The Securities Contracts Regulation Act, 1956

A] Introduction :

Sec 1: Extent of the Act

The Act applies to the whole of India.

Sec 28: Non-applicability of the Act

- Govt
- RBI
- Local authority
- Corporation under special law
- Person effecting transaction with person mentioned earlier
- Contracts exempted by CG by notification in OG*

* OG – Official Gazette

B] Definitions : Sec 2

1. Contract — Sec 2(a)
   - For purchase or sale of securities.
   - relating to purchase or sale of securities

2. Securities: Sec 2(h) includes the following:

- Shares, scrips, stocks, bonds, debenture stock or other marketable securities of a like nature in any incorporated company or other body corporate.
- Derivative
- Government securities.

- Units or any other instrument issued
  - by any collective investment scheme to the investors
  - to the investors under any mutual fund scheme
- Such other instruments as may be declared by CG to be securities.
- Rights or interests in securities.
- Security receipt as defined in SARFAESI Act, 2002.
- Any certificate or instrument, issued by an issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, to an investor acknowledging beneficial interest in such debt or receivable, including mortgage debt, as the case may be.

3. Government Security: Sec 2(b)
   - security created & issued by CG or SG
   - for the purpose of raising a public loan.

4. Option in Securities: Sec 2(d) means
   - contract for purchase or sale of a right to buy or sell, or a right to buy & sell, securities in future.
   - includes a teji, a mandi, a teji mandi a galli, a put, a call or a put & call in securities.

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5. **Spot delivery contract** : Sec 2(i)
means any of the following
- Contract providing for
  - Actual delivery & payment for price of securities
    - Actual period taken in post shall be excluded if
      - parties to contract do not reside in same town or locality
      - securities are dispatched / money remitted through post.
  - either on day of contract or next day.
- Contract in which
  - securities are transferred by depository
  - From A/c of one to another beneficial owner.

6. **Derivative** : Sec 2(ac) includes
- security derived from a debt instrument, share, loan, risk instrument or contract for difference or any other form of security.
- a contract which derives its value from the prices, or index of prices, of underlying securities.

7. **Stock exchange** : Sec 2(j) means
- any BOI
- whether incorporated / not
- constituted before C & D u/s 4A & 4B

OR

- a body corporate incorporated under Co's Act
- whether under a scheme of C & D or otherwise.

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

8. **Recognized Stock exchange**: Sec 2(F)
RSE means a SE which is for the time being recognised by CG U/s 4. Unrecognised stock exchanges prohibited (Sec 19) – Prohibitions on

- Organising or assisting in organising any SE (other than RSE)
- Becoming a member of any SE (other than RSE)

9. **Goods**: means every kind of movable property other than actionable claims, money & securities.

10. **Commodity Derivative**: means a contract
- for the delivery of goods, as may be notified by CG in OG, & which is not a ready delivery contract; OR
- for differences, which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests & events, as may be notified by CG, in consultation with the Board, but does not include securities as referred to in '6'.

11. **Member**: means member of recognised stock exchange

12. **Non-Transferable Specific delivery contract**:
means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or

any other documents of title relating thereto are not transferable.

13. **Specific delivery contract** : means commodity derivative

- provides for actual delivery of specific qualities or types of goods
- during specified future period @ price fixed thereby or to be fixed in agreed manner
- in which the names of both the buyer & seller are mentioned.

14. **Transferable specific delivery contract** : means a specific delivery contract which is not a non-transferable specific delivery contract & which is subject to such conditions relating to its transferability as CG may by notification in OG, specify in this behalf.

15. **Corporatization** : Sec 2(aa) means

- the succession
- of RSE, being BOI or registered society
- by another SE, 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 individual or society

16. **Demutualisation** : Sec 2(ab) means

- segregation of
- ownership & management from
- trading rights of members of RSE
- in accordance with scheme approved by SEBI

17. Scheme : Sec 2(ga) means scheme for C&D of RSE providing:

- issue of shares & provision of trading rights of members
- restriction on voting rights
- transfer of property, business, contracts, legal proceedings, by or against RSE, in the name of RSE or trustee or other wise, any permission etc.
- transfer of employees
- any other matter

18. Ready delivery contract : contract providing for delivery of goods and payment of price, immediately or within 11 days after date of contract, subject to conditions as CG may notify in OG, specify i.r.o goods, period cannot be extended with mutual consent of parties. or otherwise. Provided where contract is performed wholly or partly:

- by realisation of money; or
- any other means, & as a result of which actual tendering of goods or payment of price (full) is dispensed with,

such contract shall not be deemed to be ready delivery.

c] Sec 4A: Corporatisation & Demutualisation RSE - Compulsory

- Every RSE shall be C&D before appointed date*
- Consequences of Non-Compliance.

It shall be C&D as per Sec 4B.

SEBI may specify another appointed date if it is satisfied, that such RSE was prevented by sufficient cause from being C&D.

*
- date appointed by SEBI by notification in OG.
- It may be different for different RSE's.

D] Sec 4B : C & D – Procedure

<u>Requirement</u> : a) Every RSE shall submit a scheme for C&D to SEBI for approval with time specified by SEBI.
b) If RSE already C&D before appointed date, it is not required to submit scheme

<u>Approval of scheme by SEBI</u>: SEBI may approve the scheme with or without modification. Before granting approval it may make necessary inquiry or obtain required further information from RSE. It shall grant approval if in interest of trade & public interest.

<u>Imposition of restrictions</u>: SEBI may restrict
a) voting rights of shareholders who are also stock brokers
b) right to appoint representative on the governing body
c) Max. no. of representatives of stock brokers shall not exceed 1/4th of total strength of governing body.
Restriction shall have full effect, notwithstanding anything to contrary contained in Co's Act 1956, or any other law for the time being in force.

<u>Conditions of approval</u>:
- atleast 51% of equity share capital is held by public other than shareholders having trading rights.
- shall comply with provisions within 12 months of publication of order of SEBI. However extend period by another 12m.

- may comply either by fresh issue of equity shares to public or in any other manner as specified by SEBI regulations.

Publication of approved scheme by
- SEBI → in the Official Gazette
- RSE → in 2 daily newspaper circulating in India, specified by SEBI

Effects of publication
- It shall become effective
- shall be binding on all persons & authorities

Rejection of the scheme
- if not in the interest of trade or public.
- Order shall be published in OG
- Before rejecting, reasonable opportunity of being heard given.

E] Sec 21, 22A & 22F : Listing of Securities

Application: Every company making application for listing of securities shall comply with listing agreement.

Refusal to list securities: SE shall give reasons on refusal of listing of shares of company.

Co's right to appeal:
- Appeal shall be filed with SAT.
- Filed within 15 days of
  - Receipt of SE's refusal order
  - Expiry of 10 weeks From closing of
- Extension
  - SAT may condone
  - Ext^n period

subscription list, if refusal not communicated | delay in filing appeal if sufficient cause is shown | shall not exceed 1 month.

Procedure adopted by SAT.

- Give opportunity of being heard to SE
- Dispose of appeal within 6 months
- Setaside/ vary / confirm order of SE
- Copy of SAT's order shall be sent to parties
- SE shall comply with order of SAT

Appeal to Supreme Court

- Who can file appeal
  - person aggrieved by order of SAT
  - Filed only on question of law
- Time limit
  - filed within 60 days of receipt of order of SAT
- Extension
  - May extend period of filing appeal if sufficient cause is shown
  - Ext^n period shall ≠ exceed 60D

F] Sec 21A : Delisting of Securities

Grounds : RSE may delist securities of co. on any grounds prescribed under this Act.

Conditions for delisting
- → RSE shall record the reasons for delisting
- → company shall be given reasonable opportunity of being heard.

No.

Date

Appeal against order of delisting

- **By whom**
  - Listed Co.
  - Any aggrieved person (i.e investor)
- **To whom**
  - Filed with SAT
- **Time Limit**
  - within 15 D of date of decision of RSE
- **Extension**
  - May condone delay in filing if sufficient cause shown
  - Period of extension shall not exceed 1m.

Procedure adopted by SAT: SAME AS IN POINT 'E'.

Appeal to Supreme Court: — " —

G] Sec 8A : Clearing Corporation

It is a company incorporated under Co's Act 1956 for purpose of

- periodical settlement of contracts & differences thereafter;
- the delivery of, and payment for, securities;
- any other matter incidental to, or connected with above.

Benefits of clearing corporation

- RSE may transfer duties & functions of a clearing house.
- Prior approval of SEBI is required.

Bye-laws of clearing corporation.

It shall make bye-laws & submit to SEBI for its approval. No approval, unless satisfied that it is in the interest of trade & also in public interest

Provisions applicable: Provisions of Sec 4 – Sec 12 shall as far as may be, apply to clearing corporation as they apply in relation to RSE.

H] Sec 3 & 4: Recognisition of a Stock Exchange

Application of recognition (Sec 3)
- → by whom → made by SE desirous of being recognised.
- → to whom → to CG

Requirements of application

- shall be made in accordance with provisions of Act & Rules
- shall be in prescribed form containing prescribed particulars & accompanied with prescribed fees.
- shall be accompanied with Rules, bye-laws etc.

Requirements of Rules: Rules shall contain provisions relating to 'Constitution & Management of SE' specifying foll^{n} matters:

- constitution, powers & manner of transacting business of governing body.
- powers & duties of office bearers
- provisions relating to admission, qualification etc. of members
- Can firm be admitted as member of SE?, if yes, rules & manner of appointment of authorised representative & clerks.

Bye-laws shall contain provisions relating to 'Regulation & control of contracts'

Procedure adopted by CG (Sec 4)
- → make inquiry as it deems fit.
- → call for additional information from space it may require from time to time.

No.

Date

Order of Recognition Sec4

→ Order on satisfaction of CG

- Bye laws & Rules
  - contain prescribed particulars
  - ensure Fair dealings
  - protect investors
- SE is willing to comply with the conditions as CG may impose after consulting governing body.
- grant of recognition is in public interest of trade.

→ Publication of order: Recognition order shall be published in OG

→ Effect: Recognition becomes effective only on publication of order in OG.

Refusal to grant recognition
- → CG shall give opportunity of being heard.
- → Reasons shall be communicated in writing

I] Sec 5: Withdrawal of Recognition of Stock Exchange.

Conditions for withdrawal:

1) a) CG must issue notice to governing body of SE expressing its intention to withdraw the recognition.
   b) Issue notice only if necessary in interest of trade or public

2) Notice must contain reasons for proposed withdrawal.

3) CG shall give opportunity of being heard to SE.

4) After considering representation made by SE, CG must be satisfied that recognition must be withdrawn.

Order shall be published in OG & only then withdrawal of recognition shall become effective.

Effects of withdrawal on contracts

O/s on notification date	entered into before Notificate date
CG makes necessary provision.	validity shall not be affected

J] Sec 11 : Power of CG to Supersede Governing Body

Power with CG : CG is empowered to supersede governing body

Conditions : 1) a) CG must form opinion to supersede governing body
b) serve written notice of considering supersession.
2) Notice must contain reasons for supersession
3) CG shall give opportunity of being heard to Governing body.
4) After considering reply of SE, CG must be satisfied that the governing body must be superseded.

Publication of order.
- Manner → notification in OG
- Effect → supersession becomes effective
- over-riding effect → order shall over-ride any law, rules or bye-laws of SE.

Effects of supersession: Members of governing body shall cease to hold their offices w.e.f notification date in OG.

Appointment by CG of certain persons on Governing Body.

Designation : Two or more persons may be appointed as Chairman.

Powers / Functions & duties →
- Exercise same power
- Perform same functions
- Discharge same duties

} as that of Governing Body.

Tenure → Fixed / Modified → by CG by notification in OG

Property of SE shall vest in person appointed by CG to enable him / them to carry on business of SE, as from date of order.

Reconstitution of Governing Body.

- CG may, at anytime order SE for reconstitution of Governing body in accordance with its rules.
- SE shall reconstitute governing body if order made by CG.
- Effects of reconstitution →
  - property shall re-vest in reconstituted governing body
  - persons appointed by CG cease to exercise powers

K] Sec 12: Power of CG to Suspend Business of Stock Exchange

- CG has power to suspend the business of SE.
- Conditions for suspension of business:
  CG must form opinion that emergency has arisen & to meet it, it is expedient to suspend the business of SE.
- Publication of order: CG shall issue a notification in OG that business of SE has been suspended alongwith reasons.
- Terms & Conditions → Suspension of business shall be →
  - subject to such conditions.
  - For period not exceeding 7 days

  } as may be specified in notification
- Extend order if →
  - CG is of opinion that it is in interest of trade or public
  - Opportunity of being heard given to governing body

L] Sec 13: Power of CG to Prohibit Contract in Certain Cases

- CG has the power to declare that any contract for sale or purchase of securities shall not be entered into in a State or area.
- Conditions for imposing restrictions

a) Opinion → undesirable speculation carried out in relation to certain securities in certain state or area.

b) Satisfied → necessary to prevent such undesirable speculation

- Nature of prohibition

CG shall issue notification in OG specifying state / area & securities. & shall also declare that no person in such state/area enter into any contract.

- Effect of prohibition

All contracts entered into after date of notification in these specified State / Area shall be illegal, except –

a) entered into with permission of CG

b) entered after complying with conditions specified by CG in OG

M] Sec 13: Declare Contracts in Notified Area to be Illegal

- CG has the power to declare a state or an area as notified area u/s 13.
- Effect of declaration of an area as notified area.

a) Every contract in securities shall be illegal.

b) Exceptions → contract between members of RSE
→ contract through or with a member of RSE
→ spot delivery contract.

- Conditions for issuing notification u/s 13

a) While notifying any state or area, CG shall have due regard to nature or volume of transactions in such State / Area.

b) CG on satisfaction shall issue a notification.

N] Sec 17: Dealings in Securities Prohibited Except through License

- **Applicability**: Apply to any State or Area
  - → not notified by CG u/s 13 but
  - → notified u/s 17.
- **Requirements**: License is required from SEBI to carry on business of dealings in securities in area notified u/s 17.
- **Conditions**: CG can notify State / Area u/s 17, if satisfied that it is desirable in interest of trade or public interest.
- **Exceptions**:
  - → Spot delivery contract
  - → contract entered into by or with member.

O] Sec 14: Contracts in Notified Areas to be void in certain circumstances

- **Conditions for applicability**:
  - Any state or area has been notified u/s 13
  - Bye-laws specify bye-laws, contravention would make contract void.
  - Contract entered into
    - State / Area notified u/s 13
    - & in contravention of bye laws
- **Legal effect**:
  - Contract shall be void as respect
    - rights of members
    - right of person who knowingly participated in such a transaction
  - Contract shall not be void as respect rights of person (not a member) who had no knowledge about transaction. He can enforce contract & recover sum paid under contract

- **Non-Applicability:** Section does not apply to spot delivery contracts.

P] Sec 7A: Power of a Stock Exchange to Make/Amend the Rules

- **Conditions**
  - Prior approval of CG is required.
  - Rules shall be published in Official Garette
  - Rules become effective only when published in OG.
- **Scope of the Rules:** Rules may contain all or any of foll" provision

a) Voting rights available only to members in respect of matter placed before SE at any meeting.
b) Every member shall have one vote only.
c) Member shall not be allowed to attend or vote by proxy.
Other incidental, consequential & sequential matters.

- **Effect:** Rules shall override provisions of Companies Act, 1956

Q] Sec 8: Power of CG to make/Amend the Rules

- CG has the power to direct RSEs generally or any particular RSE to make or to amend rules.
- **Conditions:** CG shall make order only if foll" conditions satisfied
  - CG shall consult governing body of RSE's generally or in particular
  - CG must form an opinion that it is expedient to make such order.
  - CG shall specify reasons for making such an order.
- **Compliance of order:** Duty of RSE's to make or amend the Rules within 2 months from date of order of CG.
- If RSE's fails or neglects, CG may make or amend Rules.
- **Publication of Rules**
  - Rules shall be published in OG
  - Effective only when these are published.

No.

Date

- Effect of the Rules
  - Rules made / amended as per Sec 8 shall have effect as if these were made / amended by SE itself.
  - Shall override provisions of the Companies Act, 1956

R] Sec 9: Power of RSE to make bye-laws

- Conditions:

a) Bye-laws shall be subject to conditions in regard to previous publication as may be prescribed.
Exception - SEBI may, if satisfied that bye-laws should be made immediately, dispense with the condition in the interest of trade or public interest.

b) Prior approval of SEBI is required.

c) Bye-laws shall be published in Official Gazette

d) They shall become effective only when published in OG.

- Scope of bye-laws:
  - General Matters for the purpose of regulation & control of contracts. & without prejudice to generality of foregoing power:

1. Opening & closing of markets & regulating trade hours.
2. Regulation or prohibition of blank transfers.
3. Fixing, altering or postponement of settlement days.
4. Prescription of margin requirements.
5. Method & procedure for settlement of claims or disputes.
6. Levy & recovery of fees, fines & penalties.
7. Fixing of scale of brokerage & other charges.
8. Regulation of dealing by members for their own account.
9. Separation of functions of jobbers & brokers.
10. Limitation on volume of trade done by any individual member in exceptional circumstances.

• **Special bye-laws:** Bye-laws may specify that in case of contravention of certain specified bye-laws.

- Contract shall become void if entered into in
  - Notified Area/ State u/s 13
  - & Contravention of bye laws
- Members shall be liable to
  - Fine
  - suspension
  - expulsion
  - other similar penalty

5] Sec 10 : Power of SEBI to make / Amend Bye laws

• When can SEBI exercise its power u/s 10?
- suo motu
- request in writing is made by SE

• Conditions : a) Before making or amending bye-laws, SEBI shall consult the Governing body of SE.

b) On satisfaction, it may make or amend bye laws & record reasons

c) REFER 'R', 'Conditions', 'point (a)'.

• Bye-laws so made or amended
- published in OG
- effective only from date of publication in OG

• Objection by SE :

a) Where SEBI makes or amends the bye-laws suo motu, Governing body may object to it within 2 months of its publication in OG.

b) SEBI may, after giving opportunity of being heard, revise the bye-laws. They shall become effective from its publication in OG.

No.
Date

T] Sec 13A: Additional Trading Floor means
→ trading ring or trading facility offered by RSE.
→ outside the area of operation of RSE.
→ to enable investors to buy & sell securities through such trading floor.

Conditions for establishing ATF
→ Any SE may establish ATF
→ Prior approval of SEBI is required
→ comply with all T&C imposed by SEBI.

U] Sec 18 A: Contract in Derivatives
Over-riding effect of Sec 18A
Conditions
→ Contract is traded on RSE
→ contract is settled on clearing house of RSE
→ Rules & bye-laws of RSE are complied with.

V] Members Not to Act as Principals
- Prohibitions : No member of RSE shall enter into contract as principal.
- Exceptions :

a) Where the member
→ obtain consent of other person in writing; and
→ makes the disclosure that he is acting as principal.

b) Where the member
→ obtain consent of other person otherwise than in writing
→ obtain confirmation of such person in writing within 3 Day
→ makes disclosure that he is acting as pricipal

c) Member may close out any outstanding contract entered into with any other person by making disclosure that he is acting as principal.

d) Spot delivery contracts.

e) Member may enter into a contract as principal with another member.

W] Sec 27 : Title to Dividends

- **Rights of Registered holder of security :** Right to receive & retain any dividend declared by co. even if he has already transferred such security for consideration.
- **Rights of transferee :** Registered holder shall have no right to retain dividend if transferee has lodged all documents required for making transfer of security within 15 days of date on which dividend became due.

Extension of time :

Situation	Period of Extension.
• Death of transferee	Actual period taken by his legal representative to establish his claim to dividend.
• Loss of transfer deed	Actual period taken for replacement of transfer deed
• Delay due to cause connected with post	Actual period of delay.

- Where company has refused to register the transfer of security in name of transferee, the transferee's right against the transferor or any other person shall not be affected.

- **No liability of the company :**
  Company shall not be liable where it has paid dividend to the registered holder of security.

- **Applicability of Sec 27 :**
  Provisions shall apply, mutatis mutandis, where income or any other form of return is declared by collective investment scheme or mutual fund. (Sec 27A & 27B)

x] Composition of Offences

- **Time of making application**

Application for compounding can be made at anytime. (before or during prosecution)

- **Offences which can be compounded**

Fine | Fine or imprisonment | Fine or imprisonment or both

- **Compounding by whom?**

Offence committed under this Act shall be compounded by Securities Appellate Tribunal or the Court before which such proceedings are pending.