

Securities Contract (Regulation) Act, 1956

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Introduction

- It extends to the whole of India [Section 1];
- **Non-applicability [Section 28]:** Act N.A. to:
 1. Govt.;
 2. RBI;
 3. Local Authority;
 4. Corporation set up by special law;
 5. Any person effecting transaction with any person referred above;
 6. Convertible bonds, share warrants, options or right in relation thereto;
 7. Contracts exempted by CG notification in OG

Definitions [Section 2]

- **“Contract” means:**
 1. a contract for or relating to
 2. the purchase or sale of securities;

Definitions....contd.

- **“Securities” include:**
 1. 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;
 2. derivative;
 3. units or any other instrument issued by any collective investment scheme to the investors in such schemes;
 4. security receipt as defined in Section 2 (zg) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 5. units or any other such instrument issued to the investors under any mutual fund scheme;
 6. Government securities;
 7. such other instruments as may be declared by the Central Government to be securities; and
 8. rights or interest in securities;

Definitions....contd.

- **“Government Security” means:**
 1. a security created and issued, by the CG or SG;
 2. for the purpose of raising a public loan

Definitions....contd.

- **“Spot Delivery Contract” means** a contract which provides for:
 1. actual delivery of securities and the payment of a price therefore;
 2. either on the same day as the date of the contract or on the next day;
 3. 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; The actual period taken for the despatch of the securities or the remittance of money therefore through the post would be excluded from the computation of the period aforesaid (as in point 2 above) if the parties to the contract do not reside in the same town or locality

Definitions....contd.

- **“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

Definitions....contd.

- **“Derivative” includes:**
- 1. **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;
- 2. **a contract** which derives its value from the prices, or index of prices, of underlying securities

Definitions....contd.

- **“Stock Exchange” means:**
- 1. any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or
- 2. 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.

Definitions....contd.

- **“Recognised Stock Exchange” means** a stock exchange which is for the time being recognised by the CG under section 4;
- **“Member” means** a member of a recognised stock exchange;

Definitions....contd.

- **“Corporatisation” means:**
 1. the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860;
 2. 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;

Definitions....contd.

- **“Demutualisation” means:**
 1. the segregation of ownership and management from the trading rights of the members of a recognised stock exchange (RSE);
 2. in accordance with a scheme approved by the Securities and Exchange Board of India;

Definitions....contd.

- “**Scheme**” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for:
 1. 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;
 2. the restrictions on voting rights;
 3. 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;
 4. the transfer of employees of a recognised stock exchange to another recognised stock exchange;
 5. 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

Compulsory Corporatisation and Demutualisation of RSE [Sec 4A]

- On and from the appointed date, all RSE shall be corporatised and demutualised in accordance with section 4B;
- **SEBI may, specify another appointed date** in respect of that RSE and such recognised stock exchange may continue as such before such appointed date, if it is satisfied, that such RSE was prevented from being corporatised or demutualised, **on sufficient cause**;
- “**Appointed Date**” means the date which the SEBI may, by notification in the OG, appoint and different appointed dates may be appointed for different recognised stock exchanges

Procedure for Corporatisation and Demutualisation of RSE [Sec 4B]

- All RSE referred to in section 4A shall, within prescribed time, **submit to SEBI, a scheme for corporatisation and demutualisation for its approval**;
- **SEBI may**, after making necessary enquiry and obtaining required further information and on being satisfied that it would be in the interest of the trade and public, **approve the scheme with or without modification**;
- **No scheme be approved by SEBI if** the issue of shares for a lawful consideration or provision 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**

Procedure for Corporatisation and Demutualisation of RSE [Sec 4B]

- **Once the scheme is approved, it shall be published immediately by:**
 1. the SEBI in the OG;
 2. the RSE in such two daily newspapers circulating in India, as may be specified by the SEBI,
- **and upon such publication**, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force,
- **the scheme shall have effect and be binding on all persons and authorities** including all members, creditors, depositors and employees of the RSE and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the RSE or its members.

Procedure for Corporatisation and Demutualisation of RSE [Sec 4B]

- Where **SEBI is satisfied** that it **would not be in the interest of the trade and public** to approve the scheme, it may, by an order, **reject the scheme and such order of rejection shall be published** by it in the OG;
- SEBI shall give a **reasonable opportunity of being heard** to all the persons concerned and the RSE concerned **before passing an order rejecting the scheme**;
- SEBI may, while approving the scheme, **by an order in writing, restrict:**
 1. the voting rights of the shareholders who are also stock brokers of the RSE;
 2. the right of shareholders or a stock broker of the RSE to appoint the representatives on the governing board of the stock exchange;
 3. the maximum number of representatives of the stock brokers of the RSE to be appointed on the governing board of the RSE, which shall not exceed 1/4th of the total strength of the governing board.

Procedure for Corporatisation and Demutualisation of RSE [Sec 4B]

- Every RSE, in respect of which the scheme for corporatisation or demutualisation has been approved, **shall,**
 1. either by fresh issue of equity shares to the public; **or**
 2. in any other manner as may be specified by the regulations made by the SEBI,

ensure that **≥ 51%** of its equity share capital is held, by the public other than shareholders having trading rights, within 12 months from the date of publication of the order
- SEBI may, on sufficient cause being shown to it and in the public interest, extend the said period by another 12 months

Consequences: Failure to Corporatise or Demutualise [Section 5(2)]

- **Section 5(2) is applicable when:**
 1. RSE has not been corporatised or demutualised before the appointed date; and
 2. It has failed to submit the Scheme within the specified time
- **Consequences:**
 1. Recognition granted to SE stands withdrawn;
 2. Such withdrawal shall be published by N/N in OG;
 3. Such withdrawal shall apply notwithstanding anything to the contrary in the Act;
 4. Such withdrawal shall not affect the validity of the contract entered into before date of N/N

Listing of Securities

- Every company making an **application to SE** for listing of securities, shall comply with Listing Agreement [section 21];
- SE to give **reasons for refusing the permission** for listing [section 22A];
- As per Section 22A, **Company can file appeal** with SAT within 15 days of:
 1. Receipt of refusal order; or
 2. Expiry of 10 weeks from closing of subscription list, if SE does not communicate
- **Appeal filing period can be extended** upto 1 month for sufficient cause being shown to SAT;
- SAT shall endeavour to dispose the appeal within 6 months and shall give opportunity of being heard;
- **If aggrieved** of SAT order, **appeal can be filed with SC**, within 60 days, but for question of law [Section 22F];
- Extension on sufficient cause upto 60 days

Delisting of Securities (Section 21A)

- RSE shall record the reasons for delisting;
- The company shall be given opportunity of being heard;
- Listed Company **and/ or** any aggrieved investor, can file appeal against delisting with SAT;
- Appeal can be filed within 15 days of the date of decision of RSE;
- Extension upto 1 month possible on sufficient cause being shown;
- **SAT shall endeavour to dispose the appeal within 6 months by giving OBH to SE;**
- SAT may set aside **or** vary **or** confirm SE's order

Recognition of SE

- **Application by SE to be made to CG** [section 3]:
 1. In prescribed Form;
 2. With prescribed fees;
 3. With Rules and Bye-laws of SE
- Rules to contain the provisions relating to "Constitution and Management of SE", such as its governing body, office bearers, etc.;
- **CG shall make the necessary enquiry** before giving recognition [section 4];
- If CG is satisfied as to SE Rules and Bye-laws and other conditions, **order granting recognition shall be published in OG**;
- **If recognition is refused, SE should be given OBH**

Withdrawal of SE Recognition [Section 5]

- CG to issue notice to governing body of its intention to withdraw recognition;
- Notice to be issued only if, CG opines such withdrawal in interest of trade **or** public interest;
- Notice must contain reasons for proposed withdrawal;
- CG to give OBH to SE;
- Order of withdrawal to be published by N/N in OG;
- Validity of contracts entered before such N/N shall not be affected

Powers of CG and SEBI [Section 6 & 7]

- RSE to furnish prescribed periodical returns relating to its affairs to SEBI;
- RSE to file annual report to CG containing prescribed particulars;
- RSE and its every member to furnish such info and explanations to SEBI as required in interest of trade or public;
- SEBI can enquire about the affairs of governing body or SE member;
- Disciplinary action can be directed by SEBI;
- Fine can be imposed, and/ or Member can be expelled by SEBI, as a result of enquiry

Power to supersede governing body [Section 11]

- CG has the power to supersede governing body of SE;
- Notice in writing to be served by CG of its intention to supersede;
- Before supersession, OBH is required;
- Supersession becomes effective on the publication of N/N in OG;
- Governing body members cease to hold office w.e.f. N/N date;
- CG appoints certain persons to act for superseded SE;
- CG can also order for reconstitution of SE

Power to suspend business of SE [Section 12]

- CG has this power;
- **Power can be exercised if CG opines that out of some emergency it is expedient to do so;**
- Such suspension becomes effective on its order (alongwith reasons of suspension) being published by N/N in OG;
- The **period of suspension can not exceed 7 days** and shall be subject to such conditions as specified in N/N;
- CG may extend the period by issuing fresh N/N but:
 1. In public interest; and
 2. By giving OBH to SE

Additional Trading Floor [Section 13A]

- It means:
 1. A trading ring or trading facility offered by RSE;
 2. Outside the area of operation of RSE;
 3. To enable the investors to buy and sell securities through such trading floor
- Any SE may establish additional trading floor with SEBI prior approval;
- SE also to comply with terms and conditions imposed by SEBI

Members not to act as Principals [Section 15]

- **No RSE member shall enter into any contract as a Principal;**
- **Exceptions:**
 1. Written consent of other person is obtained and disclosure is made that he is acting as principal;
 2. If consent other than written consent is obtained then written confirmation of such person's consent to be obtained in 3 days and disclosure is made;
 3. Closing out any outstanding contract;
 4. Spot delivery contracts;
 5. Contract with another member(s)

Title to Dividends [Section 27]

- **Registered holder of a security has the right to receive and retain any dividend declared by the company even if he has already transferred such security for consideration;**
- **Registered holder of the security shall have no such right, if the transferee has lodged all the transferring documents** within 15 days of the date on which dividend became due;
- The above period can be extended for causes like death of transferee, loss of transfer deed, delay caused by post;
- Transferee's right against transferor or any other person not affected, if the company refuses to register the transfer in his name;
- **Company not liable if it has paid dividend to the registered holder of the security;**
- **These provisions apply *mutatis mutandis* Collective Investment Scheme or Mutual Funds [Section 27A and 27B]**

Other Topics

- **CLEARING CORPORATION (Section 8A) = Para 10 of the Allied Laws Booklet;**
- **POWER OF STOCK EXCHANGES TO MAKE BYE-LAWS (Section 9) = Para 11 of the Allied Laws Booklet;**
- **CONTRACTS IN NOTIFIED AREAS (Section 13) = Para 13 of the Allied Laws Booklet**
