SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

ESTABLISHMENT OF SEBI SEC 3 & 4

By CG by issuing a notification in the Official Gazette.

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HO at Mumbai

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SEBI is a body corporate having perpetual succession and a common seal

CONSTITUTION OF SEBI

- **One Chairman**
- **Two members** from amongst the officials of the Ministry of CG dealing with finance and administration.
- **One member** from amongst the officials of the RBI;
- **Five other members** of whom at least three shall be whole time members

The members of SEBI shall be appointed by **CG.**

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The general superintendence, direction and management of the affairs of the SEBI shall vest in a Board of members pursuing

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The Chairman and the other members shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of CG, shall be useful to SEBI.

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CA FINAL SEBI ACT 1992

OBJECTS OF THE SEBI ACT

- Protection of the interests of investors.
- Promoting orderly and healthy growth of the securities market.
- Regulation of the securities market and other incidental matters.
- Promoting the fair dealings by the issuer of securities and ensuring a market place where they can raise funds at a relatively low cost.
- Regulating & developing a code of conduct and fair practices by intermediaries with a view to making them more competitive and professional.
- Monitoring the activities of stock exchanges, mutual funds and merchant bankers etc.

PROHIBITION ON ISSUE OF PROSPECTUS SEC 11 A

SEBI may for the protection of investors, by general or special orders

- Prohibit any company from issuing of prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities
- Specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

INVESTIGATION OF INTERMEDIARIES BY SEBI sec 11C

SEBI appoints an **INSPECTING OFFICER**

GROUNDS:
Intermediaries are:
- Functioning detrimentally
- Violating provisions.

DUTIES OF EMPLOYEES & OFFICERS OF INTERMEDIARIES
- Assist in investigation

PENALTY
- 1 Yr imprisonment or
- Fine upto Rs 1cr + Rs 5 lacs per day till default

POWER OF INSPECTING OFFICER
- Power to retain books & doc. For 6 mths
- Enforce attendance of any person & examine on oath
- Note on examination.

SEIZURE OF DOCUMENTS BY INSPECTING OFFICER
- An application to Magistrate of 1st class to be make if there are reasonable ground to believe that the documents will be destroyed, mutilated, altered, falsified etc
- Magistrate if satisfied orders enter & search the place & seizure such documents.

INSIDER TRADING SEC 15 G

INSIDER
Person connected directly/ indirectly with the co
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Having access to **UNPUBLISHED PRICE SENSITIVE INFORMATION.**

UNPUBLISHED PRICE SENSITIVE INFORMATION
Information, if published will directly/ indirectly affect the price of the securities

Penalty= Rs 25 crs or 3 times of amt of profit (higher)
- If he deals himself or
- Communicate such information.

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PENALTIES ON STOCK BROKERS SEC 15 F

FAIL TO ISSUE CONTRACT NOTE

5 times of amt of contact note

FAIL TO MAKE PAYMENT TO INVESTOR

RS1 LAC/day OR Rs1 crs (lower)

CHARGE COMMISSION MORE THEN SPECIFIED

Rs 1 lac or 5 times of excess (higher)

Factors considered before imposing penalty:

- Amt of loss suffered by investor
- Amt of unfair gain to stock broker
- Repetitive nature of default.

APPEAL AGAINST ORDER OF SEBI

SAT

- Against the order of
  - Adjudicating authority
  - SEBI
- Within 45 days of date of passing order. (extension on logical grounds)
- Pass following order:
  - Confirm
  - Modify
  - Set aside

SUPREME COURT

If SQL is involved

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Against SATs order

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Within 60 days from the date of order(extension on logical grounds)

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SEBI (ISSUE OF CAPITAL & DISCLOSURE REQUIREMENT) REGULATION 2009

I. PUBLIC ISSSUE

IPO

- Equity shares
- Convertible securities into equity.

FPO

- Equity shares
- Convertible securities into equity.

IPO

1st condition: OPTION I

UNLISTED COMPANY

- Net tangible assets >= 3 crs in 3 PFY (full) of which not more than 50% in monetary asset
- Avg pre tax operating profits >= Rs 15 crs during 3most profitable yrs out of 5 PFY
- Net worth >=1 cr 3 PFY (full)
- If company has changed its name within last one yr, than atleast 50% of the revenue for preceding yr is earned from the activities suggested by the new name.
- Proposed issue <= 5 times the pre issue net worth

LISTED COMPANY

- If company has changed its name within last one yr, than atleast 50% of the revenue for preceding yr is earned from the activities suggested by the new name.
- Proposed issue + Pre issue in the same FY <= 5 times the pre issue net worth

OPTION II FOR BOTH LISTED AS WELL AS UNLISTED COMPANY

Book building process has been followed (amendment for may13)

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75% of the net offer to public is made to QIBs (amendment for may13)

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2nd condition: prospective allotees>= 1000

3rd condition: no outstanding conversion of debt instrument.

4th condition: credit rating has been obtained.

5th condition: if the seller (normally promoter) wishes to offer his securities for sale to public if such equity shares are held by him for atleast one yr prior to the date of filing of offer document with SEBI.

FPO

OPTION 1:

- If company has changed its name within last one yr, than atleast 50% of the revenue for preceding yr is earned from the activities suggested by the new name.
- Proposed issue + Pre issue in the same FY <= 5 times the pre issue net worth

OPTION 2

- Book building process has been followed &
- Net offer to public >= 75% to QIBs

II PRICING

Issuer is free to determine the price of the securities

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Issuer fixes the price in consultation with lead merchant banker[5]

1. Differential pricing

RII/ employees may be offered at a price lower than the offer made to others	QIBs (anchor investors) shall not be offered at a price lower than the offer price to others.	In case of composite issue , price of public issue can be different from right issue.

2. PRICE
To be specified in the prospectus
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If not specified then to be announced

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- In case of IPO: atleast **5 working days** prior to opening of offer. **(amendment for may13)**
- In case of FPO : atleast 1 working days prior to opening of offer.

In all the newspapers in which the pre issue advertisement was given.

3. PRICE BAND

The cap on price band shall not be more than 120% of the floor price.

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Floor price >= face value of securities.

4 FACE VALUE OF SHARES

If issue price / share >= Rs 500	If issue price / share < Rs 500
↓	↓
FV >= Rs 1/ share	FV = Rs 10/ share

III PROMOTERS

1. Minimum promoter's contribution

IPO	FPO	COMPOSITE ISSUE
Atleast 20% of post issue capital	Atleast 20% of post issue capital or 20% proposed issue size	Excluding right issue, atleast 20% of post issue capital or 20% proposed issue size

2. No minimum PC required if:

- No identifiable promoter available.
- FPO is by way of conversion of securities.

3. Securities ineligible for minimum PC

Securities acquired by promoter during 3 PFY: • Other than cash • By way of bonus shares out of revaluation reserve/ unrealized profit.	Securities acquired by promoter during PFY at a price lower than offer price of IPO. However if the promoter pay to the issuer the difference between the prices (offer price – acquiring price), then such securities are valid.	Securities pledged with any creditor.

Note: The entire promoter contribution including premium shall be received atleast 1 day before the issue opening date & kept with the schedule bank.

4. Lock in period

- Minimum PC = lock in period = 3 yrs from the date of allotment
- Holding beyond minimum PC = lock in period = 1 yr from the date of allotment.
- Promoters can pledge the securities with
  - Schedule banks
  - Commercial banks
  - PFIs.
- Securities held by the promoter can be transferred to another promoter during lock in period.

IV GREEN SHOE OPTION

To stabilize the post list price

1. Resolution in GM
   a. For allotment of securities
   b. For appointment of stabilization agent
2. Merchant banker shall act as stabilization agent.
3. Prior to filing of offer document, an agreement shall be entered between-

Issuer & stabilization agent To determine terms & condition of GSO including fee aspects	Promoters & stabilization agent To determine the amt of over allotment but shall not exceed 15%of the issue size.

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4. The offer document contains all material disclosure about GSO.
5. The stabilization agent shall determine the time & qty of securities & the price of buying from the mkt.
6. Stabilization process shall be available for 30 days from the date of trading permission.
7. The securities bought from the mkt shall be deposited in a special a/c & money related to over allotment shall also be kept in separate a/c by stabilization agent.
8. Securities so bought shall be returned to the promoters within 2 days after stabilization process.
9. Any balance in separate a/c shall be remitted to the company.
10. Stabilization agent shall submit a report on daily basis during stabilizing process & a final report to SEBI.

V RIGHT ISSUE

No right issue:

- There are no outstanding convertible debt instrument.
- If any, then similar benefits are reserved for them as well.

<u>Procedure:</u>

Application form

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Abridged letter of offer

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Send to all the existing shareholders.

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Subscription is open for

Min - 15 days	Max - 30 days

Pre issue advertisement for right issue

Following details shall be given in advertisement-

- Details of dispatch of letter of offer.
- Center from where duplicate application form can be obtained.
- If a shareholder has not received application form & not in a position to obtain duplicate application form then he can apply on plain paper but the format is prescribed in the advertisement.
- Grounds for rejection shall be mentioned.
- Advertisement to be given in
    - One English NP.
    - One hindi NP.
    - One regional NP.

VI PREFERENTIAL ISSUE

1. NON APPLICABILITY:

- Conversion of loan/ debt into shares
- Schemes approved by high court u/s 391 to 394 of Co. Act
- Scheme approved by BIFR.

2. RELAVENT DATE

30 days prior to the date on which meeting of shareholders is held for considering preferential issue.

3. CONDITIONS

- SR in GM. Disclosure in notice of GM of the following:
    - Object of preferential issue.
    - Proposal details.
    - Shareholding pattern before & after preferential issue.
    - Details of proposed allottee.
    - Recomputed price.
    - Statutory auditor certificate - as regard compliance of conditions related to preferential issue.
- Shares in DEMAT form only.
- Complied listing agreement.
- PAN of proposed allottee has been received by issuer.
- No preferential issue to a person who has sold equity shares of issuer during 6 mths prior to RD.

4 ALLOTMENT PERSUANT TO SR

- Allotment within 15 days from passing resolution.
- If Allotment not made within 15 days from passing resolution, then fresh SR required.

5. PRICING OF EQUITY SHARES

- Securities are listed in RSE for 6 mths or more from RD.
  - Avg weekly high & low of closing price during 6 mths preceding the RD.
  - Avg weekly high & low of closing price during 2 weeks preceding the RD.
  - Whichever is higher
- Securities are listed in RSE for less than 6 mths from RD.
  - Price of IPO or Avg weekly high & low of closing price during the period preceding the RD.
  - Avg weekly high & low of closing price during 2 weeks preceding the RD.
  - Whichever is higher

6. LOCK IN PERIOD

- Preferential allotment to promoter

  3 yrs from the DOA

- Preferential allotment to others

  1 yrs from the DOA

  Where the shares are partly paid up 1 yr from the date it became fully paid up.

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VII BONUS SHARES

Following are the conditions to be satisfied:

- Authorized by AOA.
- No default in
  - Interest
  - Principal

Of fixed deposit & debt securities.

- No issue pending conversion of debt instrument unless similar benefit is reserved for them.
- No default in statutory dues.
- Bonus shares shall be made out of free reserve (not from revaluation reserve or non cash profits)
- No bonus shares in lieu of dividend.
- Announced in BM.
- No partly paid up shares.
- Once declared it cannot be withdrawn unless with the consent of shareholders.

Implementation of bonus shares

Where approval of shareholders not required	Where approval of shareholders required
Within 15 days from the date of BR.	Within 2 mths from the date of BR.

- The bonus shares shall be issued within 6 mths from the date of BR.

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VIII BOOK BUILDING

- Cap of price band <= 20%
- Where the price band is to be revised, floor price can be moved up or down by 20% & the higher amt is adjusted accordingly.
- Revised price band should be-
  - Informed to RSEs
  - Displayed on website
  - Press release
  - The bidding period shall be extended by 3 days.

ALLOTMENT IN NET OFFER TO PUBLIC THROUGH BOOK BUILDING

WHERE OPTION 1 OF PUBLIC REGULATION IS FOLLOWED:

- RIIs – 30%MIN
- NIBs- 15% MIN
- QIBs- 50% MAX

WHERE OPTION 2 OF PUBLIC REGULATION IS FOLLOWED:

- RIIs – 10%MIN
- NIBs- 15% MIN
- QIBs- 75% MAX

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