“PROTECTION OF INVESTORS AND SHAREHOLDERS: A CRITICAL STUDY OF ROLE OF SEBI”

CHAPTERS

CHAPTER 1 : AN INTRODUCTION TO CAPITAL MARKET

CHAPTER 2 : HISTORICAL DEVELOPMENT OF REGULATION OF CAPITAL MARKET

CHAPTER-3 : SECURITIES AND EXCHANGE BOARD OF INDIA

CHAPTER-4 : PROTECTION OF INVESTORS IN PRIMARY MARKET (IPOs) THROUGH ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS (ICDR)

CHAPTER-5 : PROTECTION OF INVESTORS IN SECONDARY MARKET THROUGH SECURITIES CONTRACTS REGULATION ACT.

CHAPTER-6 : PROTECTION OF INVESTORS THROUGH REGULATION OF STOCK BROKERS.

CHAPTER-7 : PROTECTION OF INVESTOR’S INTEREST FROM INSIDER TRADING

CHAPTER 8 : PROTECTION OF INVESTOR’S INTEREST FROM FRAUDULENT AND UNFAIR TRADE PRACTICES

CHAPTER 9 : PROTECTION FROM UNHEALTHY TAKEOVERS THROUGH SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS.

CHAPTER 10 : INVESTOR EDUCATION & PROTECTION FUND AND INFORMAL GUIDANCE SCHEME

CHAPTER 11 : PROTECTION OF INVESTOR THROUGH CORPORATE GOVERNANCE

CHAPTER 12 : PROTECTION OF INVESTOR THROUGH OMBUDSMAN

CHAPTER 13 : CAPITAL MARKET REGULATOR IN OTHER COUNTRIES

CHAPTER 14 : CONCLUSION AND SUGGESTIONS
# CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>AN INTRODUCTION TO CAPITAL MARKET</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>3.</td>
<td>Origin of Joint Stock Companies</td>
<td>2</td>
</tr>
<tr>
<td>4.</td>
<td>Concept of Capital Market</td>
<td>3</td>
</tr>
<tr>
<td>5.</td>
<td>Products &amp; Participant of Capital Market</td>
<td>4</td>
</tr>
<tr>
<td>6.</td>
<td>Capital Market Instruments: Classification of Instruments</td>
<td>5</td>
</tr>
<tr>
<td>7.</td>
<td>Pure instruments</td>
<td>6</td>
</tr>
<tr>
<td>8.</td>
<td>Equity Shares</td>
<td>7</td>
</tr>
<tr>
<td>9.</td>
<td>Preference Shares</td>
<td>8</td>
</tr>
<tr>
<td>10.</td>
<td>Cumulative Preference Shares</td>
<td>9</td>
</tr>
<tr>
<td>11.</td>
<td>Non Cumulative Preference Shares</td>
<td>10</td>
</tr>
<tr>
<td>12.</td>
<td>Convertible Preference Shares</td>
<td>11</td>
</tr>
<tr>
<td>13.</td>
<td>Irredeemable Preference Shares</td>
<td>12</td>
</tr>
<tr>
<td>14.</td>
<td>Participating Preference Shares</td>
<td>13</td>
</tr>
<tr>
<td>15.</td>
<td>Non Participating Preference Shares</td>
<td>14</td>
</tr>
<tr>
<td>16.</td>
<td>Debentures</td>
<td>15</td>
</tr>
<tr>
<td>17.</td>
<td>Naked or Unsecured Debentures</td>
<td>16</td>
</tr>
<tr>
<td>18.</td>
<td>Secured Debentures</td>
<td>17</td>
</tr>
<tr>
<td>19.</td>
<td>Redeemable Debentures</td>
<td>18</td>
</tr>
<tr>
<td>20.</td>
<td>Perpetual Debentures</td>
<td>19</td>
</tr>
<tr>
<td>21.</td>
<td>Bearer Debentures</td>
<td>20</td>
</tr>
<tr>
<td>22.</td>
<td>Registered Debentures</td>
<td>21</td>
</tr>
<tr>
<td>23.</td>
<td>Fully Convertible Debentures</td>
<td>22</td>
</tr>
<tr>
<td>24.</td>
<td>Non convertible Debentures</td>
<td>23</td>
</tr>
<tr>
<td>25.</td>
<td>Partly Convertible Debentures</td>
<td>24</td>
</tr>
<tr>
<td>26.</td>
<td>Hybrid Instruments</td>
<td>25</td>
</tr>
<tr>
<td>27.</td>
<td>Secured Premium Notes</td>
<td>26</td>
</tr>
<tr>
<td>28.</td>
<td>Equity Shares with Detachable Warrants</td>
<td>27</td>
</tr>
<tr>
<td>29.</td>
<td>Deep Discount Bonds</td>
<td>28</td>
</tr>
<tr>
<td>30.</td>
<td>Tracking stocks</td>
<td>29</td>
</tr>
<tr>
<td>31.</td>
<td>Bonds</td>
<td>30</td>
</tr>
<tr>
<td>32.</td>
<td>Derivatives</td>
<td>31</td>
</tr>
<tr>
<td>33.</td>
<td>New Scheme of fund</td>
<td>32</td>
</tr>
<tr>
<td>34.</td>
<td>Hedge Funds</td>
<td>33</td>
</tr>
<tr>
<td>35.</td>
<td>Gold Exchange Trade Funds</td>
<td>34</td>
</tr>
<tr>
<td>36.</td>
<td>Investor: Interests, Rights and Grievances</td>
<td>35</td>
</tr>
<tr>
<td>37.</td>
<td>Who is investor</td>
<td>36</td>
</tr>
<tr>
<td>38.</td>
<td>Types of investors</td>
<td>37</td>
</tr>
<tr>
<td>39.</td>
<td>Qualified Institutional Buyers</td>
<td>38</td>
</tr>
</tbody>
</table>
6.2.2 Retail Individual Buyers
6.2.3 Non institutional Bidders
6.3 Investment options
6.4 Sustaining Investor’s Interest: Prime concern
6.5 Rights and Responsibilities of Investor
   6.5.1 Rights as Shareholders
   6.5.2 Rights as Debenture Holders
   6.5.3 Responsibility as a Security Holders
6.6 Common grievances
6.7 Forum for redressal

7. Regulatory Framework for Investor and Shareholder’s interest Protection
   7.1 Capital Issue Control Act, 1947
   7.2 SEBI Act, 1992
   7.3 Securities Contract Regulation Act, 1956
   7.4 Depositories Act, 1996
   7.5 Companies Act, 1956
   7.6 Prevention of Money Laundering Act, 2002
   7.7 Rules, Regulations and Regulator of Capital Market

8. Epilogue

2. HISTORICAL DEVELOPMENT OF REGULATION OF CAPITAL MARKET
   1 Introduction
   2 Object of study of History
   3 Development of Stock Market
   4 Legislative Developments of Capital Market Regulations
      Before World War I
         4.1.1 The Cotton Fraud Bill
         4.1.2 Indian Securities Bill
      4.2 After World War I
         4.2.1 Sir Wildfrid Atlay Committee Report 1924
         4.2.2 The Bombay Securities Contract Control Act, 1925
            4.2.2. (a) Object of the Act
            4.2.2.(b) Important Definitions
            4.2.2. (c) Recognition of Stock Exchanges
            4.2.2. (d) Rules
         4.2.3 Sir Morison Enquiry Committee Report 1937
            4.2.3. (a) Comments of Committee
            4.2.3.(b) Recommendation of Committee
      4.3 After World War II
         4.3.1 P J Thomas Report on securities market regulation
            4.3.1.(a) proposal of the committee
            4.3.2. The Capital Issue of Control Act, 1947

5. Regulatory Framework at present
6. Need of enactment of a strong legislation to protect the interest of investors
7. Epilogue
3. THE SECURITIES AND EXCHANGE BOARD OF INDIA

1. Introduction
2. Definitions
3. functions of Board
4. Powers of the Board
   - Powers of civil court
   - Powers to suspend & restrained trading etc
   - Powers to regulate or prohibit issue of prospectus
   - Powers to issue directions
   - Powers to investigate
   - Powers to issue cease and desist proceedings
   - Powers to regulate intermediaries
   - Powers to cancel certificates
   - Powers to prohibit manipulative and deceptive devices, insider trading
   - Powers to impose penalties and adjudications
     - Penalties for failure, disclosure etc
     - Penalties for failure to enter into agreement with clients
     - Penalties for failure to Redress investor grievances
     - Penalty in default in mutual fund
     - Penalty on Asset Management company
     - Penalty for insider trading
     - Penalty for non disclosure of acquisition of shares and takeovers
     - Penalty for fraudulent & unfair trade practices
     - Penalties for other contraventions
   - Powers to adjudicate
   - Powers to make regulations
5. Appellate Tribunal
   - Establishment of SAT
   - Appeal to SAT
   - Procedure for filing appeal
     - Contents of Appeal
     - Documents to accompany memorandum of appeal
6. Offences by companies
7. Central Governments power
   - Power to give immunity
   - Power to make rules
   - Power to issue directions
   - Power to Supersede the board
8. Bar of Civil Court Jurisdiction
9. Appeal to Supreme Court
10. Offences
11. Cognizance of offences by court
12. Composition of certain offences
13. Conclusion
4. PROTECTION OF INVESTORS IN PRIMARY MARKET (IPOs) THROUGH ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS (ICDR).

1. Introduction
   What is an IPO
   Why does a company make IPO?

2. SEBI’s role in IPO

3. Disclosures
   Types of offer Documents
   Draft offer Documents
   Red herring Prospectus
   Offer Documents
   Abridged Prospectus
   SEBI cleared to access Draft offer document before IPO
   System of public comment on the issue
   Obtain full copy of offer documents
   Time limit for subscription

4. Pricing
   Types of Issue
   Fixed Price
   Price through Book building process

5. Offer Documents Interpretation
   5.1 Cover Page
   5.2 Risk Factor
   5.3 Introduction
   5.4 About Us
   5.5 Financial Statement
   5.6 Other Regulatory and statutory Disclosures
   5.7 Offering information
   5.8 Other information
   5.9 Past track record of defaults/ economic offences

6. Applying in an IPO
   6.1 Prerequisites
      6.1.1 Demat account
      6.1.2 PAN
      6.1.3 Bank Account
   6.2 Process of applying
   6.3 ASBA
      6.3.1 Meaning of ASBA
      6.3.2 Availability of application form
      6.3.3 Self Certified Syndicate Bank
      6.3.4 ASBA Process brief
      6.3.5 Obligation of issuer
      6.3.6 Applicability of ASBA process
   6.4 Withdrawal of application
   6.5 Proof of bidder
6.6 Change or revision in bids
6.7 Knowledge of IPO
6.8 At what price should a retail investor apply in IPO
6.9 How to improve chances of allotment
6.10 Time limit for company to get securities listed

7 Key Intermediaries
7.1 Merchant banker
7.2 Syndicate member
7.3 Registrar
7.4 Banker’s to an issue
7.5 Issue stationary printers
7.6 IPO Grading system

8 Filing Investor Grievances

9 Epilogue

5. PROTECTION OF INVESTORS IN SECONDARY MARKET THROUGH
SECURITIES CONTRACTS REGULATION ACT

1. Introduction
2. Provisions in SCRA for Recognition of Stock Exchanges etc
   object of the SCRA
   important definitions
3. Recognition of stock exchanges
   Application for recognition of stock exchanges
   Grant of recognition
   Corporatisation and Demutualisation of stock exchanges
4. Withdrawal of recognition of stock exchanges
5. Powers of SEBI and Central Government to regulate affairs of
   stock exchanges
   Powers to call periodic return and to direct inquiries
   Power to call annual report
   Power to make rules for stock exchanges
   Power to make or amend laws, bye laws
   Power to supersede governing body
   Power to suspend business
   Power to issue directions
   Power to make regulations
   Power to grant immunity
6. Power of stock exchanges
   Power to make rules, restricting voting rights
   Power to make bye laws
   Contracts in derivatives
7. Licensing of dealers in securities in certain areas
8. Prohibition of working of stock exchanges without recognition
9. Listing of securities
   Meaning of listing
   Advantages of listing
   advantages to investors
   advantages to company
Conditions for listing
Requirement regarding initial listing
Conditions precedent for listing

10. Obligation of listed company under listing agreement
11. Compliances to be followed by listed companies under listing agreement
12. Delisting of securities
13. Appeal to SAT against refusal to list securities
14. Bar of civil court’s jurisdiction
15. Appeal to Supreme Court against the decision of SAT
16. Penalties for contravention of provisions of SCRA and procedure to impose them

Grounds for imposing penalties
- Miscellaneous grounds
- Failure to furnish information
- Failure to enter into agreement
- Failure to redress investor’s grievances
- Failure to segregate securities and moneys of client
- Failure to comply with listing agreement
- Excess dematerialization
- Failure to furnish periodic returns
- For other contraventions
Procedure for imposing penalties: SEBI’s power to adjudicate
Appeal to SAT against SEBI orders

17. Certain offences
Offences
- Offences by companies
Composition of certain offences
- Certain offences to be cognizable
Cognizance of offences by courts

18. Investor’s rights to get dividends, income
- Title to dividends
- Right to receive income from collective investment schemes
- Right to receive income from mutual funds

19. Conclusion

6. PROTECTION OF INVESTOR’S INTEREST THROUGH REGULATION OF STOCK BROKERS

1. Introduction
2. Investors interest protection : Registration of Stock broker
   2.1 Process of Registration
   2.2 Fees to be paid by stock brokers to the Board
   2.3 Obligations and responsibilities of stock brokers
3 Appointment of compliance officer
4 Code of Conduct for Stock broker
   General
   Duty to Investor
   Stock broker vis-à-vis other stock brokers
Agreement to be executed between Stock brokers and investor

5 Registration of Sub broker
5.1 Eligibility criteria
5.2 General obligation of sub brokers
5.3 Code of conduct
   5.3.1 General
   5.3.2 Duty to investor
   5.3.3 Sub broker vis-à-vis stock broker
   5.3.4 Sub broker vis-à-vis Regulatory authorities

6 Procedure for action in case of default
6.1 Liability for contravention of the Act, rules or the regulations
6.2 Liability for monetary penalty
6.3 Liability for action under the Enquiry proceedings
6.4 Liability for prosecution

7. Conclusion

7. PROTECTION OF INVESTOR'S INTEREST FROM INSIDER TRADING
1. Introduction
2. Historical background and Conceptual Framework
   Pre SEBI Act Scenario
   First legislative attempt to attack insider trading
   Extension of disclosure requirement
   Sachar Committee’s recommendations
   Patel Committee’s recommendations
   Post SEBI Scenario
   Enactment of SEBI Act
   SEBI’s Suggestions for internal code of conduct
   SEBI’s Anti Insider Trading Regulations

3. Rationale behind prohibition of Insider trading
   What is Insider trading?
   Abuse of Confidential information
   Instances of misuse of price sensitive information in USA, UK & China

4. Contemporary Laws on Insider Trading
   Laws in USA on Insider trading
   Laws in UK on Insider trading
   Laws in EEC countries on Insider trading

5 SEBI Insider Trading Regulation
   5.1 Source of SEBI’s power
   5.2 Analysis of important definitions
      5.2.1 Act
      5.2.2 Body corporate
      5.2.3 Connected person
      5.3.4 Director
      5.3.5 Shadow Director
      5.3.6 Officer of company
      5.2.7 Compliance officer
      5.2.8 Closed period
      5.2.9 Dealing in Securities
5.2.10 Insider
5.2.11 Connected person
  5.2.11.(a) Companies under same management
  5.2.11.(b) Securities market intermediaries
  5.2.11.(c) Merchant banker, share transfer agents
  5.2.11. (d) Directors and employees of financial institutions
  5.2.11.(e) Officer and employee of self regulatory institutions
  5.2.11.(f) Relative
  5.2.11.(g) Connected with company
  5.2.11.(h) Relative of connected person
5.2.12 price Sensitive information
5.3 Prohibition against Insider Trading
  5.3.1 Prohibition against dealing in securities
  5.3.2 Prohibition against communications
    5.3.2.(a) Communication means
    5.3.2.(b) To counsel means
    5.3.2.(c) To procure means
  5.3.3 Prohibition against dealing in securities by company
  5.3.4 Defence against charges of dealing in securities
5.4 Offences, penalties and punishment
  5.4.1 Violation of provisions
  5.4.2 Penalty for insider trading
  5.4.3 Offences of insider trading
5.5 Investigation
  5.5.1 Power to make inquiries and inspection
  5.5.2 Board’s right to investigate
  5.5.3 Procedure for investigation
  5.5.4 Submission of report to the Board
  5.5.5 Communication of findings
  5.5.6 Appointment of auditor
  5.5.7 Direction by board
5.6 Manner of service of summons
5.7 Defence against charges of dealing in securities by company
6 Code of Internal Procedure and conduct
7 Disclosure of Interest of Director or employees
  7.3 Initial Disclosure
  7.4 Continual Disclosure
  7.5 Disclosure by Director
  7.6 Time limit for disclosure
  7.7 Disclosure by company
8 Action in case of default
9 Appeal in Securities Appellate Tribunal
10 Cases of Insider Trading and Court decisions
11 Conclusion

8. PROTECTION OF INVESTOR’S INTEREST FROM FRAUDULENT AND UNFAIR TRADE PRACTICES
  1. Introduction
2. Important Definitions
   Act
   Dealing in securities
   Fraud
   Investigating authority
   Securities
3. Prohibition of certain dealings in securities
4. Prohibition of manipulative, fraudulent and unfair trade practices
5. Powers of Board to order investigation
   Powers of investigating authority
   Powers of investigating authority to be used with prior approval
   Duty to cooperate
   Enforcement by Board
   Board powers to issue orders
   Manner of service of summons
6. Suspension/ Cancellation of Registration
7. Important order of Adjudicating authority,
   High Court and Supreme Court
8. Conclusion
9. PROTECTION FROM UNHEALTHY TAKEOVERS THROUGH SEBI
   (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS)
   REGULATIONS
PART I PRELIMINARY
   1. Introduction
   2. Important Definitions.
   3. Applicability of the regulation.
   Allotment to public issue
   Allotment as per right issue
   Allotment as per underwriting agreement
   Interse Transfer
   Acquisition of shares in ordinary course of business
   Acquisition in exchange of share
   Acquisition in transmission on in inheritance
   Acquisition by Govt companies
   Transfer of share from SLFI to co promoter of companies
Transfer of share from venture capital fund
Pursuant to scheme
Change by take over
Acquisition of shares of unlisted companies
Acquisition of shares
Other cases
Acquisition of Gold Depository Receipts

4. PART II : Disclosures Of Shareholding And
Control In A Listed Company

Transitional provision
Acquisition of 5 percent and more shares
Continual Disclosures
Disclosure of pledged share
Board’s power to call information

5. PART III : Substantial Acquisition Of Shares Or Voting Rights In And
Acquisition Of Control Over A Listed Company
   Acquisition of 15 % or more of share or voting rights
   Consolidation of Holdings
   Acquisition of control over company
   Appointment of merchant banker
   Timing of public announcement of offer
   Procedure of public announcement of offer
   Contents of public announcement of offer
   Brochure, advertising materials
   Submission of letter of offer to the board
   Specified date
   Offer price
   Acquisition under creeping acquisition
   Minimum number of shares to be acquired
   Conditional After for acceptance
   Other obligation of the acquire
   General obligations of the board of director of the target company
   General Obligation of the merchant bankers
   Competitive bid by any person
   Upward revision of offer
   Withdrawal of offer
   Provision of escrow
   Payment of consideration
   Relaxation from strict compliance

6. Part IV : Bail Out takeover
Bail out takeover
Manner of acquisition of shares
Manner of evaluation of bids
Person acquiring shares to make public announcement
Competitive bids
Exemption from operation from bail out takeover

7. Part V : Investigation and action by the board
Investigation on complaint by investors
Notice before investigation
Obligation on investigation by board
Submission of report to the board
Communication of finding
Appointment of auditor
Directions by board
Penalties for non compliance
Appeal to the Central Government
8. Conclusion

10. INVESTOR EDUCATION & PROTECTION FUND AND INFORMAL GUIDNACE SHCEME
   1. Introduction
   2. Establishment of fund
      The amount to be credited in fund
      Utilisation of fund
      Conditions to grant aid to investor’s associations
   3. Advisory committee
      Constitution of committee
      Terms of office of members
      Functions of the committee
      Expenses of committee
   4. Investment account and audit
   5. Investor education guide
      Rights of members
      Responsibilities of members
      Benefit of trading through recognised stock exchange
      Right to receive best price
   6. Benefit of trading through recognised stock exchange
   7. SEBI’s Informal Guidance Scheme
      Eligible person to take guidance
      Form of guidance
      SEBI’s responsibility on such advice
      Conditions to take advice
      Disposal of request
      Grounds of rejections of such request
      Confidentiality of request
      Legality of guidance
8. Conclusion

11. PROTECTION OF INVESTOR THROUGH CORPORATE GOVERNANCE
   1. Introduction
   2. Committees
   3. Various Circulars for corporate Governance
   4. Provisions of Clause 49 of Listing agreement
      I) Board of Director
      II) Audit Committee
      III) Subsidiary Companies
5. Conclusion

12. INVESTOR PROTECTION THROUGH OMBUDSMAN
   1. Introduction
   2. Ombudsman in UK
   3. Need of Ombudsman in India for securities market
   4. SEBI Ombudsman in India
      Establishment of Ombudsman
      Location of Office and sitting
      Qualification
      Disqualification
      Tenure & Remuneration
      Stipendiary Ombudsman
   5. Power and Functions of Ombudsman
   6. Procedure for redressal of grievance
      Grounds of complaint
      Procedure of filing
      Settlement by mutual agreement
      Award on adjudication
      Correction of award
      Evidence act not applicable
      Finality of award
      Review of Award
      Implementation of Award
   7. Cost and interest
   8. Display of particulars of the Ombudsman
   9. Conclusion

13. CAPITAL MARKET REGULATOR OF OTHER COUNTRIES
   1. Introduction
   2. Top 10 Stock exchanges of the world
   3. Securities market regulator in USA: SEC
      History of SEC
      Necessity of Regulations
      Organisation of SEC
      Responsibility of SEC
      Divisions of SEC
      Corporate finance
      Trading and Markets
      Investment management
      Enforcement
      Risk, Strategy and Financial Investment
      Offices
Investor Advocate  
General Counsel  
Chief Accountant  
Compliance inspector and examination  
International affairs  
Investor education and advocacy  
FIOA and Records Management  
Executive Director  
Legislative affairs & International Relations  
Public Affairs  
Administrative Law Judges  
Compensation committee  

4. Securities market regulator in UK: FSA  
   About FSA : History  
   The Board  
   Functions  
Whom they regulate  
Regulatory approach  
Fighting financial crime  
   Corporate Responsibility  
   Regulatory reforms  
   Aims and objectives  
   Principle of Good regulation  
   Guidance  
   Other facts about FSA  
   FSA Complaint scheme  
   Financial Services Act, 2000  

5. Securities market regulator in Hong kong : SFC  
Historical background  
Establishment of SFC  
Objectives of SFC  
Whom to regulate and how to regulate  
The corporate Social Responsibility of SFC  
The commission : Organizational Structure  
Composition of Board  
Role and responsibility of chairman  
Role and responsibility of CEO  
How the commission operates  
Policy statement of SFC on disclosure of certain information to the public  

6. Conclusion  

14. CONCLUSION AND SUGGESTIONS  
   1. Conclusion  
   2. Suggestions  

Appendix  
Capital Market Glossary  
Bibliography
Court cases list