

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XI of 2013

THE SECURITIES AND EXCHANGE BOARD OF INDIA
(AMENDMENT) BILL, 2013

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further to amend the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Securities and Exchange Board of India (Amendment) Act, 2013.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 21st day of January, 2013.

15 of 1992. 5 **2.** In section 15M of the Securities and Exchange Board of India Act, 1992, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment
of section
15M.

“(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he —

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court. 5

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”.

Repeal and
saving.

3. (1) The Securities and Exchange Board of India (Amendment) Ordinance, 2013, is hereby repealed. 10 Ord. 1 of 2013.

(2) Notwithstanding such repeal, anything done or any action taken under the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of that Act, as amended by this Act. 15 of 1992. 15

STATEMENT OF OBJECTS AND REASONS

The Securities and Exchange Board of India Act, 1992 (SEBI Act) was enacted to provide for the establishment of the Securities and Exchange Board of India to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market.

2. The Securities Appellate Tribunal (SAT) was established under section 15K of the SEBI Act to adjudicate upon appeals against the decisions of the Securities and Exchange Board of India. Section 15M of the said Act, relating to qualifications for appointment as the Presiding Officer of the SAT, provides that a person shall not be qualified for appointment as the Presiding Officer of the SAT unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court.

3. The post of Presiding Officer of the SAT has been lying vacant since the 29th November, 2011 due to non-availability of a suitable candidate. Efforts to identify a suitable candidate to take up the assignment under the existing eligibility criteria, have not met with success, and, therefore, the post has been lying vacant. The absence of a Presiding Officer has been hampering the functioning of the Tribunal, which is the appellate authority of the Security and Exchange Board of India. The Tribunal is important for smooth functioning of the capital markets.

4. In view of the above difficulties, there was a need to enlarge the field of selection for the post of Presiding Officer of SAT by including sitting or retired Judges of a High Court with a minimum of seven years of service as a Judge of a High Court as one of the qualifications for the post of Presiding Officer of SAT.

5. As there was an urgent need to fill the post of Presiding Officer of SAT and Parliament was not in session, it became necessary to amend section 15M of the SEBI Act by way of promulgation of an Ordinance so as to include the sitting or retired Judges of a High Court with a minimum of seven years of service as a Judge of a High Court as one of the qualifications for the post of Presiding Officer of the SAT. Accordingly, the Securities and Exchange Board of India (Amendment) Ordinance, 2013 was promulgated on the 21st January, 2013.

6. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 18th February, 2013

P. CHIDAMBARAM

ANNEXURE

EXTRACT FROM THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(15 OF 1992)

Qualification
for appoint-
ment as Presi-
ding Officer or
Member of the
Securities
Appellate
Tribunal.

15M. (1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court:

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

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RAJYA SABHA

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further to amend the Securities and Exchange Board of India Act, 1992.

(Shri P. Chidambaram, Minister of Finance)