issued to 52 companies for not responding to the requests of dematerialization and prosecution was launched against one company.
SEBI has signed a Memorandum of Understanding with the Financial Services Commission, Mauritius on information sharing and mutual co-operation. SEBI participated at the IOSCO Annual General Meeting in Istanbul in May 2002 and IOSCO Emerging Markets Committee Meeting in Kuala Lumpur in October 2002. SEBI is a member of the IOSCO Screening Committee for the IOSCO Multilateral MOU on co-operation and information sharing. SEBI is a member in IOSCO Committee on setting up of Benchmarks for the IOSCO Objectives and Principles of Securities Regulation. SEBI was elected as a Member of the IOSCO EMC Advisory Board. SEBI is also a member of the CPSS-IOSCO Task Force on Securities Settlement Systems. SEBI participated in the IOSCO Internet Surf Day.

SEBI conducted various programs and contests during the Hindi fortnight in September 2002 in order to propagate the importance of Hindi. (Official Language) Vigilance Awareness Week was celebrated by SEBI in October 2002 and Chairman issued a message to all employees highlighting the importance of corruption-free society.
3.9 CONCLUSION

The SEBI was established on 2nd April 1998 and became statutory body in 1992. SEBI ensures that the interest of investors is protected and development of securities market is well promoted. It has twin role of development and regulation for healthy capital market development.

The objectives of SEBI are to promote interests, create confidence, educate, protect, create awareness to investors and promote the development of securities market, efficient services, inducing transparency, creating effective surveillance system, provide a regulatory framework in ICM.

The work of SEBI has been organized into seven departments to look after specific function of SEBI with three regional offices and it has 196 officers to work and 161 staff members in various cadres. The function of SEBI was divided into regulatory and developmental functions. SEBI has certain duties to perform. It can frame or issue rules, regulations, directives, guidelines, norms to primary and secondary markets, intermediaries and to certain financial institutions. SEBI is empowered through SCRA and Government by delegation of powers. With effect from 1995, SEBI has been empowered to impose penalties on different intermediaries for defaults.
The SEBI has chalked out a vision of becoming the 'most dynamic and respected regulator – globally.' And it has drawn a Strategic Action Plan to realize this vision. But SEBI also have some drawbacks which limits its functions like, bureaucratic administration, lack of professionalism, complex procedures, lack of adequate powers, weak legislation etc.

SEBI adopted various policies and programs to improve and develop ICM. It took a number of policy initiatives for capital markets like — Rolling settlement, unique client identification, Risk containment measures, disclosure measures, Corporitisation of exchanges, granting trading terminals, fee imposing to brokers, Securities lending scheme, introducing derivatives trading, price bands and circuit breakers, allowing FIIs to trade, dematerialization, controlling insider trading, regulating Mutual Funds, corporate governance etc to strengthen the capital markets.

Along with the above mentioned policies and programs there are several initiatives are taken by Government through a Joint Parliamentary Committee, SEBI through guidelines, and amendments to Acts.