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The Securities & Exchange Board of India Act, 1992 (Chart 19A.1)

Basic Concepts	Term of Office & condition of service	Meetings & Audit of SEBI	Powers and Functions of SEBI (Section 11)		
Purpose Establishment of Board called Securities and Exchange Board of India Object a) Protection of the interests of investors . b) Promoting orderly & healthy growth of securities market c) Regulation of securities market & other incidental matters d) Promoting the fair dealings by the issuer of securities & ensuring a market place where they can raise funds at a relatively low cost e) Regulating & developing a code of conduct & fair practices by intermediaries with a view to making them more competitive & professional	Term & Termination a) CM & WTM may hold office for period of 3 yrs subject to the max. age limit of 65 yrs & can be re- appointed by CG b) Part-time member may also hold office for a max. of 3 yrs without age limit c) CG can terminate the services of CM or other members appointed (other than its own officials or of RBI) at any time before expiry of tenure by giving 3 mths notice in writing or salary & allowance Resignation Giving a notice of 3 months in writing to the CG. Condition for Removal of Members a) at any time has been adjudicated as insolvent b) has been declared by a competent court to be of unsound ; c) has been convicted of an offence which in opinion of CG, involves moral turpitude d) has in opinion of CG so abused his position as to render his continuance in office detrimental to the public interest Before removing a member or CM, he will be given reasonable opportunity of being heard in matter	Meetings (Sec 7,7A,8) a) At such time & place as may be provided by regulations b) If CM not present any member present can preside with meeting c) Member being director & who as such director has any indirect pecuniary interest in any matter coming up for consideration, disclose nature of his interest & such disclosure shall be recorded & member shall not take any part in any deliberation or decision of Board with respect to that matter d) Any vacancy/defect in constitution in Board shall not invalidate any of acts or proceeding Grants by CG CG make to Board grants of such sums of money as that Gvt may think fit for being utilised for the purposes of this Act SEBI General Fund a) Sources: All grants, fees, charges & sum received from other sources as may be decided by CG b) Application: Salaries, allowances and other remuneration of the members, officers and employees and expenses on purpose of their functions, objects & purpose of Act Accounts & Audit a) Maintain proper accounts as may be directed by CG in consultation with CAG b) Audit by CAG c) CAG shall has same rights as it has with audit of Govt A/c d) Report to CG & further CG will send to HOP	Measures to Regulate Securities Market (SM) a) Regulating Business in SE b) Registering & Regulating working of depositories, participants & other intermediaries c) Registering & Regulating working of VCF, CIS & MF d) Prmoting education & training of intermediaries e) Regulating substantial acquisition of SH & take-over of Co. f) Conducting research g) Registering & Regulating working of stock brokers, sub - brokers, share transfer agents, bankers to issue etc associated with SM h) Promoting & Regulating self-regulatory org i) Prohibiting fraudulent & unfair trade practices j) Prohibiting insider trading k) Levying fees or other charges Powers similar to Civil Court a) Inspection of any books, registers & other documents . B) Discovery & production of BOA & other doc at such place & time as may be specified c) issuing commissions for examination of witnesses or doc. d) summoning & enforcing attendance & examining them on oath e) inspection of any listed Co or public Co which intends to get its securities listed.	Specific Powers in the Interest of Investors a) Suspend the trading of any security b) Restrain persons from accessing SM & prohibit any person associated to buy, sell or deal in securities. c) Suspend any office-bearer d) Impound & retain the proceeds or securities under investigation. e) Attach after passing for approval by JM of first class having jurisdiction for a period not exceeding 1mth, 1or more BA or accounts of any intermediary or any person associated with SM involved in violation of any of provisions of this Act, or rules or regulations made f) Direct any intermediary or any person not to dispose of or alienate an asset which is investigated. Power to prohibit issue of prospectus a) By regulations : i) Matters relating to issue of capital, transfer of securities. ii) Manner in which such matters shall be disclosed. b) General/Special orders: i) Prohibit any Co from issuing prospectus, any offer doc, or advert soliciting money from public. ii) Conditions subject to which the prospectus, such offer document or advert., if not prohibited , may be issued.	Power to issue directions i) In the interest of investors , or orderly development of SM ii) To Prevent affairs of any intermediary or other persons being conducted in a manner detrimental to interest of investors or SM iii) To secure the proper management of any such intermediary or persons Power to Investigate a) If transactions in securities are in a manner detrimental to investors or SM b) any intermediary or any person who has violated any of the provisions or rules or regulations Power to Cease & Desist a) Violated provisions ,rules or regulations pass order cease& desist from committing or causing violation b) No such order in respect of any listed PC or PC unless reasonable ground to believe Power to make Regulations & Delegate a) By notification make regulations for foll matters i) times & places of meetings of Board & procedure to be followed & quorum ii) matters relating to issue of capital, transfer of securities and other matters. iii) terms & other conditions of service of officers & employees iv) Conditions subject to which certificate of registration issued b) Delegate by general or special orde r in writing powers & functions to any member, officer of the Board or any other person



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The Securities & Exchange Board of India Act, 1992 (Chart 19A.2)

Registration of Brokers etc. with SEBI	Collective Investment Scheme	Prohibition of manipulative & deceptive devices, insider trading	Power of CG to supersede the Board	Power to Grant Immunity	Offences by Companies
Application	Conditions [Section 11AA]	No person shall	Situation	Conditions for Immunity	Liability of Co & Person Incharge
In such manner and on payment of such fees as may be determined by regulations	a) Contributions or payments made by the investors, are pooled & utilized for the purposes of scheme or arrangement. b) Such contributions or payments are made with a view to receive profits, income, produce or property. c) property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed . d) Investors do not have day-to-day control over mgt & operation of scheme	a) Use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed b) Employ any device, scheme or artifice to defraud in connection with issue or dealing c) Engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue/dealing d) Engage in insider trading e) Acquire control of any Co or securities more than % of ESC f) Material or non-public information to any person, in a manner which is in contravention	Supersede not exceeding 6 mths if a) Board is unable to discharge the functions & duties imposed b) Board is unable to discharge functions & duties imposed c) Circumstances exist which render it necessary d) Default in complying with any direction issued by the CG or in discharge of the functions & duties	a) full & true disclosure in respect of alleged violation b) No prosecution & penalty under this Act c) Proceedings for prosecution for offence have been instituted before date of receipt for grant of immunity	a) Every person who at the time of offence was committed was responsible for conduct of business of Co & the Co shall be Deemed to be guilty & be liable to be proceeded against & punished accordingly
Order	Exclusion [11AA(2)]	Power of CG to issue directions [Sec 16]	Consequences	Withdrawal	Due Diligence
Suspend or cancel certificate of registration determined by regulation Provided reasonable opportunity of being heard is given	a) co-operative society registered or a society being registered or deemed to be registered b) Deposits are accepted by non- banking financial companies c) Contract of insurance to which Insurance Act applies d) Providing for any Scheme, Pension Scheme or the Insurance Scheme e) deposits accepted u/s 58A of the Co Act, 1956 and deposits accepted by Co declared as Nidhi or a mutual benefit society f) Falling within the meaning of Chit business g) contributions made in MF	a) Issue in writing such Directions from time to time, on question of Policy for the performance of its functions b) Given an opportunity to express its views before any direction c) Decision of CG whether a question is one of policy or not shall be final.	a) vacate their offices b) Powers, functions & duties vested shall be exercised & discharged by CG . c) Property owned or controlled by SEBI shall vest CG.	If not complied with the condition on which the immunity was granted or had given false evidence.	a) offence committed without his knowledge b) Exercised all due diligence to prevent commission of such offence.
Benefits of Registration			Reconstitution	Consequences of Withdrawal	Liability of Officers & Directors etc
a) Stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser, depository, Participant, Custodian of securities, Foreign Institutional Investor, Credit Rating Agency, or any other intermediary can buy, sell or deal in securities as conditions of a certificate of registration b) Any Person can sponsor or cause to be sponsored or carry on or caused to be carried on any VCF, CIS & MF			CG by fresh appointment & any person or persons who vacated their offices shall not be deemed disqualified for appointment.	a) Tried for offence or for any other offence which he appears to have been guilty in connection with the contravention. B) imposition of any penalty	With consent or connivance or attributable to any neglect on part of, any director, manager, secretary or other officer of Co, such Person shall be deemed to be guilty of offence & be liable to be proceeded against & punished
			Information to Parliament		
			Full report & circumstances leading to such action shall be laid before House of Parliament		
			Power to Decide Appeals		
			Person aggrieved by order of SEBI may prefer an appeal to CG but now appeal to SAT		

The Securities & Exchange Board of India Act, 1992 (Chart 19A.3)

Penalties and Adjudication

Securities Appellate Tribunal (Sec 15K-15S)

Sec 15A ,15B & 15C

- a) Failure to furnish any document, return or report , file any return or furnish any information, books or other documents within the time specified ,maintain books of accounts or records
b) Failure by registered intermediary to enter into agreement with client
c) Failure to redress grievances of investors, after having been called upon by Board in writing - Rs.1lac for each day of failure or Rs.1Cr whichever is less.

Sec 15D & 15E

- a) Defaults of person Sponsoring or carrying on any CIS, including MF
i) Failure to obtain certificate of registration
ii) Failure to comply with the terms and conditions
iii) Failure to make an application for listing of its schemes
iv) Failure to despatch unit certificates
v) Failure to refund the application monies
vi) Failure to invest money collected in CIS
vii) Failure by AMC of registered MF to comply with regulations then - Rs.1lac for each day of failure or Rs.1Cr whichever is less.

Sec 15F

- a) Failure by a Registered Stock Broker to issue CN - Amt not exceeding 5 times amt for which CN was required to be issued.
b) Failure by Registered Stock Broker to deliver to investor - Rs.1 lac for each day of failure or Rs.1cr whichever is less
c) Charging brokerage excess of specified in the regulations - Rs.1Lac or 5 time s amt of brokerage charged in excess , whichever is higher.

Sec 15H

- a) Fails to i) disclose the aggregate of shareholding
ii) Public announcement to acquire shares at a minimum price
iii) Make a public offer by sending letter of offer
iv) Payment of consideration to SH
v) Indulges in fraudulent & unfair trade practices - Penalty Rs 25 crs or 3 times of amt of profit (higher)
b) Fails to comply with provision, rules or regulations- Rs.1Cr

Sec 24

Person contravenes or attempts to contravene or abets contravention of provisions ,rules or regulations & fails to comply with directions or orders- Imprisonment not be less than 1 mth & may extend to 10 yrs, and / or fine upto Rs.25 cr.

15G Insider Trading

Person connected directly/ indirectly with Co having access to UNPUBLISHED PRICE SENSITIVE INFORMATION which 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.

Adjudication of Penalties

- a) For Sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15HA and 15HB, Board shall appoint officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry
b) Powers of AO:
i) To summon & enforce attendance of any person acquainted with the facts & circumstances of case to give evidence or to produce any doc.
ii) Impose such penalty for non compliance of prov., rules & regs.
c) Factors to be taken into account coz result of default :
i) Amount of disproportionate gain or unfair advantage
ii) Amount of loss caused to an investor or group of investors
iii) Repetitive nature of the default.

Establishment

CG by notification, establish one or more AT to be known as SAT to exercise jurisdiction, powers & authority conferred & also matters & places in relation to which SAT may exercise jurisdiction.

Composition

- a) Presiding Officer
b) Two other Officers

Qualification for appointment

- a) Presiding Officer(PO)- Appointed by CG in consultation with CJI or his nominee from
i) Sitting or retired Judge of SC or CJ of HC or
ii) Sitting or retired Judge of HC who has completed not less than 7 yrs of service as a Judge in HC.
b) Other Members: Ability, integrity & dealing with problems relating to SM & eof corporate law, securities laws, finance, economics or accountancy.

Disqualification

Person at senior management level shall not be appointed as PO or Member of SAT during his service or tenure or within 2 years from the date on which he ceases to hold office as such in the Board.

Tenure

- a) 5 yrs from the date on which he enters upon his office & shall be eligible for re-appointment.
b) PO <=68yrs & Member <=62yrs

Orders

No order of CG appointing any person as PO or a Member be called in question in any manner merely of any defect in constitution of a SAT

Appeal

- a) Against :
i) Order of Board made on & after commencement of the Securities Laws (Second Amendment) Act, 1999, or
ii) Order made by AO
b) Time Limit :
i) within of 45 days from date on which a copy of order made by Board or AO
ii) May extent if there's sufficient cause.
c) Disposal: Dispose of appeal finally within six months from the date of receipt of appeal after giving opportunity of being heard

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 19B.1)

Definitions	Applicability & Minimum Subscription for regulation	General Conditions (Regulation 4)		Fast track issue (FTI)
<p>Application Supported by Blocked Amount (ASBA)</p>	<p align="center">Applicability</p>	<p>1) Issuer offering specified securities through public issue or rights issue shall satisfy conditions of this Chapter at time of filing draft offer document with Board & at time of registering or filing final offer document with ROC or designated SE</p>	<p>4) Amount for general corporate purposes, as mentioned in objects of issue in draft offer document filed with Board, shall not exceed 25% of amount raised by issuer by issuance of securities</p>	<p align="center">Purpose behind FTI</p>
<p>Application for subscribing to a public issue or rights issue, along with an authorisation to Self Certified Syndicate Bank to block the application money in a bank account</p>	<p>(a) public issue (PI) (b) rights issue (RI), where the aggregate value of specified securities offered is 50 lakh rupees or more ; (c) preferential issue (d) issue of bonus shares by a listed issuer; (e) QIP by a listed issuer; (f) issue of IDR</p>	<p>2) No issuer shall make public issue or rights issue of specified securities:</p>	<p>5) No issuer shall make, i) Public issue of equity securities, if issuer or promoters or directors is wilful defaulter ; or ii) public issue of convertible debt instruments if, ▪ issuer or promoters or directors is wilful defaulter/ ▪ it is in default of payment of interest or repayment of principal amount in respect of debt instruments issued by it to public, if any, for period of more than 6 mths</p>	<p>a) FTI introduced in order to enable well established & compliant Listed Cos satisfying certain specific entry norms/conditions to access Indian Primary Market in time b) Such COs not required to file Draft Offer Document for SEBI's comments & to SE</p>
<p align="center">Further Public Offer</p>	<p>(c) preferential issue</p>	<p>a) if issuer, promoters, or directors or persons in control of issuer are debarred from accessing capital market by Board;</p>	<p>6) Issuer making rights issue of specified securities, make disclosures specified in Part G of Schedule VIII, in offer document & abridged letter of offer, if issuer or promoters or directors is wilful defaulter</p>	<p align="center">Norms under FTI</p>
<p>Offer of specified securities by listed issuer to public for subscription & includes offer for sale of specified securities to public by any existing holders of securities in listed issuer</p>	<p>Provided regulations not apply to issue of securities under SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011.</p>	<p>b) if promoters, directors or persons in control of issuer was or also is promoter, director or person in control of other company which is debarred from accessing capital market under order or directions made by Board; (c) omitted</p>	<p>7) Promoters or promoter group of issuer, shall not renounce their rights except to extent of renunciation within promoter group</p>	<p>a) Issuer doesn't have to comply with Regulations 6,7,8 related to filing of so many documents with SEBI & Stock Exchange b) There are lot of FORMS to be submitted under ICDR Regulations 6,7 and 8 & then amend prospectus based on observations made by SEBI</p>
<p align="center">Initial Public Offer</p>	<p>Minimum Subscription (MS)</p>	<p>d) unless it has made application to RSE for listing of specified securities & has chosen one of them as designated stock exchange:</p>		<p align="center">Norms Not Applicable</p>
<p>Offer of specified securities by an unlisted issuer to public for subscription & includes an offer for sale of specified securities to public by any existing holders of such securities in an unlisted issuer</p>	<p>a) Issue shall not be less than 90% of OTOD b) Non-receipt of MS, all application moneys received shall be refunded, but not later than: i) 15 days of the closure of the issue, in case of non-underwritten issue & ii) 70 days of the closure of the issue, in the case of an underwritten issue</p>	<p>In case of initial public offer, issuer make application for listing of securities in at least one RSE having nationwide trading terminals;</p>		<p>a) Shares listed on any RSE having nationwide trading terminals for period of at least 3 yrs immediately preceding date of filing of offer document with ROC/SE b) Average Market Capitalization of public shareholding of Co is at least Rs.1000 crore in case of public issue & Rs.250 Cr in case of rights issue c) Annualised turnover of shares of company during 6 calendar mths immediately preceding mth of reference date has been at least 2% of weighted avg no of ES listed during such 6 mths' period d) Co has redressed at least 95% of total shareholder/ investor grievances or complaints till end of quarter immediately preceding mth of date of filing offer document with ROC/SE e) issuer complied with listing agreement for at least 3 yrs immediately preceding reference date f) Auditors' qualifications for which such accounts are disclosed in offer document does not exceed 5% of net profit or loss after tax g) No show cause notices are pending against Co or its promoters or WTD on reference date (ga) issuer or promoter or promoter group or director of issuer has not settled alleged violation of securities laws through consent or settlement mechanism with Board during 3 years immediately preceding reference date A h) Entire shareholding of promoter group is held in dematerialised form on date of filing of offer (i) in case of rights issue, promoters & promoter group shall mandatorily subscribe to their rights A entitlement & shall not renounce their rights, except to extent of renunciation within promoter group or for the purpose of complying with minimum public shareholding norms prescribed under Rule 19A of Securities Contracts (Regulation) Rules, 1957; (j) equity shares of issuer have not been suspended from trading as disciplinary measure during last 3 years immediately preceding reference date; (k) annualized delivery-based trading turnover of equity shares during 6 calendar months immediately preceding month of reference date has been at least 10% of weighted average number of equity shares listed during such 6 months' period; (l) there shall be no conflict of interest between the lead merchant banker(s) & issuer or its group or associate company in accordance with applicable regulations</p>
<p align="center">Retail individual investor</p>		<p>e) unless it has entered into agreement with depository for dematerialization of specified securities issued or proposed to be issued;</p>		
<p>Investor who applies or bids for specified securities for value of not more than Rs. 2 lakhs</p>		<p>(f) unless all existing partly paid-up equity shares of issuer have either been fully paid up or forfeited ;</p>		
<p align="center">Issue Size & offer through offer document</p>		<p>(g) unless firm arrangements of finance through verifiable means towards 75% of stated means of finance</p>		
<p>a) Issue Size" includes offer through offer document (OTOD) & promoters' contribution. (PC) b) offer through offer document means net offer to public & reservations. Issue Size = OTOD + PC OTOD= NOTP + Reservations as per Reg 42 Therefore , Issue Size = NOTP + Reservations + PC</p>		<p>(3) Warrants may be issued along with public issue or rights issue subject to following: (a) tenure not exceed 18 months from date of allotment in public/rights issue; (b) not more than one warrant be attached to one specified security; (c) price or conversion formula of warrants shall be determined upfront & at least 25% of consideration amount be received upfront; (d) in case warrant holder does not exercise option to take equity shares against warrants held by him, consideration paid in respect of such warrant shall be forfeited by issuer</p>		
<p align="center">Wilful Defaulter A</p>				
<p>Issuer who is categorized as wilful defaulter by any bank or financial institution or consortium thereof, in accordance with the guidelines on wilful defaulters issued by RBI & includes issuer whose director or promoter is categorized as such</p>	<p>where minimum subscription including devolvement obligations paid by the underwriters is not received within 60 days of the closure of the issue, else interest @15% shall be payable.</p>			

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 19B.2)

Conditions for further public offer (Regulation 27)	PRICING IN PUBLIC ISSUE	PROMOTERS' CONTRIBUTION (PC)	Minimum Offer to Public, Reservations, etc
<p>Issuer may make further public offer if it satisfies conditions specified in clauses (d) & (e) of Regulation 26(1) & if it does not satisfy those conditions, it may make further public offer if it satisfies conditions specified in Regulation 26(2)</p>	<p style="text-align: center;">Pricing</p> <p>Determination of price of SS in consultation with LMB or through book building process</p> <p style="text-align: center;">Differential Pricing</p> <p>a) RII or RIS or employees applying for SS of value not more than Rs. 2 lakhs rupees, may be offered SS at a price lower than the price at which net offer is made to other categories of applicants:</p> <p>i) Difference shall not be more than 10% of price at which SS are offered to other applicants</p> <p>ii) If book built issue, price offered to AI shall not be lower than the price offered to other applicants</p> <p>iii) If composite issue, price offered may be different from price offered in RI & justification for such price difference shall be given</p> <p style="text-align: center;">Price and Price Band</p> <p>a) Price in draft prospectus (in case of FPI) & floor price or price band in red herring prospectus (in case of BB) & determine the price at later date before registering the prospectus with ROC</p> <p>i) But prospectus registered with ROC shall contain only one price or the specific coupon rate, as case may be</p> <p>1. The cap on price band ≤ 120% of FP</p> <p>2. FP or final price shall not be less than face value of SS</p> <p style="text-align: center;">Face Value (FV)</p> <p>a) FV of shares determined by Co e.g.; 10, 5, 2, 1, etc. b) It cannot be in decimal.</p> <p>c) If IPO foll. additional conditions apply:</p> <p>i) IP ≥ 500 then Co may fix FV below Rs.10 per share but not lower than Rs.1 per share ;</p> <p>ii) IP < 500 then Co must have FV of 10 per share</p>	<p style="text-align: center;">Minimum Requirement(MR)</p> <p>a) IPO by Unlisted companies - ≥ 20% of Post Issue Capital</p> <p>b) FPO by Listed companies - ≥ 20% of Post issue or ensure shareholding of ≥ 20% of Post Issue Capital if post issue shareholding of promoters < 20%, AIF may contribute for the purpose of meeting shortfall in MC as specified, subject to max. of 10% of post issue capital</p> <p style="text-align: center;">ALTERNATIVE INVESTMENT FUNDS</p> <p>a) Any fund established or incorporated in India in the form of trust or Co or LLP or a body corporate which –</p> <p>1) Is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign</p> <p>2. Is not covered under SEBI (MF) Regulations, 1996 & SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of the Board to regulate fund management activities:</p> <p style="text-align: center;">LOCK-IN PERIOD</p> <p>a) Min.PC- 3 yrs from date of allotment in PI or commencement of commercial production whichever is later.</p> <p>b) Excess PC- 1 yr from date of allotment</p> <p>c) Pre-IPO capital of Unlisted Co -1yr from date of allotment in PI</p> <p style="text-align: center;">Transferability of locked-in SS</p> <p>Comply with SEBI Takeover Regulations & that bal lock-in continues in hands of transferees for unexpired lock-in period</p>	<p style="text-align: center;">MAX.RESERVATION ON COMPETITIVE BASIS (Reg 42)</p> <p>a) Issue through BB-</p> <p>i) Employees excluding promoters- 5% of post issue capital.</p> <p>ii) shareholders (other than promoters) of: listed promoting companies, in case of new issuer & listed group companies, in case of existing issuer -10% of Issue Size</p> <p>iii) Persons who have business association with issuer as depositors or bondholders making IPO- 5% of issue Size</p> <p>b) Issue made otherwise than BB:</p> <p>i) Employees excluding promoters- 5% of post issue capital</p> <p>ii) SH (other than promoters) of: listed promoting companies, in case of new issuer, listed group companies in case of existing issuer - 10% of Issue Size</p> <p><i>Provided that in event of under-subscription in employee reservation portion, unsubscribed portion be allotted on proportionate basis, for value in excess of Rs. 2 lakhs, subject to total allotment to employee not exceeding Rs. 5 lakhs</i></p> <p style="text-align: center;">ALLOCATION IN NET OFFER TO PUBLIC</p> <p>a) BB under Reg 26(1) - RII ≥ 35%, NII ≥ 1 and 5%, QIB ≤ 50% out of which 5% shall be to MF.</p> <p>b) BB under Reg 26(2) - RII ≤ 10%, NII ≤ 15%, QIB ≥ 75% out of which 5% shall be to MF.</p> <p>c) Otherwise than BB - RII ≥ 50%, Bal 50% to other than RII</p>
<p style="text-align: center;">Qualified Institutional Buyer</p> <p>(a) PFI as in section 4A of Co Act, 2013. These include IFCI, IDBI, LIC, UTI, IDFC, ARCIL</p> <p>(b) Scheduled commercial banks includes commercial banks in 2nd Sch. to RBI Act</p> <p>(c) mutual fund</p> <p>(d) FIs registered with SEBI</p> <p>(e) VCF registered with SEBI</p> <p>(f) FVC investor registered with Board;</p> <p>(g) Insurance Co registered with IRDA</p> <p>(h) PF with minimum corpus of Rs.25 crore</p> <p>(i) Pension Fund with minimum corpus of Rs.25 crore</p>			

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 19B.3)

PREFERENTIAL ISSUE

Green Shoe Option (GSO)

REGULATION NOT APPLICABLE IF PI IS MADE

- (a) Conversion of loan or option attached to **convertible debt instruments** by CG
- (b) Scheme **approved by HC** u/s 391 to 394 of the Co Act, 1956 or **Tribunal u/s 230 to 234 of Companies Act, 2013, whichever applicable**
- (c) **Rehabilitation scheme** approved by BIFR or **Tribunal under Insolvency & Bankruptcy Code, 2016, whichever applicable**

CONDITIONS

- (1) (a) **SR** passed by its SH;
- (b) ES held are in **dematerialized form**;
- (c) Compliance with conditions for continuous listing of ES
- (d) Obtained **PAN** of the proposed allottees.
- (2) No **PI** who has sold any ES during **6 mths** preceding the relevant date: "Relevant date" means – date 30 days prior to the date on which the meeting of Shareholder is held to consider the proposed preferential issue.
- (3) **Allotment** pursuant to SR shall be completed **within** period of **15 days**, else pass a **fresh resolution** shall have to be passed again.

Payment of consideration

Full consideration of SS other than **warrants** issued under this Chapter shall be **paid** by the allottees at the time of allotment of such SS.

PRICING OF ES

- 1) ES listed on RSE for **6 mths/ more** on relev date, **price not less than higher of**:
 - (a) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **6 mths** preceding relevant date;
 - (b) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **2 weeks** preceding relev date
- 2) ES listed on RSE for period of **less than 6 mths** on relevant date, price not less than **higher** of following:
 - (a) **Price** at which ES issued in its **initial public offer**
 - (b) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **period shares** have been listed preceding relevant date; or
 - (c) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **2 weeks** preceding relev date

LOCK-IN OF SPECIFIED SECURITIES

- 3 yrs** from the date of allotment of the SS or ES allotted pursuant to exercise of option attached to warrant, provided
 - i) If **not more than 20% of total capital** shall be locked-in for **3 yrs** from the date of allotment
 - ii) And if **in excess of 20%** shall be locked-in for **1 yr** from the date of their allotment.

Meaning

- a) An option of **allocating shares in excess of shares** included in **PI** & operating post-listing price stabilizing mechanism for **period not exceeding 30 days** by Stabilizing Agent (SA).
- b) Issue would be over allotted to the extent of **max. of 15% of the issue size**.
- c) GSO provides **more probability** of getting shares & also that post listing price may show relatively more stability as compared to market.
- d) GSO gives underwriter the **right to sell investors more shares than originally planned**.
- e) Provide **additional price stability** because underwriter has the ability to increase supply & smooth out price fluctuations if demand surges.

Price Stabilization through GSO

- a) Stabilising **post listing price** of its Specified Securities(SS)
- b) **Resolution passed** in GM approving PI to allot SS to SA, on the expiry of SP
- c) **Appoints MB or BR** from amongst MBs appointed by issuer as SA
- d) Issuer & SA enters into **agreement** stating terms & conditions including fees & expenses to be incurred
- e) **Agreement** with promoters or pre-issue SH or both for borrowing SS, specifying **max. no of SS** may be borrowed which shall **not be in excess of 15%** of issue size
- f) **LMB or LBR in consultation with SA**, determine amount of SS over allotted
- g) **Draft & final offer documents** shall contain all material disclosures
- h) In IPO pre-issue SH and promoters holding **more than 5% specified securities** may lend SS
- h) SA determines **timing of buying** such securities, quantity to be bought & **price** at which to be bought
- i) Maximum SP **not exceeding 30 days** from date on which **trading permission** given
- j) **Separate Bank and DP Account** : For crediting monies received from the applicants against over- allotment and DP for crediting SS to be bought from market during SP
- k) **Return** of Shares to promoters or pre-issue but **not later than 2 working days** after end of SP
- l) SA unable to buy SS On expiry of SP, issuer shall allot SS at issue price in **dematerialised form** to extent of shortfall **within 5 days** of closure of SP
- n) **Listing Application** in respect of further SS allotted under sub-regulation(6) & provisions of Chapter VII shall not be applicable to such allotment
- m) SA shall **remit** monies of SS allotted from **special bank account**
- n) Any **Surplus in Bank Account** after remittance & deduction of expenses shall be **transferred to IPEF**
- o) **Report** : SA shall submit report to SE on **daily basis** during SP & FR to Board in format specified in **Schedule XII**
- p) Maintenance of Register for **at least 3yrs** from date of end of SP & register contains
 - i) Names of promoters or pre-issue SH
 - ii) Price, date & time of each transaction and
 - iii) details of allotment made

**SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS)
REGULATIONS, 2009 (Chart 19B.4)**

INDIAN DEPOSITORY RECEIPTS	BONUS ISSUE	BOOK BUILDING		ANCHOR INVESTORS (AI)
REGULATION 97 – ELIGIBILITY FOR IDR	CONDITIONS	CONCEPT	STEPS	CONCEPT
<p>(a) Issuing company (IO) is listed in its home country ;</p> <p>(b) IO is not prohibited to issue securities by any regulatory body;</p> <p>(c) IO has track record of compliance with securities market regulations in its home country</p> <p>“Home country” means country where issuing company is incorporated & listed.</p>	<p>a) Authorised by its AOA</p> <p>Provided if no such provision, pass a resolution at its general body meeting making provisions in AOA for capitalisation of reserve;</p> <p>b) Not defaulted in payment of interest or principal in respect of FD or debt securities issued by it</p> <p>c) Not defaulted in payment of statutory dues of the employees</p> <p>d) the partly paid shares, outstanding on the date of allotment, are made fully paid up .</p> <p>e) Reservation of ES of same class in favour of the holders of outstanding compulsorily convertible debt instruments , if any, in proportion to the convertible part thereof.</p>	<p>a) Public issue is made as opposed to a fixed price offer method .</p> <p>b) Demand for the proposed issue is elicited & built up & price is assessed.</p> <p>c) Price discovered by investors as opposed to Co fixing the price.</p>	<p>A) File the herring prospectus with ROC at least 3 days before the bid/issue opening date.</p> <p>b) Co & BLM must declare bid/issue opening date , bid/issue closing date & price band.</p>	<p>a) Application of a value at least Rs.10 crore in the public issue.</p> <p>b) Upto 30% of available for allocation to QIB shall be available to AI</p> <p>c) 1/3rd shall be reserved for domestic MF .</p>
REGULATION 98 – CONDITIONS FOR ISSUE OF IDR	BS only against reserves, etc. if capitalised in cash	PRICING	<p>c) Bidding period shall be open for at least 3 WD not more than 7 WD .</p>	<p>d) Bidding shall open 1 day before issue opening date</p>
<p>a) issue size >= 50 crore rupees ;</p> <p>b) Procedure to be followed by each class of applicant which shall be mentioned in the prospectus</p> <p>c) minimum application amount - Rs. 20,000</p> <p>d) at least 50% of the IDR to be allotted to QIB</p> <p>e) Bal 50% may be allocated among NII & RII including employees & allocation to be disclosed in prospectus. Provided IDRs in public issue for RII >= 30% & in case of under subscription in RII, spillover to other categories to the extent permitted.</p> <p>f) only 1 denomination of IDR of the issuing company.</p>	<p>Out of FS built out of genuine profits or SP collected in cash only & reserves created by revaluation of FA shall not be capitalised for BI.</p> <p>Note: CR & CRR are prevalently used for BS. Only RR, which in unrealized is not permitted.</p>	<p>a) Prospectus (red herring prospectus) should mention Floor Price (i.e., min. price below which bids would not be accepted) or price band consisting of ceiling/cap & a floor.</p> <p>b) In case of band, cap cannot exceed 20% of floor.</p> <p>c) Actual pricing depends on bids received.</p>	<p>d) PB is revised, it will be published in two widely circulated newspaper & the bidding period extends for a further period of three period of three days , subject to total bidding period not exceeding 10 WD .</p>	<p>e) Pay at least 25% margin which is payable by other categories of investors bal, to be paid within 2 days of date of closure of issue</p>
	Completion of bonus issue	Revision of price band (PB)	<p>e) The bidder can revise the bid through revision form .</p>	<p>f) Allocation to be completed on day of bidding</p>
	<p>a) BI after approval of its BOD for capitalisation of profits or reserves, shall implement BI within 15 days from date of approval</p> <p>Provided that where SH's approval, BI shall be implemented within 2 mths from date of the meeting of its BOD wherein the decision was taken subject to SH's approval.</p> <p>b) Once the decision to make BI is announced, it can not be withdrawn .</p>	<p>Max. revision on either side <=20% i.e. floor of PB can move up or down to the extent of 20% of floor of PB disclosed in red herring prospectus & the cap of the revised PB will be fixed in accordingly.</p>	<p>f) Bid at any price within the price band & for desired no of ES at a specific price.</p>	<p>g) Price fixed as result of BB is higher than price at which the allocation is made, then it shall be an additional amount. If lower than price at which allocation is made shall be allotment at price at which allocation was made to it</p>
		Build up of the books and revision of bids	<p>g) Bidding period shall be open for at least 3 WD not more than 7 WD .</p>	<p>h) No of share allocated & price at which allocation is made, shall be made available in public domain by merchant banker</p>
		<p>a) Electronically transmitted to NSE OR BSE on an online basis.</p> <p>b) Book gets built up at various price levels. Info available with BRLMs on regular basis.</p> <p>c) Bidder who registered his interest in ES is free to revise his bid within PB.</p> <p>d) Revision can be made in both desired nos of ES & bid price & no of time s during bidding period</p>	<p>e) The bidder can revise the bid through revision form .</p>	<p>i) Lock-in of 30 days on shares from date of allotment public issue</p>

**SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS)
REGULATIONS, 2009 (Chart 19B.5)**

Miscellaneous (Chapter XII)

Initial Public Offer

Directions by Board (Regulation 111)

Without prejudice to power u/s 11, 11A, 11B, 11D, 12(3), Chapter VIA & section 24 of Act or section 621 of Companies Act, 1956, **Board may either suo motu or on receipt of information or on completion or pendency of any inspection, inquiry or investigation**, in interests of investors or securities market, **issue such directions** or orders as it deems fit including any or all of following:

(a) directing persons concerned **not to access securities market** for specified period;

(b) directing person concerned to **sell or divest securities** ;

(c) any **other direction** which Board may **deem fit and proper** in circumstances of case:

- Board shall, **either before or after issuing such direction** or order, give **reasonable opportunity of being heard** to person concerned
- If **interim direction or order is required** to be issued, Board may **give post-decisional hearing** to person concerned

Liability for contravention of Act, rules or regulations (Regulation 111A) A

1) **Listed entity or any other person** thereof who **contravenes** any of provisions of these regulations, shall, **in addition to liability for action** in terms of securities laws, be **liable for following actions** by respective stock exchange(s), in manner specified in circulars or guidelines issued by Board:

a) **imposition of fines** ;

b) **suspension of trading** ;

c) **freezing of promoter/promoter group holding** of designated securities, as may be applicable, in coordination with depositories;

d) any **other action** specified by Board from time to time

2) **manner of revocation** of actions specified in clauses (b) and (c) of sub-regulation (1), shall be as specified in circulars or guidelines issued by Board

Failure to pay fine (Regulation 111B) A

If **listed entity fails to pay any fine imposed upon it by recognised stock exchange(s)**, within **period as specified from time to time**, stock exchange may initiate other action in accordance with law, after giving notice in writing

Power to relax strict enforcement of the regulations (Regulation 113)

1) **Board** may, in interest of investors or for development of securities market, **relax strict enforcement of any requirement** of these regulations, if Board is satisfied that:

(a) requirement is **procedural** in nature; or

(b) any **disclosure requirement is not relevant** for particular class of industry or issuer; or

(c) **non-compliance** was caused due to factors beyond the control of issuer A

2) **For seeking relaxation under sub-regulation (1), an application, giving details & grounds on which such relaxation has been sought, shall be filed with Board**

3) **Application referred to under sub-regulation (2) be accompanied by non-refundable fee of Rs. 1 lakh payable by way of direct credit in bank account through NEFT/RTGS/IMPS or any other mode allowed by RBI or by way of DD in favour of Board payable in Mumbai**

Regulation 1

(a) **NTA >= Rs3 Cr** in each of the **preceding 3 full yrs** (of 12 mths each), of which **MA <= 15%**. if **NTA >= 50%** are held in **MA**, issuer has made firm **commitments** to utilise such **excess MA** in its business or project

(b) **MAPOP of Rs.15 crore**, calculated on a restated and consolidated basis, during **3 most profitable yrs** out of the immediately **preceding 5 yrs**.

(c) **NW >= Rs 1cr** in each of the preceding 3 full yrs (of 12 mths each);

(d) **Aggregate** of proposed issue and all previous issues made in the same FY in terms of issue size does not exceed 5 times **its pre-issue NW** as per audited BS of the preceding FY;

(e) **Name changed** within last 1yr **>= 50%** of **revenue** for the preceding **1 full yr** has been earned from activity of new name.

Regulation 2 if Reg 1 is not satisfied

a) Issue through **BB process & issuer allots >= 75%** of the net offer to **public to QIB & refund** full subscription money if it **fails** make said mini. allotment to QIB.

b) **No allotment** pursuant to PI if no of prospective **allottees is less than 1000**.

c) **No IPO**, unless as on date of registering **prospectus** or red erring prospectus with **ROC**, grading for IPO from **at least 1 credit rating agency** registered with Board

Securities Contract (Regulation) Act, 1956 (Chart 20.1)

Definition (Sec 2)

Recognition of Stock Exchanges

CORPORATISATION	SECURITIES	Application	Granting of Recognition by SEBI (Sec 4)	Corporatisation and demutualisation(CAD) of stock exchanges (Section 4A & 4B)
<p>Succession of a recognised stock exchange(RSE) being a body of individuals or a society registered under the Societies Registration Act, 1860, by another stock exchange, being CO incorporated for the purpose of assisting, regulating or controlling business of buying, selling or dealing in securities carried on by such individuals or society.</p>	<p>(i) Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities. (ii) Derivative ; (iii) Units or any other instruments issued by any collective investment scheme to investors (iv) Security receipt as defined in (SARFAESI) (v) Units or any other such instrument issued to the investors under any mutual fund scheme ; (vi) Government securities; (vii) Such other instruments as may be declared by CG (viii) Rights or interests in securities.</p>	<p>Application to the CG (Power delegated by CG to SEBI)</p>	<p>Grant recognition to SE subject to the conditions:</p>	<p>i) Within such time as may be specified by the SEBI, submit a scheme for CAD for its approval . ii) In interest of the trade & also in public interest , approve the scheme with or without modification iii) If approved,scheme shall be published immediately by (a) SEBI in the Official Gazette ; (b)RSE in such 2 daily newspapers circulating in India, as may be specified by SEBI. iv) Restriction / Condition: (a) Voting rights of SH who are also stock brokers of RSE (b)Right of SH or stock broker of RSE to appoint representatives on governing board of SE (c) max. no of representatives of stock brokers of the RSE to be appointed on governing board of RSE, which shall not exceed 1/4th of the total strength of the governing board d) Every RSE either by fresh issue of ES to public or in any other manner as may be specified, ensure that atleast 51% of its ESC is held, within 12 mth s from date of publication of the order, by public other than shareholders having trading rights</p>
<p style="text-align: center;">DEMUTUALISATION</p> <p>Segregation of ownership & management from the trading rights of the members of a RSE in accordance with a scheme approved by SEBI.</p>	<p style="text-align: center;">SPOT DELIVERY CONTRACT</p>	<p style="text-align: center;">Form of Application</p>	<p style="text-align: center;">Publication in Gazette</p>	<p style="text-align: center;">Withdrawal of Recognition (Sec 5)</p>
<p style="text-align: center;">Scheme under Corptn & Demutn</p>	<p>a) Actual delivery or securities & payment of a price either on same day as the date of contract or on next day, actual period taken for the despatch of the securities or b) Remittance of money therefor through post being excluded from computation of period if parties do not reside in same town or locality</p>	<p style="text-align: center;">Attachment to Application</p>	<p>Grant recognition to SE subject to the conditions:</p>	<p>i) CG can withdraw in the interest of the trade or in public interest after serving due notice on governing body of Exchange ii) If RSE has not been corporatised or demutualised or it fails to submit the scheme or the scheme has been rejected by SEBI, the recognition shall stand withdrawn & CG shall publish, by notification in Official Gazette, such withdrawal iii) Withdrawal shall not affect the validity of any contract entered into or made before date of notification</p>
<p style="text-align: center;">DERIVATIVE</p>	<p style="text-align: center;">Refusal</p>	<p>Bye-Laws, Rules, Regulations containing details on:</p>	<p>Grant of recognition shall be published in Gazette of India & also in Official Gazette of State in which SE is located</p>	<p>i) opportunity of being heard ii) Reason for refusal will be communicated in writing</p>
<p>i) Issue of shares for a lawful consideration & provision of trading rights in lieu of membership cards. ii) Restrictions on voting rights . iii) Transfer of property, business, assets, rights, liabilities, recognitions, contracts of RSE from 1 RSE to another. iv) Transfer of employees of RSE to another RSE v) Any other matter</p>	<p>Application to the CG (Power delegated by CG to SEBI)</p>	<p>i) Form A with a fee of Rs. 500 ii) 4 copies of Articles / Bye laws & Rules & Regulation relating to Stock Exchange</p>	<p>i) Rules and Bye-Laws are in conformity with the conditions prescribed. ii) Fair dealing & investors protection iii) Interest of trade & also in public interest iv) Qualification for membership v) Manner in which contracts shall be entered & enforced as betwn members vi) Representation of CG on Board of Exchanges (Not exceeding 3) vii) Maintenance of accounts of members & their audit by CA</p>	<p>(a) SEBI in the Official Gazette ; (b)RSE in such 2 daily newspapers circulating in India, as may be specified by SEBI. iv) Restriction / Condition: (a) Voting rights of SH who are also stock brokers of RSE (b)Right of SH or stock broker of RSE to appoint representatives on governing board of SE (c) max. no of representatives of stock brokers of the RSE to be appointed on governing board of RSE, which shall not exceed 1/4th of the total strength of the governing board d) Every RSE either by fresh issue of ES to public or in any other manner as may be specified, ensure that atleast 51% of its ESC is held, within 12 mth s from date of publication of the order, by public other than shareholders having trading rights</p>

Securities Contract (Regulation) Act, 1956 (Chart 20.2)

Powers of Various Authorities

Power of Central Government to call for Information (Section 6)	Power of CG to direct rules to be made or to make rules. (Sec 8)	Power to RSE to Make Bye-Laws (Section 9)	Power of SEBI to make or amend bye-laws of RSE (Sec 10)	Power of CG to supersede governing body of a RSE.(Sec 11)
<p>i)RSE should furnish periodical returns to SEBI in the prescribed format relating to its current affairs.</p> <p>ii.)RSE & member thereof has to maintain and preserve books of accounts for a period not exceeding 5 yrs & these books may be inspected by SEBI at any point of time.</p> <p>iii.)Order in writing call for information or explanation relating to affairs of an Exchange or its member & appoint one or more inquiry officers who submits report to SEBI.</p> <p>iv)Every member is bound to provide information to Enquiry officer or SEBI representative who are looking into the affairs of the Exchange.</p>	<p>i.)After consultation with the governing bodies of SE,CG by order in writing, together with a statement of the reasons direct RSE to make any rules or amend any rules within a period of 2 months from the date of the order.</p> <p>ii.)RSE fails or neglects to comply with any order CG may make the rules for or amend the rules.</p> <p>iii.)Penalty for Non-Compliance of Sec 8 shall attract Rs. 25 Crore u/s 23G.</p>	<p>i)RSE may subject to the previous approval of the SEBI, make bye-laws for the regulation & control of contracts.</p> <p>ii.)Such bye- laws may provide for:(a)Opening & closing of markets & regulation of the hrs of trade b.)CH for periodical settlement of contracts & differences, delivery & payment of securities,passing on of delivery orders & the regulation & maintenance of such CH.</p> <p>c.)Regulation or prohibition of blank transfers .</p> <p>d)number & classes of contracts for settlements or differences paid through CH.</p> <p>e.)Regulation, or prohibition of badlas or carry-over facilities</p> <p>f.)Fixing, altering or postponing of days for settlements</p> <p>(g)Regulation of taravani business including the placing of limitation.</p> <p>(h)Fixing of scale of brokerage & other charges</p> <p>(i)Listing of securities on SE including any security for the purpose of dealings & the suspension or withdrawal and the suspension or prohibition of trading in any specified securities.</p>	<p>i) SEBI in writing received by it in this behalf from RSE after consultation with the governing body of SE & after recording its reasons make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws.</p> <p>ii.)RSE objects to any bye-laws made or amended under this section by SEBI it may, within 2 months, apply to the SEBI for revision & giving an opportunity to be heard,revise the bye-laws so made or amended,shall be published and shall become effective.</p> <p>iii.)Penalty for Non-Compliance of Sec 8 shall attract penalty of Rs. 25 Crore u/s 23G</p>	<p>i.)CG may serve a written notice that CG is considering the supersession for the reasons specified in the notice & after giving an opportunity to be heard.</p> <p>ii.)Notification in the Official Gazette , declare supersession & may appoint any person exercise and perform all powers & duties & where more persons than one are appointed, may appoint one of such persons to be chairman & another to be the vice-chairman .</p> <p>iii.)Effect of Supersession:Notification in OG & ensure foll.</p> <p>a.)From the date of the notification , cease to hold office as such members.</p> <p>b)Persons appointed may exercise & perform all powers & duties of the governing body which has been superseded.</p>
Power of RSE to make rules restricting voting rights, etc(Sec 7A)	Clearing corporation (CC) (Sec 8A)		Power to suspend business of RSE.(Sec 12)	Power of SEBI to issue directions (Section 12A)
<p>i.)Restriction on Voting Rights .</p> <p>ii.)Each member one vote only , irrespective of his share of the PSC.</p> <p>iii.)Restriction on the right of a member to appoint another person as his proxy to attend & vote at a meeting.</p> <p>iv.)such incidental, consequential and supplementary matters.</p> <p>v.)No rules made or amended referred to in (i) to (v) shall have effect until they have been approved by CG</p> <p>vi.)CG may make such modifications as it thinks fit& rules as approved be deemed to have validly .</p>	<p>i.)Prior approval of the SEBI for transfer of duties & functions of a clearing house(CH) to a clearing corporation(CC) , being a CO incorporated under the Co Act, 2013 for:</p> <p>(a)Periodical settlement of contracts & differences</p> <p>(b)Delivery of & payment for, securities;</p> <p>(c) Any other matter incidental to, or connected with, such transfer.</p> <p>ii.)CC for the purpose of transfer of the duties and functions make bye-laws & submit the same to the SEBI for its approval.</p> <p>iii.)SEBI in the interest of trade & also in the public interest , grant approval to the bye-laws submitted.</p>		<p>i.)Emergency has arisen CG suspend such of RSE business for such period not exceeding 7 days & in interest of trade or the public interest extend suspension by like notification, from time to time</p> <p>ii.)No notification extending the period of suspension shall be issued unless governing body has given an opportunity of being heard in the matter.</p>	<p>i)In the interest of investors , or orderly development of securities market or</p> <p>ii.)To prevent the affairs of any RSE or CC 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</p> <p>iii.)To secure the proper management , it may issue such directions,</p> <p>a) To any stock exchange or clearing corporation or agency.</p> <p>b)To any company whose securities are listed or proposed to be listed</p>

Securities Contract (Regulation) Act, 1956 (Chart 20.3)

CONTRACTS AND OPTION IN SECURITIES

LISTING OF SECURITIES

Miscellaneous

Penalties

Contracts in notified areas illegal in certain circumstances (Section 13)

i.)CG having regard to the nature or the **volume of transactions** may by notification in OG, such **State or States or area** or with member of such area & every contract in such State or States or area, which is entered into after the date of the notification shall be **illegal**.

ii.) Provided that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall be **legal** with such terms & conditions & with **prior approval of SEBI**

Additional trading floor (Section 13A)

i.) establish additional trading floor with the prior approval of the SEBI in accordance with the terms and conditions.

ii.) **trading ring or trading facility** offered by a RSE outside its area of operation to enable the investors to **buy & sell securities** through such trading floor

Power to prohibit contracts in certain cases (Sec 16)

CG to **prevent undesirable speculation** in specified securities in any State or area may, declare that no person in the State or area specified in the notification shall with **permission of CG**, enter into any contract for the sale or purchase of any security specified in notification except manner specified in notification

Members may not act as principals in certain circumstances (Sec 15)

i.) **No member** shall in respect of any securities enter into any contract as a **principal** with any person other than a member of RSE, unless he has **secured the consent** or authority of such person and **discloses** in the note, memorandum or agreement of sale or purchase that he is acting as a principal

ii.) Consent or authority otherwise than in writing shall secure **written confirmation within 3 days** from the date of the contract.

iii.) No such written consent shall be necessary for closing out any outstanding contract entered, if the member discloses in the note, memorandum or agreement of such closing out that he is acting as a principal.

Licensing of dealers in securities in certain areas. (Sec 17)

i.) No person shall carry on the business of dealing in securities except under the authority of a **licence granted by the SEBI** in this behalf.

ii.) **Restrictions imposed** in relation to **dealings in securities** shall not apply to doing of anything by or on behalf of a **member** of any RSE.

Section 21, 21A, 22A, 22F

i.) **Comply** with the **conditions** of the listing agreement with that stock exchange.

ii.) a.) May **delist** the securities, after recording the reasons.
b.) Cannot be delisted unless Co concerned has been given a reasonable opportunity of being heard.
c.) Listed company or an aggrieved investor may **file an appeal** before **SAT within 15 days** from the date of the decision of RSE & provisions of sections 22B to 22E of this Act, shall apply.
d.) Allow appeal to be filed for an **extended period of 1 mth** only if there's sufficient cause.

iii.) After giving an opportunity of being heard,
(a) **vary or set aside** the decision or
(b) SAT sets aside the decision of RSE or grants the permission, SE shall act in conformity with the orders of the SAT.

iv.) Appeal shall be **dispose within 6 months** from the date of receipt of the appeal.

v.) Aggrieved by decision of SAT shall **appeal to SC within 60 days** and it may be **extended** for further period **not exceeding 60 days** on sufficient cause.

Title to dividends (Section 27)

i.) holder of any security **retain any dividend** irrespective of that the said security has been transferred, **unless** the transferee who claims the dividend from the **transferor** has **lodged** the security and all other **documents** relating to the transfer with Co for being registered in his name **within 15 days** of the date on which the dividend became **due**.

ii.) Period shall be **extended** —
a) In case of **death** of the transferee
b) In case of **loss** of the transfer deed by theft or any other cause beyond the control of the transferee and
c) In case of **delay** in the lodging of any security and other documents relating to the transfer due to causes connected with the post

Act not to apply in certain cases (Sec 28)

(i) **Gvt, RBI, any local authority** or any corporation set up by a special law.
(ii) any convertible bond or share warrant or any option or right [Convertible Debentures, Preference shares, ESOP, etc.], entitles the person in whose favour any of the foregoing has been issued on the **basis** of the **price agreed** upon when the same was issued.

Section 23A, 23B, 23C

i.) Failure to furnish **information, return, etc & maintain books of accounts** and records required by Listing Agreement, fails to enter into **agreement with clients** as required by law, stock broker or sub-broker fails to redress the grievances- **1 lakh Rs.** for each day during which such failure continues or **1 crore** whichever is **less**.

Section 23D

Stock broker or sub-broker who **fails to segregate securities or moneys** of the client(s) or uses the securities or moneys of a client(s) for self or for any other client- **not exceeding 1 cr**

Section 23E, 23F, 23G

Penalty **not exceeding 25 crore Rs-**
i) fails to comply with the **listing or delisting conditions**
ii) **dematerialises securities** more than the issued securities or securities which are not listed where **no trading permission** has been given
iii) Fails to furnish the **periodical returns** to SEBI or fails to amend bye laws as directed by SEBI or fails to comply with the directions of Board

Section 23H

Fails to **comply with any provision**, rules or articles or bye-laws or regulations of RSE or directions issued by the SEBI for which **no separate penalty** has been provided- Penalty which may **extend to 1 crore Rs.**

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 21.1)

Definitions

Persons includes Individual (I), HUF, Co, Firm, AOP, BOI whether incorporated or not, every artificial judicial persons & any agency, office or branch owned & controlled by such person.

Authorised Person means authorised dealer, Money changer, off shore banking unit or any other person authorised to deal in foreign exchange or foreign securities.

Currency includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by Reserve Bank. **A** [Reserve Bank notifies debit cards, ATM cards or any other instrument by whatever name called that can be used to create a financial liability, as 'currency']

Person Resident in India: (i) a person residing in India for more than 182 days during course of the preceding financial year but does not include- (A) a person who has gone out of India or who stays outside India, in either case-

(a) for or on taking up employment outside India, or (b) for carrying on outside India a business or vocation outside India, or (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) a person who has come to or stays in India, in either case, otherwise than-

(a) for or on taking up employment in India, or (b) for carrying on in India a business or vocation in India, or (c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India;

"Foreign Security" means any security, in form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency & includes securities expressed in foreign currency, but where redemption or any form of return such as interest or dividends is payable in Indian currency.

"Capital account transaction" means a transaction which alters a) assets or liabilities, including contingent liabilities, outside India of persons resident in India or

b) assets or liabilities in India of persons resident outside India, & c) includes transactions referred to in sub-sec (3) of sec 6

"Current Account Transaction" means a transaction other than a capital account transaction & without prejudice to generality of foregoing such transaction includes,

(i) payments due in connection with foreign trade, other current business, services & short-term banking & credit facilities in ordinary course of business. (ii) payments due as interest on loans & as net income from investments.

(iii) remittances for living expenses of parents, spouse & children residing abroad &

(iv) expenses in connection with foreign travel, education & medical care of parents, spouse & children

"Export", with its grammatical variations and cognate expressions means; (i) the taking out of India to a place outside India any goods. (ii) provision of services from India to any person outside India

"Foreign Exchange" means foreign currency & includes:

(i) deposits, credits & balances payable in any foreign currency, (ii) drafts, travellers cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency, (iii) drafts, travellers cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency

"Repatriate to India" means bringing into India the realised foreign exchange & (i) selling of such foreign exchange to an authorised person in India in exchange for rupees, or (ii) holding of realised amount in an account with an authorised person in India to the extent notified by Reserve Bank.

Dealing in foreign exchange, etc. (Sec 3)

With general or special permission of RBI no person shall:

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person; (b) Payment to or for the credit of any person resident outside India;

(c) receive through an authorised person, any payment by order or on behalf of any person resident outside India.

(d) Financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire any asset outside India.

Explanation "financial transaction" means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

Foreign exchange management (Current account transaction) rules, 2015

RULE 3: Prohibition on drawal of Foreign Exchange. -Drawal of foreign exchange by any person for following purpose is prohibited, namely:

(a) a transaction specified in Schedule I; or (b) a travel to Nepal &/or Bhutan; or (c) a transaction with a person resident in Nepal or Bhutan: Provided that prohibition in clause (c) may be exempted by RBI subject to such terms & conditions as it may consider necessary to stipulate by special or general order.

RULE 4: Prior approval of Govt. of India - No person shall draw foreign exchange for a transaction included in Schedule II without prior approval of Govt of India.

Provided that this rule shall not apply where payment is made out of funds held in Resident Foreign Currency (RFC) Account of remitter.

RULE 5: Prior approval of Reserve Bank. - No person shall draw FE for a transaction included in Schedule III without prior approval of the RB: Provided this rule shall not apply where payment is made out of funds held in RFC Account of remitter.

"Drawal" means drawal of FE from an authorised person & includes opening of Letter of Credit or use of International Credit Card or International Debit Card or ATM Card or any other thing which has effect of creating foreign exchange liability.

Capital Account Transaction u/s 6 (3)

RB may, by regulations, prohibit, restrict or regulate the follow:

i) trf or issue of any FS by a person resident in India

ii) trf or issue of any security by a person resident outside India

iii) trf or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India

iv) any borrowing or lending in FE

v) any borrowing or lending in Rs.

vi) deposits between persons resident in India & persons resident outside India

vii) export, import or holding of currency or currency notes

viii) trf of immovable property outside India, other than a lease not exceeding 5 years, by person a resident in India ix) acquisition or trf of immovable property in India, other than a lease not exceeding 5 years, by a person resident outside India

x) giving of a guarantee or surety in respect of any debt, obligation or other liability incurred:

a) by a person resident in India and owed to a person resident outside India; or

b) by a person resident outside India.

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 21.2)

Schedules Of Current Account Transaction [CUAT]

SCHEDULE I (SEE RULE 3):

(i) travelling to **Nepal and/or Bhutan**;
 (ii) **Transaction** with a person resident in **Nepal or Bhutan**. Provided that prohibition in clause (ii) may be **exempted by RBI to stipulate by special or general order**. (iii) Remittance out of **lottery winnings**. (iv) Remittance of **income from racing/riding**, etc., or any other hobby. (v) Remittance for purchase of lottery tickets, **banned /prescribed magazines, football pools, sweepstakes etc**. (vi) Payment of **commission on exports made** towards equity investment in Joint Ventures/Wholly Owned Subsidiaries **abroad of Indian companies**. (vii) Remittance of **dividend** by any co. (ix) Payment related to **"Call Back Services"** of telephones. (viii) Payment of commission on exports, except **commission up to 10% of invoice value** of exports of tea & tobacco. (x) Remittance of interest income on funds held in **Non-resident Special Rupee Scheme A/c**.

SCHEDULE II (SEE RULE 4):

i) **Cultural Tours** -Approval HRD ii) **Advertisement** in foreign print media for purposes other than Promotion of tourism, FI & international bidding (**exceeding US\$ 10,000**) by a SG & its PSU-Approval MOF & DEA. iii) Remittance of freight of vessel chartered by a PSU-Approval Ministry of **Surface Transport (MST)** iv) Payment of import through **ocean transport by a Govt Dept** or a PSU on c.i.f. basis- Approval MST. v) **Multi-modal transport operators** making remittance to their agents abroad -Approval DG of Shipping. vi) Remittance of hiring charges of **transponders by TV Channels, Internet service providers- Approval MI& B and MC& IT**. vii) Remittance of container **detention charges** - Approval MST viii) Remittance of **prize money/sponsorship of sports** activity abroad by a person other than International/ National/ State Level sports bodies, if amount involved **exceeds US \$ 100,000** -Approval HRD. ix) Remittance for **membership of P & I Club** -Approval MOF

SCHEDULE III (SEE RULE 5):

i) one or more travels other than **nepal & bhutan-Limit US \$ 10000 p.a.**
 ii) **Gift & Donation-Limit US\$5000p.a.** per remitter or donor other resident Individual.
 iii) Donations by corporate for ,creation of Chairs in reputed educational institutes(EI),to funds (not being an IF) promoted by EI & to a technical institution or body or association of the donor company-Limit - **1 % of their FE earnings** during **previous 3 FY or US\$ 5,000,000 whichever is less.**
 iv) persons going abroad for employment- **Limit US\$ 100,000**
 v) **Emigration-Limit US\$ 100,000** or Amt **prescribed by country of emigration.** Whichever is **High**.
 vi) **Remittance for maintenance of close relatives** abroad, if person who is resident but **not permanently resident in India** &- (a) Citizen of a foreign **State other than Pakistan** ; or (b) Citizen of India, who on deputation to **office or branch or subsidiary or joint venture in India of such foreign company** - Limit **Net salary** (after deduction of taxes, contribution to provident fund and other deductions)
 vii) Remittance for maintenance of close relatives abroad - **Limit US\$ 100,000** per year per recipient
 viii) **Medical treatment** or check-up abroad- Limit a) **US\$ 100,000** or b) Amt estimate from **doctor in India or hospital/ doctor abroad** . Whichever is **Higher**
 ix) Studies abroad-Limit **US\$ 100,000** or Amount estimate by **institute abroad** Whichever is **Higher**
 x) Business travel, Attending a Conference ,Specialised training, For maintenance expenses of a patient going abroad for medical treatment or check-up abroad, For accompanying as attendant to a patient going abroad for medical treatment/check-up.-Limit **US\$ 25,000 to a person**
 xi) Commission, per transaction, to agents abroad for sale of **residential flats or commercial plots in India** -Limit a) **US \$ 25,000** or **5% of inward remittance** Whichever is **more**.
 xii) Other **consultancy services** procured from outside India.-Limit **US\$ 1,000,000** per project
 xiii) Consultancy services procured from outside India for **'infrastructure project'**, Power, Telecommunication,Railways- **Limit US\$ 10,000,000** per project
 xiv) Reimbursement of **pre-incorporation expenses** - Limit Remittances exceeding **5% of investment brought into India or US\$ 1,00,000** whichever is **higher**

Schedule Of Capital Account Transaction (PERMISSIBLE)

To persons resident in India:

- i) Investment by a person resident in India in **foreign securities**.
- ii) Foreign **currency loans raised in India** & abroad by a person resident in India.
- iii) **Transfer of immovable property** outside India by a person resident in India.
- (iv) **Guarantees issued** by a person resident in India in favour of a person resident outside India.
- v) **Export, import & holding of currency/ currency notes**.
- vi) **Maintenance of foreign currency accounts** in India & outside India by a PRI
- vii) **Taking out of insurance policy** by a person resident in India from an insurance co. outside India.
- viii) **Loans & overdrafts by a person** resident in India to a person resident outside India.
- ix) **Remittance outside India** of **capital assets** of a person resident in India.
- x) **Sale & purchase of foreign exchange derivatives** in India & abroad & commodity derivatives abroad by a person resident in India. To persons resident outside India
- xi) **Investments** made in india
- xii) **Acquisition & transfer** of immovable property in India
- xiii) **Guarantee in favour** of, or on behalf of, a person resident in India.
- xiv) **Import & export of currency /currency notes** into /from India
- xv) **Deposits**
- xvi) **Foreign currency** accounts in India
- xvii) **Remittance outside India of capital** assets in India

Procedure Relating To Export Of Goods & Services & Realisation & Repatriation OF FE

Every exporter of goods shall-

- i) **Furnish to RB** or to such other authority a declaration of **true & correct** material particulars of **full export value** or value which exporter, expects to **receive on sale of goods** in a market outside India
- ii) Other information for **purpose of ensuring realization of export proceeds**
- iii) RB for ensuring that **full export value** of goods or such reduced value of goods is received **without any delay, direct any exporter to comply with such requirements**
- iv) Exporter of services furnish to RB or to such other authorities a **declaration containing true & correct material** particulars in relation to payment for such services.

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 21.3)

Exemption from realisation & repatriation & FE possession & retention

(i) possession of foreign currency or foreign coins by any person up to such limit as the RBI may specify
 (ii) foreign currency account held or operated by such person or class of persons and the limit up to which the Reserve Bank may specify;
 (iii) FE acquired or received or any income arising or accruing which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank
 (iv) FE was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising there from;
 (v) FE acquired from employment, business, trade, vocation, services, honorarium, gifts, inheritance or any other legitimate means up to such limit
 (vi) such other receipts in foreign exchange as the Reserve Bank (RBI) may specify

Possession & Retention of Foreign Exchange

a) **Authorized Persons**
 b) Any person may possess foreign coins without no restriction;
 c) Any person resident in India is permitted to retain in aggregate foreign currency not exceeding USD2,000 or its equivalent in form of currency notes/ bank notes or travellers cheques acquired by him
 d) If foreign currency acquired when he was resident outside India & brought into India & declared to Customs Authorities.

Authorised Persons (Sec 10, 11 & 12)

(i) The RB may, on an application made to it in this behalf, authorize any person to be known as authorized person to deal in foreign exchange or in foreign securities, as an authorized dealer, money changer or off-shore banking unit or in any other manner .
 (ii) An authorization under this sec shall be in writing
 (iii) An authorization can be revoked if the RB is satisfied that-
 (a) it is in public interest
 (b) authorized person has failed to comply with condition subject to which authorization was granted.
 Provided that authorized person has been given a reasonable opportunity of making a representation in matter.

Reserve Bank's powers to issue directions to authorised person

(i) For payment or doing or desist from doing any act relating to FE or foreign security.
 (ii) Direct to furnish such information ,as it deems fit.
 (iii) Contravenes any direction or fails to file any return as directed ,after giving reasonable opportunity of being heard, impose a penalty which may extend to Rs.10,000 & in case of continuing contravention with an additional penalty which may extend to Rs. 2,000 for every day during which such contravention continues

Power of Reserve Bank to inspect authorised person

(i) Inspection to be made, by any officer of the RB specially authorised in writing of business for purpose of
 (a) Verifying correctness of any statement, information or particulars furnished.
 (b) Obtaining any information or particulars which has been failed to furnish
 (ii) Duty of every authorised person to produce such books, accounts & other docs in his custody or power & furnish any statement or info relating to affairs of such person .

Contravention and Penalties

Sec 11 : Contravenes any direction by RBI or failure to file any return as directed by RBI - Upto Rs.10000 & if continuing offence then addl penalty of Rs.2000 per day .

Sec 13: Contravenes any provision of Act, or any rule, regulation, notification, direction or order-
 a) Upto 3 times, sum involved, if it is quantifiable
 b) If not quantifiable upto Rs. 2L
 c) If continuing, further penalty upto Rs. 5,000 per day after first day.

Sec 14 :
 i) Failure to pay penalty as above - Civil Imprisonment
 ii) Demand is of an amt exceeding Rs. 1 crore-Imprisonment upto 3 yrs
 iii) In any other case - Imp upto 6mths.

In addn to penalty, Adjudicating Authority (AA) may direct that
 a) Any currency, security or any other money or property in respect of which contravention has taken place shall be confiscated to (CG)
 b) FE holdings or any part thereof, shall be brought back into India or shall be retained outside India

Enforcement of the orders of AA (Sec 14)

i) if fails to pay penalty u/s 3 within 90 days from date of notice of penalty then liable to civil imp
 ii) No order to arrest or detention of civil person can be passed unless such person has been produced before AA & to show cause why he should not be committed.
 iii) If detention certificate executed & if demand is exceeding 1cr then imp upto 3 yrs & in any other case upto 6 mths

Power to recover arrears of penalty (Section 14A) (Inserted by FA, 2016)

1) Save as otherwise provided in this Act, AA may, by order in writing , authorise officer of Enforcement not below rank of Assistant Director to recover any arrears of penalty from any person who fails to make full payment of penalty imposed on him under section 13 within the period of ninety days from date on which notice for payment of such penalty is served on him
 2) Officer referred to in sub-section (1) shall exercise all like powers which are conferred on income-tax authority in relation to recovery of tax under Income-tax Act, 1961 & procedure laid down under Second Schedule to said Act shall mutatis mutandis apply in relation to recovery of arrears of penalty under this Act.

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 21.4)

Section 15 & Section 16

Power to compound contravention (Sec 15):
 i) Any contravention u/s 13 may be compounded within 180 days from date of receipt of application by Director of Enforcement (DOE) or such other officers of (DOE) & officers of RB as may be authorized by CG .
 ii) Where compounded under sub-sec (1), no proceeding or further proceeding shall be initiated or continued, against contravention so compounded.
 Appointment of Adjudicating Authority(AA)(Sec 16) :
 i) Adjudication under sec 13, CG may by an order published in Official Gazette, appoint as many officers of CG, as AA for holding an inquiry in manner prescribed.
 ii) If said person is likely to abscond or evade in any manner, payment of penalty, if levied, it may direct the said person to furnish a bond or guarantee for such amt & subject to conditions

Directorate of Enforcement (DOE) Sec 36

i) CG shall establish a DOE with a Director & such other officers or class of officers called as officers of Enforcement for this act
 ii) CG may authorise DOE or an AD of Enforcement or a DD of Enforcement to appoint officers below the rank of an Assistant Director of Enforcement
 iii) An officer of Enforcement may exercise powers & discharge duties imposed under this Act

Sec 37- Power of search, seizure, etc-

i) DOE not below rank of an Assistant Director, shall take up for investigation the contravention referred to in section 13.
 ii) CG authorise any officer or class of officers in CG, SG or RBI, not below the rank of an Under Secretary to the Government of India to investigate

Appeals

Appeal to Special Director (SD) (Sec 17)

i) Appeal against any person aggrieved by an order made by AA, being an Assistant Director or Enforcement or a Deputy Director of Enforcement
 ii) a) Within 45 days from the date on which copy of order of AA is received.
 b) After expiry of 45 days appeal can be entertained if he satisfied that sufficient cause for not filing it within that period
 iii) After giving an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside order appealed against.
 iv) Send a copy of every order made by him to the parties to appeal and to concerned AA.

Appeal to Appellate Tribunal(AT) (Sec 19)

i) Appeal against (CG) or any person aggrieved by an order made by an AA being DOE or above or SD (Appeal)
 ii) Deposit penalty with such authority as may be notified by CG Provided further that, AT is of opinion that deposit of penalty would cause undue hardship, (AT) may dispense with such deposit
 iii) a) Within 45 days from the date on which copy of order of SD(A) is received.
 b) After expiry of 45 days appeal can be entertained if he satisfied that sufficient cause for not filing it within that period.
 iv) After giving an opportunity of being heard, pass such order as he thinks fit, c) confirming, modifying or setting aside the order appealed against.
 v) Dispose of appeal finally within 180 days from date of receipt of appeal

Acquisition & Transfer of immovable property outside India

(1) A person resident in India may acquire immovable property outside India, -
 (a) by way of gift or inheritance from a person referred to in sub-sec (4) of Sec 6 of Act, or referred to in clause (b) of regulation 4 (acquired by a person resident in India on or before 8th July 1947 & continued to be held by him with permission of Reserve Bank.)
 (b) by way of purchase out of foreign exchange held in Resident Foreign Currency (RFC) account maintained in accordance with Foreign Exchange Management (Foreign Currency accounts by a person resident in India) Regulations, 2015;
 (c) jointly with a relative who is a person resident outside India, provided there is no outflow of funds from India;
 (2) A person resident in India may acquire immovable property outside India, by way of inheritance or gift from a person resident in India who has acquired such property in accordance with FE provisions in force at time of such acquisition.
 (3) A co incorporated in India having overseas offices, may acquire immovable property outside India for its business & for residential purposes of its staff, in accordance with direction issued by Reserve Bank of India from time to time.
Explanation : For purposes of these regulations, 'relative' in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual.

Realisation, Repatriation And Surrender of Foreign Exchange

(a) Period for surrender of realised foreign exchange:-

A person not being an individual resident in India shall sell realised foreign exchange to an authorised person under clause (a) of sub-regulation (1) of regulation 4, within period specified below:-
 (i) foreign exchange due or accrued as remuneration for services rendered, whether in or outside India, or in settlement of any lawful obligation, or an income on assets held outside India, or as inheritance, settlement or gift, within 7 days from date of its receipt ;
 (ii) in all other cases within a period of 90 days from date of its receipt.

(b) Period for surrender in certain cases :-

(i) Any person not being an individual resident in India who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to an authorised person under sub-sec (5) of Sec 10 of Act does not use it for such purpose or for any other purpose for which purchase or acquisition of foreign exchange is permissible under provisions of Act or rules or regulations or direction or order made thereunder, shall surrender such foreign exchange or the unused portion thereof to an authorised person within a period of 60 days from date of its acquisition or purchase by him.
 (ii) Notwithstanding anything contained in sub-regulation (1), where foreign exchange acquired or purchased by any person not being an individual resident in India from an authorised person is for purpose of foreign travel, then, unspent balance of such foreign exchange shall, save as otherwise provided in the regulations made under the Act, be surrendered to an authorised person - within 90 days from date of return of traveller to India, when unspent foreign exchange is in form of currency notes and coins; & within 180 days from date of return of traveller to India, when unspent foreign exchange is in form of travellers cheques.

(c) Period for surrender of received/ realised/ unspent/ unused foreign exchange by Resident individuals.-

A Person being an individual resident in India shall surrender received/realised/ unspent/unused foreign exchange whether in form of currency notes, coins and travellers cheques, etc. to an authorised person within a period of 180 days from date of such receipt/realisation/ purchase/acquisition on or date of his return to India, as case may be.

Competition Act, 2002 (Chart 22.1)

Competition, Object of Act, Ingredient & Definition

Competition

Competition is "a situation in a market in which firms or sellers independently strike for buyers" patronage in order to achieve a particular business objective, for example profit, sales or market share". A pre-requisite for a good competition is trade, trade is unrestricted liberty of every man to buy, sell & barter, when, where and how, of whom & to whom he pleases

Objects

- 1) To prevent practices having adverse effect on competition,
- 2) To promote & sustain competition in markets,
- 3) To protect interests of consumers,
- 4) To ensure freedom of trade carried on by other participants in markets in India & for matters connected therewith or incidental thereto

Main Ingredients of Competition Law

- 1) Prohibition of certain agreements, which are considered to be anti-competitive in nature .
- 2) Prohibition of Abuse of dominant position by imposing unfair or discriminatory conditions
- 3) Regulation of combinations which cause or are likely to cause an AAECI

Agreement

"Agreement" includes any arrangement or understanding or action in concert,—

- (1) whether or not, such arrangement, understanding or action is formal or in writing ; or
- (2) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings.

Goods

Goods means goods as defined in Sale of Goods Act, 1930 & includes:

- (1) products manufactured , processed or mined;
- (2) debentures, stocks & shares after allotment;
- (3) in relation to goods supplied, distributed or controlled in India, goods imported into India.

Enterprise

"Enterprise" means (1) A person or (2) A department of Government , who or which is, or has been, engaged in any activity, RELATING TO Production, storage, supply, distribution, acquisition or control of articles or goods & provision of services but does not include SOVEREIGN FUNCTIONS of GOVT.

Relevant Market

"Relevant Market" means market, which may be determined by Commission with reference to relevant product market or relevant geographic market or with reference to both markets.

Relevant Geographic Market

"Relevant Geographic Market" means a market comprising the area in which conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from conditions prevailing in neighbouring areas.

Anti competitive agreements (Sec 3)

Meaning and Effect

Any persons shall not 'enter' into an agreement in respect of production, supply, storage, distribution, acquisition or control of goods or provision of services, which causes or is likely to cause an AAECI. All such agreements entered into in contravention of aforesaid prohibition shall be void.

Presumption of Agreement having AAECI

- (1) Directly or indirectly determines purchase or sale prices
- (2) limits or controls production , supply, markets, technical development, invest, or provision of services;
- (3) Directly or indirectly results in bid rigging or collusive bidding.
- (4) Shares the market or source of production or provision of services by way of allocation of geographical area of market, or type of goods or services.

Anti- Competitive Agreements, Exceptions

Anti-Competitive Agreement

An agreement shall be void if it causes or is likely to cause an AAECI including

- (1) Tie-in arrangement - includes any agreement requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods
- (2) Exclusive supply agreement - includes any agreement restricting in any manner purchaser in the course of his trade from acquiring or otherwise dealing in any goods other than those of seller.
- (3) Exclusive distribution agreement - includes any agreement to limit, restrict or withhold output or supply of any goods or allocate any area or market for disposal or sale of goods;
- (4) Refusal to deal - includes any agreement which restricts, by any method persons or classes of persons to whom goods are sold or from whom goods are bought;
- (5) Resale price maintenance - includes any agreement to sell goods on condition that prices to be charged on resale by purchaser shall be prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged.

Exception to Anti-Competitive Agreements

- (a) the Copyright Act , 1957
- (b) the Patents Act , 1970
- (c) the Geographical Indications of Goods Act , 1999
- (d) the Trade and Merchandise Marks Act, 1958
- (e) the Semi-conductor Integrated Circuits Layout-Design Act, 2000



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Competition Act, 2002 (Chart 22.2)

DOMINANT POSITION

Combination

Abuse (Section 4)

if an enterprise or a group,

(a) Directly or indirectly, imposes **unfair or discriminatory** —

(i) condition in purchase or sale of goods or services; or

(ii) price in purchase or sale (including predatory price) of goods or service, or

(b) limits or restricts—

(i) production of goods or provision of services or market therefore; or

(ii) technical or scientific development relating to goods or services to the prejudice of consumers; or

(c) Indulges in practice or practices resulting in **denial of market access** in any manner; or

(d) Makes **conclusion of contracts** subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have **no connection with the subject of such contracts** ; or

(e) Uses its dominant position in one relevant market to enter into, or protect, other relevant market. Dominant position means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to—

(i) **operate independently** of competitive forces prevailing in the relevant market; or

(ii) **affect its competitors or consumers** or the relevant market in its favour.

Factors Determining Dominant Position

- (i) **Market share** of enterprise
- (ii) **Size & importance** of competitors
- (iii) **Economic power** of enterprise
- (iv) **Sale or service network**
- (v) **Dependence** of consumers
- (vi) **Entry barriers**
- (vii) **Financial risk** & high capital cost
- (viii) **High cost of substitutable goods** or service for consumers; or any other factor which commission may consider relevant for inquiry
- (ix) **Countervailing buying power** ;
- (x) **Vertical integration** of enterprises or sale or service network of such enterprises
- (xi) **Dependence of consumers** on enterprise;
- (xii) **Market structure** & size of market;
- (xiii) **Social obligations** & social costs;
- (xiv) Any **other factor** which Commission may consider relevant for inquiry

The term 'combination' include any **acquisition of one or more enterprises** by one or more persons, merger or amalgamation of enterprises, where the parties to the acquisition, merger or amalgamation satisfy prescribed monetary thresholds and involves

(a) Any **acquisition of control, shares, voting rights or assets** of any enterprise

(b) Any **merger or amalgamation** of enterprises

(c) Any **acquisition of control by a person over an enterprise** , where such person has already direct or indirect control over another enterprise in similar or identical or substitutable business

Revised limit for purpose of combinations under section 5 of the Competition Act, 2002

Threshold for combined size of acquiring and acquired enterprises			
Particulars		Assets [CRORE]	Turnover [CRORE]
Enterprise Level	India	> 2000 INR	> 6000 INR Crore
	Worldwide with India leg	> USD 1Bn with at least > 1000 INR Crore in India	> USD 3 Bn with at least >3000 INR Crore in India
		OR	
Group Level	India	>8000 INR Crore	>24000 INR Crore
	Worldwide with India leg	> USD 4 Bn with at least >1000INR Crore in India	>USD 12 Bn with at least >3000 INR Crore in India
		OR	

THRESHOLDS FOR AVAILING OF DE MINIMIS EXEMTION FOR ACQUISITIONS			
		Assets	Turnover
Target Enterprise	In India	≤ 350 INR Crore	Or ≤ 1000 INR Crore

Competition Act, 2002 (Chart 22.3)

Combination (Regulation & Inquiry)

COMPETITION COMMISSION OF INDIA

Meaning

Combination: The term 'combination' include any acquisition of **one or more enterprises** by one or more persons, **merger or amalgamation** of enterprises, where the parties to the acquisition, merger or amalgamation satisfy the prescribed **monetary thresholds and involves**

- 1) Any acquisition of control, shares, voting rights or assets of any enterprise.
- 2) Any merger or amalgamation of enterprises
- 3) Any acquisition of control by a person over an enterprise, where such person has **already direct or indirect control** over another enterprise in similar or identical or substitutable business.

Regulation

No person or enterprise shall enter into a combination a combination which **causes or is likely to cause an appreciable adverse effect on competition** within the relevant market in India and such a combination shall be **void**.

Any person or enterprise, who or which proposes to enter into a combination shall give notice to the Commission, in the form as may be specified, and the fee which may be determined, by regulations, disclosing the details of the proposed combination **WITHIN 30 DAYS** of (a) Approval of the proposal or (b) Execution of any agreement or other document

Inquiry into Combination

The Commission shall, **on receipt of a notice**, inquire whether a combination referred to in that notice or reference has caused or is likely to cause an appreciable adverse effect on competition in India.

(Commission shall not initiate any inquiry under this subsection after the expiry of 1 year from the date on which such combination has taken effect).

COMPOSITION

1. The Commission shall consist of:

- (a) The **Chairperson** and
- (b) **2 ≤ other members ≤ 6**

To be appointed by the Central Government

The Chairperson and every other Member shall be a person of ability, integrity and standing and who has **special knowledge** of, and such **professional experience of not less than 15 years**

TERMS of Office

The Chairperson and every other Member shall hold office for a **term of 5 years** from the date on which he enters upon his office and shall be eligible for re-appointment. **Maximum age 65 years.**

In the event of the occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the **senior-most Member shall act as the Chairperson**

Restriction on employment

The Chairperson and other Members shall not, for a **period of 2 years** from the date on which they cease to hold office, accept any employment in, any enterprise which has **been a party to a proceeding** before the Commission. **(Except)**

The CG or a SG or IA or in any statutory authority

Any corporation under any Central Act | A Government CO

Resignation

The Chairperson or any other Member may, by **notice in writing** under his hand addressed to the Central Government, resign his office.

PROVIDED THAT the Chairperson or a Member shall, **unless he is permitted** by the Central Government to relinquish his office

Removal

Central Government may, remove the Chairperson or any other Member from his office if such Chairperson or Mem.

(a) is, or at any time has been, adjudged as an **insolvent**; or

(b) has engaged at any time, during his term of office, in any **paid employment**,

(c) has been **convicted** of an offence

(d) has acquired such **financial or other interest** as is likely to **affect prejudicially his functions** as a Member

(e) has so **abused his position** as to render his continuance in office prejudicial to the **public interest**

Competition Act, 2002 (Chart 22.4)

Accounts & Audit & Return	Appellate Tribunal	CCI orders and Enquiry	
Accounts and Audit	Object	Orders by CCI after inquiry into agreements or abuse of dominant position (Sec 27)	Order for Division of enterprise enjoying dominant position (Sec28)
<p>1) Commission shall maintain proper accounts and other relevant records</p> <p>2) Commission shall prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the C& AG.</p> <p>3) The accounts of the CCI shall be audited by the C & AG. However, the orders of the CCI, being matters appealable to AT or the Supreme Court, shall not be subject to audit.</p> <p>4) The accounts of the Commission as certified by the C & AG of India together with the audit report shall be forwarded annually to the CG and it shall cause the same to be laid before each House of Parliament.</p>	<p>a) To hear and dispose of appeals against any direction issued or decision made or order passed by the Commission</p> <p>b) To adjudicate on claim for compensation that may arise from the findings of the CCI or AT in an appeal and pass orders for recovery of compensation.</p>	<p>1) Direct to</p> <p style="margin-left: 20px;">a) discontinue and not to re-enter such agreement or</p> <p style="margin-left: 20px;">b) discontinue such abuse of dominant position, as the case may be;</p> <p>2) Impose such penalty (for Non Cartel)</p> <p style="margin-left: 20px;">a) Not more than 10% of the average of the turnover for the last 3 preceding financial years , upon each of such person or enterprises which are parties to such agreements or abuse.</p> <p>(3) Direct that the agreements shall stand modified to the extent and in the manner as may be specified in the order by the Commission;</p> <p>4) Impose such penalty (for Cartel) (HIGHER Of)</p> <p style="margin-left: 20px;">a) Penalty of up to 3 times of its profit for each year of the continuance of such agreement or</p> <p style="margin-left: 20px;">b) 10% of its turnover for each year of the continuance of such agreement.</p>	<p>It Includes</p> <p>(a) The transfer or vesting of property, rights, liabilities or obligations;</p> <p>(b) The adjustment of contracts either by discharge or reduction of any liability or obligation or</p> <p>(c) The creation, allotment, surrender or cancellation of any shares, stocks or securities;</p> <p>(d) Formation or winding up of an enterprise or the amendment of the MOA or AOA or any other instruments regulating the business of</p> <p>(e) any other matter which may be necessary to give effect to the division of the enterprise.</p>
Return	Composition	Execution of orders of CCI imposing monetary penalty (Sec 39)	Inquiry into agreements and dominant position of enterprise (19)
The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the CG.	The Appellate Tribunal shall consist of a Chairperson and not more than two other members to be appointed by the Central Government.	If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty, in such manner as may be specified by the regulations.	The Commission is empowered to inquire into any alleged contravention on its own motion or
	Qualifications	Commission may make a reference to this effect to the concerned income-tax authority under that Act for recovery.	<p>1) receipt of any information OR 2) reference made to it by the CG or SG or Statutory Authority</p>
	1) Chairperson- is, or has been a Judge of the Supreme Court or the Chief Justice of a High Court.		
	2) Not more than 2 Members - Person of ability, integrity and standing having special knowledge of, and professional experience of not less than 25 five years		
	TERM- 5 Years and Maximum 65 Years		
	Recommended by Selection Committee		

The Banking Regulation Act, 1949 (Chart 23A.1)

Basic Concepts

- 1) Owing to safeguard **interest** of depositors, control abuse of powers by some bank personnel controlling banks in particular & to interest of **Indian economy** in general
- 2) Management of Bigger banks
- 3) The banks were also **prohibited** from making any **loans or advances**, secured or unsecured to their directors or to any Co in which they have **substantial interest**

Activities can be engaged by BC

- 1) **Agent** for any government or local authority or persons but not as a managing agent or secretary & treasure of Co.
- 2) May **insure/guarantee/underwrite**, participate in managing or carrying out of any **issue of loans or any other securities** made by state, local body, company, corporation, association and may also lend for the purpose
- 3) May carry on or transact every **kind of guarantee or indemnity business**
- 4) May manage, sell & **realize any property**
- 5) **Acquire, hold and deal with any property or any right, title** or interest which forms the security for any loans or advances sanctioned
- 6) May undertake & **execute trusts**
- 7) May undertake **administration of estates as executor**, trustee or otherwise
- 8) May **establish & support or aid in the establishment of associations, institutions, funds, trusts** and may grant or guarantee moneys for **charitable purposes**
- 9) May acquire, construct, maintain & **alter any building or works**
- 10) May sell, improve, manage, develop, exchange, lease, mortgage dispose off or otherwise deal with **any of its properties and rights**
- 11) Incidental or conducive to **promotion or advancement** of its business;
- 12) May engage in any other form of business which the **CG specifies to be lawful.**

Reserve Fund (Section 17)

- 1) Every **Banking Company incorporated in India** must create Reserve Fund & transfer sum equal to **not less than 20 %** of its net profits. However, CG is empowered to exempt from this requirement on recommendation of RBI
- 2) Such **exemption will be allowed only:-**
 - a) When **amounts in reserve fund & share premium account are not less than paid-up capital** of banking company
 - b) When **CG feel that its paid-up capital & reserves are adequate** to safe guard interest of depositors
 - 3) If **banking company appropriates any sum** from Reseve fund or share premium account, it must be **reported to RBI within 21 days** explaining circumstances leading to such appropriation

Restrictions on Loans & Advances (Section 20)

No BC shall :

- 1) **Grant any loans or advances** on security of its own shares, or
- 2) **Enter into any commitment for granting any loan or advance** to or on behalf of (a) any of its **Directors**, or (b) **any firm** in which any of its Directors is interested as **Partner, Manager, Employee or Guarantor**, or (c) any **company (not being subsidiary of BC)** (d) **any individual** in respect of whom any of its Directors is partner or guarantor
- 3) **Waive or reduce any part of loan without previous approval of RBI**, & any remission without such approval shall be **void & of no effect**
 - Any **loan or advance payable by any person**, has **not been repaid to BC within period specified**, then, such person shall, if he is a Director of such BC on date of **expiry of period**, be **deemed to have vacated his office** as such on said date
 - RBI is **empowered to issue directives to BC** to determine policy in relation to loans & advances
 - **Section 21A:- Rate of interest charged by BC** on the basis of loan contract between bank & debtor is **not to be subject to scrutiny by court** on ground that rate of interest charged in respect to such transaction is excessive

Accounts & Balance Sheet (Section 29)

- 1) Every Banking Company incorporated in India, in respect of all **business transacted by it & through its branches in India**, shall **prepare Balance sheet & Profit & loss account** as on last working day of Accounting year
- 2) **Amalgamated Balance Sheet & Profit Loss** should be **signed by the CMD & at least 3 Directors** where there are more than 3 directors or where there are not more than 3 directors, by all directors
- 3) In case of **banking companies incorporated outside India** by principal officer of company in India
- 4) Provisions of **Companies Act, 1956, relating to balance sheet & profit & loss account of company shall also be applicable** to profit & loss account & balance sheet of banking company, in so far as they are not inconsistent with provision of Act

Audit (Section 30)

- 1) Subject to **audit by person duly qualified** under any law for time being in force to be auditor
- 2) Further **RBI** can by order, direct for **Special Audit** of Banking Company, if it is of opinion that it is in **public interest** or in **interest of depositors**
- 3) Auditors shall **comply with directions given by RBI** & shall submit report of audit to RBI & also to bank
- 4) Auditor is required to **State following in his report** :
 - a) Whether or not **information & explanation** required by him have been **found to be satisfactory**;
 - b) **Transactions of bank** which have come to his notice have been **within powers of bank or not**;
 - c) **Return received from branch offices** have been found **adequate** for purpose of his audit;
 - d) Whether **profit & loss account** shows **true balance of profit** or loss for period covered by such account
 - e) Any **other matter** which should be brought to notice of the share holders

Submission of Balance Sheet & P & L to RBI & ROC (Section 31 & 32)

- Section 31:-**
Accounts & Balance sheet along with auditors report shall be published in prescribed manner & **3 copies** thereof shall be **furnished as returns to RBI within 3 months** from end of period to which they refer. RBI may **extend** period by **further period of not exceeding 3 months**
- Section 32:-**
3 copies of such accounts and Balance sheet along with auditor's report shall be **sent** by banking company to **Registrar of Companies (ROC)**, at same time while sending same to RBI

The Banking Regulation Act, 1949 (Chart 23A.2)

Power of RBI to inspect Banks (Section 35)	Power of RBI to give directions (Section 35A)	Additional Powers and Functions of RBI (Section 36)		
<p>1) RBI is empowered to conduct inspection of any bank & to give them direction as it deems fit</p> <p>2) All banks are bound to comply with such directions</p> <p>3) Every director or other officer of the bank shall produce all such books, documents as required by inspector</p> <p>4) Inspector may examine on oath any director or other officers</p> <p>5) RBI shall cause inspection to be made, & report to CG on any inspection & on scrutiny, if is of opinion that affairs of bank are being conducted detrimental to interest of its depositors, it may, after giving opportunity of being heard, writing prohibiting bank from receiving fresh deposits</p>	<p>1) In public interest or in interest of banking policy or to prevent the affairs of any bank being conducted in manner detrimental to interest of depositors or in manner prejudicial to interest of bank or to secure proper management of bank – Necessary to issue directions & banks shall be bound to comply with such directions</p> <p>2) RBI, on representation made to it or on its own motion Modify or cancel any direction (Subject to condition)</p>	<p>Further powers and functions of RBI (Section 36):</p> <p>i) Caution or prohibit banks generally or any bank(s) in particular against entering into any particular transaction or class of transactions and generally give advice to any bank</p> <p>ii) May assist on written request of a bank, in proposal for amalgamation of such bank</p> <p>iii) Give assistance to any bank by means of grant of loan or advances known as Refinance/ rediscounting of bills</p> <p>iv) Affairs of BC, being conducted in a manner detrimental to the interest of the bank or its depositors, it is necessary to do so, by order in writing require the BC:-</p> <p>a) To call meeting of directors for purpose of considering matter</p> <p>b) To require an officer to discuss any matter with an officer of RBI</p> <p>c) To depute one or more of its officers to watch proceedings of any meeting of BOD or of any committee or of any other body constituted by it</p> <p>d) To depute officer to observe affairs of even the branches & make report thereon</p> <p>e) To require bank to make such changes in management & within time as RBI deem fit</p> <p>Removal of Managerial Person by RBI (Section 36AA):</p> <p>RBI can terminate any chairman, Director, Chief Executive, other officials or any employee when RBI is of the opinion that conduct of such person is detrimental to interest of the depositors or for securing proper management of BC</p> <p>a) Before such termination concerned person should be given opportunity to be heard of</p> <p>b) Such terminated officials can make appeal to the CG within 30 days from the date of communication of such termination order</p> <p>c) Decision of the (CG) on such appeal can not be called into question in any court</p> <p>d) In case an order is issued pursuant to this section, the concerned person shall cease to hold his office and shall not in any way be concerned with or take part in the management of any bank for a period of not exceeding 5 years as may be specified in the order. Contravention of the above provision shall be punishable with a fine, which may extend to Rs 250 per day.</p>	<p>Appointment of Additional Directors by RBI (Section 36 AB):</p> <p>i.) RBI is empowered to appoint additional Directors with effect from the date to be specified in order, in interest of bank or that of depositors</p> <p>ii.) Such additional directors hold office for period not exceeding 3 years or further periods not exceeding 3 years at time</p> <p>Power of Central Govt. to acquire the undertaking of Banking Companies in certain cases (Section 36 AE):</p> <p>i.) If CG is of opinion that BC has failed to comply with direction given to it by RBI relating to policy matters u/s 21 & 35A &/ or ii.) Bank is being managed in manner detrimental to interest of depositors or that of banking policy, or iii.) For better provision of credit generally or of credit to any particular section of community or in any particular area then after considering the above matters acquire undertaking of BC, CG may after consultation with RBI</p> <p>Power of CG to make a scheme for the acquired bank in consultation with RBI (Section 36 AF):</p> <p>Scheme may provide for transfer of assets & liabilities of acquired bank, constitution of first Board of Management & incidental matters, service condition of employees, compensation payable to shareholders of acquired bank & such other incidental, consequential & supplemental matters as may be necessary to complete transfer</p> <p>Compensation to shareholders of the acquired bank (Section 36 AG):</p> <p>i.) Compensation to be paid to registered shareholders in accordance with principle provided in 5th Schedule of Act</p> <p>ii.) Any SH aggrieved with amount of compensation may request CG to refer matter to Tribunal to be constituted under section 36 AH</p> <p>iii.) CG may constitute tribunal for same purpose if No. of representation received is</p> <p>a) not less than 1/4th of no of shareholders and</p> <p>b) holding not less than 1/4th of paid-up share capital of acquired bank</p>	<p>Constitution of Tribunal (Section 36 AH):</p> <p>i.) Tribunal shall consist of chairman & 2 other members</p> <p>ii.) Chairman shall be a person who is or has been judge of HC or SC</p> <p>iii.) Other 2 members : One shall be who in opinion of CG has had commercial banking experience & other shall be CA</p> <p>Tribunal to have power of civil court (Section 36 AI):</p> <p>i.) Tribunal shall enjoy the power of civil court, while trying suit in respect of the following matters:-</p> <p>a) Summoning and enforcing attendance of any person and examining him on oath</p> <p>b) discovery & production of documents</p> <p>c) receiving evidence on affidavits,</p> <p>d) issuing commission for examination of witnesses or documents</p> <p>ii.) However, Tribunal can not compel CG or RBI to produce any books or documents which the latter(s) consider confidential, to make any such documents part of the records of the proceedings, to give inspection of any such books to any party before it or to any other person</p> <p>Procedure of the Tribunal (Section AJ) :-</p> <p>Tribunal enjoys power to regulate its own procedure, may hold whole or any part of its inquiry in camera. Any mistake arising out of accidental slip or omission may, at any time, be corrected by Tribunal either of its own motion or at request of any other parties</p>

INSURANCE ACT, 1938 as amended by Insurance Laws (Amendment) Act, 2015 (Chart 23B.1)

Definition (Sec 2)

Actuary 2(1) & Agent 2(10)	“Indian insurance company” 2(7A)	Insurance Meaning
<p>“Actuary” means an actuary possessing such qualifications as may be specified by the regulations made by the authority.</p> <p>“Insurance agent” who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including continuance, renewal or revival of policies of insurance. Policy Holder 2(2)</p> <p>Includes a person to whom the whole of the interest of policy holder in the policy is assigned But does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.</p>	<p>Any insurer being a Co.</p> <p>a) Formed & registered under the Co Act as a public company or converted</p> <p>b) In which aggregate holdings of ES by a foreign Co , either by itself or through its subsidiary companies or its nominees, do not exceed 49% of PSC of such Indian insurance CO, which is indian owned & controlled.</p> <p>c) Sole purpose is to carry on life insurance business(LIB) or general insurance business (GIB) or re-insurance business.(RIB)</p> <p style="background-color: #ADD8E6; text-align: center;">Insurance co-operative society 2(8A)</p> <p>1)Registered as a co-operative society under the Co- operative Societies Act, 1912.</p> <p>2) Having a minimum PSC of 100 Crore in case of Life insurance, general insurance or health insurance.</p> <p>3)No body corporate , whether incorporated or not, formed or registered outside India, either by itself or through its subsidiaries or nominees,holds more than 26% of the capital of such Co-operative Soc</p> <p>4)Sole purpose is to carry on life insurance business or general insurance or health insurance business in India.</p>	<p>1) Life Insurance Business:</p> <p>a) Insurance upon human life , including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life& contract subject to payment of premiums for a term dependent on human life & includes—</p> <p>(a)Granting of disability & double or triple indemnity accident benefits, if provided in the contract.</p> <p>(b)Annuities upon human life &</p> <p>(c) Superannuation allowances & benefits.</p> <p>2)Re-insurance : Means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium .</p> <p>3)Fire insurance business:Means the business of effecting contract of insurance against loss by or incidental to fire or Other occurrence customarily included among risks insured against in fire insurance</p>
Controller of Insurance 2(5B)		
<p>Officer appointed by CG under sec 2B to exercise all the powers, discharge the functions & perform the duties of</p> <p>1) IRDA or</p> <p>2) Life Insurance Corporation Act, 1956 or</p> <p>3) General Insurance Business (Nationalisation) Act 1972 or</p> <p>4) IRDA Act 1999.</p>		

Prohibitions to Insurance Co.

Sec 2C.Prohibition of Insurance business by certain persons
<p>No business unless he is-</p> <p>a) public company , or</p> <p>b) Society registered under the Co-operative Societies Act, 1912, or under any other law in any State relating to co-operative societies, or</p> <p>(c)Body corporate incorporated under the law of any country outside India not being of nature of a private Co</p>
Sec 2CB. Properties in India not to be insured with foreign insurers except with the permission of Authority:-
<p>1) Shall not take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority</p> <p>2) Contravenes provision of sub-sec (1), he shall be liable to penalty which may extend to 5 crore Rs.</p>

Registration

Sec 3 (1),3(2),3(2A),3(2B),3A
<p>Sec 3(1): Certificate of registration for the particular class of insurance business is required</p> <p>Sec 3(2):Documents specified by regulations for regn.</p> <p>3(2A):Grant of certificate of registration:</p> <p>1) Financial condition & general character of management of the applicant are sound</p> <p>2) volume of business, capital structure & earning prospects will be adequate</p> <p>3) Interest of the general public will be served.</p> <p>Sec 3 (2B) Refusal of Registration:</p> <p>a) Record the reasons for refusal</p> <p>b) Aggreived by authorities refusal decision can appeal to SAT within 30days from refusal.</p> <p>Sec 3A Renewal of registration:</p> <p>a) Registration can renewed annually for each year after that ending on the [31st day of March]</p> <p>b)Application for the renewal shall be made before the 31st day of December of the preceding year</p>
Section 6 (Requirements as to capital)
<p>i) Life insurance or general insurance : Min 100Cr PSC</p> <p>ii) Health insurance : Min 100Cr.</p> <p>iii) Re-insurer : Min 200 crore.</p> <p>(No insurer/re-insurer shall be registered unless has owned funds of not less than 5,000 crore & PSC excludes preliminary expenses incurred during formatn & Regn.</p>
Sec 6A Requirements of capital structure & voting rights & maintenance of registers of beneficial owners of shares
<p>No public company limited by shares carry no life insurance business unless</p> <p>i) Only ordinary shares having single face value.</p> <p>ii) The paid-up amount is the same for all shares, whether existing or new except period not exceeding 1yr .</p> <p>iii) Voting rights restricted to equity share</p>

INSURANCE ACT, 1938 as amended by Insurance Laws (Amendment) Act, 2015 (Chart 23B.2)

Audit of accounts (Sec 12) & Submission of returns (Sec 15)	Investment of Assets (Section 27)	Prohibition of loans (Section 29)	Power of investigation & inspection (Sec 33)	Appointment of insurance agents (IA) (Sec 42)	Surveyors or loss assessors (Section 64UM)
<p>1) Audited annually by an auditor.</p> <p>2) Exercise powers & functions & discharge duties & be subject to liabilities & penalties imposed on auditors by sec 147 of Co. Act, 2013.</p> <p>3) Audited accounts & statements shall be printed & 4 copies shall be furnished as returns within 6 months from end of period to which they refer.</p> <p>4) Out of 4 copies, 1 be signed in case of a Co by chairman & 2 directors & by principal officer of CO & if CO has MD by that MD & 1 shall be signed by auditor or actuary</p>	<p>A) Life Insurer : Not less than the sum of: 1) Amount of his liabilities to holders on account of matured claims. 2) Amount required to meet liability on policies maturing for payment.</p> <p>a) Amount of premiums which have fallen due &</p> <p>b) Amount due for loans granted on & within the surrender values of policies maturing for payment in India issued by him or by insurer whose business he has acquired & in respect of which he has assumed liability in following manner namely:-</p> <p>i) 25% of the said sum in Govt securities, a further sum equal to not less than 25 % of the said sum in Govt securities or other approved securities &</p> <p>ii) Balance in any of approved investments.</p> <p>B) General Insurer: 25% of assets in Govt Securities, a further sum equal to not less than 10% of assets in Govt Securities or other approved securities & balance in any other investment.</p> <p>C) Insurer may invest not more than 5% in aggregate of his controlled fund or assets in COs belonging to promoters.</p>	<p>1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life insurance policies issued by him within their surrender value to any director, manager, actuary, auditor or officer of the insurer, not applicable to loans made to banking co.</p> <p>2) Not applicable to a subsidiary co or to any other co of which company granting loan is a subsidiary co without previous approval of Authority.</p> <p>3) Not apply to loan granted to a director on security of a policy & loan is within the surrender value of policy.</p>	<p>1) Order in writing for investigation.</p> <p>2) Employ any auditor or actuary or both for the purpose of assisting in any investigation.</p> <p>3) IO may on being directed, cause an inspection & supply copy of report to insurer of such inspection.</p> <p>4) Duty of every officer of Co to produce before the IO all such books of account, registers & other documents.</p> <p>5) After opportunity of being heard make representation.</p> <p>6) All expenses incidental to any investigation shall have priority over the debts due be recoverable as an arrear of land revenue.</p>	<p>1) Insurer may appoint any person as IA.</p> <p>2) Cannot be more than 1 life insurer, 1 general insurer, 1 health insurer & 1 of each of other mono-line insurers.</p> <p>3) Ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers.</p>	<p>No person shall act as a surveyor or loss assessor in respect of GIB after the expiry 1 yr from commencement of the ILA 2015, unless:</p> <p>1) academic qualifications as specified.</p> <p>2) Member of Indian Institute of Insurance Surveyors and Loss Assessors.</p> <p>3) Comply with the code of conduct as may be specified.</p>
Actuarial Valuation/Report (section 13)				Prohibition of insurance business	Assets & liabilities how to be valued (Sec 64V)
<p>1) At least once a year, every life insurer shall cause an investigation including a valuation of his liabilities & shall cause an abstract of the report of such actuary.</p> <p>2) Regard to circumstances of any particular insurer, shall have the investigation made as at a date not later than 2 yrs from date as at which previous investigation was made.</p> <p>3) If investigation is annually, statement need not be appended every yr but shall be appended at least once in every 3 yrs.</p>				<p>1) After commencement of ILA 2015, no appoint any principal agent, chief agent, & special agent & transact any insurance business in India.</p> <p>2) Cannot take out or renew or continue an insurance policy through multilevel marketing scheme.</p> <p>3) Make a complaint to the appropriate police authorities against the entity or persons involved in the multilevel marketing scheme. ("Multilevel marketing scheme" means any scheme for the purpose of soliciting and procuring insurance business through persons not authorised")</p>	<p>1) Valued at value not exceeding their market or realisable value and certain assets may be excluded.</p> <p>2) Furnish along with the returns required to be filed, a statement certified by an Auditor, in respect of GIB or an actuary approved by the Authority in respect of LIB, as on the 31st March as specified by regulations.</p>
Record of Policies & claims (Sec 14)	Liability of directors (Sec 30)	Obligations for third party risks of MV (Sec 32D)	Prohibition of payment by way of commission or otherwise for procuring business (Sec 40)	Agent/intermediary not to be a director (Sec 48A)	Sufficiency of assets (Section 64V)
<p>1) Maintain record of policies issued & name & address of PH, date when policy was effected & record of any transfer, assignment or nomination of which insurer has notice</p> <p>2) record of claims together with date of claim, name & address of claimant & date on which claim was discharged, or, in case of a claim which is rejected, date of rejection</p>	<p>Contravention of any of provisions of sec 27 or sec 29, any loss is sustained by insurer or policyholders, every director, manager or officer shall be liable, be jointly & severally liable to make good amt of such loss.</p>	<p>Insurer carrying on general insu. Business after commencement of</p> <p>1) Insurance Law (Amendment) Act 2015 underwrite such min % of insurance business in third party risks of MV as may be specified</p> <p>2) Exempt for insurer carrying business of health, reinsurance, agriculture & export credit guarantee</p>	<p>No person shall, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary and that also in accordance with regulations</p>	<p>1) Not Eligible to be director.</p> <p>2) Director holding office at commen. Of ILA 2015 not ineligible until expiry of 6mths from date of commencement of act</p> <p>3) Permit to be on board subject to conditions to protect interest of policyholders or to avoid conflict of interest</p>	<p>1) maintain an excess of value of assets over amt of liabilities of, not less than 50% of amt of minimum capital.</p> <p>2) Does not comply with shall be deemed to be insolvent and may be wound-up by the court.</p> <p>3) specify a level of solvency margin known as control level of solvency on the breach.</p> <p>4) correct deficiency within 6 months Policy not to be called in question after 3 years (Sec 45)</p>
			Prohibition of business on dividing business (Sec 52)		
				<p>1) On principle that benefit secured by a policy is not fixed but depends either wholly or partly on distribution of certain sums or premiums payable by PH depend wholly or partly on the number of policies becoming claims within certain time-limits.</p> <p>2) It does not deemed to prevent from allocating bonuses of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to sums insured or as immediate cash bonuses</p>	<p>i) Can be called in question within 3yrs only on ground of fraud and insurer has communicated in writing the grounds & materials on which such decision is based</p> <p>ii.) After 3yrs nly if communicated in writing the grounds & materials on which such decision to repudiate the policy of life insurance is based.</p> <p>iii) Repudiation not on ground of fraud, premiums collected till date of repudiation be paid within 90 days from date of repudiation</p>

THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999 (Chart 23C.1)

Objectives	Tenure of Office of Chairperson and other Members (Sec 5)	Duties (Sec 14)	Establishment of Insurance Advisory Committee (Section 25)
<p>(i) To promote the interest and rights of policy holders.</p> <p>(ii) To promote and ensure the growth of Insurance Industry.</p> <p>(iii) To ensure speedy settlement of genuine claims and to prevent frauds & malpractices.</p> <p>(iv) To bring transparency and orderly conduct of in financial markets dealing with insurance.</p>	<p>(i) Chairman tenure for 5 yrs & eligible for reappointment till he attains the age of 65 yrs.</p> <p>(ii) Appointment of members will be for 5 yrs & eligible for reappointment but not exceeding age 62 yrs.</p> <p>(iii) Part-time member shall hold office for a term not exceeding 5 Yrs from the date on which he enters upon his office.</p> <p>iv.) Relinquish his membership by giving 3 mth prior notice to CG or he can be removed from office under provision of section.</p> <p>v.) Public servants under section 21 of IPC while discharging their official duties. And their actions while performing their official duties are insulated from any legal proceedings, provided they act in good faith.</p>	<p>(a) General : Regulate, promote & ensure orderly growth of the Insurance business & reinsurance business .</p> <p>(b) Furnishing of Returns [Sec 20] : Furnish to CG the prescribed Return, Statements and other particulars, in regard to any proposed or existing prog for the promotion & development of the Insurance Industry as the CG may require.</p> <p>(c) Report on Activities : i.) Within 9 Mths after the close of each FY, submit to the CG a report giving a true & full account of its activities including the activities for promotion & development of the Insurance business during the previous FY. ii.) Copies of the reports shall be laid before each House of Parliament.</p>	<p>(1) Establishment :By notification, establish a Committee to be known as the Insurance Advisory Committee (IAC).</p> <p>(2) Constitution : (a) The Chairperson & members of the Authority shall be ex-officio Chairperson & ex officio members of the IAC. (b) IAC shall consist of not more than 25 members excluding ex-officio members to represent the interests of commerce, industry, transport, agriculture, consumer form, surveyors, agents, intermediaries, organisations engaged in safety & loss prevention, research bodies & employees' association in the insurance sector. (3) Advisory to IRDA :objects of IAC shall be to advise the Authority on matters related to Insurance.</p>
<p>Establishment and Incorporation (Sec 3)</p> <p>i.) CG by notification appoint such 'Authority' be called IRDA in the nature of Body corporate enjoying all the characteristics of such entity along with contractual powers.</p> <p>ii.) It will have perpetual succession & common seal with power subject to the provision of this Act & contract and shall, by the name, sue or be sued.</p>	<p>Constitution of Funds (Section 16)</p> <p>(1) Fund to be called "IRDA Fund" and there shall be credited to:— (i) All Govt grants, fees & charges received by the Authority; (ii) All sums received by the Authority from such other source as may be decided by the CG (iii) Percentage of prescribed premium Income received from the insurer.</p> <p>(2) The Fund shall be applied for meeting:— (i) Salaries, allowances & other remuneration of the members, officers & other employees (ii) Other expenses of the Authority in connection with the discharge of its functions</p>	<p>Powers & Functions</p> <p>(i) Issue, modify, cancel, etc, of Registration certificate.</p> <p>(ii) Safeguarding the interests of the policyholders like insurable interests, settlement of claim, surrender value of the policy, etc.</p> <p>(iii) Code of conduct of the Surveyors & Loss Assessors.</p> <p>(iv) Determining qualifications & training aspect of agents & intermediary.</p> <p>(v) Levying fees & charges for their work.</p> <p>(vi) Conducting investigations & enquiries relating to issues concerning insurance business.</p> <p>(vii) Regulating & controlling business not controlled by Tariff Advisory committee (TAC)</p> <p>(viii) Regulatory investment funds by the Insurance Companies.</p> <p>(ix) Regulating maintenance of margin of solvency.</p> <p>(x) Adjudicating & settling disputes between intermediaries & insurers.</p> <p>(xi) Supervising the functioning of TAC.</p>	<p>Power to Supersede IRDA [Section 19]</p> <p>(a) Circumstances :CG if situation warrants like (i) Authority persistently defaulting directions of them or (ii) In public interest (iii) on account of circumstances beyond the control of IRDA.</p> <p>(b) Period :CG may by notification superde for not more than 6 month duration, through notification & appointing a person as controller of Insurance (c) Consequences of Supersession:From the date of publication of the notification (i) Chairperson & other members cease to hold office. (ii) All powers, functions & duties vests on the Controller if Insurance. (iii) And also all properties shall vest on CG. (d) Reconstitution of IRDA : i.) CG may then appoint fresh chairperson & other members before the expiration of the term of the super session. ii.) Notification and the action taken report has to be placed before the Parliament</p>
<p>Bar on Future Employment of Members (Section 8)</p> <p>Chairperson & WTD cannot accept any appointment without Govt. approval within 2 yrs from the date on which he ceases or retires from the office.</p> <p>(i) Any employment either under the CG or SG or (ii) Any appointment in any CO in the Insurance sector.</p>	<p>Removal of IRDA Member (Section 6)</p> <p>CG can remove any member of the Authority if he: (i) Adjudged as an insolvent (ii) Physically or mentally incapable of acting as a member (iii) Awarded punishment for Involving moral turpitude. (iv) Acquired financial or other interest which affect his function as a member. (v) Abused his position as to render his continuation in office detrimental to public interest. vi.) But no member can be removed from the office unless & until the reasonable opportunity of being heard is given to such member in the matter.</p>	<p>Accounts and Audit (Section 17)</p> <p>(1) Books :Maintain proper accounts & other relevant records & prepare an annual statement of accounts in such form as may be prescribed by the CG in consultation CAG.</p> <p>(2) Audit :Accounts shall be audited by CAG of India at such intervals as may be specified & any exp incurred shall be payable to the CAG.</p> <p>(3) Powers of Auditors :CAG & any other person appointed by him shall have the same rights, privileges & authority of such audit.</p> <p>(4) Reporting :Certified by CAG or any other person appointed together with the audit-report thereon shall be forwarded annually to the CG & that Govt shall cause the same before each House of Parliament.</p>	<p>Miscellaneous Provisions</p> <p>i.) CG can issue the direction on policy matters not on administrative & technical matters and the Authority is bound to follow such direction. ii.) CG can supersede any act of the Authority. iii.) Chairperson, Members & employees of Authority shall be deemed to be public servant while performing the duties. iv.) Delegate its powers to Chairperson or members or officers & employees of the Authority as per regulation made under this act. v.) Power to make rules related to salary & allowances & other terms & conditions to be applicable to its Chairperson, members, employees or officers.</p>
<p>Composition of Authority (Section 4)</p> <p>a.) Authority consist of foll members namely: (i) Chairman. (ii) 5 Whole Time members (max) (iii) 4 Part – Time members (max)</p> <p>b.) These persons shall be appointed by the CG from amongst persons of ability, integrity & standing who have knowledge or experience in life Insurance, general Insurance, actuarial science, finance, economics, law accountancy, administration or other discipline which would in the opinion of the CG be useful to the Authority. c.) 1 of these members should have knowledge in Life Insurance, General Insurance and Actuarial Science.</p>	<p>Meetings of IRDA (Section 10)</p> <p>(i) Time and Place : IRDA shall meet at such time and places and shall observe the Rules and procedure in regard to transaction of business at its Meetings as may be determined by the Regulations. (ii) Presiding Officer : In case, chairperson unable to attend any meeting, then members attending may appoint chairperson among themselves and shall preside at the Meeting. (iii) Protection : Any act of the 'Authority' cannot be invalidated simply because of any defect in appointing a member or procedural irregularity.</p>		
<p>Transfer of Assets, liabilities, etc. of (IIRA) to (IRDA) (Sec 13)</p> <p>i.) On appointed day, all assets and liabilities shall stand transferred from IIRA to IRDA.</p> <p>ii.) Assets may be movable or immovable.</p> <p>iii.) Along with it also includes attached rights & powers.</p> <p>iv.) Contractual obligations entered by IIRA with third parties till before the appointed day shall trf to IRDA.</p> <p>v.) All debts owed to IIRA also stands transferred to IRDA.</p> <p>vi.) Legal proceedings including suits whether instituted by or against IIRA shall stand trf to IRDA.</p>			

SARFAESI ACT, 2002 (Chart 23D.1)

A Definitions

"Asset Reconstruction Company" means a company registered with Reserve Bank under sec 3 for purposes of carrying on business of asset reconstruction or securitisation, or both.

"Borrower" means any person who has been granted financial assistance by any bank or financial institution or who has given any guarantee or created any mortgage or pledge as security for financial assistance granted by any bank or financial institution & Includes a person who becomes borrower of a securitisation company or reconstruction co consequent upon acquisition by it of any rights or interest of any bank or financial institution in relation to such financial assistance or who has raised funds through issue of debt securities.

"Default" non-payment of any debt or any other amt payable by borrower to any secured creditor consequent upon which account of such borrower is classified as non-performing asset in books of account of secured creditor; or non-payment of any debt or any other amount payable by borrower with respect to debt securities after notice of 90 days demanding payment of dues served upon such borrower by debenture trustee or any other authority in whose favour security interest is created for benefit of holders of such debt securities .

"Financial Asset" (i) A claim to any debt or receivables or part thereof, whether secured or (ii) Any debt or receivables secured by, mortgage of, or charge on, immovable property ; or (iii) A mortgage, charge, hypothecation or pledge of movable property ; or (iv) Any right or interest in security, whether full or part underlying such debt or receivables; (v) Any beneficial interest in property, whether movable or immovable, or in such debt, receivables, whether such interest is existing, future, accruing, conditional or contingent; or (va) any beneficial right, title or interest in any tangible asset given on hire or financial lease or conditional sale or under any other contract which secures obligation to pay any unpaid portion of purchase price of such asset or an obligation incurred or credit otherwise provided to enable borrower to acquire such tangible asset; or (vb) any right, title or interest on any intangible asset or licence or assignment of such intangible asset , which secures obligation to pay any unpaid portion of purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable borrower to acquire such intangible asset or obtain licence of intangible asset; or (vi) Any financial assistance

"Debt" shall have meaning assigned to it in clause (g) of sec 2 of Recovery of Debts Due to Banks Financial Institutions Act, 1993 Includes, (a) unpaid portion of purchase price of any tangible asset given on hire or financial lease or conditional sale or under any other contract; (b) any right, title or interest on any intangible asset or licence or assignment of such intangible asset , which secures obligation to pay any unpaid portion of purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable any borrower to acquire intangible asset or obtain licence of such asset.

"Secured Creditor" (a) any bank or FI or any consortium or group of banks or FI's holding any right, title or interest upon any tangible asset or intangible asset as specified in clause (I); (b) debenture trustee appointed by any bank or FI; or (c) an asset reconstruction co. whether acting as such or managing a trust set up by such asset reconstruction co. for securitisation or reconstruction, as case may be; or (d) debenture trustee registered with Board appointed by any company for secured debt securities; or (e) any other trustee holding securities on behalf of a bank or FI, in whose favour security interest is created by any borrower for due repayment of any financial assistance

"Security Interest" means right, title or interest of any kind, other than those specified i sec 31, upon property created in favour of any secured creditor & includes— (a) any mortgage, charge, hypothecation, assignment or any right, title or interest of any kind, on tangible asset, retained by secured creditor as an owner of property , given on hire or financial lease or conditional sale or under any other contract which secures obligation to pay any unpaid portion of purchase price of asset or an obligation incurred or credit provided to enable borrower to acquire tangible asset; or (b) such right, title or interest in any intangible asset or licence or assignment or licence of such intangible asset which secures obligation to pay any unpaid portion of purchase price of intangible asset or obligation incurred or any credit provided to enable borrower to acquire intangible asset or licence of intangible asset

Section 3- Registration as securitisation Companies or Reconstruction Companies

Sub-sec 1- Such a co. can commence or carry on business of securitisation or asset reconstruction only after :

(a) Obtaining a certificate of registration granted under this sec & (b) having net owned fund of not less than 2 crore Rs or such other higher amount as Reserve Bank , may, by notification, specify] A

RBI notified - minimum Rs. 100 Crore on an ongoing basis

Sub-sec 3- Reserve Bank may, for purpose of considering to grant its approval , by an inspection of records or books of that following conditions are fulfilled, namely:

(a) Co. has not incurred losses in any of the 3 preceding FY .

(b) Co. has made adequate arrangements for realisation of financial assets acquired for purpose of securitisation or asset reconstruction & Shall be able to pay periodical returns & redeem on respective due dates on investments made in co. by qualified institutional buyers or other persons;

(c) That directors of securitisation co or reconstruction co. have adequate professional experience in matters related to finance, securitisation & reconstruction

(d) That any of its directors has not been convicted of any offence involving moral turpitude

(f) That a sponsor of an asset reconstruction co. is a fit & proper person in accordance with criteria as may be specified in guidelines issued by Reserve Bank for such persons

(g) Co. has complied with or is in a position to comply with prudential norms specified by RBI.

(h) Co. has complied with one or more conditions specified in guidelines issued by Reserve Bank for said purpose . In case Reserve Bank is of opinion that above conditions are not satisfied then it may reject application, after applicant is given a reasonable opportunity of being heard.

Sub-Sec 3- Obtain prior approval of Reserve Bank for following purposes:-

(i) Any substantial change in its management including appointment of any director on board of directors of asset reconstruction co. or managing director or chief executive officer thereof by way of transfer of shares or change affecting sponsorship in co. by way of transfer of shares or change affecting sponsorship in co. by way of transfer of shares or (ii) Change of location of its registered office (iii) Change in its name

Section 4- Cancellation of Certificate of Registration

Reserve Bank may cancel certificate of registration granted to securitization or reconstruction co, if such co-

- 1) Ceases to carry on the business of securitisation or asset reconstruction ; or
- 2) Ceases to receive or hold any investment from a qualified institutional buyer ; or
- 3) Has failed to comply with any conditions subject to which certificate of registration has been granted to it; or
- 4) At any time fails to fulfil any of conditions referred to in clauses (a) to (g) of sub- sec (3) of sec 3; or 5. Fails to -
 - a) comply with any direction issued by Reserve Bank under provisions of this Act; or
 - b) maintain accounts in accordance with requirements of any law or any direction or order issued by Reserve Bank under provisions of this Act; or
 - c) submit or offer for inspection its books of account or other relevant documents when so demanded by Reserve Bank; or
 - d) obtain prior approval of Reserve Bank required u/s 3(6)

Consideration before cancellation

(a) Reserve Bank, unless it is of opinion that delay in cancelling certificate of registration granted u/s 3(4) be prejudicial to public interest or interests of investors or securitisation co or reconstruction co, shall give an opportunity to such co on such terms as Reserve Bank may specify for taking necessary steps to comply with such provisions or fulfilment of such conditions.

(b) In case securitisation co is aggrieved by order of cancellation of certificate of registration by Reserve Bank, then it may prefer an appeal, within a period of 30 days from date on which such order of cancellation is communicated to it , to CG. CG must also give such co a reasonable opportunity of being heard before rejecting appeal

SARFAESI ACT, 2002 (Chart 23D.2)

Section 5- Acquisition of Rights or Interest in Financial Assets

1. By issuing a debenture or bond or any other security for consideration agreed upon between such co & bank or FI, incorporating therein such terms & conditions as may be agreed upon between them; or
 (1A) Any document executed by any bank or FI under sub-sec (1) in favour of asset reconstruction co acquiring financial assets for purposes of asset reconstruction or securitisation shall be exempted from stamp duty in accordance with provisions of sec 8F of Indian Stamp Act, 1899 : Provided that provisions of this sub-sec shall not apply where acquisition of financial assets by the asset reconstruction co is for purposes other than asset reconstruction or securitisation.

2. By entering into an agreement with such bank or FI for transfer of such financial assets to such co on such terms & conditions as may be agreed upon between them
 (2A) If bank or FI is holding any right, title or interest upon any tangible asset or intangible asset to secure payment of any unpaid portion of purchase price of such asset or an obligation incurred or credit otherwise provided to enable borrower to acquire tangible asset or assignment or licence of intangible asset, such right, title or interest shall vest in asset reconstruction co on acquisition of such assets under sub-sec (1)

Section 9- Measures for Assets Reconstruction

1) Without prejudice to provisions contained in any other law for time being in force, an asset reconstruction co may, for purposes of asset reconstruction, provide for any one or more of following measures, namely:—
 (a) Proper management of business of borrower, by change in, or takeover of, management of business of borrower;
 (b) Sale or lease of a part or whole of business of borrower ;
 (c) Rescheduling of payment of debts payable by borrower ;
 (d) enforcement of security interest in accordance with provisions of this Act ;
 (e) settlement of dues payable by borrower ;
 (f) taking possession of secured assets in accordance with provisions of this Act;
 (g) conversion of any portion of debt into shares of a borrower co : Provided that conversion of any part of debt into shares of a borrower co shall be deemed always to have been valid, as if provisions of this clause were in force at all material times .

2) The Reserve Bank shall, for purposes of sub-sec (1), determine policy & issue necessary directions including direction for regulation of management of the business of borrower & fees to be charged.

3) The asset reconstruction co. shall take measures under sub-sec (1) in accordance with policies & directions of Reserve Bank determined under sub-sec(2)

Status of Suit, Appeal or other Proceedings (Effects)

If, on date of acquisition of financial asset, any suit, appeal or other proceeding shall not abate, or be discontinued or be, in any way, prejudicially affected by reason of acquisition of financial asset by securitisation co or reconstruction co, as the case may be, but suit, appeal or other proceeding may be continued, prosecuted & enforced by or against securitisation co or reconstruction co, as case may be.

Measures of Asset Reconstruction

1. A securitisation co or reconstruction co may, provide for any one or more of following measures, for purposes of asset reconstruction, in accordance with guidelines framed by RBI
 (a) Proper management of business of borrower, by change in, or take over of, management of business of borrower;
 (b) Sale or lease of a part or whole of business of borrower ;
 (c) Rescheduling of payment of debts payable by borrower;
 (d) Enforcement of security interest in accordance with the provisions of this Act;
 (e) Settlement of dues payable by borrower;
 (f) Taking possession of secured assets in accordance with the provisions of this Act;
 (g) to convert any portion of debt into shares of borrower co

2. Other functions of securitisation co or reconstruction company (Sec 10) Any securitisation co. or reconstruction company may-
 (a) act as agent for any bank or financial institution for purpose of recovering their dues from borrower on payment of such fees or charges mutually agreed upon between parties
 (b) act as manager on such fee may be mutually agreed upon between parties;
 (c) act as receiver if appointed by any court or tribunal:

3. No other business : No securitisation co or reconstruction co shall commence or carry on, without prior approval of RBI, any business other than that of securitisation or asset reconstruction

Section 17 – Application against measures to recover secured debts

Sub-sec 1 - shall be dealt with by Debts Recovery Tribunal as expeditiously as possible & disposed of within 60 days from date of such application: Provided that Debts Recovery Tribunal may, from time to time, extend said period for reasons to be recorded in writing, so, however, that total period of pendency of application with Debts Recovery Tribunal, shall not exceed 4 months from date of making of such application made under sub-sec (1). (1A) An application under sub-sec (1) shall be filed before Debts Recovery Tribunal within local limits of whose jurisdiction—
 (a) Cause of action, wholly or in part, arises ; (b) Where secured asset is located ; or
 (c) Branch or any other office of a bank or FI is maintaining an account in which debt claimed is outstanding for time being .

Sub-sec 3 - If, Debts Recovery Tribunal, after examining facts & circumstances of case & evidence produced by parties, comes to conclusion that any of measures referred to in sub-sec (4) of sec 13, taken by secured creditor are not in accordance with provisions of this Act & rules made thereunder, & require restoration of management or restoration of possession, of secured assets to borrower or other aggrieved person, it may, by order,— (a) declare recourse to any one or more measures referred to in sub-sec (4) of sec 13 taken by secured creditor as invalid ; & (b) restore possession of secured assets or management of secured assets to borrower or such other aggrieved person, who has made an application under sub- sect (1), as case may be; & (c) pass such other direction as it may consider appropriate & necessary in relation to any of recourse taken by secured creditor under sub-section (4) of section 13.”;

Sub-Sec- 4A Where— (i) any person, in an application under sub-sec (1), claims any tenancy or leasehold rights upon secured asset, Debt Recovery Tribunal, after examining the facts of case & evidence produced by parties in relation to such claims shall, for the purposes of enforcement of security interest, have jurisdiction to examine whether lease or tenancy, —
 (a) has expired or stood determined; or
 (b) is contrary to section 65A of the Transfer of Property Act, 1882 or
 (c) is contrary to terms of mortgage; or
 (d) is created after issuance of notice of default and demand by Bank under sub-sec (2) of sec 13 of the Act ;&

(ii) Debt Recovery Tribunal is satisfied that tenancy right or leasehold rights claimed in secured asset then notwithstanding anything to contrary contained in any other law for time being in force, Debt Recovery Tribunal may pass such order as it deems fit in accordance with provisions of this Act.”

Section 18 – Appeal to Appellate Tribunal

(a) Any person aggrieved, by any order made by Debts Recovery Tribunal (DRT) under sec 17, may prefer an appeal along with such fee, as may be prescribed to the Appellate Tribunal (AT).
 (b) Within 30 days from date of receipt of order of Debts Recovery Tribunal . Appeal shall be entertained only if borrower has deposited 50% of atleast of following amt of debt due from him . (a) As claimed by secured creditor or (b) As determined bt DRT

Section 19 – Right of Borrower to Receive Compensation & Costs in Certain Cases

If Debts Recovery Tribunal or Court of District Judge, on an application made under sec 17 or sec 17A or Appellate Tribunal or High Court on an appeal preferred under sec 18 or sec 18A, holds that possession of secured assets by the secured creditor is not in accordance with & provisions of this Act & rules made thereunder and directs secured creditors to return such secured assets to the “concerned borrowers or any other aggrieved person, who has filed application under sec 17 or sec 17A or appeal under sec 18 or sec 18A, as case may be, borrower or such other person ” shall be entitled to payment of such compensation & costs as may be determined by such Tribunal or Court of District Judge or Appellate Tribunal or High Court referred to in sec 18B

SARFAESI ACT, 2002 (Chart 23D.3)

Enforcement of security interest

Manner and effect of take over of management (Section 15)

Section 13	Section 13 (2)	Section 13 (4)	A Section 13 (8)
<p>(a) Notwithstanding anything contained in sec 69 or sec 69A of Transfer of Property Act, 1882, any security interest created in favour of any secured creditor may be enforced, without intervention of court or tribunal , by such creditor in accordance with provisions of this Act.</p> <p>(b) Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any installment thereof, & his account in respect of such debt is classified by secured creditor as NPA , then secured creditor may require borrower by notice in writing to discharge in full his liabilities to secured creditor within 60 days from date of notice failing which secured creditor shall be entitled to exercise all or any of rights under Sec 13.</p> <p>(c) This notice shall give details of amt payable by borrower & secured assets intended to be enforced by secured creditor in event of non-payment of secured debts by borrower.</p>	<p>Borrower makes any representation or raises any objection , secured creditor shall consider such representation or objection & if secured creditor comes to conclusion that such representation or objection is not acceptable or tenable, he shall communicate within 15 days of receipt of such representation or objection reasons for non-acceptance of representation or objection to borrower: Provided that reasons so communicated or likely action of secured creditor at stage of communication of reasons shall not confer any right upon borrower to prefer an application to Debts recovery Tribunal under sec 17 or Court of District Judge under sec 17A Provided that- A</p> <p>(a) Requirement of classification of secured debt as non-performing asset under this subsection shall not apply to a borrower who has raised funds through issue of debt securities; &</p> <p>(b) in event of default, debenture trustee shall be entitled to enforce security interest in same manner as provided under this sec with such modifications as may be necessary & in accordance with terms & conditions of security documents executed in favour of debenture trustee]</p>	<p>(a) If borrower fails to discharge his liability in full within above specified period , secured creditor may take recourse to one or more of following measures to recover his secured debt</p> <p>(i) Take possession of secured assets of borrower including right to transfer by way of lease, assignment or sale for realising secured asset ;</p> <p>(ii) Take over management of business of borrower including right to transfer by way of lease, assignment or sale for realising secured asset: Provided that right to transfer by way of lease, assignment or sale shall be exercised only where substantial part of business of borrower is held as security for the debt: Provided further that where management of whole of business or part of business is severable , secured creditor shall take over management of such business of borrower which is relatable to security for debt.</p> <p>(iii) Appoint any person (hereafter referred to as manager), to manage secured assets possession of which has been taken over by secured creditor;</p> <p>(iv) Require at any time by notice in writing , any person who has acquired any of secured assets from borrower & from whom any money is due or may become due to borrower, to pay secured creditor, so much of money as is sufficient to pay secured debt.</p> <p>(b) If dues of secured creditor together with all costs, charges & expenses incurred by him are tendered to secured creditor at any time before date fixed for sale or transfer, secured asset shall not be sold or transferred by secured creditor , & no further step shall be taken by him for transfer or sale of that secure asset</p>	<p>Where amt of dues of secured creditor together with all costs, charges & expenses incurred by him is tendered to secured creditor at any time before date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of secured assets,—</p> <p>(a) Secured assets shall not be transferred by way of lease assignment or sale by secured creditor; &</p> <p>(b) in case, any step has been taken by secured creditor for transfer by way of lease or assignment or sale of assets before tendering of such amt under this sub-sec, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets.</p>
Restoration of Management			
<p>where management of Borrower's business had been taken over by Secured creditor , Secured Creditors shall on realisation of his debt in full, restore management of business of borrower to him</p>			
No compensation to directors for loss of office (Section 16)			
<p>No Managing Director or any other director or a manager or any person in charge of management of business of borrower shall be entitled to any compensation for loss of office or for premature termination under this Act</p>			

Representation by Borrower

If, on receipt of notice , **borrower makes any representation or raises any objection** , secured creditor shall consider such representation or objection & if secured creditor comes to conclusion that such representation or objection is **not acceptable or tenable**, he shall communicate **within 1 week of receipt of such representation** or objection reasons for non-acceptance of representation or objection to borrower

SARFAESI ACT, 2002 (Chart 23D.4)

Section 20 - Central Registry

(a) **Objective** : CG may, by notification, set up or cause to be set up from such date as it may specify in such notification, a registry to be known as Central Registry with its own seal for purposes of registration of transaction of securitisation & reconstruction of financial assets & creation of security interest under this Act.

(b) **Offices** : Head office of Central Registry shall be at such place as CG may specify & for purpose of facilitating registration of transactions referred above, there may be established at such other places as CG may think fit.

(c) **Jurisdiction** : CG may, by notification, define territorial limits within which an office of Central Registry may exercise its functions.

(d) **Supplementary provisions** : Provisions of this Act pertaining to Central Registry shall be in addition to & not in derogation of any of provisions contained in Registration Act, 1908, Companies Act, 1956, Merchant Shipping Act, 1958, the Patents Act, 1970, Motor Vehicles Act, 1988 & Designs Act, 2000 or any other law requiring registration of charges & shall not affect the priority of charges or validity thereof under those Acts or laws

A Section 20A - Integration of registration systems with Central Registry

(1) CG may, for purpose of providing Central database, in consultation with SG or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest on such property, integrate registration records of such registration systems with records of Central Registry established under sec 20, in such manner as may be prescribed

Explanation - For purpose of this sub-sec, registration records includes records of registration under Companies Act, 2013, Registration Act, 1908, Merchant Shipping Act, 1958, Motor Vehicles Act, 1988, Patents Act, 1970, Designs Act, 2000 or other records under any other law for time being in force

(2) CG shall after integration of records of various registration systems referred to in sub-sec (1) with Central Registry, by notification, declare date of integration of registration systems & date from which such integrated records shall be available ; & from such date, security interests over properties which are registered under any registration system shall be deemed to be registered with Central Registry for purposes of this Act

A Section 20B- Delegation of Powers

CG may, by notification, delegate its powers & functions under this Chapter, in relation to establishment, operations & regulation of Central Registry to Reserve Bank, subject to such terms & conditions as may be prescribed

Section 21 - Central Registrar

(a) **Appointment** : CG may, by notification, appoint a person for purpose of registration of transactions relating to securitisation, reconstruction of financial assets and security interest created over properties, who shall be known as Central Registrar

(b) **Other Officers** : CG may appoint such other officers with such designations as it thinks fit for purpose of discharging, under superintendence & direction of Central Registrar, such functions of Central Registrar under this Act as he may, from time to time, authorise them to discharge

Section 22 - Central Registrar

(a) **Contents** : Central Register shall be kept at head office of Central Registry for entering particulars of transactions relating to-

- (i) securitisation of financial assets ;
- (ii) reconstruction of financial assets ; &
- (iii) creation of security interest

(b) **Computerized form** : Central Registrar can keep the records wholly or partly in computer, floppies, diskettes or in any other electronic form subject to prescribed safeguards.

(c) **Control** : Register shall be kept under control & management of Central Registrar

Section 23 - Filing of transactions of securitisation, reconstruction and creation of security interest A

Sub-Sec 1 - Particulars of every transaction of securitisation, asset reconstruction or creation of security interest shall be filed, with Central Registrar in prescribed manner & on payment of prescribed fees

Sub-Sec 2 - CG may, by notification, require registration of transaction relating to different types of security interest created on different kinds of property with Central Registry

Sub-Sec 3 - CG may, by rules, prescribe forms for registration for different types of security interest under this sec & fee to be charged for such registration

Section 27- Penalties

(a) In filing under sec 23, particulars of every transaction of any securitisation or asset reconstruction or security interest created by a securitisation co or reconstruction co or secured creditors ; or

(b) in sending under sec 24, particulars of modification referred to in that sec; or

(c) In giving intimation under sec 25, then, every co & every officer of co. or secured creditors & every officer of secured creditor who is in default shall be punishable with fine which may extend to Rs. 5000 for every day during which default continues. A

Provided that provisions of this section shall be deemed to have been omitted from date of coming into force of provisions of this Chapter & sec 23 as amended by Enforcement of Security Interest & Recovery of Debts Laws & Miscellaneous Provisions (Amendment) Act, 2016]

Section 31A- Provisions of the Act not to apply in some cases A

Sub-Sec 1 - GG may, by notification in public interest, direct that any of provisions of this Act,-

(a) shall not apply to such class or classes of banks or financial institutions ; or (b) shall apply to class or classes of banks or financial institutions with such exceptions, modifications & adaptations, as may be specified in notification

Sub-Sec 2 - A copy of every notification proposed to be issued under sub-sec (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of 30 days, and if, both Houses agree in disapproving issue of notification or both Houses agree in making any modification in the notification, notification shall not be issued or, as case may be, shall be issued only in such modified form as may be agreed upon by both Houses

Sub-sec 3 - In reckoning any such period of 30 days as is referred to in sub-sec (2), no account shall be taken of any period during which House referred to in sub-sec (2) is prorogued or adjourned for more than 4 consecutive days.

Sub-sec 4 - Copies of every notification issued under this sec shall, as soon as may be after it has been issued, be laid before each House of Parliament

Section 32 - Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against Reserve Bank or Central Registry or any secured creditor or any of its officers for anything done or omitted to be done in good faith under this Act

A Section 38

Central Government has power to make rules

SARFAESI ACT, 2002 (Chart 23D.5)

A

Chapter IVA- Registration by Secured Creditors and Other Creditors

Section 26B - Registration of Secured creditors & other creditors

(1) CG may by notification, extend provisions of Chapter IV relating to Central Registry to all creditors other than secured creditors as defined in clause (zd) of subsec (1) of secn 2, for creation, modification or satisfaction of any security interest over any property of borrower for purpose of securing due repayment of any financial assistance granted by such creditor to the borrower.

(2) From date of notification under sub-sec (1), any creditor including the secured creditor may file particulars of transactions of creation, modification or satisfaction of any security interest with Central Registry in such form & manner as may be prescribed.

(3) A creditor other than secured creditor filing particulars of transactions of creation, modification & satisfaction of security interest over properties created in its favour shall not be entitled to exercise any right of enforcement of securities under this Act

(4) Every authority or officer of CG or any SG or local authority, entrusted with function of recovery of tax or other Government dues & for issuing any order for attachment of any property of any person liable to pay the tax or Government dues, shall file with Central Registry such attachment order with particulars of assessee & details of tax or other Government dues from such date as may be notified by CG, in such form & manner as may be prescribed

(5) If any person, having any claim against any borrower, obtains orders for attachment of property from any court or other authority empowered to issue attachment order, such person may file particulars of such attachment orders with Central Registry in such form & manner on payment of such fee as may be prescribed

Section 26C - Effect of registration of transactions

(1) Without prejudice to provisions contained in any other law, for time being in force, any registration of transactions of creation, modification or satisfaction of security interest by a secured creditor or other creditor or filing of attachment orders under this Chapter shall be deemed to constitute a public notice from date & time of filing of particulars of such transaction with Central Registry for creation, modification or satisfaction of such security interest or attachment order, as case may be.

(2) Where security interest or attachment order upon any property in favour of secured creditor or any other creditor are filed for purpose of registration under provisions of Chapter IV & this Chapter, claim of such secured creditor or other creditor holding attachment order shall have priority over any subsequent security interest created upon such property & any transfer by way of sale, lease or assignment or licence of such property or attachment order subsequent to such registration, shall be subject to such claim: Provided that nothing contained in this sub-sec shall apply to transactions carried on by borrower in ordinary course of business.

Section 26D - Right of enforcement of securities

Notwithstanding anything contained in any other law for time being in force, from date of commencement of provisions of this Chapter, no secured creditor shall be entitled to exercise rights of enforcement of securities under Chapter III unless security interest created in its favour by borrower has been registered with Central Registry

Section 26E - Priority to secured creditors

Notwithstanding anything contained in any other law for time being in force, after registration of security interest, debts due to any secured creditor shall be paid in priority over all other debts & all revenues, taxes, cesses & other rates payable to the CG or State Government or local authority.

Explanation - For purposes of this sec, it is hereby clarified that on or after commencement of Insolvency & Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

Section 30- Cognizance of Offence

No court shall take cognizance of any offence punishable under sec 27 in relation to non-compliance with provisions of sec 23, sec 24 or sec 25 or under sec 28 or sec 29 or any other provisions of Act, except upon a complaint in writing made by an officer of the Central Registry or an officer of Reserve Bank, generally or specially authorised in writing in this behalf by the Central Registrar or, as the case may be, Reserve Bank.

No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of first class shall try any offence punishable under this Act

SARFAESI ACT, 2002 (Chart 23D.6)

Section 30A - Power of adjudicating authority to impose penalty

- (1) Where any asset reconstruction co or any person fails to comply with any direction issued by Reserve Bank under this Act adjudicating authority may, by an order, impose on such co or person in default, a penalty not exceeding 1 Cr rupees or twice amt involved in such failure where such amount is quantifiable, whichever is more, & where such failure is a continuing one, a further penalty which may extend to 1 lakh rupees for every day, after first, during which such failure continues.
- (2) For purpose of imposing penalty under sub-sec (1), adjudicating authority shall serve a notice on asset reconstruction co or person in default requiring such co or person to show cause why amt specified in notice should not be imposed as a penalty & a reasonable opportunity of being heard shall be given to such person.
- (3) Any penalty imposed under this sec shall be payable within a period of 30 days from date of issue of notice under sub-sec (2).
- (4) Where asset reconstruction co fails to pay penalty within specified period under sub-sec (3), adjudicating authority shall, by an order, cancel its registration: Provided that an opportunity of being heard shall be given to such asset reconstruction co before cancellation of registration.
- (2) No complaint shall be filed against any person in default in any court pertaining to any failure under sub-section (1) in respect of which any penalty has been imposed and recovered by Reserve Bank under this sec.
- (3) Where any complaint has been filed against a person in default in court having jurisdiction no proceeding for imposition of penalty against that person shall be taken under this sec

Section 30B - Appeal against penalties

Person in default, aggrieved by an order passed under sub-sec (4) of sec 30A, may, within 30 days from date on which such order is passed, prefer appeal to Appellate Authority: Provided that Appellate Authority may entertain appeal after expiry of 30 days, if there was sufficient cause for not filing it within such period

Section 30C - Appellate Authority

- (1) Central Board of Reserve Bank may designate such officer or committee of officers as it deems fit to exercise power of Appellate Authority
- (2) Appellate Authority shall have power to pass such order as it deems fit after providing a reasonable opportunity of being heard to person in default
- (3) Appellate Authority may, by an order stay enforcement of order passed by adjudicating authority under sec 30A, subject to such terms & conditions, as it deems fit
- (4) Where person in default fails to comply with terms & conditions imposed by order under sub-sec (3) without reasonable cause, Appellate Authority may dismiss appeal

Section 30D - Recovery of penalties

- 1) Any penalty imposed under section 30A shall be recovered as "recoverable sum" & shall be payable within 30 days from date on which notice demanding payment of recoverable sum is served upon person in default &, in case of failure of payment by such person within such period, RBI may, for the purpose of recovery,
 - (i) debit current account, if any, of person in default maintained with Reserve Bank or by liquidating securities, if any, held to credit of such person in books of Reserve Bank;
 - (ii) Issue notice to person from whom any amount is due to person in default, requiring such person to deduct from amount payable by him to the person in default, such amt equivalent to amt of recoverable sum & to make payment of such amount to RBI
- 2) Save as otherwise provided in sub-sec (4), a notice issued under clause (b) of sub-sec (1) shall be binding on every person to whom it is issued, and, where such notice is issued to a post office, bank or an insurance company, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for purpose of any entry or endorsement thereof before payment is made, notwithstanding any rule, practice or requirement to contrary.
- 3) Any claim in respect of any amount, arising after the date of issue of notice under sub-section (1) shall be void as against demand contained in such notice.
- 4) Any person, to whom notice is sent under sub-sec (1), objects to such notice by a statement on oath that sum demanded or any part thereof is not due to person in default or that he does not hold any money for or on account of person in default, then nothing contained in this sec shall be deemed to require, such person to pay such sum or part thereof, as case may be.
- 5) Where it is found that statement made by the person under sub-sec (4) is false in material particulars, such person shall be personally liable to Reserve Bank to extent of his own liability to person in default on date of notice, or to extent of recoverable sum payable by person in default to RBI, whichever is less.

- 6) Reserve Bank may, at any time, amend or revoke any notice issued under sub-section (1) or extend time for making payment in pursuance of such notice.
- 7) Reserve Bank shall grant a receipt for any amt paid to it in compliance with a notice issued under this sec & person so paying shall be fully discharged from his liability to person in default to extent of amt so paid
- 8) Any person discharging any liability to the person in default after receipt of a notice under this sec shall be personally liable to Reserve Bank—
 - (a) to extent of his own liability to person in default so discharged; or
 - (b) to extent of recoverable sum payable by person in default to Reserve Bank, whichever is less.
- 9) Where person to whom notice is sent under this sec, fails to make payment in pursuance thereof to Reserve Bank, he shall be deemed to be person in default in respect of amt specified in notice & action & proceedings may be taken or instituted against him for realisation of amt in manner provided in this sec.
- 10) Reserve Bank may enforce recovery of recoverable sum through principal civil court having jurisdiction in area where registered office or head office or principal place of business of person in default or usual place of residence of such person is situated as if notice issued by Reserve Bank were a decree of Court.
- 11) No recovery under sub-section (10) shall be enforced, except on an application made to principal civil court by an officer of Reserve Bank authorised in this behalf certifying that person in default has failed to pay recoverable sum

Section 31 - Non-applicability of the Act

- 1) Lien on any goods, money or security given by or under Indian Contract Act, 1872 or Sale of Goods Act, 1930 or any other law for time being in force
- 2) Pledge of movables within meaning of section 172 of Indian Contract Act, 1872
- 3) Creation of any security in any aircraft as defined section 2 of the Aircraft Act, 1934.
- 4) Creation of security interest in any vessel as per Merchant Shipping Act, 1958.
- 5) Any properties not liable to attachment or sale under first proviso to sub-section (1) of section 60 of the Code of Civil Procedure, 1908.
- 6) Any security interest for securing repayment of any financial asset not exceeding 1lakh Rs.
- 7) Any security interest created in agricultural land;
- 8) Any rights of unpaid seller

Section 31A - Provisions of the act not to apply in certain cases

- 1) CG may, by notification in public interest, direct that provisions of this Act,
 - a) shall not apply to such class or classes of banks or financial institutions; or
 - b) shall apply to class or classes of banks or financial institutions with such exceptions, modifications & adaptations, as specified in notification
- 2) Copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of 30 days, & if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in notification, notification shall not be issued or, as case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.
- 3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in sub-section (2) is prorogued or adjourned for more than four consecutive days
- 4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament

Prevention of Money Laundering Act, 2002 (Chart 24.1)

Objects	Property	Obligation	Power of Civil Court (Section 41)	Offences cognizable & non-bailable (Sec 45)	Recovery (Sec 69)
<p>Combating channelling of money into illegal activities, provides for attachment & seizure of property & records, stringent punishment, including rigorous imprisonment of upto 10 yrs & fine.</p>	<p>Any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible & includes deeds & instruments evidencing title to, or interest in such property or assets wherever located.</p>	<p>(a) Maintain a record of all transactions, including information relating to transactions covered under clause (b) Furnish to Director within such time as information relating to such transactions, whether attempted or executed, nature & value of which may be prescribed. (c) Verify identity of its clients . (d) Identify beneficial owner . (e) Maintain record of documents evidencing identity of its clients & beneficial owners & account files & business correspondence relating to its clients. Every information maintained, furnished or verified, i) records under clause - shall be maintained for period of 5 yrs. ii) records in clause - shall be maintained for a period of 5 yrs.</p>	<p>No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which Director, an Adjudicating Authority or AT 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.</p>	<p>a) Imprisonment of more than 3 years under Part A of the Schedule shall be released on bail or on his own bond unless i) opportunity to oppose. ii) Reasonable grounds for believing that he is not guilty of such offence & that he is not likely to commit any offence while on bail. b) Person who is of age 16 years or in case of a woman or in case of a sick or infirm person, SC can direct release of such person on bail. c) SC cannot take cognizance of any offence, unless a complaint in writing is made by Director, any officer of the CG or a SG authorised in writing.</p>	<p>Where any fine or penalty under Sec 13 or sec 63 is not paid within 6 mths from the day of imposition of fine or penalty then Director may proceed to recover the amount from said person.</p>
Punishment for Offence of ML (Sec 4)	Payment System	Access to information (Section 12A) & Powers of the Directors (Section 13)	Appeal to High Court (Section 42)	Reciprocal Arrangement for Assistance in Certain Matters & Proc for Attachment & Confiscation of Property (Sec 56)	Conclusion
<p>i) Rigorous imprisonment for a term which shall not be less than 3 years but which may extend to 7 yrs & shall also be liable to fine. ii) Offences under Narcotic Drugs & Psychotropic Substances Act, 1985 punishment may extend to 10 years instead of 7 years</p>	<p>Enables payment to be effected betn a payer & beneficiary, involving clearing, payment or settlement service or all of them . Also includes enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations.</p>	<p>Sec 12A: Call for any records under & any additional info. Sec 13: Inquiry or cause inquiry with regard to the obligations of reporting entity. Reporting entity or its designated director on the Board or any of its employees has failed to comply with the provision, then penalty which shall not be less than 10,000 Rs but may extend to 1 lakh Rs for each failure</p>	<p>Appeal to the HC within 60 days from the date of communication of the decision or order of the AT & additional 60 days given for delay in filing. After modifying, Confirming, Setting aside, HC has power to pass order.</p>	<p>CG may enter into an agreement with the Govt of any country outside India for - (a) Enforcing provisions of this Act or (b) Exchange of info for prevention of any offence under this Act or under the corresponding law in force in that country.</p>	<p>i) ML is not just siphoning of fund, it actually refers to a whole process or an entire system by which money is generated from serious crimes as listed & they are given such shape (by disguising its origin into a series of transactions) that it looks like it has originated from legitimate sources. Example: Criminal may deposit all his money into a bank account or pur a FD or even buy a property. But sudden appearance of such transaction, invites the attraction of one & all. Hence he may resort to ML. ii) The volume of money generated by above activities is also very huge. The answer lies in observing continuous increase in terrorist or militant or other criminal activities worldwide (wide spreading global network of terrorists and others who deal in above crimes).</p>
Proceeds of crime	Scheduled Offence	Special Courts (SC) (Section 43-44)	Appeal to AT (Sec 25 & 26)		
<p>Any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or value of any such property.</p>	<p>(a) Placement: Holding money generated from criminal activities, introduces illegal funds into financial systems. This can be done by breaking up large amt of cash into less conspicuous smaller sums which are deposited directly into a Bank Account or by purchasing a series of instruments such as Cheques, Bank Drafts etc. (b) Layering: Engages in a series of continuous conversions or movements of funds, within financial or banking system by way of numerous accounts, so as to hide their true origin & to distance them from their criminal source. (c) Integration: Funds reach legitimate economy, after getting inseparably mixed with legitimate money earned through legal sources of income.</p>	<p>Sec 43 empowers CG in consultation with Chief Justice of High Court for trial of offence, to notify one or more Courts of Sessions as SC. (i) An offence punishable under Sec 4 & any scheduled offence connected to shall be triable by the SC. (ii) SC may, upon a complaint made by an authority cognizance of offence under sec 3, without accused being committed to it for trial. (iii) SC while trying scheduled offence or offence of ML shall hold trial in accordance with provisions of the Code of Criminal Procedure, 1973.</p>	<p>The Appellate Tribunal constituted under sec 12(1) of the Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be Appellate Tribunal for hearing appeals against orders of Adjudicating Authority & other authorities under this Act</p>		
Money – Laundering (Sec 3)	Stages				
<p>Directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use & projecting or claiming it as untainted property.</p>	<p>(a) Placement: Holding money generated from criminal activities, introduces illegal funds into financial systems. This can be done by breaking up large amt of cash into less conspicuous smaller sums which are deposited directly into a Bank Account or by purchasing a series of instruments such as Cheques, Bank Drafts etc. (b) Layering: Engages in a series of continuous conversions or movements of funds, within financial or banking system by way of numerous accounts, so as to hide their true origin & to distance them from their criminal source. (c) Integration: Funds reach legitimate economy, after getting inseparably mixed with legitimate money earned through legal sources of income.</p>				

Interpretation of Statutes, Deeds and Documents (Chart 25.1)

DEFINITIONS

A) Statute: i) **Written Will** of legislature
 ii) **Necessary to constitute** it the law of State
B) Instrument : Document by which any **right or liability** is or purports to be created, transferred, extended, extinguished or recorded
C) Document : i) **Proof or evidence** of anything
 ii) Include **any matter** written, expressed or described upon any substance by means of letters, figures or marks which is **intended** to be used
D) Deed : **Instrument** in writing (or other legible representation or words on parchment or paper) purporting to **effect** some legal disposition
E) Interpretation:
 i) real **meaning** of an Act (or a document) and **intention** of the **legislature** in enacting it is ascertained
 ii) **Signifies** the meaning of **abstruse words, writings** , etc.
F) Interpretation & Construction : Process by which the Courts seek to **ascertain the meaning of Legislature** in which it is **expressed**. Generally interpretation & construction are **used as synonymous terms**.

Rules of Interpretation / Construction

PRIMARY RULES

1) Rules of Literal Construction:

- i) **Word, phrases & sentences** of a statute are ordinarily to be understood in their **natural, ordinary or popular & grammatical meaning**
- ii) **Cardinal** rule of construction-Ordinary, natural & grammatical meaning
- iii) Provision is **unambiguous** & legislative intent is **clear, other rules** of construction of statutes need **not** be called into **aid**
- iv) Words & phrases of **technical nature** are 'prima facie' used in their technical meaning, otherwise in their ordinary popular meaning
- v) **Narrower** interpretation **fails** to achieve the manifest **purpose** of the legislation, then adopt the **wider** one
- vi) **Non applicability:**
 - a) If Language is **Ambiguous**
 - b) If the Literal interpretation gives **absurd or unreasonable** result
 - c) If literal interpretation **defeats intention** of legislation

2) Rule of Reasonable Construction:

- i) **Sensible meaning**
- ii) **Applicability :**
 - a) If the Language is ambiguous.
 - b) If the Literal interpretation gives **absurd or unreasonable result**.
 - c) It **defeats intention** of legislation.
- iii) **Non Applicability : Ordinary meaning is Clear**
- iv) **Narrower** interpretation would **fail** to achieve the **main purpose** of legislation, then such construction, should be **avoided**

3) Rule of Harmonious Construction:

- i) **Doubt** about **meaning** of words of a statute then **harmonise** with the subject of the **enactment & object** which legislature had in view.
- ii) two or more provisions **cannot be reconciled** with each other then **interpret** as to give **effect** to all of them.
- iii) **Non Applicability** Applicable only when there is a real & not merely apparent conflict betwn provisions of an Act & One Provision has been made subject to other.

4) Rule of Beneficial Construction or the Heydon's Rule or Mischief Rule:

- i) **Applicability :** Language used in a statute is **capable of more than one interpretation** and the Rule of Literal Interpretation fails.
- ii) **Background & Essence :** Consider **Historical set up of statue.**
 - a) **What** was the law before the making of the Act;
 - b) What was the **mischief** or defect for which the law did not provide;
 - c) What is the **remedy** that the Act has provided; &
 - d) what is the **reason** for the remedy.
- iii) **Adopt** that construction which 'shall **suppress mischief & advance remedy**'.
- iv) Applicable only when words used are ambiguous & are reasonably capable of **more than one meaning** . eg"Untrue statement in Prospectus".

5) Rule of Exceptional Construction:

- i) **No sensible meaning** can be fixed to a word or phrase, or **defeats the real object** of the enactment, it should be **eliminated** then should a give a **sensible meaning** .
- ii) '**or**' is normally **disjunctive** and '**and**' is **conjunctive**.
- iii) They are **read as vice versa** only if **literal** reading of the **words** produces an **unintelligible or absurd result**.
- iv) Distinction between 'mandatory' & directory' is that when it is **mandatory** , it must be **strictly observed**; when it is '**directory**' it would be **sufficient** that it is **substantially complied** with.
- v) **Factors** to be considered by Court
 - a) The **nature** of the thing empowered,
 - b) The **object** for which it is done, &
 - c) The **person** for whose benefit the **power** is to be exercised
- 6) Rule of Ejusdem Generis:**
 - i) 'Ejusdem generis' means 'of **same kind or species**'.

This rule means **specific words are used** and **after** those specific words, some general words are used, the **general word** s would take their **colour** from the specific words used **earlier**.

 - ii) **Non applicability :** If **general words** following those specific words remains **unaffected** -those general words then would **not take colour** from the **earlier** specific words.
 Eg. a) Keeping of dogs, cats, cows, buffaloes and other animals, the expression 'other animals' would not include wild animals like lions and tigers, but would mean only domesticated animals like horses, etc.
 - iii) Courts have a discretion whether to apply this rule or not.

SECONDARY RULES

- 1) '**Optima Legum interpretest consuetudo**' -the custom is best interpreter of the law.
- 2) '**Contempranea expositioest optima et fortissima in lege**' - the best way to interpret a document is to read it as it would have been read when made.
- 3) **Old statutes & documents** should be **interpreted** as they would have been at time when they were **enacted/ written**.
- 4) **NOSCITUR A SOCIIS**- Associated Words to be Understood in **Common Sense** Manner.
- 5) **Two or more words** which are **capable of analogous** (similar or parallel) meaning are coupled together, then to be understood in their **cognate sense** (i.e. akin in origin, nature or quality). They take their **colour** from **each other** , i.e, the more general is **restricted** to a sense **analogous** to the less general.
- 6) For example, term 'entertainment' would have a different meaning when used in expression 'houses for public refreshment, resort & entertainment' than its generally understood meaning of theatrical, musical or similar performance.

Distinction between directory & mandatory provision :

- A) Mandatory:**
- a) Provision is mandatory.
 - b) **Non-compliance** results in **penalty**.
 - c) If a provision gives a **power coupled with a duty**.
 - d) Provisions enacted to **prevent fraud & mischief** .
- B) Directory:**
- a) **No public policy** is involved.
 - b) If the **non-compliance** of a provision does **not results in penalty**

Interpretation of Statutes, Deeds and Documents (Chart 25.2)

Internal Aids to Interpretation/Construction :	External Aids to Interpretation/Construction :	Rules of Interpretation /Construction of Deeds and Documents	Interpretation of word without prejudice
<p>Title, Preamble, Heading, Marginal Notes, Definitional Sections/ Clauses, Illustrations etc helps in interpreting/construing enactment or any of its</p> <p>a) Long Title: i) Short Title merely part identifies enactment & is chosen merely for convenience, 'Long Title' describes enactment & does not merely identify it</p> <p>ii) Long Title of an Act is a part of Act</p> <p>iii) To ascertain the object, scope and purpose of the Act</p> <p>b) Preamble: i) Expresses scope, object & purpose of the Act more comprehensively than Long Title.</p> <p>ii) It does not over-ride plain provision of Act</p> <p>iii) Recite ground & cause of making a statute & evil which is sought to be remedied by it.</p> <p>c) Heading & Title of a Chapter:</p> <p>i) Prefixed to sections or groups of sections can legitimately be referred to for the purpose of construing enactment or its parts</p> <p>ii) Regarded as giving key to interpretation of clauses</p> <p>iii) Treated as 'preambles' to the provisions following it</p> <p>d) Marginal Notes:</p> <p>i) MN appended to a Section cannot be used for construing the Section</p> <p>ii) Part of Constitution as passed by the Constituent Assembly</p> <p>e) Illustrations:</p> <p>i) Illustrations follow text of Sections & do not form a part of the Sections</p> <p>ii) Relevance & value in construing the text of the sections</p> <p>iii) Can not have effect of modifying language of sec & can neither curtail nor expand ambit of section</p> <p>f) Proviso:</p> <p>i) Qualify preceding enactment</p> <p>ii) Qualify or create an exception.</p> <p>iii) Ordinarily a proviso is not interpreted as stating a general rule.</p> <p>g) Explanation:</p> <p>i) Explain meaning of the text of sec.</p> <p>ii) Added to include something within sec or to exclude something from it.</p> <p>h) Schedules: i) Forms part of an Act.</p> <p>ii) Read together with the Act .</p> <p>iii) Cannot control or prevail over expression in the enactment.</p> <p>iv) Enactment shall always prevail if it conflicts with explanation.</p> <p>i) Definitional Sections/Clauses:</p> <p>i) Purpose of a definition clause is two-fold:</p> <p>a) key to the proper interpretation of the enactment.</p> <p>b) Shorten the language of the enacting part by avoiding repetition of the same words .</p> <p>Inclusive definition: Definition is 'prima facie' extensive . Word defined is not restricted to the meaning assigned to it but has extensive meaning.</p> <p>Exhaustive definition : Definition is 'prima facie' restrictive and exhaustive we must restrict the meaning of the word to that given in the definition section.</p>	<p>Society does not function in a void. Everything done has its reasons, its background, the particular circumstances prevailing at the time. These factors are of great help in interpreting/construing an Act and have been given the convenient nomenclature of 'External Aids to Interpretation'</p> <p>a) Historical Setting:</p> <p>i) History of external circumstances which led to enactment.</p> <p>ii) External or historical facts which are necessary in understanding & comprehension & scope & object of enactment.</p> <p>iii) History in general & Parliamentary History in particular, ancient statutes, contemporary or other authentic works & writings all are relevant in interpreting & construing an Act.</p> <p>We have also to consider whether statute in question was intended to alter law or leave it where it stood before.</p> <p>b) Consolidating Statutes & Previous Law:</p> <p>i) Presumption that it is not intended to alter law.</p> <p>ii) They may solve doubtful points in statute with aid of such presumption in intention, rejecting literal construction.</p> <p>c) Analogous Acts:</p> <p>i) Exposition of One Act by Language of Another.</p> <p>ii) Different statutes in 'pari materia' (i.e. in an analogous case), though made at different times, or even expired and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other.</p> <p>d) Use of Foreign Decisions:</p> <p>i) Foreign decisions of countries following the same system of jurisprudence as ours.</p> <p>ii) Prime importance is always to be given to the language of the Indian statute.</p> <p>e) Reference to Repealed Act :</p> <p>i) Part of an Act has been repealed, it loses its operative force</p> <p>f) Usage:</p> <p>i) Sometimes taken into consideration in construing Act.</p> <p>ii) where meaning of language in a statute is doubtful, usage how that language has been interpreted and acted upon over a long period & may determine its true meaning.</p> <p>g) Dictionary Definitions:</p> <p>i) Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood.</p> <p>ii) Take into consideration the context in which it is used in the Act.</p> <p>iii) Judicial decisions laying down meaning of words in construing statutes in 'pari materia' will have greater weight .</p> <p>h) Earlier Act Explained by the Later Act: Where the earlier statute contained a negative provision but the later one merely omits that negative provision ,necessary to see how the law would have stood without the original provision & terms in which repealed sections are re-enacted</p>	<p>a) To find out of its scope & intendments, would understand by words used in that deed or document.</p> <p>b) It is inexpedient to construe terms of one deed by reference to terms of another.</p> <p>c) Same word cannot have two different meanings in same document, unless context compels adoption of such a rule.</p> <p>d) Status & training of parties using words have also to be taken into account as same words may be used by an ordinary person in one sense & by a trained person or a specialist in quite another special sense.</p> <p>e) Words with double meaning : Word should be understood in the former and not latter sense.</p> <p>f) Conflict between two clauses</p> <p>i) Effort must be made to resolve conflict by interpreting clauses so that all the clauses are given effect to.</p> <p>ii) it is not possible to give effect to all of them, then it is earlier clause that will over-ride the latter one.</p>	<p>a) without prejudice to generality of provision : Indicates that anything containing in 'provision following such words is not intended to cut down generality of meaning of preceding provision.</p> <p>b) without prejudice to provisions of sec: Means that expression shall not affect anything done in pursuance of sec which follows such words.</p> <p>c) Subject to:</p> <p>i) It gives an overriding effect to the other provision, it means other shall prevail over other provision in case of any inconsistency.</p> <p>ii) effect of a provision containing word 'notwithstanding' is opposite to a provision containing words 'subject to'</p> <p>d) notwithstanding .i.e 'non obstante clause:</p> <p>i) Notwithstanding anything contained in this ACT- Override entire Act.</p> <p>ii) Notwithstanding anything contained in any forgoing Provision -Override only the forgoing provision.</p> <p>iii) Notwithstanding anything contained in any other Law for te time being -Override entire Law</p>