1. INTRODUCTION

India currently has two major stock exchanges—the National Stock Exchange, established in 1994, and the Bombay Stock Exchange (BSE), the oldest stock exchange in Asia, established in 1875. Until 1992 the BSE had a monopoly, marked with inefficiencies, high costs of intermediation, and manipulative practices, so external market users often found themselves disadvantaged. The economic reforms of the early nineties created four new institutions: the Securities and Exchanges Board of India (SEBI), the National Stock Exchange, the National Securities Clearing Corporation, and the National Securities Depository. The National Stock Exchange (NSE) is a limited liability company owned by public sector financial institutions and now accounts for about two-thirds of the stock trading in India, as well as virtually all of its derivatives trading. The National Securities Clearing Corporation is the legal counter-party to net obligations of each brokerage firm, and thereby eliminates counter-party risk and the possibility of payments crises. It follows a rigorous ‘risk containment’ framework involving collateral and intra-day monitoring. The NSCC, duly assisted by the National Securities Depository, has an excellent record of reliable settlement schedules since its inception in the mid-1990s.

The Securities and Exchanges Board of India has introduced a rigorous regulatory regime to ensure fairness, transparency and good practice. For example, for greater transparency, the SEBI has mandated disclosure of all transactions where the total quantity of shares is more than 0.5% of the equity of the company. Brokers must disclose to the Stock Exchange, immediately after trade execution, the name of the client and other trade details, and the Exchange must then disseminate this information to the general public on the same day. The new environment of improved transparency, fairness, and efficient regulation led BSE to also become a transparent electronic limit order
book market in 1996, with an efficient trading system similar to the NSE. Equity and equity derivatives trading in India has skyrocketed to record levels over the last ten years.

Currently, about 5000 companies are listed and traded on NSE and/or BSE. While the dollar value of trading on the Indian stock exchanges is much lower than the dollar value of trading in Europe or the United States, it is important to note that the number of equity trades on BSE/NSE is about ten times greater than that of Euronext or the London Stock Exchange, and of the same order of magnitude as that of NASDAQ and the New York Stock Exchange. Similarly, the number of derivatives trades on NSE is several times greater than that of Euronext or London, and is comparable to US derivatives exchanges.

The number of trades is an important indicator of the extent of investor interest and participation in equities and equity trading, and provides important incentives for improving corporate governance practices in India.

Listing agreement is a very important document for investor protection. Listing of Securities on Indian Stock Exchanges is essentially governed by the provisions in the Companies Act, 1956, the Securities Contracts Regulation Act 1956, the Securities Contracts (Regulation) Rules 1957, Rules, bye laws, Regulations concerned stock exchanges, listing agreement entered into by the issuer and stock exchange and circulars/guidelines issued by the Central Government and SEBI. The Securities Contract (Regulation) Act, 1956 contains main provisions regarding recognition of stock exchanges and listing of securities. Therefore, it is essential to discuss the provisions of SCRA in details.

In previous chapter we have discussed the issue of IPO (primary market). In this chapter, we will discuss the regulation in secondary market. Before going to discuss the regulatory provision, we have take a look about secondary market’ meaning. The Secondary market is the market for previously issued securities or financial instruments. The secondary market enables those who hold securities to adjust their holdings in response to changes in their assessment of risk and return. They also sell in securities for cash to meet their liquidity needs. The price signals, which subsume all information about the issuer and his business including, associated risk, generated in the secondary market, help the primary market in allocation of funds.
The trading in secondary market is through recognised stock exchanges for example Bombay stock Exchange, National stock exchange etc. Besides the SEBI, the stock exchanges’ working are regulated and recognised by the Securities Contracts (Regulation) Act, 1956. Therefore, it is necessary to discuss about provisions of the Securities Contracts (Regulation) Act those applicable to secondary market’s functionaries.


Trading in secondary market is possible through recognised stock exchanges. These exchanges must have recognition from Central Government or from Securities and Exchange Board of India. The provisions of recognition are prescribed by the Securities Contracts (Regulation) Act 1956. The main provisions are as under :-

2.1 Object of the Act- The Securities Contracts (Regulation) Act\(^{163}\), 1956 is enacted to prevent undesirable transactions in securities by regulating the business of dealing therein by providing for certain other matters connected therewith. It was enacted in the seventh year of the Republic Of India.

2.2 Important Definitions defined under the Act :-

a) Contract\(^{164}\) - “contract” means a contract for or relating to the purchase or sale of securities.

b) Corporatisation\(^{165}\) - “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society.

c) Demutulisation - “demutualisation” means the segregation of ownership and management from the trading rights of the members of

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\(^{163}\) [42 of 1956], date of operation 20-02-1957 vide SRO 528 dated 16-02-157

\(^{164}\) Section 2(a) of the SCR Act, 1956

\(^{165}\) Section 2(aa) of the SCR Act, 1956, Inserted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004
a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;

d) Derivative.\(^{166}\) “derivative” includes—

(a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(b) a contract which derives its value from the prices, or index of prices, of underlying securities;

e) Government Security - Government security means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944.

f) Option in securities- “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a teji, a mandi, a teji mandi, a galli, a put, a call or a put and call in securities.

g) Recognised Stock Exchange.\(^ {167}\) “recognised stock exchange” means a stock exchange which is for the time being recognised by the Central Government under section 4.

h) Rules - “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association.

i) Scheme- “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

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

   (ii) the restrictions on voting rights;

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\(^{166}\) Section 2 (ac) of the SCRAct, 1956

\(^{167}\) Section 2(f) of the SCR Act, 1956
(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;
(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;
(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange.

(i) Securities Appellate Tribunal - “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992.

(j) Securities - “securities” include— shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate; derivative\(^{168}\); units or any other instrument issued by any collective investment scheme to the investors in such schemes, security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, units or any other such instrument issued to the investors under any mutual fund scheme, Government securities, such other instruments as may be declared by the Central Government to be securities and rights or interest in securities.

(k) Spot Delivery Contract- “spot delivery contract” means a contract which provides for-

a. actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefore through the post being

\(^{168}\) Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-02-2000
excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality.

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

(I) Stock Exchange - “stock exchange” means any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or a body corporate incorporated under the Companies Act, 1956 whether under a scheme of corporatisation and demutualisation or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

3. RECOGNITION STOCK EXCHANGES

Section 3 and 4 of the Securities Contract (Regulation) Act, 1956 contains the provisions relating to recognition of Stock Exchanges. The central Government has the power to grant recognition to stock exchanges. Simultaneously, the SEBI is also empowered to give recognition and such powers as Central Government can exercise in relation to grant of recognition etc. The procedure of application for recognition and grant of recognition is prescribed as under :-

3.1 Application for recognition of stock exchanges

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

  (a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

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169 Powers are exercisable by SEBI also
170 Section 3 of the SCR Act, 1956
(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and readmission of members.

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

3.2 Grant of recognition to stock exchanges.- If the Central Government is satisfied, after making such inquiry as may be necessary and after obtaining such further information and satisfied himself that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors. The central Government is satisfied that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and the Central Government or SEBI, as the case may be, find that in the interest of the trade and also in the public interest to grant recognition to the stock exchange; it may grant recognition to the stock exchange subject to the conditions imposed upon it. The conditions which the Central Government may prescribe under may include, among other matters, conditions relating to the qualifications for membership of stock exchanges, the manner in which contracts shall be entered into and enforced as between members and the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and the maintenance of accounts
of members and their audit by chartered accountants whenever such audit is required by the Central Government.

Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office as of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India. The application for the grant of recognition shall not be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall in writing.

In the case of Madhubhai Amathalal Gandhi Vs. The Union of India (UOI)\textsuperscript{171}, the petition challenging constitutional validity of notification issued by Central Government under Section 4 of Contracts (Regulation) Act, 1956 contending that Standard prescribed for classification of active member and other members of Stock Exchange is unreasonable and violative of Article 14. The onus on petitioner to prove that classification is unreasonable and petitioner had not placed any material to prove that standard for ascertaining active membership is arbitrary or unreasonable. The Supreme Court held that the classification is reasonable and not violative of Article 14 of constitution.

### 3.3 Corporatisation and demutualisation of stock exchanges\textsuperscript{172}

On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised as per following procedure-

1. All recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall, within time prescribed by SEBI, submit a scheme for corporatisation and demutualisation for its approval. However, the SEBI may specify the name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme.

\textsuperscript{171} MANU/SC/0023/1960, AIR 1961 SC 21

\textsuperscript{172} Section 4A of the SCR Act, 1956, the section is inserted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004
(2) On receipt of the scheme, the Securities and Exchange Board of India may, after making such enquiry as may be necessary and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) The scheme shall not be approved by SEBI if the issue of shares for a lawful consideration or provisions of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved, the same shall be published immediately by SEBI in official Gazette and by the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the SEBI and upon such publication the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised stock exchange and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) However, if SEBI is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under, it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette.

(6) The Securities and Exchange Board of India may, while approving the scheme by an order in writing, restrict—

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

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

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

(7) The order made in point no. (6) shall be published in the Official Gazette.

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

4. Withdrawal of recognition of Stock Exchange\textsuperscript{173} - If the Central Government/SEBI is of opinion that the recognition granted to a stock exchange should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice in this regard and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange. However, it will not have any effect on the validity of any contract entered into before the date of such notification.

Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme or the scheme has been rejected by the Securities and Exchange Board of India, the recognition granted to such stock exchange stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition. However, it will not have any effect on the validity of any contract entered into before the date of such notification.

\textsuperscript{173} Section 5 ibid
5. Powers of Central Government / SEBI regulating the affairs of Stock Exchanges

5.1 Power of Central Government to call for periodical returns or direct inquiries to be made\textsuperscript{174} - Every recognised stock exchange shall furnish to the Securities and Exchange Board of India such periodical returns relating to its affairs as may be prescribed. Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times by the Securities and Exchange Board of India. The SEBI, if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the Securities and Exchange Board of India may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the Securities and Exchange Board of India within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the Securities and Exchange Board of India.

Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has

\textsuperscript{174} Section 6 ibid
been undertaken (a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly; shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

5.2 Annual reports to be furnished to Central Government by stock exchanges175.- Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

5.3 Power of Central Government to direct rules to be made or to make rules.- Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefore, direct recognised stock exchanges to make any rules or to amend any rules already made in respect of all or any of the matters within a period of two months from the date of the order.

If any recognised stock exchange fails or neglects to comply with any order made within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or

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175 Section 7 of the Securities Contract Regulation Act, 1956
with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate.

5.4 Power of Securities and Exchange Board of India to make or amend bye-laws of recognised stock exchanges\(^\text{176}\). - Where SEBI satisfied on the request of stock exchange or of its own motion that it is necessary to make bye laws or amend bye laws, the bye laws or amendment in bye laws can be made by it. These bye laws shall be published in Gazette. The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication.

5.5 Power of Central Government to supersede governing body of a recognised stock exchange- where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then the Central Government may serve on the governing body a written notice that it is considering the suppression of the governing body, then it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded. It may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

5.6 Power to suspend business of recognised stock exchanges.- If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding

\(^{176}\) Section 10 ibid
seven days. if, in the opinion of the Central Government, the interest of
the trade or the public interest requires that the period should be
extended, may, by like notification extend the said period from time to
time.

5.7 Power to issue directions.- If, after making or causing to be made an
inquiry, the Securities and Exchange Board of India is satisfied that it
is necessary—
(a) in the interest of investors, or orderly development of securities
market; or
(b) to prevent the affairs of any recognised stock exchange or clearing
corporation, or such other agency or person, providing trading or
clearing or settlement facility in respect of securities, being
conducted in a manner detrimental to the interests of investors or
securities market; or
(c) to secure the proper management of any such stock exchange or
clearing corporation or agency or person, referred to in clause (b),
it may issue such directions,—
(i) to any stock exchange or clearing corporation or agency or
person referred to in clause (b) or any person or class of
persons associated with the securities market; Or
(ii) to any company whose securities are listed or proposed to be
listed in a recognised stock exchange, as may be appropriate in
the interests of investors in securities and the securities market.

5.8 Power of Securities and Exchange Board of India to make regulations-
Without prejudice to the provisions contained in section 30 of the
Securities and Exchange Board of India Act, 1992, the Securities and
Exchange Board of India may, by notification in the Official Gazette,
make regulations consistent with the provisions of this Act and the
rules made there under to carry out the purposes of this Act.
In particular and without prejudice to the generality of the foregoing
power, such regulations may provide for the manner in which at least
fifty-one per cent of equity share capital of a recognised stock
exchange is held within twelve months from the date of publication of
the order under sub-section (7) of section 4B by the public other than
the shareholders having trading rights under sub-section (8) of that section.

Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

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

6. Powers of Stock Exchanges
6.1 To make rules restricting voting rights, etc.- A recognised stock exchange may make rules or amend any rules made by it to provide for all or any of the following matters, namely:—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

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

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

The rules of a recognised stock exchange made or amended in relation to any matter shall not have effect until they have been approved by the Central Government and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956.

6.2 To make bye-laws- Any recognised stock exchange may, subject to the previous approval of the Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts. In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for:

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

(b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;

(c) the submission to the Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the Securities and Exchange Board of India] may, from time to time, require, namely:—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

(d) the publication by the clearing house of all or any of the particulars submitted to the Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of budlas or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of taravani business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;
(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in such emergencies, including the power to fix maximum and minimum prices for securities;

(t) the regulation of dealings by members for their own account;

(u) the separation of the functions of jobbers and brokers;

(v) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

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

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

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

(i) fine,

(ii) expulsion from membership,

(iii) suspension from membership for a specified period,

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

6.3 Contracts in derivative\textsuperscript{177}— contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

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

\textsuperscript{177} Section 18A of the SCR Act, 1956
7. Licensing of dealers in securities in certain areas\textsuperscript{178} - no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a licence granted by the Securities and Exchange Board of India in this behalf.

No notification shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing. The restrictions imposed in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

8. Stock exchanges other than recognised stock exchanges prohibited\textsuperscript{179} - No person shall, except with the permission of the Central Government, organize or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

The court has pronounced order in the matter of Mahesh Ratilal Shah Vs. Union of India (UOI) and Ors\textsuperscript{180}. The petitioner sought direction against Union of India and SEBI to withdraw recognition granted to BSE for alleged non-compliance with provisions of Sections 7 and 9 of Act, 1956 and also for cancellation of SEBI registration of all relevant 90 members of Stock Exchange for fraudulently inducing investors to trade in forged scripts of M/s Presto Finance Ltd. and to declare the Rules, Bye-laws and Regulations of BSE as illegal, void and ultra vires. The Petition was dismissed by High Court, hence the petitioner filed the present petition. The Supreme Court held that petitioner unable to make any case of malafides or irregularity on the part of Bombay Stock Exchange with regard to listing and subsequent de-listing of

\textsuperscript{178} Section 17 of the SCR Act, 1956 \\
\textsuperscript{179} Section 19 ibid \\
\textsuperscript{180} MANU/SC/0048/2010, AIR 2010 SC 676
scrip of M/s Presto Finance Ltd. Publication of Rules and Bye-laws of Stock Exchange was not intended in Securities Contract (Regulation) Act, 1956, as otherwise some provision would have been made in the Act with regard to pre-recognition Rules and Bye-laws — While the Act provides for publication of amendments to the Rules and Bye-laws after grant of recognition, the Act is silent with regard to the publication of the pre-recognition Rules or Bye-laws which were already in existence and had been acted upon all along. No reason to interfere with order of Bombay High Court impugned in present SLP and SLP dismissed. Therefore, “Fraudulent and unfair trade practice to be proved by cogent evidence.”

9. LISTING OF SECURITIES AT RECOGNISED STOCK EXCHANGES

9.1 Meaning of Listing\textsuperscript{181} - Listing means admission of securities of any incorporated company, Central and state Governments, Quasi Governmental and other financial institutions/ corporations, municipalities, electricity, housing boards, etc to dealings on a recognised stock exchange. ‘Listing’ denotes the permission granted by a recognised stock exchange to a public company for the purpose of the company’s particular securities being traded or dealt on the stock exchange, which has granted such permission. Listing means the admission of the securities of a company to trading privileges on a stock exchange. The Supreme Court held in the matter of the Raymond Synthetics Ltd. Vs Union of India\textsuperscript{182} that the principal objectives of listing are to provide ready marketability and impart liquidity and free negotiability to stocks and shares. Ensure proper supervision and control of dealings therein; and protect the interest of shareholders and of the general investing public”.

\textsuperscript{181} Chapter 7 of the Bharat’s SEBI Compendium 4\textsuperscript{th} edition page no. 411.
The Companies Act makes it obligatory for companies intending to offer shares or debentures to the public for subscription by the issue of a prospectus, to make an application to one or more recognised stock exchanges for permission for the shares or debentures intending to be so offered to be dealt in the Stock Exchange or each such Stock Exchange.

The Supreme Court has held in the case of Raymond Synthetics Ltd. Vs Union of India that a public limited company has no obligation to have its shares listed on a recognised stock exchange. But if the company intends to offer its shares or debenture to the public for subscription by the issue of a prospectus it must before issuing such prospectus, apply to one or more recognised stock exchanges for permission to have the shares or debentures intended to be so offered to the public to be dealt with each such stock exchange in terms of section 73 of the Companies Act. This has also been held by the Supreme Court in the matter of Union of India Vs Allied International Products Ltd.

9.2 Advantages of listing - The stock exchange offers for listed securities an open trading platform where buyers and sellers from all over the country trade on terms of perfect equality and evolve a competitive market price. The following are some of the specific advantages of listing to its different beneficiaries:

9.2.1 To the investors:

1. Since the securities are officially traded, liquidity of investment by the investors is well ensured;
2. rights entitlement in respect of further issues can be disposed of in the market;
3. investment in listed securities are well preferred by bankers for extending loan facility;
4. official quotations of the securities on the stock exchange corroborate the valuation taken by the investors for purposes of tax assessments under Income Tax Act, Wealth Tax Act etc.

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183 Section 73(1) of the Companies Act, 1956
184 (1992) CLA99 (SC)
185 (1971) 41 Comp Cas 127 (SC)
186 Chapter 7 page 414 of the Bharat’s SEBI compendium 4th edition
5. since securities are quoted, there is no secrecy of the price realization of securities sold by the investors;
6. the rules of the stock exchange protect the interest of the investors in respect of their holdings;
7. listed companies are obligated to furnish unaudited/audited financial results on a quarterly basis within a month of the expiry of the period. The said details enable the investing public to appreciate the financial results of the company in between the financial year;
8. Takeover offers concerning listed companies are to be announced to the public. This will enable the investing public to exercise their discretion on such matters.

9.2.2 to the company:
1. The company gains national and international importance by its share value quoted on the stock exchanges;
2. Financial institutions / bankers extend easy and liberal term loan facilities in the form of rupee currency and foreign currency loan;
3. It helps the company to mobilize resources from the shareholders through ‘Right Issue’ for programmes of expansion and modernization without depending on the financial institutions in line with the Government policies;
4. It ensures wide distribution of shareholding thus avoiding fears of easy take over of the organisation by others.

9.3 Conditions for listing\textsuperscript{187} - Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.

9.4 Requirements regarding initial listing / listing of public issues of shares and debentures\textsuperscript{188}
A public limited company proposing to get its securities listed for the first time on any recognised stock, on which it intends to list the securities. The concept of regional stock exchange is no more. The company should apply for

\textsuperscript{187} Section 21 of the SCR Act 1956
\textsuperscript{188} Chapter 7 page 416 of the Bharat’s SEBI compendium 4th edition
listing its securities in the form prescribed by the concerned stock exchange (the letter of application and listing application form) which may be obtained on request from the office of stock exchange.

The listing application form duly filled in an signed with the enclosures referred to in the said application should be sent to the stock exchange along with the following:

(i) Listing agreement duly executed and stamped on a non judicial stamp paper of requisite value;

(j) Requesting listing (initial) fees as prescribed.

Rule 19(1) of the Securities Contracts (Regulations) Rules, 1957 prescribes the documents and particulars to be furnished by a public company while applying for listing its securities. They are enumerated below:

(a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.

(d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.

(f) Certified copies of agreements or other documents relating to arrangements with or between:—

(i) vendors and/or promoters,

(ii) underwriters and sub-underwriters,

(iii) brokers and sub-brokers.

(g) Certified copies of agreements with—

(i) managing agents and secretaries and treasurers,

(ii) selling agents,

(iii) managing directors and technical directors,

(iv) general manager, sales manager, manager or secretary.

(h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular
or advertisement offering securities for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.

(j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—(i)acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India:] (ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for:

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.
A company before listing its securities shall satisfy the stock exchange that its articles of association, inter alia, provide for the following:

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

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

9.5 Condition precedent for listing – The SCR Rules stipulated a condition of minimum public offer of securities to be listed. According to this rule, at least 10 per cent of each class or kind of securities issued by a company was 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 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 crores; and
(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers.

189 Rule 19(2) (a) of the Securities Contracts (Regulation) Rules, 1957
190 Rule 19(2) (b) of the Securities Contracts (Regulation) Rules, 1957
If a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities 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. A recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act and subject to such instructions as that Board may issue in this behalf from time to time.

Where a company cannot comply with the requirements of rule 19(2) (b), the stock exchanges are not entitled to permit listing of securities. Such cases should be referred to by the stock exchanges to SEBI for exemption. SEBI may at its own discretion or on the recommendation of a recognised stock exchange waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

10. The Obligations of a Listed Company under the Listing Agreement

Listing agreement is an agreement entered into between the issuer and the stock exchanges where the securities of the issuer are listed/ intended to be listed. Globally, stock exchanges set out various rules and regulations for issuers whose securities are listed at such stock exchanges. Compliance with the listing condition is mandatory by virtue of the relevant governing law of the land.

Where securities are listed on the application of any person in any recognised stock exchanges such person shall comply with the conditions of the listing agreement with that stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange. Under this provision violation of listing agreement is an offence.

Rule 19 of the Securities Contracts (Regulation) Rules, 1956 (SCR Rules) stipulates the requirements with respect to the listing of securities on a recognised stock exchange, and sub rule (3) thereof requires a company applying for listing, as a condition precedent, to undertake a number of things

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192 SCR Rule 19(7)
193 Bharat’s SEBI compendium 4th edition page no. 428-429
194 Section 21 of the Securities Contract (Regulations) Act, 1956.
which have been enumerated in its several clauses which are nothing but virtual reproduction of the several clauses of the listing agreement. Apart from this, the securities Contracts (Regulation) Rules too do not contain any express provision as to the listing agreement.

The form of letter of application to be submitted to the stock exchange concerned by a company desirous of getting its securities listed thereon, requires the company to send the “Listing Agreement Forms”. The listing agreement to be executed by a director, secretary or other officer of the company pursuant to the authority given by the Board of Directors by its resolution.

11. **Compliances to be followed by listed companies under listing agreement:** - Major Compliances ought to be followed pursuant to the Listing Agreement are given hereunder;

1. Share allotment, Regret letters, notification in press.

2. Notification of any attachment of prohibiting orders against transfer of securities, to the exchange.

3. Books closure/Record Date.

4. Convening of a Board Meeting for Declaration/Decision regarding:
   
   (a) Dividend.
   
   (b) Bonus shares if forming part of Agenda. Issue of rights shares.
   
   (c) Issue of convertible debentures
   
   (d) Issue of debentures carrying a right to subscribe to equity shares.
   
   (e) Passing over of dividend.
   
   (f) Buy-back of securities.

5. Decision regarding declaration of dividend, bonus, interest payment, buyback of securities, rights, reissue of fortified shares, calls to be made.
6. Payment of dividend on shares, interest on debentures/bonds, redemption amount of redeemable shares or debenture/bonds and interest warrants and cheques for redemption money of redeemable shares or of debentures and bonds.

7. Granting options to purchase any shares of the company

8. Any action resulting in redemption, cancellation or retirement in whole or in part of listed securities, or in intention to make withdrawals of such securities

9. Change in the form or nature of listed securities or change in the rights/privileges thereof.

10. Further issue of securities


12. Shareholding pattern containing details of promoters holding and non-promoters holding

13. Decision regarding issue of shares, forfeiture of shares, alteration of shares, cancellation of declared dividend, mergers, amalgamation, demerger, hiving off, voluntary delisting and other material decisions.

14. Conditions for continued listing and takeover offer

15. Unaudited financial results.

16. Half yearly results and limited review report by auditors

17. Auditors qualification

18. Quarterly reporting of segment wise revenue, results and capital employed

19. Consolidated quarterly financial results of parent company

20. Annual results

21. Change of name due to new activity

22. Explanation regarding variations in utilization of funds and profitability

23. Appointment of company secretary as compliance officer
24. Registration of share transfer
25. Corporate governance
26. Accounting standards
27. EDIFAR

12. **Delisting of securities**\(^\text{195}\).- A recognised stock exchange may delist the securities, after recording the reasons therefore, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act. That the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard. A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange within fifteen days from the date of the decision.

13. **Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies**\(^\text{196}\).

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

\((a)\) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

\((b)\) where the stock exchange has omitted or failed to dispose of, within the time specified, the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure. Thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

\((i)\) vary or set aside the decision of the stock exchange; or

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\(^\text{195}\) Section 21A ibid
\(^\text{196}\) Section 22A ibid
(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

Every appeal shall be in such form and be accompanied by such fee as may be prescribed. The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal. The appeal filed before the Securities Appellate Tribunal shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

**14. Civil court not to have jurisdiction**

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**15. Appeal to Supreme Court**

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

**16. Penalties and Procedure for Imposing Them**

Section 23-23J contains the provisions regarding grounds of penalties and procedure for imposing them. In this part, the grounds and procedure is discussed as hereunder:

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197 Section 22 E of the Securities Contract (Regulation) Act, 1956, in short SCR Act, 1956
198 Section 22 F of SCR Act, 1956
16.1 Grounds for imposing Penalties\(^{199}\) -

16.1.1 Any person who—

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

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

\((c)\) contravenes the provisions contained in section 17, or section 19; or

\((d)\) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;

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

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

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

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

\(^{199}\) Section 23 of SCR Act, 1956
(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act; \(^{200}\) [shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

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

**OTHER GROUNDS FOR IMPOSING PENALTIES**

**16.1.2 Penalties for failure to furnish information, return, etc.-** Any person, who is required under this Act or rules-

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

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

\(^{200}\) Substituted for shall on conviction be punishable with imprisonment for a term which may extend to one year, or with fine or with both” by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-04-2004

\(^{201}\) Section 23 A of the SCR Act, 1956, Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-04-2004
16.1.3 Penalty for failure by any person to enter into an agreement with clients\textsuperscript{202} - If any person, who is required under this Act or any bye-laws of a recognised stock exchange made there under, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

16.1.4 Penalty for failure to redress investors’ grievances\textsuperscript{203} - If any stockbroker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

16.1.5 Penalty for failure to segregate securities or moneys of client or clients\textsuperscript{204} - If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.

16.1.6 Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds\textsuperscript{205} - If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

16.1.7 Penalty for excess dematerialisation or delivery of unlisted securities - If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no

\textsuperscript{202} Section 23 B of the SCR Act, 1956
\textsuperscript{203} Section 23 C of the SCR Act, 1956
\textsuperscript{204} Section 23 D of the SCR Act, 1956
\textsuperscript{205} Section 23 E of the SCR Act, 1956
trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.

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

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

16.2 Procedure for imposing penalties

16.2.1 SEBI’s Power to adjudicate\textsuperscript{206} - For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

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

\textsuperscript{206} Section 23 I of the SCR Act, 1956
All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India\textsuperscript{207}.

16.3 **Appeal to Securities Appellate Tribunal**\textsuperscript{208} - Any person aggrieved, by the order or decision of the recognised stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals. Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the appellant. The other rules relating to appeal before SAT have been discussed in Chapter II in this chapter supra.

17. **Offences** - if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made there under, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both. If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

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

17.2 **Offences by companies** - Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty

\textsuperscript{207} Section 23 K of the SCR Act, 1956
\textsuperscript{208} Section 23 L of the SCR Act, 1956
of the offence, and shall be liable to be proceeded against and punished accordingly.

17.3 Certain offences to be cognizable- Notwithstanding anything contained in the Code of Criminal Procedure any offence punishable under section 23 shall be deemed to be a cognizable offence within the meaning of that Code.

17.4 Cognizance of offences by courts- No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person. No court inferior to that of a Court of Session shall try any offence punishable under this Act.

18. Investor’s Rights Relating To Dividends, Income from Collective Investment Scheme And Mutual Funds-

18.1 Title to dividends\textsuperscript{209} - It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

18.2 Right to receive income from collective investment scheme\textsuperscript{210} - It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the

\textsuperscript{209} Section 27 of the SCR Act, 1956
\textsuperscript{210} Section 27A of the SCR Act, 1956
income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

18.3 Right to receive income from mutual fund\textsuperscript{211} - It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

19. Conclusion: - The trading in secondary market is conducted by stock exchanges. It is primary duty of the Securities and Exchange Board of India to regulate these stock exchanges, so that investor’s rights can be protected. The Securities Contracts (Regulation) Act, 1956 contains provision to regulate these stock exchanges. Under these provisions, the SEBI has been given powers to recognise these stock exchanges to conduct business in secondary market. While giving recognition to them, the SEBI can impose any conditions in the interest of investors. Under the SCR Act certain formalities has been prescribed to be followed by intending stock exchanges. If the SEBI is of the opinion that it is in the interest of investors to withdraw the recognition, then it can withdraw the recognition. The civil court has no

\textsuperscript{211} Section 27B of the SCR Act, 1956
jurisdiction in the matter of recognition of stock exchanges or withdrawal of recognitions. The aggrieved person can appeal to the Securities Appellate Tribunal. Moreover, any person aggrieved by the decision of the SAT may file an appeal to Supreme Court of India. The SCRA has also provides certain penalties who fails to comply with the provisions of it.

Any company wants to trade its securities at market; it has to be listed with any recognised stock exchanges. The most important documents to be executed by company and stock exchange is Listing agreement. Therefore, this agreement contains rules and regulations to be followed by company and stock exchanges in the interest of investors and shareholder. By investing in secondary market, investors have certain rights e.g. to get dividends, right to receive income from collective investment scheme, right to receive income from mutual funds. The SEBI is looking these aspects in the interest of investors and shareholders.

Therefore, the Securities and Exchange Board of India is regulating the working of stock exchanges and company at Secondary market under the provisions of the Securities Contracts (Regulation) Act, 1956 and the Securities Contracts Regulation Rules 1957.

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