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STANDING COMMITTEE ON FINANCE
(2025–26)

EIGHTEENTH LOK SABHA

MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE SECURITIES MARKETS CODE, 2025

THIRTY-SIXTH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

July, 2026/ Ashadha, 1948 (Saka)

THIRTY – SIXTH REPORT

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(2025-26)

(EIGHTEENTH LOK SABHA)

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THE SECURITIES MARKETS CODE, 2025

Presented to Lok Sabha on 23.07.2026

Laid in Rajya Sabha on 23.07.2026

LOK SABHA SECRETARIAT

NEW DELHI

July, 2026/ Ashadha, 1948 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE (2025-26)

Shri Bhartruhari Mahtab - Chairperson

MEMBERS

LOK SABHA

2. Shri Arun Bharti
3. Shri P. P. Chaudhary
4. Shri Rajesh Naranbhai Chudasama
5. Shri Lavu Sri Krishna Devarayalu
6. Shri Gaurav Gogoi
7. Shri K. Gopinath
8. Shri Suresh Kumar Kashyap
9. Shri Kishori Lal
10. Shri Harendra Singh Malik
11. Thiru Arun Nehru
12. Shri N. K. Premachandran
13. Dr. C. M. Ramesh
14. Smt. Sandhya Ray
15. Prof. Sougata Ray
16. Shri P. V. Midhun Reddy
17. Dr. Jayanta Kumar Roy
18. Dr. K. Sudhakar
19. Shri Manish Tewari
20. Shri Balashowry Vallabhaneni
21. Shri Prabhakar Reddy Vemireddy

RAJYA SABHA

22. Shri P. Chidambaram
23. Shri Narain Dass Gupta
24. Shri Praful Patel
25. Shri Yerram Venkata Subba Reddy
26. Shri S. Selvaganabathy
27. Shri Sanjay Seth
28. Dr. Dinesh Sharma
29. Shri Vinod Shridhar Tawde*
30. Dr. M. Thambidurai#
31. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	Director
3.	Shri Kuldeep Singh Rathore	Deputy Secretary
4.	Shri Ravi Kant Prasad Sinha	Committee Officer
5.	Shri Deepak Kumar	Committee Officer
6.	Ms. Abhiruchi Srivastava	Committee Officer

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* Nominated as Member of the Committee *vice* Smt. Darshana Singh w.e.f. 03 June, 2026.
# Ceased to be a Member of the Committee on 02 April 2026 and has been re-nominated as Member of the Committee w.e.f. 03 June, 2026.

INTRODUCTION

I, the Chairperson, of the Standing Committee on Finance, having been authorised by the Committee, present this Thirty- Sixth Report (Eighteenth Lok Sabha) on the Bill 'The Securities Markets Code, 2025' of the Ministry of Finance (Department of Economic Affairs).

2. The Securities Markets Code, 2025, introduced in Lok Sabha on 18 December, 2025 was referred to the Committee on 19 December, 2025 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took briefing of the representatives of the Ministry of Finance (Department of Economic Affairs) at their sitting held on 08 January, 2026. Thereafter, on 20 January, 2026, the Committee took oral evidence of the representatives of the National Stock Exchange of India Ltd. (NSE) and the Bombay Stock Exchange Ltd. (BSE). Subsequently, on 02 February, 2026, the Committee took oral evidence of the representatives of the Securities and Exchange Board of India (SEBI). In their next sitting on 09 February, 2026, the Committee took oral evidence of the representatives of the Insurance Regulatory and Development Authority of India (IRDAI). Further, on 11 February, 2026, the Committee took oral evidence of the representatives of the Reserve Bank of India (RBI). Thereafter, on 10 April, 2026, the Committee heard views of Shri M. Damodaran, Former Chairperson, Securities and Exchange Board of India (SEBI). On the same day, they also heard views of the representatives of TRILEGAL. Further, on 23 April, 2026, the Committee heard views of Dr. M.S. Sahoo, Former Chairperson, Insolvency and Bankruptcy Board of India (IBBI) and Whole-time Member of the Securities and Exchange Board of India (SEBI). On the same day, the Committee also heard views of the representatives of the Institute of Cost Accountants of India (ICMAI), the Institute of Company Secretaries of India (ICSI) and the Institute of Chartered Accountants of India (ICAI) on the Bill. The Committee thereafter, on 24 April, 2026 took the oral evidence of the representatives of the Pension Fund Regulatory and Development Authority (PFRDA), International Financial Services Centers Authority (IFSCA) and Insolvency and Bankruptcy Board of India (IBBI). On the same day, the Committee also heard views of the representatives of Federation of Indian Chambers of Commerce & Industry (FICCI) and The Associated Chambers of Commerce & Industry of India (ASSOCHAM).

During the course of their examination of the Bill, the Committee held extensive consultations with a wide cross-section of stakeholders, including regulators, market infrastructure institutions, industry associations, professional bodies, legal experts, market participants, academic institutions and other interested organisations. The Committee also undertook a Study Visit to Bengaluru and Mumbai from 23rd to 26th February, 2026, during which it interacted with nearly 50 stakeholders representing different segments of the securities markets. Overall, the Committee received 1,055 suggestions from more than 70 stakeholders on various provisions of the Bill. Each

suggestion was carefully examined by the Committee and discussed comprehensively with the representatives of the Ministry during the clause-by-clause examination of the Bill, with a view to assessing its legal, regulatory and practical implications.

Finally, on 11 June, 2026, the Committee took the concluding evidence of the representatives of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department). On the same day, the Committee also took the evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) for the clause-by-clause examination of the Bill. Thereafter, the Committee held further sittings on 12 June, 2026, 18 June, 2026, 25 June, 2026, 9 July, 2026 and 17 July, 2026, during which it again took the evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) to continue the clause-by-clause examination of the Bill.

4. The Committee considered and adopted this Report at their Sitting held on 21 July, 2026.

5. The Committee wish to express their thanks to all the representatives of the above-mentioned Ministries and organizations for appearing before the Committee and furnishing the requisite material and information desired by the Committee in connection with the examination of the subject.

6. The Committee would also like to place on record their deep sense of appreciation for the invaluable assistance rendered to them by the officials of Lok Sabha Secretariat attached to the Committee.

New Delhi;
21 July, 2026
30 Ashadha, 1948 (Saka)

BHARTRUHARI MAHTAB
Chairperson,
Standing Committee on Finance

CHAPTER I

I. INTRODUCTORY

1.1 The Securities Markets Code Bill, 2025 seeks to introduce the Securities Markets Code, 2025 with a view to consolidating, rationalising and replacing the following three principal legislations governing the securities market, namely:—

- the Securities Contracts (Regulation) Act, 1956 (SCRA);
- the Securities and Exchange Board of India Act, 1992 (SEBI Act); and
- the Depositories Act, 1996.

1.2 Background

The existing legal framework governing the securities market comprises three separate enactments, each operating within its own legislative domain, namely:—

- the Securities Contracts (Regulation) Act, 1956, enacted to prevent undesirable transactions in securities by regulating the business of dealing therein;
- the Securities and Exchange Board of India Act, 1992, which provides for the establishment of the Securities and Exchange Board of India (SEBI) as the principal regulator of the securities market for protecting the interests of investors, promoting the development of the securities market and regulating the securities market; and
- the Depositories Act, 1996, which provides for the regulation of depositories in securities.

These enactments were passed at different points in time over several decades. Over the years, certain provisions have become overlapping, fragmented or obsolete. Consequently, the existing legislative architecture warranted review and adaptation in light of evolving regulatory practices and rapid technological advancements.

Recognising this need, the Union Budget for 2021–22 proposed the consolidation of the provisions contained in the aforesaid enactments, together with the Government Securities Act, 2006, into a comprehensive and rationalised Securities Markets Code.

Pursuant to this announcement, the Department of Economic Affairs constituted a Committee comprising representatives from the Department of Economic Affairs, the Legislative Department, the

Department of Legal Affairs, the Ministry of Corporate Affairs and the Department of Financial Services to prepare the draft Securities Markets Code.

1.3 The Committee constituted for drafting the Securities Markets Code was guided by the following Terms of Reference:—

- improving regulatory governance;
- incorporating prior publication of proposed regulations, except in cases of emergency, as part of the regulation-making process;
- ensuring an arm's-length separation between fact finding functions and adjudicatory functions, as well as the corresponding functionaries within the regulator; and
- strengthening the responsibility of regulators to build internal institutional capacity for effective market regulation, including measures to minimise systemic risks and market failures, and to facilitate the timely identification of aberrant conduct by regulated entities.

1.4 Since Government securities are intrinsically linked with public debt management and the conduct of monetary policy, it was decided to keep the Government Securities Act, 2006 outside the ambit of the proposed Securities Markets Code.

1.5 The draft Securities Markets Code was subsequently revised on the basis of the Department's internal examination and consultations with the Securities and Exchange Board of India (SEBI).

Inter-Ministerial consultations were held with the Department of Financial Services, the Department of Revenue, the Department of Expenditure, the Department of Investment and Public Asset Management, the Department of Public Enterprises, the Department of Legal Affairs, the Legislative Department, the Department for Promotion of Industry and Internal Trade and the Ministry of Corporate Affairs. Consultations were also held with the Securities and Exchange Board of India, the International Financial Services Centres Authority (IFSCA) and the Reserve Bank of India (RBI). The comments received during the Inter-Ministerial consultation process were examined by the Department of Economic Affairs and suitably addressed in the draft Bill.

Following legal drafting and vetting by the Ministry of Law and Justice, the Department of Economic Affairs circulated the advance copy of the Draft Cabinet Note to the Cabinet Secretariat on 22 March 2025.

Subsequently, the Cabinet Secretariat, vide Office Memorandum dated 4 August 2025, constituted a Group of Ministers (GoM) to examine the proposed Bill and make recommendations for consideration by the Ministry of Finance. The recommendations of the Group of Ministers were duly examined, following which the revised Note for the Cabinet was forwarded to the Cabinet Secretariat.

After obtaining the approval of the Cabinet, the Bill was introduced in Lok Sabha on 18 December 2025 and was thereafter referred to the Department-related Parliamentary Standing Committee on Finance for examination.

1.6 Salient Features of the Securities Markets Code Bill, 2025

The salient features of the proposed Securities Markets Code, 2025 are as follows:—

- The Code seeks to establish a principles-based legislative framework with the objective of reducing the compliance burden and strengthening regulatory governance, thereby promoting ease of doing business.
- The language of the Code has been simplified by eliminating obsolete concepts, removing duplication of provisions and incorporating consistent regulatory procedures for standard processes, thereby establishing a uniform and streamlined framework for securities laws.
- The maximum strength of the SEBI Board has been increased from the existing nine Members under the SEBI Act to fifteen Members. (Clause 4).
- A new ground has been introduced for the removal of a Member where such Member has acquired any financial or other interest likely to prejudice the discharge of his functions. (Clause 6).
- Every Member is required to disclose any direct or indirect interest, including the interests of family members, in matters placed before the Board and to abstain from participating in deliberations where such interests exist. (Clause 8).
- SEBI has been entrusted with additional statutory responsibilities, including periodic review of its own performance and functioning, assessment of the proportionality and effectiveness of its regulations, capacity-building of its employees, and promotion of research and periodic studies. It is also required to lay down guiding principles for the implementation of the Code. (Clause 11).
- The Code institutionalises a transparent and consultative regulation-making framework by mandating public consultation before the framing of regulations and bye-laws by SEBI and Market Infrastructure Institutions. It also requires prior publication of draft rules by the Central Government, except in cases where such publication is dispensed with in accordance with the provisions of the Code. (Clauses 39(4), 145, 146 and 147).
- The Code authorises the issuance of subsidiary instructions, including circulars, for clarifying regulations or prescribing procedural requirements ancillary thereto, after consultation with the appropriate Advisory Committee wherever necessary. (Clause 149).
- A statutory time limit of one hundred and eighty days has been prescribed for completion of investigations, subject to extension on a case-to-case basis. (Clause 13(2).)

- The proposed Code bars the initiation of inspection or investigation after the expiry of eight years from the date of the alleged contravention, except under certain circumstances (Clause 16).
- The Code codifies the principle of maintaining an arm's-length separation between fact-finding functions, such as inspection and investigation, and enforcement functions, including issuance of show-cause notices and adjudication. Accordingly, an official who has conducted an inspection or investigation, dealt with a settlement application, or issued an interim order in a matter shall not be designated as the adjudicating officer in the same matter. (Clause 17(2).)
- The Board is empowered to issue interim orders during investigation or adjudication after providing the affected person an opportunity of being heard. However, where the purpose of the interim order is likely to be defeated by delay, such opportunity may be afforded after the order is issued. Interim orders shall ordinarily remain in force for one hundred and eighty days and may be extended by a Bench comprising up to three Members of the Board, including the Chairperson or Whole-time Members, for a period not exceeding two years. (Clause 27).
- Under the existing securities laws, contravention of any provision of the principal Acts may attract imprisonment for a term extending up to ten years. The proposed Code represents a significant shift in legislative policy by substantially decriminalising such contraventions in order to promote ease of doing business and ease of compliance. Criminal liability has been confined to the following categories:
- non-compliance with adjudication orders; (Clause 94);
- failure to cooperate with or comply with the directions of the Investigating Officer; (Clause 95); and
- serious offences involving market abuse, which may attract imprisonment, fine, or both, having regard to the adverse impact of such conduct on market integrity. (Clause 96).
- Fraudulent and unfair trade practices have been decriminalised and made subject to a civil penalty regime. The penalty provisions are linked to unlawful gains or losses, wherever quantifiable, and prescribe corresponding ranges within which penalties may be imposed. (Clauses 92 and 97–109).
- The Code codifies and standardises the procedure governing settlement of administrative and civil proceedings before the Board and compounding of offences by the Securities Appellate Tribunal or the competent Court. (Clauses 26 and 117).
- The Code introduces a statutory definition of "Market Infrastructure Institution" comprising stock exchanges, clearing corporations and depositories. It also enables the Central Government to notify additional categories of Market Infrastructure Institutions. (Clauses 2(v) and 37).
- Market Infrastructure Institutions are empowered to frame bye-laws consistent with the principles contained in the Code to ensure non-discriminatory access, interoperability, transparency and prevention of market abuse. (Clause 39).
- To strengthen the regulatory framework, SEBI is empowered to delegate specified registration functions to Market Infrastructure Institutions and Self-Regulatory Organisations. Self-Regulatory Organisations are required to obtain registration from SEBI and operate in accordance with norms approved by the Board. (Clauses 28, 31 and 36).

- SEBI is required to specify an Investor Charter for protecting investors and facilitating their participation in the securities market. (Clause 71).
- The Code requires SEBI to establish an Investor Grievance Redressal Mechanism and empowers it to direct Securities Market Service Providers and issuers to establish similar mechanisms. (Clause 72).
- SEBI may designate one or more officers as Ombudspersons for receiving and redressing investor grievances. Orders of the Ombudsperson shall be appealable before the Securities Appellate Tribunal. (Clauses 73 and 85).
- The Code provides an enabling framework for inter-regulatory coordination by empowering SEBI, in consultation with the concerned regulatory authority, to frame regulations facilitating the listing of other regulated instruments, their holding through depositories, and interoperability among Market Infrastructure Institutions. (Clause 118 and clause 119).
- The Board is empowered to establish a Regulatory Sandbox to promote innovation in financial products, contracts and services. (Clause 128).

CHAPTER II

II. AMALGAMATION

2.1 As noted earlier, the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996 were enacted at different points in time to address distinct aspects of the securities market. Over the years, however, the three enactments have developed overlapping provisions and contain certain provisions that have become outdated in view of evolving market practices, technological developments and changes in the regulatory landscape.

Recognising the need for a modern, coherent and integrated legislative framework, the Union Budget for 2021–22 announced the proposal to consolidate the provisions of the aforesaid enactments, together with the Government Securities Act, 2006, into a single, rationalised Securities Markets Code. It was recognised to keep the Government Securities Act, 2006 outside the ambit of the proposed Securities Market Code.

The proposed Securities Markets Code is intended to provide a comprehensive legislative framework governing the securities market by harmonising the provisions presently contained in the three principal enactments, reducing duplication, improving regulatory clarity and establishing a more coherent legal architecture for the regulation and development of the securities market.

CHAPTER III

III. PREAMBLE AND APPLICATION

3.1 The Preamble to the proposed Securities Markets Code provides that the Code seeks "to consolidate and amend the laws relating to the securities markets and for matters connected therewith or incidental thereto."

3.2 During the course of deliberations, several stakeholders suggested that the Preambles of the three existing enactments—the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996—should be harmonised and consolidated to formulate a comprehensive Preamble for the proposed Code.

The stakeholders submitted that the Preamble constitutes an important aid to statutory interpretation and assists the Courts in ascertaining the legislative intent where the meaning of a statutory provision is ambiguous or susceptible to more than one interpretation. In this regard, reference was made to the judgment of the Supreme Court in Securities and Exchange Board of India v. Rakhi Trading Private Limited (2018 INSC 119), as well as to the Insolvency and Bankruptcy Code, 2016, another codifying legislation whose Preamble clearly sets out the objectives underlying its enactment.

Certain stakeholders further suggested that the Preamble should expressly state that the proposed legislation seeks to consolidate and amend the laws relating to the regulation and development of the securities market in India, prevent undesirable transactions in securities, protect the interests of investors, and promote the orderly development and regulation of the securities market.

It was further submitted that, in the Re Berubari Union case (1960), the Supreme Court observed that the Preamble is the key to the minds of those who enact the legislation. According to the stakeholders, the existing draft Preamble merely records the consolidation of the three enactments, which represents the legislative mechanism rather than the underlying legislative objective. They, therefore, suggested that the Preamble should instead emphasise the larger objectives sought to be achieved through the proposed Code.

Some stakeholders also recommended that the Preamble should explicitly provide that the proposed legislation seeks to protect the interests of investors and promote the development of the securities market so as to effectively serve the financing needs of the economy through efficient and effective regulation of the securities market, together with matters connected therewith or incidental thereto.

3.3 When queried regarding the rationale underlying the proposed Preamble and the concerns expressed by stakeholders about its limited scope, the Ministry acknowledged the merit of the suggestions received. The Ministry informed the Committee that the Preamble would be suitably revised so as to more adequately reflect the objectives and legislative intent of the proposed Securities Markets Code, including investor protection and the development and regulation of the securities market.

3.4 The Committee note that the proposed Securities Markets Code seeks to consolidate and amend the provisions of the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 into a comprehensive legislative framework governing the securities market.

The Committee are of the view that, in a codifying legislation of this nature, the Preamble assumes considerable significance, as it serves both as an aid to statutory interpretation and as an authoritative statement of the legislative intent underlying the enactment.

The Committee further observe that the existing draft Preamble principally emphasises the consolidation and amendment of the three enactments. While such consolidation constitutes an important feature of the proposed legislation, it is essentially the legislative mechanism adopted to achieve the broader policy objectives of the Code rather than an objective in itself. The Committee, therefore, consider that the Preamble should extend beyond merely recording the consolidation of the existing enactments and should clearly articulate the substantive objectives sought to be achieved through the proposed legislative framework.

Taking note of the observations of the Supreme Court in the Re Berubari Union case that the Preamble serves as the key to the minds of the legislature and constitutes an important aid to statutory interpretation in cases of ambiguity, the Committee are of the considered view that the Preamble to the proposed Code should more comprehensively reflect the legislative objectives sought to be achieved by the proposed enactment.

3.5 The Committee, therefore, recommend that the Ministry undertake a comprehensive exercise to appropriately harmonise and integrate the objectives contained in the Preambles of the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 while finalising the Preamble to the proposed Securities Markets Code.

The Committee further recommend that the revised Preamble expressly incorporate the objectives of protecting the interests of investors, promoting the development of the securities market, ensuring effective regulation of market activities, maintaining fair, transparent and efficient markets, and preventing undesirable transactions in securities.

The Committee also desire that the revised Preamble appropriately recognise the role of the securities market in serving the financing needs of the economy, facilitating capital formation and fostering confidence in the financial system.

3.6 Clause 1(1) of the proposed Code provides that the legislation shall be called the "Securities Markets Code, 2025."

3.7 Clause 1(2) provides that the Code shall come into force on such date as the Central Government may, by notification published in the Official Gazette, appoint. It further provides that different dates may be appointed for bringing different provisions of the Code into force, and any reference to the commencement of the Code in any such provision shall be construed as a reference to the commencement of that particular provision.

3.8 Certain stakeholders suggested that Clause 1 should expressly provide that the proposed Code extends to the whole of India.

In response, the Ministry clarified that, following the Constitution (Application to Jammu and Kashmir) Order, 2019 and the subsequent Presidential Order issued under Article 370(3) of the Constitution, the Constitution of India applies in its entirety to the Union Territories of Jammu and Kashmir and Ladakh. Consequently, Articles 1 and 245 of the Constitution empower Parliament to legislate for the whole of India without the necessity of incorporating an express provision regarding territorial extent in individual enactments.

The Ministry, therefore, submitted that such a provision is no longer required, as the territorial application of Parliamentary legislation follows directly from the Constitution.

3.9 The Committee have carefully examined the concern regarding the absence of an express provision stating that the proposed Securities Markets Code extends to the whole of India.

The Committee further note the clarification furnished by the Ministry that, following the constitutional changes relating to the erstwhile State of Jammu and Kashmir, the Constitution of India applies in its entirety throughout the territory of India and that Parliament possesses the legislative competence under Articles 1 and 245 of the Constitution to enact laws applicable to the whole of India.

The Committee find merit in the clarification furnished by the Ministry and agree that, in view of the prevailing constitutional position, the inclusion of a separate provision regarding territorial extent is unnecessary.

CHAPTER IV

DEFINITIONS (CLAUSE 2)

(i) RBI-related Exclusions in Definitions

4.1 During the course of deliberations, several stakeholders raised concerns regarding the manner in which the exclusions relating to activities regulated by the Reserve Bank of India (RBI) have been incorporated in the definitions contained in Clauses 2(1)(g), 2(1)(k), 2(1)(q), 2(1)(v) and 2(1)(zn). The stakeholders submitted that the exclusions should appropriately relate to activities regulated by the RBI, rather than to the persons or entities undertaking such activities.

It was further submitted that several entities operating in the financial sector perform activities falling within the regulatory jurisdiction of more than one regulator. For instance, credit rating agencies undertake ratings relating both to securities markets regulated by SEBI and to banking products regulated by the RBI. Consequently, regulatory jurisdiction is generally determined with reference to the nature of the activity performed rather than the identity of the entity itself.

The stakeholders also pointed out that entities such as the Clearing Corporation of India Limited are authorised by the RBI to operate as payment system providers under the Payment and Settlement Systems Act, 2007. They submitted that a literal reading of the proposed definitions may exclude entire entities—such as stock exchanges, clearing corporations, depositories and certain intermediaries—from the ambit of the Code merely because they undertake specified RBI-regulated activities. According to the stakeholders, such an interpretation could inadvertently create regulatory gaps and blur the intended demarcation between the respective jurisdictions of SEBI and the RBI.

4.2 When the matter was taken up with the Ministry, the Ministry acknowledged the merit of the concerns raised by the stakeholders and informed the Committee that appropriate drafting changes would be made to the relevant provisions.

Recommendation

4.3 The Committee note that Clauses 2(1)(g), 2(1)(k), 2(1)(q), 2(1)(v) and 2(1)(zn) define key market participants and institutions under the proposed Securities Markets Code. These provisions also prescribe exclusions in respect of certain activities regulated under the Reserve Bank of India Act, 1934, the Government Securities Act, 2006 and the Payment and Settlement Systems Act, 2007.

4.4 The Committee further observe that the Indian financial system comprises several entities that perform functions falling within the regulatory jurisdiction of more than one financial sector regulator. The Committee are of the view that regulatory jurisdiction should ordinarily be determined with reference to the nature of the activity being undertaken rather than the identity of the entity performing such activity. Accordingly, an entity may legitimately remain subject to the jurisdiction of SEBI in respect of securities market activities while simultaneously being regulated by the RBI in relation to other activities falling within its statutory mandate.

4.5 The Committee are, therefore, of the considered view that an activity-based approach would provide greater legislative clarity, minimise jurisdictional uncertainty and ensure that securities market activities continue to remain within the regulatory framework of the Code even where such activities are undertaken by entities that are also regulated by the RBI for other purposes.

The Committee, therefore, recommend that the relevant definitions contained in Clauses 2(1)(g), 2(1)(k), 2(1)(q), 2(1)(v) and 2(1)(zn), together with any allied provisions, be suitably amended to clarify that the proposed exclusions apply only to activities regulated by the RBI and not to persons or entities merely because they are subject to regulation by the RBI.

The Committee further recommend that the revised provisions clearly delineate the respective regulatory jurisdictions of SEBI and the RBI so as to avoid overlap, eliminate potential regulatory gaps and provide greater certainty to market participants.

IV. DEFINITIONS (CLAUSE 2)

(ii) Depository Services – Clause 2(1)(l)

4.6 Clause 2(1)(l) defines the expression “depository services” as follows:—

(The statutory extract should remain exactly as reproduced in the Bill and should not be edited, except for formatting, punctuation and typographical corrections.)

4.7 During the course of deliberations, certain stakeholders suggested that the expression “securities-based benefits associated with any securities or other regulated instruments” occurring in Clause 2(1)(l)(ii) be replaced with the broader expression “other benefits”.

The stakeholders submitted that the existing expression may give rise to ambiguity. While the provision seeks to cover benefits associated with both securities and other regulated instruments, the phrase "securities-based benefits" could be interpreted as restricting its application primarily to securities, thereby creating uncertainty regarding benefits arising from regulated instruments that are not themselves securities. The stakeholders, therefore, recommended the adoption of a broader and technology-neutral expression.

4.8 When the matter was taken up with the Ministry, the Ministry acknowledged the merit of the concern raised by the stakeholders and informed the Committee that appropriate drafting changes would be carried out in the relevant provision.

Recommendation

4.9 The Committee have examined Clause 2(1)(l), which defines the expression "depository services" and, inter alia, includes within its ambit the distribution of monetary or securities-based benefits associated with securities or other regulated instruments.

The Committee observe that the expression "securities-based benefits", as presently drafted, may not adequately convey the intended scope of the provision. Although the clause seeks to encompass benefits associated with both securities and other regulated instruments, the existing terminology may lend itself to an unintended restrictive interpretation, particularly in relation to benefits arising from regulated instruments that do not fall within the definition of securities.

4.10 The Committee are of the considered view that statutory definitions should be drafted with precision and clarity so as to minimise interpretational uncertainty. In the present case, a broader and more neutral expression would more accurately reflect the legislative intent and ensure that the provision extends uniformly to benefits associated with both securities and other regulated instruments covered by the Code.

The Committee further observe that the adoption of such terminology would enhance consistency across the Code and reduce the possibility of avoidable interpretational disputes.

4.11 The Committee, therefore, recommend that Clause 2(1)(l)(ii) be suitably amended by replacing the expression "securities-based benefits associated with any securities or other regulated instruments" with a broader and more inclusive formulation, such as "other

benefits", or with any other expression that clearly encompasses benefits arising from both securities and other regulated instruments.

The Committee believe that such a formulation would better reflect the intended legislative scope of the provision, eliminate potential ambiguity and promote consistency with the overall framework and objectives of the proposed Securities Markets Code.

(iii) Intermediary – Clause 2(1)(q)

4.12 Certain stakeholders suggested that intermediaries operating in the International Financial Services Centre (IFSC), such as ESG Rating and Data Products Providers, Distributors and Clearing Members, be expressly included within the definition of "intermediary". It was submitted that these are recognised categories of securities market intermediaries under the existing regulatory framework but do not find mention in the proposed Securities Markets Code. The stakeholders further pointed out that SEBI already recognises additional categories of intermediaries, including ESG Rating Agencies, under its regulatory framework and, therefore, such entities may appropriately be included within the definition.

The stakeholders further suggested that Self-certified Syndicate Banks (SCSBs), which perform important functions in ASBA, UPI and debt and equity issuance processes, should also be expressly included within the definition. It was submitted that these are recognised categories of intermediaries required to obtain registration with SEBI, either directly or through Market Infrastructure Institutions. Their explicit recognition would also facilitate the formation of distinct industry associations or Self-Regulatory Organisations.

4.13 On the issue of including certain intermediaries operating in the IFSC, such as ESG Rating and Data Products Providers, Distributors and Clearing Members, within the definition of "intermediary", the Ministry informed the Committee that SEBI already recognises certain additional categories of intermediaries, including ESG Rating Agencies, under the existing regulatory framework and that such entities may appropriately be included within the definition.

However, the Ministry did not agree with the suggestion to specifically include PARRVA, clarifying that PARRVA is a risk assessment tool and not an intermediary and, therefore, does not warrant separate inclusion in the definition.

4.14 Certain stakeholders also suggested that the words "in relation to indices traded in the securities markets" occurring in Clause 2(1)(q)(vii) be deleted.

It was submitted that indices are not themselves traded in the securities markets. While derivative products are available on a limited number of benchmark indices, such as the BSE Sensex, NIFTY 50, NIFTY Bank and NIFTY Financial Services, the majority of indices are used by Mutual Funds and Exchange Traded Funds as benchmarks for measuring or tracking the performance of their assets under management. The stakeholders, therefore, submitted that the existing expression may not accurately reflect the role of indices within the securities market framework.

The Ministry, while responding to the suggestion, acknowledged that the concern had merit and informed the Committee that appropriate drafting changes would be made.

4.15 The stakeholders further proposed that Foreign Portfolio Investors (FPIs) be expressly included within the definition of "intermediary" in order to align the proposed Code with the existing SEBI regulatory framework and to avoid potential regulatory gaps. It was submitted that FPIs are registered with and regulated by SEBI and that their exclusion from the statutory definition may give rise to avoidable interpretational issues.

The stakeholders also suggested that the words "or securities" be inserted after the word "instruments" in the proviso to Clause 2(1)(q), so that the exclusion appropriately extends to both instruments and securities referred to in Chapter IIID of the Reserve Bank of India Act, 1934.

4.16 In response, the Ministry informed the Committee that FPIs are recognised as intermediaries under the existing regulatory framework and that, in continuation of the existing position, they may appropriately be included within the definition of "intermediary".

The Ministry further clarified that Clause 2(1)(q), read with Clause 34, enables the Board to notify additional classes of intermediaries as the securities market evolves. It also pointed out that Clause 152 preserves the continuity of the existing regulatory framework by continuing the existing regulations to the extent that they are not inconsistent with the provisions of the proposed Code.

4.17 The Committee have carefully examined Clause 2(1)(q) and observe that the definition of "intermediary" is a foundational provision of the proposed Code, as it determines the categories of persons and entities that fall within the regulatory, supervisory and enforcement jurisdiction of the Board.

4.18 The Committee further note that, while the proposed definition substantially reflects the existing regulatory framework, certain categories of market participants presently recognised within the securities market ecosystem have either not been expressly included or require greater legislative clarity. The Committee are of the considered view that the definition should comprehensively capture all established categories of intermediaries while

retaining sufficient flexibility to accommodate emerging categories through the notification mechanism provided under Clause 34.

4.19 Accordingly, the Committee recommend the following:

(i) Inclusion of Clearing Members: Clearing Members perform an integral role in the securities market and are recognised under the existing regulatory framework. They should, therefore, be expressly included within the definition of "intermediary".

(ii) Inclusion of Foreign Portfolio Investors (FPIs): FPIs are registered and regulated under the existing securities market framework. Their omission from the statutory definition may give rise to avoidable interpretational uncertainty. The Committee, therefore, recommend that FPIs be specifically included within the definition of "intermediary".

(iii) Index Providers: The expression "in relation to indices traded in the securities markets" in Clause 2(1)(q)(vii) does not accurately reflect the role of indices within the securities market. The Committee recommend that the provision be suitably redrafted to provide greater precision and legislative clarity.

(iv) Emerging Categories of Intermediaries: The Committee note that Clause 34 empowers the Board to notify additional classes of intermediaries from time to time. While established categories of intermediaries should be expressly recognised in the Code, future categories may continue to be brought within the regulatory framework through the notification mechanism provided under Clause 34.

4.20 The Committee, therefore, recommend that Clause 2(1)(q) be suitably redrafted in the light of the above observations so as to ensure that the definition of "intermediary" is comprehensive, clear and capable of accommodating future developments in the securities market.

(iv) Trading Member – Clause 2(zp)

4.21 Clause 2(zp) defines "trading member" as under:

> "trading member" means a person having trading rights in any stock exchange and includes a stock broker;

4.22 Certain stakeholders suggested that, instead of defining "trading member" under Clause 2(zp), the Code should define the expression "stock broker" as follows:

> "stock broker" means a person having trading rights in any stock exchange and includes a trading member.

The stakeholders submitted that Clause 2(q), read with clauses (xvii) and (xviii), refers separately to "stock broker" and "trading member". It was further pointed out that the penalty provision under Clause 99 refers only to a "stock broker". According to the stakeholders, defining "stock broker" in the above manner would ensure that the penal provisions apply uniformly to both stock brokers and trading members.

When the matter was taken up with the Ministry, the Ministry, in its written reply, stated as under:

> "SMC defines the broader expression 'trading member', which includes the concept of a stock broker. The penalty under Clause 99 is based on Section 15F of the SEBI Act and is specifically in the context of activities performed by a stock broker, since certain positive obligations have been imposed upon them under Clause 34(2). However, the suggestion may be considered so as to make the penalty provisions applicable to all trading members, the definition of which includes stock brokers."

4.23 The Committee have examined the definition of "trading member" under Clause 2(zp). The Committee note that, while the term has been defined to mean a person having trading rights in a stock exchange and includes a stock broker, various provisions of the Code, including Clause 2(q) and clauses (xvii) and (xviii), continue to refer separately to "stock broker" and "trading member".

The Committee further note that the penalty provision contained in Clause 99 specifically refers only to a "stock broker". In such a situation, ambiguity may arise regarding the applicability of the penal provisions to all categories of trading members possessing trading rights in a stock exchange.

4.24 The Committee also take note of the Ministry's submission that "trading member" is the broader expression and includes the concept of a stock broker. The Committee are, however, of the considered view that the legislative intent should be reflected with greater clarity and consistency throughout the Code.

The Committee, therefore, recommend that the Ministry suitably examine the relevant definitions and consequential provisions, including Clause 99, so as to ensure that the rights, obligations and penalties intended to apply to trading members extend clearly and unambiguously to every entity falling within the scope of that definition.

4.25 The Committee further recommend that the Ministry undertake a comprehensive review of the usage of the expressions "stock broker" and "trading member" throughout the Code to ensure consistency in terminology and to avoid any ambiguity in interpretation, implementation or enforcement.

(v) Investment Scheme – Clause 2(1)(r) read with Clause 32

4.26 Clause 2(1)(r) of the Code defines "investment scheme" as follows:

> "investment scheme" means the scheme referred to in section 32;

4.27 Certain stakeholders submitted that contributions towards mandatory "skin in the game" or employee contributions, as specified by the regulator, should be excluded from the ambit of the definition. They further suggested that appropriate carve-outs may be provided for investment schemes operating in the International Financial Services Centre (IFSC) that do not have an independent fund manager and are managed directly or indirectly by the investor.

The stakeholders pointed out that the proposed definition characterises an "investment scheme" as one in which the persons participating in the scheme or arrangement do not exercise day-to-day control over the management of the assets. However, in line with global practices, several investment structures are established for a single investor or a defined investor group, such as Sovereign Wealth Funds, family offices and large corporate investment funds. In such structures, there may not be an independent fund manager, and the fund may instead be managed directly or indirectly by the investor. The stakeholders, therefore, submitted that such schemes may require appropriate regulatory carve-outs.

4.28 The Committee sought the views of the Ministry on the suggestion to provide appropriate carve-outs for specified investment schemes, including employee contribution schemes and certain IFSC-based schemes without an independent fund manager, while aligning the proposed framework with international best practices.

The Ministry acknowledged the concern and informed the Committee that appropriate drafting changes would be made.

4.29 The Committee have examined the scope and implications of the definition of "investment scheme" under Clause 2(1)(r), read with Clause 32. The Committee note that the provision seeks to identify schemes and arrangements under which investors pool their funds for investment purposes without exercising day-to-day control over the management of the underlying assets.

The Committee further note the concerns expressed by stakeholders that the proposed framework may not adequately accommodate certain investment structures operating in the IFSC, particularly those established for a single investor or a defined investor group, such as Sovereign Wealth Funds, family offices and corporate-sponsored investment funds.

4.30 The Committee observe that such investment structures are frequently managed directly or indirectly by the investors themselves and may not involve an independent fund manager. The Committee are of the view that applying to such structures the same regulatory requirements as are applicable to widely pooled investment vehicles may not adequately reflect their distinct ownership, governance and operational characteristics.

The Committee also note the concerns regarding the applicability of regulatory requirements relating to mandatory "skin in the game" or employee contributions in circumstances where the interests of the investors and those responsible for managing the fund are substantially aligned.

4.31 The Committee, therefore, recommend that the Ministry suitably review Clause 32 and the allied provisions governing investment schemes so as to provide appropriate carve-outs or clarifications for eligible IFSC-based investment structures, particularly those established for a single investor or a defined investor group and managed directly or indirectly by such investors.

The Committee further recommend that, while finalising the provision, the Ministry ensure that the regulatory framework remains proportionate to the nature, ownership structure and risk profile of the investment scheme, while remaining aligned with evolving international best practices and facilitating the continued growth and competitiveness of the IFSC ecosystem.

(vi) Market Infrastructure Institution – Clause 2(1)(v)

4.32 Clause 2(1)(v) of the Code defines "market infrastructure institution" as under:—

“market infrastructure institution” means a stock exchange, a clearing corporation or a depository and includes such other class or classes of market infrastructure institutions, as may be notified by the Central Government, except those authorised or required to be authorised by other regulatory authorities;

4.33 Certain stakeholders suggested that the expression “other regulatory authorities” be used in place of “other regulatory bodies”.

It was submitted that the expression “other regulatory authority” has been specifically defined under the Code and is used consistently throughout the Code to refer to financial sector regulators other than SEBI, as defined in Clause 2(za). The stakeholders, therefore, suggested that the same expression be adopted in Clause 2(1)(v) to maintain consistency in terminology.

4.34 When the Committee sought the views of the Ministry on the suggestion to replace the expression “other regulatory bodies” with “other regulatory authorities”, so as to ensure consistency with the terminology used elsewhere in the Code, the Ministry acknowledged the merit of the suggestion and informed the Committee that appropriate drafting changes would be carried out.

The Committee have examined Clause 2(1)(v), which defines the expression “market infrastructure institution”. The Committee note that Market Infrastructure Institutions, comprising stock exchanges, clearing corporations and depositories, constitute the core institutional infrastructure of the securities market and are subject to a distinct regulatory framework under the proposed Code.

The Committee further note the concern that, while the Code employs the defined expression “other regulatory authorities” in various provisions to refer to financial sector regulators other than SEBI, the definition of “market infrastructure institution” uses the expression “other regulatory bodies”, which has not been defined under the Code.

The Committee are of the view that consistency in legislative terminology is essential to avoid ambiguity and promote certainty in interpretation. Since the expression “other regulatory authority” is already a defined term under the Code and is consistently used elsewhere, the Committee recommend that the expression “other regulatory bodies” appearing in Clause 2(1)(v) be substituted with “other regulatory authorities” to ensure uniformity in drafting and consistency across the Code.

(vii) Securities – Clause 2(1)(zi)(xi)

4.35 Clause 2(1)(zi) defines “securities” as under:—

“securities” include-

(i) shares, scrips, stocks, bonds, secured or unsecured debentures, warrants, or debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;

(ii) hybrid instruments;

(iii) convertible instruments;

(iv) derivatives;

(v) units or any other instruments issued in respect of any investment scheme by a pooled investment vehicle to the investors in such schemes;

(vi) security receipts managed and regulated in accordance with the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(vii) a certificate or an instrument, by whatever name called, issued to an investor by any issuer as a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging the beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;

(viii) global depository receipts and Indian depository receipts;

(ix) notes or papers issued for the purpose of raising capital, which are listed or proposed to be listed;

(x) Electronic Gold Receipts;

(xi) Government securities managed and regulated under the provisions of the Reserve Bank of India Act, 1934 and the Government Securities Act, 2006;

(xii) zero coupon zero principal instruments;

(xiii) bullion spot delivery contracts and bullion depository receipts with underlying bullion in respect of issuance and trading in an International Financial Services Centre under the provisions of the International Financial Services Centres Authority Act, 2019;

(xiv) onshore rupee bonds issued by multilateral institutions such as the Asian Development Bank and the International Finance Corporation;

(xv) other regulated instruments, to the extent permitted for listing under section 119;

(xvi) such other instruments as may be notified by the Central Government; and

(xvii) rights or interests in securities, but shall not include any unit-linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit of risk on the life of a person and investment by such person and is issued by an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938.

4.36 Certain stakeholders suggested that the following proviso be inserted in the definition of "securities":

"Notwithstanding anything contained in this Code, the management of Government securities and the regulation of transactions in such securities shall be undertaken by the Central Government or a State Government, and the Reserve Bank of India, as applicable, in accordance with the provisions of the Government Securities Act, 2006 and Chapter IIID of the Reserve Bank of India Act, 1934."

Elaborating on the rationale for the suggestion, the stakeholders submitted that Government securities are listed and traded on recognised stock exchanges. In recognition of this position, the earlier (2024) version of the Code contained an explanation under the corresponding provision clarifying that, notwithstanding anything contained in the Code, the management and regulation of Government securities would continue to vest in the Central Government or the State Governments and the Reserve Bank of India, as applicable, under the Government Securities Act, 2006.

The stakeholders further submitted that the Reserve Bank of India had suggested that the explanation should instead be incorporated as a substantive proviso so as to place the existing legal position beyond doubt. Although the 2025 draft of the Code includes Government securities within the definition of "securities", they contended that such inclusion by itself may not adequately preserve the existing regulatory framework. In the absence of an express statutory provision, there could be scope for interpreting the Code as conferring concurrent regulatory jurisdiction upon both the Securities and Exchange Board of India and the Reserve Bank of India. The stakeholders, therefore, requested that the proposed proviso be incorporated to provide greater legal clarity and preserve the existing regulatory arrangement.

4.37 When the Committee sought the views of the Ministry on the above suggestion, the Ministry acknowledged the merit of the concern and informed the Committee that appropriate drafting changes would be carried out.

4.38 The Committee have examined Clause 2(1)(zi), particularly sub-clause (xi), which includes Government securities within the definition of "securities". The Committee note that, while the inclusion of Government securities within the definition is appropriate, the provision does not expressly preserve the existing statutory framework governing their management and regulation.

The Committee further note that Government securities, though listed and traded on recognised platforms, continue to be governed by a distinct statutory and regulatory framework under the Government Securities Act, 2006 and the relevant provisions of the Reserve Bank of India Act, 1934. The Committee are of the view that the inclusion of Government securities within the definition of "securities" should not be construed as altering or diluting the existing regulatory responsibilities of the Central Government, the State Governments or the Reserve Bank of India.

4.39 The Committee observe that the absence of an express statutory clarification may give rise to uncertainty regarding the respective jurisdiction of the Securities and Exchange Board of India and the Reserve Bank of India in relation to Government securities. The Committee are of the considered view that legislative clarity on this aspect would eliminate the possibility of jurisdictional overlap and ensure that the existing regulatory framework continues to operate without ambiguity.

4.40 The Committee, therefore, recommend that a suitable proviso or other substantive provision be incorporated in the Code to expressly clarify that, notwithstanding anything contained therein, the management of Government securities and the regulation of transactions in such securities shall continue to be governed by the Government Securities Act, 2006 and the relevant provisions of the Reserve Bank of India Act, 1934, and shall remain

within the regulatory domain of the Central Government, the State Governments and the Reserve Bank of India, as applicable.

(viii) Underlying – Clause 2(1)(zr)

4.41 Clause 2(1)(zr) defines "underlying" as under:—

> "underlying", in respect of a derivative, means a security or a commodity or an actionable claim or money or currency or indices on any instrument or prices or yields or volatility or liquidity or credit score or ratings or events or activity or progress or a situation or financial measures or other instruments from which such derivative derives its value.

4.42 Certain stakeholders suggested that the term "situation" be omitted from the definition on the ground that it is excessively broad and vague and is not capable of objective quantification for pricing purposes. They submitted that the expression lacks a settled legal or commercial meaning in the context of derivative contracts and may consequently give rise to uncertainty regarding the scope of permissible underlying references.

4.43 When the Committee sought the views of the Ministry on the use of the expression "situation" in Clause 2(1)(zr), particularly in view of the concern that the term is excessively broad and incapable of objective valuation, the Ministry acknowledged the merit of the concern and informed the Committee that appropriate drafting changes would be carried out.

4.44 The Committee have examined Clause 2(1)(zr), which defines the expression "underlying", constituting the asset, rate, index, event or other reference from which a derivative contract derives its value. The Committee note that the definition is of fundamental importance to the regulation and functioning of derivative markets. The Committee are, therefore, of the view that the provision should be drafted with a high degree of precision, certainty and legislative clarity.

4.45 The Committee further observe that the inclusion of the expression "situation" renders the definition unnecessarily broad and susceptible to varying interpretations. The Committee note that the term does not possess a well-established meaning within the framework of securities markets and may create uncertainty regarding the categories of permissible underlying references. Such ambiguity may also give rise to practical difficulties in the objective determination, valuation and pricing of derivative contracts.

4.46 The Committee, therefore, recommend that the definition of "underlying" under Clause 2(1)(zr) be suitably revised so as to remove ambiguity and enhance legal certainty. The Committee further recommend that the categories of permissible underlying references be clearly delineated to facilitate consistent interpretation, minimise the scope for disputes, and promote the effective implementation of the provisions relating to derivative contracts under the Code.

(ix) Unlawful Gain – Clause 2(1)(zt)

4.47 Clause 2(1)(zt) defines "unlawful gain" as under:—

> "unlawful gain" means an unlawful gain including the profit made and loss averted by a person.

4.48 Certain stakeholders suggested that the definition be redrafted for greater clarity. It was submitted that the existing definition is circular in nature and does not adequately explain the meaning of the expression "unlawful gain". The stakeholders proposed that the definition may instead read:

> "Unlawful gain" shall include the wrongful gain made or loss averted.

It was further submitted that, as presently drafted, the definition conflates the concepts of "profit made" and "loss averted", although the latter is conceptually distinct from a gain. The stakeholders accordingly suggested that:

> (i) "unlawful gain" should be defined so as to capture only positive enrichment;
>
> (ii) "loss averted" should be defined separately; and
>
> (iii) the Code should specify the circumstances in which each expression is to be applied, such as for disgorgement or the determination of monetary penalties.

According to the stakeholders, such an approach would reduce the possibility of double counting, improve computational certainty and promote greater consistency in enforcement outcomes.

4.49 When the Committee sought the views of the Ministry on the above suggestions, the Ministry acknowledged the validity of the concerns and informed the Committee that appropriate drafting changes would be carried out.

4.50 The Committee have examined Clause 2(1)(zt), which defines the expressions "unlawful gain", "wrongful gain" and "loss averted". The Committee note that these expressions constitute important concepts for determining the consequences of contraventions under the Code, including the quantification of disgorgement and monetary penalties. The Committee are, therefore, of the view that these expressions should be defined with clarity and precision, as ambiguity in their scope may result in uncertainty during enforcement and adjudication.

4.51 The Committee further observe that the existing definition of "unlawful gain" does not clearly distinguish between the concepts of "profit made" and "loss averted". While profit made represents a positive economic benefit, loss averted is conceptually distinct and may warrant separate treatment for the purposes of computation and enforcement. The Committee are of the view that the present formulation may give rise to interpretational difficulties and could potentially result in inconsistencies in determining liabilities under the Code.

4.52 The Committee, therefore, recommend that the definition of "unlawful gain" be suitably redrafted to provide greater clarity and legal certainty. The Committee further recommend that the concepts of "unlawful gain", "wrongful gain" and "loss averted" be clearly distinguished and appropriately defined, and that the Code specify the circumstances in which each expression is to be applied. Such an approach would facilitate objective computation, minimise the possibility of double counting, promote consistency in enforcement actions and contribute to more predictable and rational regulatory outcomes.

CHAPTER V

V Composition of Board

Clause 4

5.1 Clause 4 provides for the composition of the Board, as under:—

(1) The Board shall consist of the following Members to be appointed by the Central Government, namely:—

(a) Chairperson of the Board;

(b) two Members from amongst the officers of the Ministry of the Central Government dealing with Finance and administration of the Companies Act, 2013, ex officio;

(c) one Member from amongst the officers of the Reserve Bank, ex officio; and

(d) eleven other Members, of whom at least five shall be whole-time Members.

(2) Without prejudice to anything contained in section 6, on the date of commencement of this Code, the Chairman and Members appointed under section 4 of the Securities and Exchange Board of India Act, 1992, shall be deemed to be the Chairperson and Members appointed under clauses (a) and (d) of sub-section (1) for the remainder period.

(3) The Chairperson and Members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government in such manner as may be prescribed, and the Members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.

(4) The Chairperson and Members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing in dealing with problems relating to securities markets or have special knowledge or experience in law, finance, economics, technology,

commodity markets, accountancy, administration or in any other discipline which, in the opinion of the Central Government, is useful to the Board:

Provided that, while appointing Members referred to in clause (d) of sub-section (1), the Central Government shall endeavour to appoint at least three persons with expertise in the securities markets."

(i) Search-cum-Selection Committee – Clause 4(3)

5.2 Domain experts submitted that the Bill provides that the Chairperson and Members of the Board (other than ex officio Members) shall be appointed by the Central Government in such manner as may be prescribed. It specifies broad eligibility criteria, requiring appointees to be persons of ability and integrity, possessing special knowledge or experience in fields such as law, finance, economics, technology, commodity markets, accountancy or administration. Beyond this, the Bill does not prescribe the procedure or mechanism for the selection of Members of the Board.

The stakeholders further submitted that the Securities and Exchange Board of India Act, 1992 contains a similar provision regarding appointments. However, the relevant rules provide that the Chairperson and Whole-time Members are appointed by the Central Government on the recommendation of the Financial Sector Regulatory Appointments Search Committee (FSRASC). The Committee is chaired by the Cabinet Secretary and comprises the Additional Principal Secretary to the Prime Minister, the Secretary, Department of Economic Affairs, the Chairperson of SEBI (for the selection of Whole-time Members), and three external experts nominated by the Central Government.

The stakeholders further submitted that, in contrast, the statutes governing regulators such as the Central Electricity Regulatory Commission (CERC) and the Competition Commission of India (CCI) expressly provide for the constitution of a Selection Committee and specify its composition in the parent legislation itself.

Referring to the recommendations of the Financial Sector Legislative Reforms Commission (FSLRC), the stakeholders submitted that the Commission had emphasised the need for a statutory framework to ensure a fair and transparent process for the appointment of Members of the Boards of regulators. The Commission had recommended that the Central Government should be assisted by a Search-cum-Selection Committee comprising a Government representative as Chairperson, the Chairperson of the concerned regulator (or another Government representative where the appointment relates to the Chairperson of the regulator), and three experts drawn from a panel maintained by the Government. To enhance institutional independence, the Commission had further recommended that a majority of the members of such Committee should be persons unconnected with the Government.

It had also recommended disclosure of relevant documents, recording of reasons, and preparation of a report outlining the selection process and the criteria adopted.

5.3 In response thereto, the Ministry stated that, under Clause 145(2)(a), the manner of appointment of the Chairperson and Members may be prescribed by the Central Government through rules. The Ministry was of the view that the concern need not be addressed in the Code itself and could, if considered necessary, be dealt with at the implementation stage through the rules. The Ministry further stated that such provisions are presently contained in the existing rules.

5.4 When asked whether a Search-cum-Selection Committee has been incorporated in the Act and whether any regulatory body has such a Committee, the Secretary, Ministry of Finance, stated that no such provision exists in the Act itself. The Secretary further stated that the rules may provide for such a mechanism and that the existing rules already provide for a Search-cum-Selection Committee. In the case of a regulatory body, incorporation of such a provision in the parent legislation may not be necessary, as the mechanism is already embedded in the rules.

Further, when asked how the Boards of other regulatory bodies are constituted, the Secretary, Ministry of Finance, informed the Committee that the requisite information would be furnished. The Ministry subsequently submitted the following written reply:—

Current Position

● As per the Securities and Exchange Board of India (Terms and Conditions of Service of Chairman and Members) Rules, 1992, the Chairman and Whole-time Members are appointed on the recommendation of the Financial Sector Regulatory Appointments Search Committee comprising the Cabinet Secretary (Chairman) and other members, including the Additional Principal Secretary to the Prime Minister, the Secretary, Department of Economic Affairs, the Chairman of SEBI (for selection of Whole-time Members), and three outside experts of repute to be nominated by the Central Government from a panel of experts in the fields of finance, economics, law, public administration, financial markets and related subjects maintained by it.

● Prior to the Securities and Exchange Board of India (Terms and Conditions of Service of Chairman and Members) Amendment Rules, 2015, appointments were made on the recommendation of a Search-cum-Selection Committee comprising the Cabinet Secretary (Chairman) and other members, including the Secretary, Department of Economic Affairs, the Chairman of SEBI (for selection of Whole-time Members), two experts of eminence from relevant fields to be nominated by the Central

Government, and such other person, if any, not exceeding two, as the Minister of Finance might nominate.

FSRASC is a search committee which recommends candidates for appointment; however, its recommendations are not binding on the Central Government. It was constituted with the objective of adopting a uniform selection process for all financial sector regulators.

SMC Position

● Under Clause 4(3), the Central Government shall appoint the Chairperson and Members in the manner prescribed in the rules. By virtue of Clause 152, the existing rules will continue under the SMC.

● Accordingly, as per the current practice, the Chairman and Whole-time Members of SEBI would continue to be appointed by the Central Government on the recommendation of the Financial Sector Regulatory Appointments Search Committee and not a Search-cum-Selection Committee. Hence, reference to a Search-cum-Selection Committee may not be appropriate.

Contemporary Laws

(a) Pension Fund Regulatory and Development Authority (PFRDA)

As per the Pension Fund Regulatory and Development Authority (Salary and Allowances Payable to, and Other Terms and Conditions of Service of, Chairperson and Whole-time Members) Rules, 2014, since 2023, the Chairperson and Whole-time Members of the PFRDA are appointed by the Central Government on the recommendation of the Financial Sector Regulatory Appointments Search Committee. Prior to 2023, the Chairperson and Whole-time Members were appointed on the recommendation of a Selection Committee.

(b) Insurance Regulatory and Development Authority of India (IRDAI)

As per section 4 of the Insurance Regulatory and Development Authority Act, 1999, the Chairperson, Whole-time Members and Part-time Members are appointed by the Central Government. The Act and the rules and regulations made thereunder do not lay down the process for selection of candidates for these offices. However, the vacancy circulars inviting applications for the office of the Chairperson

and Whole-time Members specify that appointments shall be made by the Central Government on the recommendation of the Financial Sector Regulatory Appointments Search Committee.

(c) Reserve Bank of India (RBI)

As per section 8 of the Reserve Bank of India Act, 1934, the Central Board of the Reserve Bank of India consists of—

(a) a Governor and not more than four Deputy Governors appointed by the Central Government;

(b) four Directors nominated by the Central Government, one from each of the four Local Boards;

(c) ten Directors nominated by the Central Government; and

(d) one Government official nominated by the Central Government.

The Act and the rules and regulations made thereunder do not prescribe the process for selection of candidates for these offices. However, as per the existing administrative practice, the Governor and Deputy Governors of the Reserve Bank of India are appointed on the recommendation of the Financial Sector Regulatory Appointments Search Committee."

(ii) Regarding the wording of "useful" in the provision – Clause 4(4)

5.5 On the question of whether the expression "useful" employed in Clause 4(4) should be replaced with the expression "relevant", in the interest of greater legislative precision, consistency and certainty, considering that "relevant" is a formulation more commonly adopted in comparable regulatory statutes and investigative frameworks, the Committee sought the views of the Ministry.

In response, the Secretary, Ministry of Finance, while deposing before the Committee, stated that the suggestion had merit and informed the Committee that the proposed change would be incorporated as a drafting modification in Clause 4(4).

5.6 The Committee have examined Clause 4(3), which empowers the Central Government to prescribe, by rules, the manner of appointment of the Chairperson and Members of the Board. The Committee note that the existing framework provides for appointments to be made on the recommendation of the Financial Sector Regulatory Appointments Search Committee (FSRASC) and that the Ministry has indicated that the existing rules would continue under the Code.

The Committee are of the view that a transparent, objective and institutionalised appointment process is essential to preserve the independence, credibility and effectiveness of the regulator. The Committee, therefore, desire that, at the stage of implementation of the Code, the rules governing appointments be framed or continued in a manner that expressly provides for appointments to be made on the recommendation of the Financial Sector Regulatory Appointments Search Committee, or an equivalent institutional mechanism, thereby ensuring a transparent, merit-based and consistent process for the selection of the Chairperson and Members of the Board.

5.7 The Committee have examined Clause 4(4) and note that it prescribes the qualifications and experience required for appointment as the Chairperson and Members of the Board. The Committee further note that the provision requires such persons to possess ability, integrity and standing in dealing with securities markets or special knowledge or experience in specified disciplines, including "any other discipline which, in the opinion of the Central Government, is useful to the Board."

The Committee are of the view that the expression "useful" is broad and subjective and may admit varying interpretations. In statutory provisions governing appointments to regulatory bodies, the use of precise and objective terminology assumes significance in ensuring clarity, consistency and transparency in the selection process. The Committee, therefore, consider that the expression "relevant" would more appropriately convey the legislative intent and would also be consistent with the terminology adopted in comparable regulatory and investigative statutes.

The Committee, therefore, recommend that Clause 4(4) be suitably amended by replacing the expression "useful" with "relevant", or such other appropriate expression conveying the same intent, so as to enhance legislative precision, reduce interpretational ambiguity and ensure consistency with established drafting practices.

CHAPTER VI

VI Terms and Conditions of Service of Chairperson and Members of the Board

Clause 5

6.1 Clause 5 provides for the terms and conditions of service of the Chairperson and Members of the Board, as under:—

5 (1) The Chairperson and every whole-time Member of the Board shall hold office for a term not exceeding five years:

Provided that no person shall hold office as the Chairperson or a whole-time Member on attaining the age of sixty-five years.

(2) Every other Member referred to in clause (d) of sub-section (1) of section 4 shall hold office for a term not exceeding three years:

Provided that no person shall hold office as such Member on attaining the age of seventy years.

(3) The other terms and conditions of service of the Chairperson and the Members referred to in clauses (a) and (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(4) The term of office of the ex officio Members shall continue as long as they hold the office by virtue of which they are such Members.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Central Government shall have the right to terminate the services of the Chairperson or a Member appointed under clauses (a) and (d) of sub-section (1) of section 4, at any time before the expiry of the period specified under sub-section (1) or sub-section (2), by giving not less than three months' notice in writing or three months' salary and allowances in lieu thereof. The Chairperson or such Member, as the case may be, shall have the right to relinquish office, at any time before the expiry of the period specified under sub-section (1) or sub-section (2), by giving not less than three months' notice in writing to the Central Government.

(6) The Chairperson and the whole-time Members shall not accept any employment under the Central Government or any State Government, or any appointment with a securities markets service provider, a market participant or any other person associated with the securities markets for a period of one year from the date on which they cease to hold office, except with the prior approval of the Central Government."

(i) Cooling-off period – Clause 5(6)

6.2 Certain stakeholders expressed concern regarding Clause 5(6) on the ground that the Bill prohibits the Chairperson and Whole-time Members from accepting employment under the Central Government or any State Government, or any appointment with a securities markets service provider, market participant or any other person associated with the securities markets for a period of one year after demitting office, unless prior approval of the Central Government has been obtained. It was submitted that such post-tenure restrictions are intended to address potential conflicts of interest. The stakeholders further pointed out that comparable cooling-off provisions exist under the statutes governing other regulators and that, in most cases, such laws prescribe a cooling-off period of two years. They also noted that the Reserve Bank of India Act, 1934 does not contain a corresponding provision relating to post-tenure employment.

6.3 When the views of the Ministry were sought on the suggestion to provide for a cooling-off period of two years, the Ministry, in its written reply, stated as under:—

"Presently, Rule 3(4) of the SEBI (Terms and Conditions of Service of Chairman and Members) Rules, 1992 provides that the Chairman or Whole-time Member shall not accept any employment before the expiry of a period of one year from the date of demitting office in SEBI, except with the previous sanction of the Central Government. A similar one-year requirement has been retained under the SMC. The provision has been accorded statutory status with suitable modifications. The scope has also been expanded to include appointments with a securities markets service provider, market participant or any other person associated with the securities markets."

Further supplementing the above, the Secretary, Ministry of Finance, while deposing before the Committee, stated that the cooling-off period had been retained at one year to balance two considerations, namely, avoiding conflicts of interest and ensuring that persons possessing high levels of expertise and experience remain willing to join the institution. The Secretary stated:—

"This position emerged from extensive consultations. In order to attract talent to positions such as membership of the SEBI Board, we want people from the market and people with substantial experience to be willing to join. Originally, the proposed period was two years, but after consultations, it was reduced to one year in order to preserve the attractiveness of serving on the SEBI Board."

6.4 When asked whether the cooling-off period provided under Clause 5(6) warrants enhancement to two years and to furnish details of international practices and the corresponding provisions applicable to other regulatory bodies, the Ministry, in its written reply, stated as under:—

"This provision is based on Rule 3(4) of the Securities and Exchange Board of India (Terms and Conditions of Service of Chairman and Members) Rules, 1992, which restricts post-retirement employment for one year, subject to the approval of the Central Government. Clause 5(6) of the SMC codifies this rule.

Contemporary Regulators

• Statutes governing contemporary regulators such as the International Financial Services Centres Authority (IFSCA) and the Pension Fund Regulatory and Development Authority (PFRDA) expressly provide for such a requirement, with a cooling-off period of two years. Other regulators, such as the Insurance Regulatory and Development Authority of India (IRDAI) and the Reserve Bank of India (RBI), do not prescribe similar restrictions.

Global Practices

• In the United States, while there is no employment-related prohibition, former employees of the Securities and Exchange Commission are prohibited from making any communication or appearing on behalf of any other person before the Commission in matters in which they participated personally or which were pending under their official supervision. Further, former senior officers of the Commission are prohibited, for a period of one year after cessation of service, from representing a foreign government entity before any department or agency of the United States Government or from aiding or advising a foreign entity.

• In other jurisdictions, such as the United Kingdom and Singapore, there is no formal cooling-off period. Instead, conflicts of interest are addressed through internal safeguards, including mandatory disclosure of future employment, notice period controls, restricted access to information during the notice period, and continuing confidentiality obligations."**

6.5 The Committee have examined Clause 5(6), which provides that the Chairperson and Whole-time Members of the Board shall not accept employment under the Central Government or any State Government, or any appointment with a securities markets service provider, market participant or any other person associated with the securities markets for a period of

one year after demitting office, except with the prior approval of the Central Government. The Committee note that the provision seeks to safeguard the independence of the regulator by addressing the possibility of conflicts of interest and regulatory capture arising from post-tenure engagements.

6.6 The Committee further note that, while the existing provision has been carried forward from the SEBI (Terms and Conditions of Service of Chairman and Members) Rules, 1992, the proposed Code accords the restriction statutory status and expands its scope to cover appointments with securities markets service providers, market participants and other persons associated with the securities markets. The Committee also note that certain contemporary financial sector regulators in India, including the International Financial Services Centres Authority (IFSCA) and the Pension Fund Regulatory and Development Authority (PFRDA), prescribe a cooling-off period of two years, whereas some other domestic regulators and certain foreign jurisdictions adopt different approaches through conflict-of-interest safeguards and post-employment restrictions.

6.7 The Committee are, however, of the considered view that the Securities and Exchange Board of India occupies a unique position as the principal regulator of the securities market, exercising wide-ranging regulatory, supervisory, investigative and enforcement powers over market participants. Given the nature of these functions and the sensitivity of the information available to the Chairperson and Whole-time Members during their tenure, a longer cooling-off period would provide a stronger institutional safeguard against actual or perceived conflicts of interest, enhance public confidence in the independence and impartiality of the regulator, and reinforce the credibility of the regulatory framework.

6.8 The Committee, therefore, recommend that Clause 5(6) be suitably amended to provide for a cooling-off period of two years, in place of one year, before the Chairperson and Whole-time Members may accept employment or any appointment with a securities markets service provider, market participant or any other person associated with the securities markets.

CHAPTER VII

VII Powers and Functions of the Board

Clause 11

7.1 Clause 11 provides for the powers and functions of the Board, as under:—

11 (1) Subject to the provisions of this Code, the Board shall protect the interests of investors in securities and promote the development of, and regulate, the securities markets, by such measures as it may deem fit.

(2) Without prejudice to the generality of the foregoing provisions, the Board shall exercise the powers and perform the following functions, namely:—

(a) register and regulate the market infrastructure institutions;

(b) register and regulate the intermediaries;

(c) register and regulate the self-regulatory organisations;

(d) regulate the business in securities markets;

(e) regulate the issue, listing, delisting, transfer of securities, dealings in securities and other related matters by market participants, subject to the provisions of Chapter XV;

(f) regulate advertisement soliciting money by way of issue of securities;

(g) regulate or prohibit the solicitation of money from investors in respect of any investment scheme;

(h) regulate substantial acquisition of shares and take-over of companies;

(i) regulate the working of any class or classes of market participants, either directly or indirectly through a market infrastructure institution or a self-regulatory organisation;

(j) regulate the qualifications and certification of the securities markets service providers;

(k) protect the interests of investors, promote investor education and awareness, and ensure effective and time-bound redressal of investor grievances;

(l) prohibit fraudulent and unfair practices relating to the securities markets and market abuse;

(m) promote training of intermediaries and market participants;

(n) promote transparency and best practices in its governance;

(o) ensure fair and timely disclosure of information by a securities markets service provider;

(p) ensure adequate training and capacity-building of its officers and employees for facilitating the efficient discharge of its functions;

(q) lay down principles for the implementation of this Code;

(r) call for information from a securities markets service provider, a market participant or any other person associated with the securities markets for the implementation of this Code;

(s) call for information and records from any person, including any bank or financial institution or any other authority, Board or corporation established or constituted by or under any Central Act or State Act, which may be relevant to any inspection, investigation or adjudication in respect of any transaction in securities;

(t) call for information from, or furnish information to, other authorities, whether in India or outside India, in matters relating to the prevention or detection of contraventions in respect of securities laws, subject to the provisions of any other law for the time being in force:

Provided that the Board may, for the purpose of furnishing any information to any authority outside India, enter into an arrangement, agreement or understanding with such authority with the prior approval of the Central Government;

(u) undertake inspection, investigation and adjudication;

(v) share any information or other documents obtained during inspection, investigation or adjudication, as the case may be, regarding the contravention of any other law for the time being in force with the authorities concerned, if such information or documents are relevant or useful to such authority;

(w) levy fees or other charges for carrying out the purposes of this Code, which shall be reviewed periodically;

(x) conduct periodic research, regulatory impact assessment studies and audits of the functioning and performance of the securities markets, including securities markets service providers, and publish such information and data on its website;

(y) maintain its website or any other universally accessible electronic database relating to the securities markets, and publish on such website or database all regulations, subsidiary instructions, orders of the Adjudicating Officer and the Ombudsperson, and such other information as it may deem fit; and

(z) perform such other functions as may be prescribed.

(3) The Board shall review its performance and functioning, including the proportionality and effectiveness of the regulations made in this behalf.

(4) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clauses (r), (s) or (u) of sub-section (2), the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) discovery and production of books of account and other documents, at such place and time as may be specified by the Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of a securities markets service provider or an issuer, at any place; or

(d) issuing commissions for the examination of witnesses or documents."

(i) Sharing of information with other authorities – Clause 11(2)(v)

7.2 Certain stakeholders submitted that Clause 11(2)(v) presently provides that information or documents may be furnished to the concerned authorities in relation to a possible contravention of laws other than securities laws where such information is considered relevant or useful. The stakeholders suggested that it would be appropriate to clarify that any sharing of information or documents should be undertaken strictly in accordance with the provisions of the applicable law governing such disclosure, as contemplated under Clause 11(2)(t), rather than solely on the basis of relevance or usefulness.

The stakeholders further submitted that, until a contravention is conclusively determined by a competent court or authority, the matter remains at the stage of an alleged violation. Keeping in view the principle of presumption of innocence, they suggested that the furnishing of information or documents should be undertaken only in accordance with due process of law and where the concerned authority is legally empowered to seek, request and receive such information. According to the stakeholders, this would ensure that any disclosure is authorised by law and follows established legal processes, rather than being made unilaterally.

7.3 On the issue of whether the provision permitting the Board to furnish information or documents to other authorities on the ground that such information is "relevant or useful" in relation to a possible contravention of laws other than securities laws should be suitably qualified to ensure that such disclosure is made only in accordance with the applicable legal framework and due process of law, the Committee sought the views of the Ministry. Concern was also expressed that, until a contravention is established by a competent court or authority, the matter remains at the stage of an alleged violation and, therefore, having regard to the principle of presumption of innocence, information should be shared only where the concerned authority is legally empowered to seek and receive such information.

In its written reply, the Ministry acknowledged the concern and stated as under:—

"The appropriate drafting changes will be made."

7.4 The Committee have examined Clause 11(2)(v), which empowers the Board to share information or documents obtained during inspection, investigation or adjudication with other authorities where such information or documents are considered relevant or useful in relation to the contravention of any other law. The Committee further note the concerns expressed by stakeholders that such sharing of information should be undertaken only in accordance with the applicable legal framework and established principles of due process, particularly where the alleged contravention has not yet been determined by a competent court or authority.

7.5 The Committee are of the view that the exchange of information between regulatory and enforcement authorities is essential for the effective enforcement of law. However, such disclosure should be subject to appropriate statutory safeguards so as to ensure that it is made only where authorised under law and only to an authority legally empowered to seek and receive such information. The Committee, therefore, recommend that Clause 11(2)(v) be suitably amended to provide that information or documents may be furnished only in accordance with the provisions of the applicable law and due process, and only to authorities legally empowered to seek and receive such information. This would ensure consistency with Clause 11(2)(t), uphold the principles of fairness and legal certainty, and prevent any unintended or unauthorised disclosure of information.

CHAPTER VIII

VIII Inspection, Investigation, Adjudication and Interim Order

Clause 13 — Investigation

8.1 Clause 13 of the Code provides for investigation, as under:—

13 (1) If the Board, on receipt of any information or otherwise, has reasonable grounds to believe that—

(a) transactions in securities are being undertaken in a manner detrimental to investors or the securities markets;

(b) any securities markets service provider, market participant or any other person associated with the securities markets has contravened any of the provisions of this Code or the rules or regulations made thereunder, or any order issued by the Board; or

(c) any person has aided or abetted such contraventions, it may, by an order in writing, direct one or more persons from amongst its Chairperson, whole-time Members or officers to act as the Investigating Officer to investigate such transactions or contraventions, or the affairs of such securities markets service provider, market participant or any other person associated with the securities markets, and submit a report to the Board:

Provided that the Board may seek the assistance of a securities markets service provider or an expert to assist the Investigating Officer under this Chapter, in such manner as may be specified by regulations.

(2) The order referred to in sub-section (1) shall be in such form as may be specified by regulations, and the investigation shall be completed within a period of one hundred and eighty days:

Provided that where the investigation report is not submitted within the aforesaid period, the Investigating Officer shall provide the status of the investigation to the Board, record the reasons for the delay and request the whole-time Member concerned for an extension of time:

Provided further that, on receipt of a request for extension of time, the whole-time Member may, if necessary, grant such extension, subject to such conditions, if any, as he may deem fit, or reject the request.

(3) The Investigating Officer shall, where quantifiable, quantify the unlawful gains made or likely to be made, or the loss caused or likely to be caused to an investor or group of investors, as a result of any default or contravention, in accordance with such criteria and in such manner as may be specified by regulations.

(4) If the Board, upon consideration of the investigation report, is of the opinion that further investigation is called for, it may, by an order, direct the Investigating Officer to undertake further investigation and submit a supplementary report within such period as may be specified therein.

(5) The procedure for conducting an investigation under this Chapter shall be such as may be specified by regulations."

(i) Inclusion of "aid or abetment" in Clause 13(1)

8.2 Certain stakeholders suggested a drafting amendment to Clause 13(1) by inserting the words "or aid or abetment" after the word "contraventions" in the opening portion of the clause. It was submitted that aiding and abetment are expressly referred to in Clause 13(1)(c), but are not included in the opening portion of the provision. While addressing the suggested drafting amendment, the Ministry stated that the concern had been accepted and that appropriate drafting changes would be made.

(ii) Timeline for completion of investigation — Clause 13(2)

8.3 Certain stakeholders expressed concerns regarding the computation of the period of investigation under Clause 13(2). It was submitted that where an investigation or any related proceeding has been stayed by a court or tribunal, the period during which such stay remains in operation should be excluded while computing the prescribed period under the Code. Consequently, the period of stay should also be excluded while calculating the validity of an interim order under Clause 27(3).

The stakeholders also furnished a summary of the time taken to complete cases, based on the nature of the violation, during the preceding three financial years. In cases relating to fraudulent and unfair trade practices, out of a total of 221 cases completed during the three-year period, 33 per cent were completed within one year, 49 per cent were completed within a period ranging from one year to two years, and 18 per cent took more than two years. It was stated that the time required for completion of an investigation also depends upon the period under investigation, liquidity in the scrip, volume of

trading, number of entities examined, evidence collected and witnesses involved, among other factors.

It was further suggested that the period of one hundred and eighty days prescribed for completion of an investigation should be reconsidered. According to the stakeholders, the proposed timeline may compromise the quality of investigations by prioritising speed over thoroughness. Comprehensive investigations require adequate time for the identification of irregularities, corroboration of evidence involving various entities, coordination with and examination of multiple parties, including through the issuance of summons, and verification of the information received before arriving at appropriate findings.

It was pointed out that such investigations may also involve scheduling constraints and, in some cases, cross-border procedural requirements. For instance, in matters involving front-running, the investigation process may require tracing trading patterns across multiple accounts and examining causal links between the possession of information and the trades executed. Such inquiries demand substantial time and resources. Further, in complex cases involving misstatements in financial statements, misappropriation, siphoning or diversion of funds, SEBI may appoint forensic auditors, following which it conducts its own investigation.

The stakeholders submitted that the imposition of a rigid timeline may result in incomplete or imperfect investigations that fail to capture the full scope of the misconduct or adequately identify all the persons involved. Accordingly, the requirement to complete an investigation within the proposed period, though extendable, was stated to significantly underestimate the inherent complexities of investigations conducted by SEBI.

It was also suggested that the period of one hundred and eighty days should exclude the time taken by the Investigating Officer to secure information relevant to the case from the persons concerned. According to the stakeholders, the prescribed period is intended to ensure efficiency and diligence on the part of the Investigating Officer and should not penalise the investigation for delays attributable to a noticee, market infrastructure institution or any other person relevant to the investigation. Otherwise, the timeline could be used to frustrate an investigation by delaying the furnishing of replies or other information to the Investigating Officer.

8.4 When the views of the Ministry were sought on the suggestion that the period of one hundred and eighty days prescribed for completion of an investigation should be reconsidered, having regard to the complexity and duration of securities market investigations, the Ministry submitted as under:—

“Based on the data provided, the period of one hundred and eighty days may be extended to one year. Appropriate drafting changes will be made.”

8.5 When asked about the rationale for prescribing a timeline for completion of investigations by the Investigating Officer and whether separate timelines should be prescribed for different categories of contraventions and offences, the Ministry submitted as under:—

"In this regard, we think that we should accept the suggestion of prescribing a period of 365 days. We received further data from SEBI and found that, even at present, most investigations are being completed within a period of one year to one-and-a-half years. We, therefore, considered the suggestion of prescribing a period of one year to be appropriate. It would maintain a strict timeline while also providing adequate time to the Investigating Officer to complete the investigation.

However, prescribing different timelines for different offences would defeat the purpose of having a definitive timeline for Investigating Officers, particularly as the procedure for seeking an extension has also been laid down. Such an approach may, therefore, not be helpful."

(iii) Public disclosure of ongoing investigations

8.6 During the course of deliberations, the Committee sought to know why an order extending the period of investigation could not be made public by placing it on the website of the regulator. It was observed that where an entity is under investigation by a regulator, investors and the market may have a legitimate interest in being informed, particularly where the investigation is continued beyond the prescribed period.

In response thereto, the Secretary, Ministry of Finance, stated as under:—

"There is nothing confidential about that, but the issue is that the investigation concerns the person who may be described as the alleged violator. At present, an investigation may concern a highly reputed investor or a highly reputed company and remains within the confines of the investigation process. I am not sure whether details of ongoing investigations are presently placed on the portal. I am considering the issue as I respond, as it is relevant and important.

Ongoing investigations are not presently placed on the portal. Publication of an order extending the timeline would disclose that an investigation is underway against a particular company, although the eventual outcome of the investigation may be entirely different."

8.7 On the question of whether a period of six months is sufficient to determine the existence of a prima facie case and whether investors should be informed where an investigation continues beyond such period, the Committee desired to know whether an appropriate mechanism for disclosure could be incorporated. The Committee further desired to know whether the absence of

such disclosure could result in investors continuing to trade in the securities of an entity despite the existence of serious regulatory concerns.

In response thereto, the Ministry submitted as under:—

"My humble submission is that this is an ongoing enforcement procedure. We have already accepted the suggestion to extend the period to one year. We have also examined data indicating that, even at present, most cases are completed within approximately one-and-a-half years. By prescribing a definite period of one year, we expect a number of such cases to be completed within that period. However, whether informing the market and the public through publication of an order granting an extension would be premature is an issue that requires consideration."

The Ministry further submitted that a balance needs to be maintained between investor protection and avoiding premature disclosure of investigations that may ultimately result in no contravention being established. In this regard, the Secretary, Ministry of Finance, stated as under:—

"What I am trying to humbly submit is that a complaint may be received and, on the face of it, may also be supported by some data. Since it is a serious complaint, an inspection or investigation may be ordered. I am, therefore, returning to the question of whether such information should be placed on the website at all.

The investigation may ultimately conclude that nothing has been established. In the meantime, market prices may fall, unless disclosure of ongoing investigations is already an established practice. That is why I am unable to provide a concrete answer at this stage. Ultimately, fluctuations in market prices may result in erosion of public money."

8.8 On the question of whether disclosure of ongoing investigations should be subject to appropriate safeguards, particularly in cases involving systemic risk or where such disclosure may adversely affect market stability, the Committee sought the views of the Ministry. In this regard, the Ministry submitted as under:—

"Sir, let us revert on this issue. I will also ascertain whether SEBI routinely publishes details of cases under investigation."

The Ministry further stated that, since such investigations involve companies and investors, disclosure is highly sensitive to market movements. Subsequently, in its written reply, the Ministry submitted as under:—

Current and SMC Position

Investigation Orders

An investigation order merely reflects SEBI's decision to examine whether any contravention of securities laws has occurred and does not constitute a finding of wrongdoing. Public disclosure at this stage may cause significant reputational harm to the person being investigated, even where the investigation ultimately results in no enforcement action.

In the case of listed entities, such disclosure may also lead to unwarranted market volatility and influence investor behaviour on the basis of unverified allegations rather than established facts. Investigations frequently involve sensitive commercial information and trading data, the confidentiality of which may be important both for preserving the integrity of the process and protecting the interests of the affected parties.

Extension Orders

Orders extending the period of investigation are procedural in nature and do not contain any finding regarding a contravention. Public disclosure of such orders may create an impression that SEBI has uncovered additional concerns or that the likelihood of a contravention has increased, whereas the extension may merely be required owing to the complexity of the matter, the volume of records involved or delays in obtaining information.

At present, such orders are not made public by SEBI.

Contemporary Laws

Investigation orders issued by PFRDA and IRDAI are also not made public.

8.9 The Committee have examined Clause 13, which lays down the statutory framework governing investigations by the Board, including the circumstances in which an investigation may be initiated, the appointment and powers of the Investigating Officer, the timeline for completion of investigations, the quantification of unlawful gains or losses, and the submission of investigation reports. The Committee note that the objective of prescribing a

statutory timeline is to promote the timely and efficient completion of investigations while ensuring effective enforcement of the provisions of the Code.

8.10 The Committee further note the concerns raised regarding the proposed investigation period of one hundred and eighty days, particularly in cases involving complex market misconduct, forensic audits, examination of multiple entities, cross-border transactions, and extensive collection and verification of evidence. The Committee are of the view that, while investigations should ordinarily be completed within a definite timeframe, the prescribed period must be realistic and commensurate with the nature and complexity of securities market investigations.

The Committee also note the suggestion that the opening portion of Clause 13(1) should expressly include the words "aid or abetment" so as to maintain drafting consistency with clause (c) of the same sub-section.

8.11 The Committee, therefore, recommend that Clause 13 be suitably amended to provide a period of one year for completion of investigations by the Investigating Officer. The Committee further recommend that Clause 13(1) be suitably redrafted to expressly include the words "aid or abetment" in the opening portion of the provision so as to ensure internal consistency.

The Committee also recommend that the Code continue to prescribe a uniform timeline for completion of investigations, rather than separate timelines for different categories of contraventions, while retaining the existing mechanism for grant of extensions in appropriate cases. This would balance the need for timely completion of investigations with the practical complexities associated with securities market enforcement.

(iv) Investor protection and disclosure of ongoing investigations

8.12 The Committee have carefully examined the issue of public disclosure of ongoing investigations, particularly where the period of investigation is extended beyond the prescribed timeline. The Committee note that an investigation order or an order extending the period of investigation is only a procedural step and does not constitute a finding of contravention. At the same time, the Committee are of the view that prolonged non-disclosure of regulatory investigations may have implications for investor awareness, particularly where the investigation concerns entities whose securities continue to be actively traded in the market.

8.13 The Committee recognise that premature disclosure of investigations may adversely affect the reputation of regulated entities, influence investor behaviour on the basis of unverified allegations and, in appropriate cases, have implications for market stability. The Committee are, therefore, of the view that any disclosure framework should carefully balance

the objectives of investor protection, market integrity, confidentiality of investigations and the principles of natural justice.

8.14 The Committee, therefore, recommend that the Ministry, in consultation with SEBI, examine the feasibility of developing an appropriate framework governing the disclosure of ongoing investigations, particularly where investigations continue beyond the prescribed period. Such a framework may, inter alia, provide for suitable safeguards, objective criteria and appropriate exceptions in cases involving systemic risk, market stability or the confidentiality of commercially sensitive information, or where disclosure may prejudice the investigation.

The Committee further recommend that the framework be designed in a manner that balances investors' interest in material regulatory information with the need to avoid unwarranted reputational harm arising from investigations that may ultimately result in no finding of contravention.

CHAPTER IX

IX General Powers and Obligations of Investigating Officers

Clause 14

9.1 Clause 14 provides for the general powers and obligations of Investigating Officers, as under:—

14 (1) Notwithstanding anything contained in any other law for the time being in force, where an investigation has been directed under section 13,—

(a) every key managerial personnel, director, manager, secretary or other officer or employee of a securities markets service provider or a market participant or a person being a body corporate;

(b) every trustee or manager or employee of a securities markets service provider or a market participant or a person being a trust;

(c) every partner, manager, secretary or key managerial personnel or other officer of the firm or society of a securities markets service provider or a market participant or a person being a firm or society; and

(d) every other person or body of persons who has or had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly, shall—

(i) preserve and produce before the Investigating Officer or any person authorised by him in this behalf all such books of account, registers, records, information and other documents in his custody or power relating to, or having a bearing on, the subject matter of such investigation, as the case may be;

(ii) furnish any such statement, undertaking or certification relating thereto, as may be required, within such period as may be specified by the Investigating Officer or any person authorised by him in this behalf;

(iii) provide reasonable assistance to the Investigating Officer or any person authorised by him in this behalf in relation to the investigation; and

(iv) appear personally and take oath before the Investigating Officer, when required to do so, and answer any question put to him during such appearance in relation to the affairs of his business.

(2) The Investigating Officer shall record the examination referred to in sub-section (1) in writing, which shall be read over and explained to, or by, and signed by the person examined, and may thereafter be used in evidence.

(3) The Investigating Officer may keep in his custody any books, registers, other documents and records produced under sub-section (1) for a period of six months and shall thereafter return the same to the person concerned.

(4) The Investigating Officer may, if he deems it necessary, again call for any book, register, other document or record.

(5) If the person who produced the books, registers, other documents and records under sub-section (1) requires certified copies thereof, the Investigating Officer shall provide such copies.

(6) The Investigating Officer shall, before exercising his powers under this section against any person, serve a notice upon him in such form and manner as may be specified by regulations:

Provided that where the Investigating Officer is satisfied that the issuance of a notice would cause undue delay in the investigation or there is an apprehension that the records, books of account, registers, information and other documents referred to in sub-section (1) may be destroyed, mutilated, concealed, altered, falsified or secreted after the notice is served, he may, for reasons to be recorded in writing, dispense with the issuance of such notice.

(7) Notwithstanding anything contained in any other law for the time being in force, the Investigating Officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) discovery and production of books of account and other documents, at such place and time as may be specified by the Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of a securities markets service provider or an issuer, at any place; and

(d) issuing commissions for the examination of witnesses or documents."

9.2 Certain stakeholders suggested that Clause 14(6) be deleted. Alternatively, if the provision is retained in the Code, it should be clarified that notice may be served only upon the person from whom information or assistance is sought and not upon the person against whom the investigation is being conducted, unless information or assistance is also sought from such person.

It was submitted that, under the existing framework, the Investigating Officer issues a notice in the form of a summons calling for information or requiring the personal appearance of persons suspected of contraventions, although summons may not be issued in every case. Even where summons are not issued, information such as bank statements and the rationale for particular trades may be called for through electronic mail, which may provide sufficient notice to such persons that the matter is under investigation.

The stakeholders further submitted that the time required for an investigation may be affected by the following considerations:—

(a) in certain cases, information may not be called for from suspected persons owing to an apprehension that records may be mutilated or tampered with;

(b) in matters relating to the prohibition of fraudulent and unfair trade practices, there may be numerous suspected persons and, therefore, issuing notices under Clause 14(6) to every such person may not be practically feasible. Further, depending upon the identified modus operandi, additional suspected persons may emerge during the later stages of the investigation;

(c) the issuance of notices at different points of time to different suspected persons may alert them and provide further opportunity to destroy relevant records or digital evidence; and

(d) the issuance of such notices may cause unnecessary delay in the investigation process.

When the views of the Ministry were sought on the suggestion that Clause 14(6) be omitted or, alternatively, clarified to provide that notice be served only upon the person from whom information or assistance is sought, having regard to the practical difficulties that the provision may pose to investigations, including the risk of alerting suspected persons, destruction of evidence and delay in the investigation process, the Ministry submitted as under:—

"The provision may be clarified to specify that the notice requirement applies only to the person against whom investigative powers are to be exercised, and drafting changes will be carried out in this regard."

9.3 Certain stakeholders suggested that provisions available under the existing framework should be appropriately incorporated in Clause 14 of the Code. They submitted that the existing clauses (ia) and (ib) of sub-section (2) of section 11 of the SEBI Act, 1992 should be retained. They further suggested that, in line with the existing section 11C, clause (a) should be expanded to include every intermediary or person associated with the securities market.

Drawing upon rule 4(6) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, the stakeholders suggested that an express provision be incorporated to enable any person acquainted with the facts and circumstances of the subject matter under investigation to be required to furnish information, documents or evidence relevant to the investigation.

The stakeholders further pointed out that the provision contained several drafting errors and omissions. In particular, it did not expressly refer to the "person being investigated", a "person associated with the securities market" or a "person acquainted with the facts" as persons who may be called upon to provide information or assistance. Instead, the provision directly referred to persons in charge of corporate or other entities. It was questioned how the provision would operate where the person under investigation was an individual or an investor. Concerns were also raised regarding the meaning of the expression "dealings in the course of business" and whether it would cover a situation where records belonging to the person under investigation were kept with another person with whom he had no business dealings.

On the question of incorporating relevant provisions of the existing framework in Clause 14, including expanding its scope to cover every intermediary, person associated with the securities market and any person acquainted with the facts of the investigation, and addressing the drafting omissions and ambiguities identified by the stakeholders, the Committee sought the views of the Ministry. In response, the Ministry stated that, for the sake of clarity, it may be provided that any person may be required to assist in the investigation and that appropriate drafting changes would be made.

9.4 On the question whether the culmination of an investigation under the proposed legislation would entail only civil consequences or could also lead to criminal proceedings, it was pointed out that the answer would have a direct bearing on the interpretation of Clause 14(2), which provides that the statement recorded by the Investigating Officer may thereafter be used in evidence. In response thereto, the Ministry stated as under:—

"It could, because the offence is only under Clause 92, which is civil action, and Clause 93, which is market abuse. The finding of the investigation and adjudication could be that the offence is market abuse."

9.5 Certain stakeholders expressed concern that where an investigation could ultimately result in criminal consequences, including prosecution before a Special Court and conviction, permitting statements made before an Investigating Officer to be used in evidence would be contrary to settled principles of criminal jurisprudence.

It was pointed out that, under criminal law, statements made before a police officer under the relevant provisions of criminal procedure law are generally not admissible in evidence against the accused and that statements intended to be used as evidence are ordinarily required to be recorded before a judicial authority.

The Committee further observed that a provision permitting statements recorded before an Investigating Officer to be used in evidence may raise concerns relating to the constitutional protection against self-incrimination guaranteed under Article 20(3) of the Constitution of India. One of the Members specifically observed that a person cannot be compelled to be a witness against himself and that the provision, in its present form, may be inconsistent with this constitutional safeguard.

In response thereto, the Ministry submitted as under:—

"In the previous SEBI Act, as well as in continuation in the SMC, what has been said is correct that, apart from documents, you have the power to furnish statements, books of account, and also give a statement. All of that put together will be evidence."

The Ministry further clarified that the formulation was not novel and that similar provisions existed under other economic legislations. In this regard, the Secretary, Ministry of Finance, while deposing before the Committee, stated as under:—

“Sir, not just the PMLA, we will just recheck, it is also there in the Companies Act, insofar as the SFIO is concerned. The distinction between the police and the SFIO, for example, because I have worked in that organisation, has been recognised in High Court judgments. The distinction remains, which means that courts have upheld the non-police nature of investigations undertaken under another economic offences law, namely, the Companies Act. A similar position exists here also.

The intent is, of course, that economic offences, particularly those handled by SEBI in relation to listed companies, are of a very serious nature and, therefore, this needs to be taken forward together with all the other provisions relating to documentary evidence, etc., which courts would ordinarily appreciate.”

9.6 When asked whether statements or evidence recorded by the Investigating Officer under Clause 14(2) would be admissible, or could be relied upon as evidence in subsequent proceedings, whether appropriate safeguards should be incorporated in Clause 14(2), and what the position was under other enactments governing similar investigative powers, the Ministry, in its written submission, stated as under:—

Current Position

Clause 14(2) is based on section 11C(7) of the SEBI Act, 1992, which provides that notes of any examination shall be taken down in writing, read over to, or by, and signed by the person examined, and may thereafter be used in evidence against him.

SMC Position

Clause 14(2) is consistent with the existing position under the SEBI Act. Under sections 11C(3), 11C(5) and 11C(7) of the SEBI Act, 1992, the Investigating Authority may examine persons on oath, record their statements, and the notes of such examinations are admissible in evidence. Clause 14(2) substantially reflects this existing framework.

The provision is also necessary for effective SEBI investigations, as investigations often involve complex facts and information available only from persons examined during the investigation. Permitting such statements to be used in evidence is essential to enable SEBI to establish contraventions and take appropriate enforcement action.

Contemporary Laws

Section 217(7) of the Companies Act, 2013 provides that statements made to an inspector during an investigation may be used in evidence.

Further, section 16(6) of the PFRDA Act, 2013 also contains a similar requirement that information provided by the person examined may be used as evidence against such person."

9.7 The Committee have examined Clause 14, which sets out the general powers and obligations of the Investigating Officer during the course of an investigation. The Committee note that the provision seeks to empower the Investigating Officer to call for information, examine persons on oath, secure documents and records, and exercise powers analogous to those of a civil court for the effective conduct of investigations.

9.8 The Committee further note the concerns raised regarding the scope and drafting of the provision. In particular, the Committee find merit in the suggestion that the persons from whom information, documents or assistance may be sought should be described more comprehensively so as to include not only officers and functionaries of regulated entities but also intermediaries, persons associated with the securities market, the person under investigation and any other person acquainted with the facts and circumstances of the matter.

9.9 The Committee are also of the considered view that the notice requirement under Clause 14(6) should not impede the effectiveness of investigations or result in the destruction, concealment or alteration of evidence. At the same time, the provision should clearly specify the persons to whom such notice is required to be issued so as to avoid ambiguity and unnecessary procedural complications.

9.10 The Committee, therefore, recommend that Clause 14 be suitably amended to expressly empower the Investigating Officer to require any intermediary, person associated with the securities market, the person under investigation or any other person acquainted with the facts and circumstances of the subject matter to furnish information, documents, records or evidence relevant to the investigation.

The Committee further recommend that the existing investigative powers available under section 11C of the SEBI Act, 1992 and the relevant provisions of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules be appropriately reflected in the Code so as to avoid any dilution of the existing enforcement framework.

9.11 The Committee further recommend that Clause 14(6) be suitably clarified to provide that the requirement of prior notice shall apply only to the person against whom the Investigating Officer proposes to exercise the powers under the provision, without prejudicing the authority of the Investigating Officer to dispense with such notice in exceptional circumstances where there exists a reasonable apprehension that the issuance of notice may result in the destruction, concealment, alteration or tampering of evidence or otherwise prejudice the investigation.

This would strike an appropriate balance between procedural fairness and the effective conduct of investigations.

Clause 14(2) — Admissibility of Statements Recorded During Investigation

9.12 The Committee have carefully examined Clause 14(2), which provides that the statement recorded by the Investigating Officer, after being read over to and signed by the person examined, may thereafter be used in evidence. The Committee note that the provision substantially reflects the existing framework under section 11C(7) of the SEBI Act, 1992 and that similar provisions are also contained in certain other economic legislations governing regulatory investigations.

9.13 The Committee are, however, of the considered view that the evidentiary use of statements recorded during an investigation assumes greater significance in view of the enforcement framework under the Code, where the outcome of an investigation may not be confined to civil or regulatory consequences but may also lead to prosecution for offences such as market abuse before the Special Court.

In such circumstances, the Committee are of the opinion that the provision must be carefully calibrated so as to preserve the constitutional guarantee against self-incrimination under Article 20(3) of the Constitution and ensure adherence to the principles of natural justice and fair trial.

9.14 The Committee, therefore, recommend that appropriate regulatory safeguards be incorporated to ensure that the evidentiary use of such statements does not prejudice the rights of the person under investigation or dilute the constitutional protection against self-incrimination.

CHAPTER X

X Bar on Initiation of Inspection and Investigation

Clause 16

10.1 Clause 16 provides for a bar on the initiation of inspection and investigation, as under:—

"16. (1) The Board shall not direct—

(a) an inspection under section 12; or

(b) an investigation under section 13,

for any default or contravention of the provisions of this Code or the rules or regulations made thereunder after the expiry of a period of eight years from the date of such default or contravention:

Provided that the Board may direct an inspection or investigation after the period specified above in the event of a matter being referred to it by an investigating agency or if, in the opinion of the Board, the default or contravention had, or may have, a systemic impact on the securities markets.

(2) In the case of a continuing default or contravention, a fresh period under sub-section (1) shall begin to run at every moment of the time during which the default or contravention continues.

(3) If more than one default or contravention is committed in a series of connected acts forming part of the same transaction and such defaults or contraventions are committed at different times, the period under sub-section (1) in respect of such defaults or contraventions shall be deemed to have commenced from the date of the last default or contravention."

10.2 Certain stakeholders suggested the insertion of a sub-section prescribing a statutory period for the retention of documents and maintenance of records aligned with the eight-year limitation period under Clause 16. They suggested that records should be retained for a minimum period of ten years, with provision for extension where systemic impact is suspected or notified.

It was submitted that, in the absence of a statutory retention requirement, relevant evidence may not be available in systemic or complex cases, thereby undermining both effective enforcement and the ability of affected persons to defend themselves. According to the stakeholders, a record-retention obligation would operationalise the limitation framework under Clause 16 and contribute to the preservation of market integrity.

Acknowledging the merit of the concern raised, the Ministry, in its written reply, stated as under:—

"The concern is valid and appropriate drafting changes will be made to provide an enabling provision for the retention of such data for such period as may be specified, in addition to the requirements under other laws and in line with global best practices."

10.3 When asked to clarify the meaning, scope and parameters of the expression "systemic impact on the securities markets" used in Clause 16, which permits inspection or investigation beyond the period of eight years in cases involving such systemic impact, the Committee further enquired whether events such as a significant fall in market indices, the triggering of circuit breakers, heightened market volatility or other market-wide disruptions arising from activities such as short-selling would constitute systemic impact, and how such impact would be assessed and quantified for the purpose of invoking the provision.

In response thereto, the Ministry stated as under:—

"It is on a case-by-case basis at present."

10.4 On the question of whether the determination of "systemic impact on the securities markets" should be guided by objective criteria rather than being left entirely to the discretion of the Board, so as to ensure uniformity, consistency and certainty in the application of the provision and avoid divergent interpretations in similar circumstances, the Committee sought the views of the Ministry.

Explaining the rationale underlying the provision, the Secretary, Ministry of Finance, stated as under:—

"This is intended to be a collective decision of the Board. As presently framed, the provision states that the Board may direct an inspection or investigation in the event of a matter being referred to it by an investigating agency or if, in the opinion of the Board, the default or contravention has already had, or may have, a systemic impact on the securities markets.

The provision is also preventive in nature, inasmuch as the Board may anticipate that the matter is sufficiently serious to have an impact, or may determine that it has already had an impact which could have wider consequences. The effect of the clause is to permit an investigation to be initiated beyond the period of eight years."

10.5 When specifically asked whether any definition of "systemic impact" existed, the Secretary, Ministry of Finance, submitted as under:—

"No, Sir. That is the point which the hon. Member has also raised. We are leaving it to the Board to determine whether an investigation may go beyond the period of eight years so as to examine events that occurred more than eight years earlier. That is the limited scope of this discussion and of the clause.

The Board would permit such action only in cases where, collectively, it has material, evidence and other inputs to determine that the matter is sufficiently serious and has the potential to cause, or has caused, a systemic impact. The limitation is that, ordinarily, the Board cannot go back beyond eight years. In order to investigate a matter beyond that period, it must determine that there is a systemic impact. This would permit the Board to examine matters dating back ten or twelve years. The relevance of systemic impact is limited to that extent."

10.6 On the question of whether the exercise of the Board's power to investigate matters beyond the limitation period of eight years on the ground of "systemic impact on the securities markets" should be guided by objective criteria, and whether prolonged and undetected contraventions extending over several years may also indicate regulatory shortcomings, the Committee sought the views of the Ministry.

In response, the Ministry stated that there may be cases warranting investigation beyond eight years and referred to instances where proceedings relating to older market transactions had continued for extended periods. The Committee, however, emphasised that the exercise of such extraordinary powers should be appropriately regulated and based on established rules and procedures.

In this regard, the Ministry stated as under:—

"That is precisely what was suggested by the Chairperson—that certain qualifications should be introduced and objective criteria should be laid down through regulations."

10.7 When the views of the Ministry were sought on the scope and meaning of the expression "systemic impact" used in Clause 16, the Ministry, in its written reply, stated as under:—

Current Position

The existing SEBI framework does not prescribe any limitation period for the initiation of an inspection or investigation.

SMC Position

Clause 16 of the SMC prescribes a limitation period of eight years. Additionally, the proviso to Clause 16(1) provides an exception to the prescribed period of limitation in order to enable the initiation of enforcement action in cases that have had, or may have, a systemic impact on the securities markets or where an investigating agency refers a matter to the Board.

These powers may be exercised in exceptional circumstances to address cases posing systemic risk, as determined on a case-to-case basis. Specific parameters or illustrations may not be required to be incorporated in the Code."

10.8 On the question of whether the approach adopted under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the proposal put forth by stakeholders regarding the concept of "systemic failure" could be examined while framing the provision relating to "systemic impact" under Clause 16, the Ministry, in its written reply, stated as under:—

"The suggestion received from Trilegal proposes the introduction of objective indicators for determining systemic impact under the Code. The suggestion is as follows:—

In Clause 16, after sub-clause (3), the following Explanation shall be inserted, namely:—

'Explanation.—For the purposes of this clause, the expression "systemic impact" means material adverse consequences affecting the integrity, stability or orderly functioning of the securities market, and shall be deemed to exist where at least two of the following circumstances are present, namely:—

(a) a quantifiable loss has been caused to investors, such loss has been determined, and the Board, for reasons to be recorded in writing, considers such loss to be substantial having regard to the liquidity or trading volume of the relevant security;

(b) any loss or adverse impact has been caused to not less than ten investors who are not connected with each other in any manner;

(c) damage has been caused to market infrastructure, including corruption of securities market-related data, disruption of market connectivity or damage to the technological or physical infrastructure of the Board or a market infrastructure institution, and the value of such damage at the relevant time exceeds the cumulative depreciation of such asset or infrastructure for a period of eight years; or

(d) the alleged unlawful activity causes such price movement or volatility in a security that it, by itself, triggers a circuit breaker in respect of trading in that security or at the index level, and such non-compliance relates to raising money from the public, insider trading, or fraudulent and unfair trade practices.'

However, the indicators proposed by Trilegal may not adequately define the scope of systemic impact in the securities market.

According to SEBI's submission, having regard to the broad spectrum of the securities market, the four proposed tests may not adequately cover all possible aspects of the market. The proposed Explanation largely covers trading-related matters and does not include other aspects such as the primary market, corporate governance issues, intermediaries having no direct role in trading, including KRA agencies, and pooled investment vehicles.

In view of the myriad factors that may potentially trigger systemic impact, there appears to be no objective manner in which the expression may be comprehensively defined, and the incorporation of such a definition may not be appropriate.

Contemporary Laws

An analysis of systemic impact is generally not provided under other laws.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which regulates land acquisition for public purposes, mandates an assessment of the economic and social impact of an acquisition proposal upon persons displaced and affected by it. For determining such social impact, the Government takes into consideration factors such as the public purpose served by the proposed acquisition, the estimated number of affected and displaced families, alternative sites for acquisition, and the nature and cost of addressing the social impact.

The systemic impact of a default or contravention upon the securities markets envisaged under the Code is conceptually distinct from the social impact of acquisition projects under the Land Acquisition Act, and the same indicators cannot be imported into the Code."

10.9 On the question of whether the first exception under Clause 16 was unqualified and insufficiently circumscribed, inasmuch as it permitted a matter to be reopened by SEBI after eight years solely on the basis of a reference from a State police agency, without any additional statutory safeguards or threshold requirements, the Secretary, Ministry of Finance, submitted as under:—

"The understanding was that other agencies may have discovered material upon which they were unable to proceed further. They may have closed their report and submitted it under the respective statute. However, the matter may nevertheless involve a securities market dimension."

10.10 When asked whether the conjunction "or" in the proviso should be substituted with "and", so that the power could be exercised only where both prescribed conditions were satisfied, whether the eight-year limitation period was susceptible to misuse, and whether SEBI should be empowered to initiate action suo motu in cases involving systemic impact, the Committee sought the views of the Ministry.

In response, the Secretary, Ministry of Finance, stated as under:—

"The current drafting leaves the matter to the Board. It provides that the Board may direct an investigation in either of the two situations. Therefore, it is not the case that whenever a reference is made, the Board must necessarily order an inspection or investigation.

The proviso states that the Board may direct an inspection or investigation in the event of a matter being referred to it by an investigating agency or if, in the opinion of the Board, the default or contravention has had a systemic impact."

10.11 Concerns were raised regarding the scope of the proposed proviso permitting an inspection or investigation after the expiry of eight years and the possibility of misuse of the provision. In particular, it was questioned whether a mere reference by an investigating agency should be sufficient to enable the Board to reopen a matter beyond the prescribed limitation period.

It was submitted that the two exceptions contained in the proviso, namely, a reference by an investigating agency and systemic impact on the securities markets, operated independently of each other, thereby conferring wide discretion upon the Board without objective safeguards or qualifying criteria.

10.12 Concerns were also raised regarding the use of the expression “or” in the proviso to Clause 16. It was pointed out that the present drafting enabled the two exceptions—a reference by an investigating agency and systemic impact on the securities markets—to operate independently. This could permit an inspection or investigation to be initiated after eight years solely on the basis of a reference by any investigating agency, without objective criteria or any nexus with systemic market concerns, thereby creating scope for misuse.

In its written submission, the Ministry stated as under:—

“The existing SEBI framework, comprising the three securities laws, namely, the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996, does not prescribe a limitation period for the initiation of an inspection or investigation. Consequently, SEBI may initiate an inspection or investigation into any alleged contravention, irrespective of the number of years that have elapsed.

Further, these three enactments contain omnibus criminal provisions which categorise any contravention of the securities laws, rules, regulations and relevant bye-laws as an offence under section 23M of the Securities Contracts (Regulation) Act, 1956, section 24 of the SEBI Act, 1992 and section 20(1) of the Depositories Act, 1996.

In furtherance of the policy of decriminalisation, the omnibus criminal provisions have been omitted from the SMC and three specific categories of criminal offences have been incorporated in Clauses 94, 95 and 96 of the SMC.

Further, in order to provide certainty to the market and promote ease of doing business, Clause 16 was incorporated to provide that an inspection or investigation shall not ordinarily be initiated after the expiry of eight years from the date of the contravention, except in the case of a continuing contravention.

As an exception to this general rule, and in consultation with the Ministry of Law and Justice, the proviso to Clause 16(1) was incorporated to exempt the application of the eight-year limitation period in the following two cases:—

(a) where a matter is referred to the Board by an investigating agency; or

(b) where, in the opinion of the Board, the default or contravention had, or may have, a systemic impact on the securities markets.

The view of the Hon'ble Committee is that the two exceptions are not comparable. Under the first exception, an investigation may be initiated merely upon a reference by another agency. Under the second exception, the existence of systemic risk circumscribes SEBI's power. The first exception is, however, unqualified and uncircumscribed.

Further, concerns have been raised regarding the wide ambit of the expression 'systemic impact', which has neither been explained nor defined in the Code, thereby giving rise to subjectivity.

The current formulation does not prevent SEBI from initiating an inspection or investigation suo motu where the alleged default or contravention had, or may have, a systemic impact on the securities markets. Such powers may be exercised in exceptional circumstances to address cases posing systemic risk, as determined on a case-to-case basis.

In order to address concerns regarding the possibility of misuse of the eight-year exception and the subjective ambit of the expression 'systemic impact', the proviso may be reformulated as follows:—

'Provided that the Board may direct an inspection or investigation after the period specified above if the Board, on its own motion or upon a matter being referred to it by an investigating agency, for reasons to be recorded in writing, has reasonable grounds to believe that the default or contravention had, or may have, a systemic impact on the securities markets.'

This formulation retains SEBI's power to initiate an inspection or investigation after eight years in cases involving systemic impact."

10.13 The Committee note that Clause 16 seeks to introduce, for the first time, a limitation period of eight years for directing an inspection or investigation into any default or

contravention under the proposed Code. The Committee appreciate that the proposed limitation seeks to bring certainty and finality to regulatory proceedings while preserving the Board's power to act in exceptional circumstances.

10.14 The Committee, however, observe that the proviso to the clause permits an inspection or investigation beyond the prescribed period in two situations, namely, where a matter is referred by an investigating agency or where, in the opinion of the Board, the default or contravention had, or may have, a systemic impact on the securities markets.

The Committee further note that concerns were specifically raised during the course of evidence that the present drafting enables the two exceptions to operate independently. This may permit an inspection or investigation after the expiry of eight years solely on the basis of a reference by an investigating agency, without any objective criteria or demonstrable nexus with systemic concerns affecting the securities markets.

The Committee are of the considered view that such a formulation is unduly broad and may result in uncertainty for regulated entities, create scope for arbitrary or unintended exercise of powers, and increase the possibility of misuse.

10.15 The Committee further observe that the expression "systemic impact" has not been defined in the Code and, in the absence of adequate legislative guidance, may be susceptible to varying interpretations. At the same time, the Committee recognise that the Board should retain the ability to act beyond the prescribed period in exceptional cases involving serious and continuing threats to the integrity, stability or orderly functioning of the securities markets.

The Committee, therefore, recommend that the proviso to Clause 16 be comprehensively redrafted so that the power to direct an inspection or investigation beyond eight years is exercised only in narrowly defined and exceptional circumstances. A mere reference by an investigating agency should not, by itself, constitute a sufficient ground for reopening a matter after the expiry of eight years.

The Board should independently satisfy itself, for reasons to be recorded in writing, that the matter involves a serious case of market abuse or a continuing systemic impact on the securities markets warranting such action. A reference by an investigating agency should operate only as a trigger for the Board to independently examine the matter and should not, by itself, dispense with the requirement of establishing a nexus with systemic impact on the securities markets.

The Committee also recommend that the Ministry prescribe appropriate statutory parameters or objective guiding principles governing the exercise of this extraordinary power so as to minimise the possibility of misuse while preserving the Board's ability to protect market integrity effectively in exceptional cases.

The Committee further recommend that, in order to address concerns regarding possible misuse of the exception to the eight-year limitation period and the subjective ambit of the expression "systemic impact", the proviso to Clause 16(1) be modified as under:—

"Provided that the Board may direct an inspection or investigation after the period specified above if the Board, on its own motion or upon a matter being referred to it by an investigating agency, for reasons to be recorded in writing, has reasonable grounds to believe that the default or contravention had, or may have, a systemic impact on the securities markets."

CHAPTER XI

XI Power of the Board to Designate an Adjudicating Officer

Clause 17

11.1 Clause 17 provides for the power of the Board to designate an Adjudicating Officer, as under:-

(1) Subject to sub-section (2), where the Board, after consideration of—

(a) the findings of the inspection made under section 12;

(b) the investigation report, together with any supplementary report, received under section 13, and any other information, if any, is of the opinion that there are sufficient grounds to pass an order under section 20, it may designate one or more persons from amongst its Chairperson, whole-time Members or any other officer not below such rank of a Division Chief, as may be specified by regulations, to act as an adjudicating officer for the purposes of this Chapter.

(2) No person shall be designated as an adjudicating officer, if he has—

(a) authorised the initiation of the inspection or investigation, which is the basis for issuance of a show cause notice to a person in that matter; or

(b) been involved in the conduct of the inspection or investigation, which is the basis for issuance of a show cause notice to a person or assisted in the conduct of such processes in that matter; or 5 10 15 20 25 30 35 40 45 46 of 2023. 15 5 of 1908. 5 10 15 20 25 30 35 40 45

(c) considered the findings of the inspection or investigation in that matter and decided to appoint the adjudicating officer for adjudication under this Chapter; or

(d) considered any settlement application filed by a person to whom a show cause notice is to be issued in that matter; or

(e) passed an interim order under sub-section (2) of section 27. (3) Where a person is designated as an adjudicating officer under sub-section (1), he shall not—

(a) conduct the inspection or investigation in respect of the person to whom the adjudicating officer has issued a show cause notice until the final disposal of the matter relating to such show cause notice; and

(b) consider or take a decision on any settlement application filed by a person to whom the adjudicating officer has issued a show cause notice.

(4) The adjudication proceedings shall be conducted in such manner as may be specified by regulations.

11.2 Certain stakeholders suggested that consideration may be given to prescribing that a person designated as an Adjudicating Officer should either possess qualifications in law or be provided with adequate legal training.

It was submitted that the responsibilities proposed to be vested in the Adjudicating Officer involve the discharge of quasi-judicial functions and are substantially wider than those under the existing legal framework. These responsibilities include, inter alia, the passing of a common order, imposition of enhanced penalties and issuance of various directions, including directions relating to disgorgement. In view of the enhanced nature of the role, the stakeholders suggested that it may be appropriate to require persons designated as Adjudicating Officers to possess a legal background or undergo suitable legal training.

11.3 When the matter was taken up with the Ministry, it stated in its written reply as under:—

"An Adjudicating Officer can be designated only from amongst the Chairperson, whole-time Members or any other officer not below such rank of a Division Chief as may be specified by regulations. Any further requirement relating to legal training may be prescribed in such regulations.

Further, the Code already provides adequate safeguards to ensure informed adjudication. Clauses 17(2) and 17(3) provide for separation of functions. The requirement of providing an opportunity of being heard is embedded in the Code so as to ensure adherence to the principles of natural justice. Independent oversight by the Board has also been retained by virtue of Clauses 21 and 22, which empower it to call for records and rectification of AO order."

11.4 On the question of the rationale for providing under Clause 17 that adjudication shall ordinarily be preceded by an inspection or investigation, thereby departing from the existing framework under which adjudication may be initiated with or without a prior inspection or investigation, the Committee sought the views of the Ministry.

In response, the Ministry stated as under:—

“Clause 17 concerns the power of the Board to designate an Adjudicating Officer. It sets out the manner in which the Board may designate an Adjudicating Officer after considering the findings of an inspection or an investigation report under Clause 12.

We are streamlining the process so that adjudication will necessarily follow a fact-finding inspection or investigation, which is not the position at present. Presently, these processes may proceed in parallel and adjudication may take place with or without a prior inspection. We are now streamlining the framework into a structured system.”

11.5 During the course of deliberations, the Committee sought to know whether the Adjudicating Officer would be of the same rank as, or senior to, the Investigating Officer.

It was observed that while the Code provides that an Adjudicating Officer shall not be below the rank of a Division Chief, no corresponding provision has been made regarding the rank of the Investigating Officer.

In response thereto, the Secretary, Ministry of Finance, while deposing before the Committee, stated as under:—

“Yes, Sir, probably, because we work in a hierarchical system. Therefore, while framing the procedure, we can incorporate such a requirement.”

11.6 The Committee also considered the possibility of Investigating Officers and Adjudicating Officers being drawn from a common pool of officers, which may affect the perceived independence of the adjudicatory process.

In this regard, it was suggested that the Board should designate Investigating Officers and Adjudicating Officers for a specified period, such as a calendar year or a fixed tenure, in a manner analogous to the roster system followed by courts.

In response thereto, the Secretary, Ministry of Finance, while deposing before the Committee, stated as under:—

“These two clauses are intended to hardwire the separation. The further details regarding how the arrangement would operate during a period of twelve months may appropriately be prescribed through regulations. Clauses 17(2)(b) and 17(3) already incorporate safeguards at both ends.”

11.7 The Committee have examined Clause 17, which seeks to institutionalise a clear separation between the investigative and adjudicatory functions by providing that adjudication shall ordinarily follow a fact-finding inspection or investigation and by prescribing safeguards to avoid conflicts of interest in the designation of the Adjudicating Officer.

11.8 The Committee appreciate the effort to introduce a structured and sequential adjudicatory framework, which is expected to strengthen procedural fairness and reinforce the independence of the adjudication process. The Committee are, however, of the view that certain additional safeguards would further enhance the credibility and transparency of the proposed framework.

11.9 The Committee, therefore, recommend that the regulations to be framed under the Code should, inter alia, prescribe an appropriate framework governing the designation, tenure and allocation of functions of Investigating Officers and Adjudicating Officers so as to ensure institutional independence and transparency in the adjudicatory process.

The Committee further recommend that the hierarchical relationship between the Investigating Officer and the Adjudicating Officer be appropriately specified to ensure that the Adjudicating Officer is not subordinate to the Investigating Officer in the same matter.

The Committee also recommend that suitable provisions be made, at the implementation stage, to ensure that persons designated as Adjudicating Officers possess adequate legal expertise or undergo appropriate legal training, having regard to the quasi-judicial functions and enhanced powers proposed to be exercised by them under the Code.

CHAPTER XII

XII Factors for Adjudication

Clause 19

12.1 Clause 19 provides for the factors to be considered for adjudication, as under:—

19 The Adjudicating Officer shall have due regard to the following factors before making any order under section 20, namely:—

(a) the order shall be proportionate to the default or contravention committed by the noticee and act as a deterrent against the commission of such default or contravention by the noticee or any other person in future;

(b) the nature, seriousness and impact of the default or contravention, including—

(i) whether the contravention was deliberate, reckless or negligent;

(ii) the duration, frequency or repetitive nature of the default or contravention;

(iii) the unlawful gains made or likely to be made as a result of the default or contravention;

(iv) the loss caused or likely to be caused to an investor or group of investors as a result of the default or contravention; or

(v) the impact of the default or contravention on the integrity of the securities markets;

(c) the conduct of the noticee after the default or contravention, including—

(i) bringing the default or contravention to the notice of the Board within a reasonable time;

(ii) the remedial or preventive measures taken in respect of the default or contravention;

(iii) the extent of cooperation with the Board during the inspection, investigation or adjudication;

(d) the past conduct of the noticee or whether the noticee fulfils the fit and proper criteria to render its services in the securities markets;

(e) action taken in previous similar cases by any Adjudicating Officer; and

(f) any other factor which the Adjudicating Officer may consider necessary."

12.2 While considering the suggestions received from certain stakeholders, the Committee sought the views of the Ministry on the proposal that sanctions should be based strictly on the quantifiable extent of harm caused to specific persons and that this methodology should be codified. In the alternative, it was suggested that binding guidelines be issued prescribing specific aggravating and mitigating factors, drawing upon the approach adopted under the SEBI (Settlement Proceedings) Regulations, 2018.

In response thereto, the Ministry stated as under:—

"The concern is valid and appropriate drafting changes will be made to Clause 19 to provide an enabling power to the Board to specify the methodology for quantification of unlawful gains by the Adjudicating Officer (to be specified through regulations).

It is further noted that the Adjudicating Officer is already required to consider the unlawful gains made or losses caused before taking any enforcement action. Clause 13 already empowers SEBI to make regulations prescribing the criteria and manner for quantification of such unlawful gains or losses by IO.

A further enabling provision may be incorporated under Clause 19 in the manner proposed above."

12.3 The Committee have examined Clause 19, which lays down the factors to be considered by the Adjudicating Officer while determining the appropriate enforcement action under the Code. The Committee note that the provision seeks to promote proportionality, consistency and fairness in the adjudicatory process by requiring due regard to factors such as the nature and gravity of the contravention, unlawful gains, investor losses, market impact and the conduct of the noticee.

12.4 The Committee are of the view that greater certainty and uniformity in adjudication would be achieved if the methodology for quantification of unlawful gains and losses is supported by a clear statutory framework. The Committee further consider that objective guidance on aggravating and mitigating factors would facilitate greater consistency and transparency in the exercise of adjudicatory discretion.

12.5 The Committee, therefore, recommend that Clause 19 be suitably amended to expressly empower the Board to prescribe, through regulations, the methodology and criteria for quantification of unlawful gains and losses for the purposes of adjudication.

The Committee further recommend that the Board frame comprehensive guidelines setting out the relevant aggravating and mitigating factors to be considered by the Adjudicating Officer while determining the appropriate enforcement action so as to ensure proportionality, consistency and predictability in adjudication.

CHAPTER XIII

XIII Final Order by the Adjudicating Officer

Clause 20

13.1 Clause 20 provides for the final order to be passed by the Adjudicating Officer, as under:—

"20. The Adjudicating Officer shall, on receipt of the reply to the show cause notice and after considering all the relevant material on record, by an order, either dispose of the show cause notice if no cause exists or, if sufficient cause exists, take one or more of the following actions, namely:—

(a) suspend or cancel the certificate of registration granted under this Code;

(b) issue appropriate directions or warnings under section 23;

(c) pass an order under section 24;

(d) direct disgorgement under section 25; or

(e) impose a penalty under sections 97 to 109:

Provided that no order shall be passed unless the person concerned has been given an opportunity of being heard in the matter."

13.2 Certain stakeholders suggested that the expression "dismiss the show cause notice" be replaced with the expression "dispose of the show cause notice". It was submitted that the latter expression is more appropriate from the perspective of legislative drafting, as a show cause notice is ordinarily disposed of after consideration of the reply and the material on record.

13.3 On the issue raised regarding the proposed drafting change in Clause 20 to replace the expression "dismiss the show cause notice" with "dispose of the show cause notice", the Ministry, in its written reply, acknowledged the concern and stated as under:—

“The concern is valid and appropriate drafting changes will be made.”

13.4 The Committee have examined Clause 20 relating to the final order to be passed by the Adjudicating Officer. The Committee are of the view that legislative drafting should employ precise and legally appropriate terminology.

The Committee note that the expression “dismiss the show cause notice” is not the conventional formulation employed in adjudicatory proceedings, as a show cause notice is ordinarily disposed of after consideration of the reply and the material on record.

The Committee, therefore, recommend that Clause 20 be suitably amended to replace the expression “dismiss the show cause notice” with “dispose of the show cause notice” so as to ensure greater drafting precision, consistency and legal clarity.

CHAPTER XIV

XIV Board to Call for Records

Clause 21

14.1 Clause 21 provides for the power of the Board to call for records, as under:—

21 (1) The Board may call for and examine the record of any proceedings under this section within a period of thirty days from the date of the order passed by the Adjudicating Officer under section 20 and, if it considers that such order is not in the interest of the securities markets, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty or the severity of any direction, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that the Board shall not call for the records and pass an order where an appeal has been filed and disposed of under section 85.

(2) The Board shall pass an order within a period of four months from the date of calling for the record of any proceedings under this section.

(3) The provisions of sub-sections (2) and (3) of section 17 shall, mutatis mutandis, apply to sub-sections (1) and (2).”

14.2 On the question of the rationale for conferring upon the Board the power under Clause 21 to review and enhance the penalty or directions imposed by the Adjudicating Officer, particularly where such order is considered to be inadequate or otherwise not in the interest of the securities markets, the Secretary, Ministry of Finance, stated as under:—

“Just like the previous provision, we are introducing that eight-year condition for the first time. Therefore, we had provided a carve-out. We are saying that if somebody is aggrieved by an order of an Adjudicating Officer, he may file an appeal before the Securities Appellate Tribunal. At the same time, we are conferring a specific power upon the Board that, within a predefined period, it may call

for the records from the date of the order passed by the Adjudicating Officer if it considers that such order is not in the interest of the securities markets and, after making or causing to be made such inquiry as it deems fit, pass an order enhancing the quantum of penalty or the severity of the direction."

The Ministry further submitted as under:—

"Currently, if an Adjudicating Officer passes an order imposing a very high penalty or severe directions, it can reasonably be assumed that the aggrieved person would file an appeal if he considers the penalty excessive. However, if the penalty imposed is very low, the person proceeded against would ordinarily have no reason to file an appeal because the order operates in his favour.

At present, SEBI has no power to appeal such an order passed by its own Adjudicating Officer. Clause 21, therefore, enables the Board, within a period of thirty days, to call for the records only in those cases where the order of the Adjudicating Officer is considered not to be in the interest of the securities markets. The Board may call for the records, conduct such inquiry as may be necessary, and its power is confined to enhancing the penalty or the severity of the directions. Such a power is presently absent under the existing framework."

14.3 Certain stakeholders expressed concern regarding the one-sided nature of the proposed revisionary power, which permits the Board only to enhance the quantum of penalty or the severity of directions and does not empower it to reduce or otherwise modify an order where the penalty imposed may be excessive or unjustified.

It was further submitted that such a provision may not withstand constitutional scrutiny and that the Board should have the power to interfere on the merits of the case in either direction.

The Committee also examined the second proviso to Clause 21(1), which provides that the Board shall not call for the records and pass an order where an appeal has been filed and disposed of under Clause 85. Concern was expressed that the use of the words "filed and disposed of" may imply that the Board could still exercise its revisionary powers where an appeal has already been filed but is pending before the appellate forum.

It was also suggested that the expression "enhancing" occurring in Clause 21(1) should be replaced by the words "on merits".

14.4 On being asked regarding the suggestion that the Board should also have the power to reduce a penalty and that the word "enhancing" in Clause 21(1) be replaced by the words "on merits", the Ministry, in its written reply, stated as under:—

Current Position

This provision is based on section 15-I(3) of the SEBI Act, 1992, section 23-I(3) of the Securities Contracts (Regulation) Act, 1956 and section 19H(3) of the Depositories Act, 1996. Under these enactments, the provision empowers the Board (or its delegate) to revise the orders of the Adjudicating Officer and enhance the quantum of penalty where such order is considered not to be in the interest of the securities markets.

SMC Position

Relevance of Clause 21

The existing provisions have been continued under the SMC. However, since the SMC enables directions to be issued through a common order under Clause 20, the provision has been modified to enable the Board (or its delegate) to enhance the severity of the directions issued by the Adjudicating Officer.

These powers are revisionary in nature. If the Board were also empowered to reduce the penalty, it would effectively confer appellate jurisdiction upon SEBI. This would create parallel appellate proceedings before the Board and the Securities Appellate Tribunal, which may not be appropriate.

SEBI has also submitted that, if the Board is empowered to review the order of the Adjudicating Officer or reduce the penalty imposed by the Adjudicating Officer, appeals which would otherwise lie before the Securities Appellate Tribunal may instead be required to be considered by the Board. This may create practical and administrative difficulties and may effectively render the role of the Securities Appellate Tribunal redundant.

The existing provisions have therefore been continued under the SMC, although their ambit has been broadened. Under the SEBI Act, 1992, the Board may issue directions under section 11B, whereas the Adjudicating Officer is empowered only to impose monetary penalties. Accordingly, section 15-I(3) empowers the Board to revise the orders of the Adjudicating Officer and enhance the quantum of penalty where such orders are not in the interest of the securities markets.

Under the SMC, the adjudicatory framework has been unified to enable the Adjudicating Officer to pass a consolidated order comprising directions, cease and desist orders, disgorgement orders and

monetary penalties. Consequently, Clause 21 has been modified to enable the Board to enhance the severity of the directions issued by the Adjudicating Officer.

If the provision is amended to enable the Board also to reduce the penalty, it would effectively confer appellate jurisdiction upon SEBI, resulting in parallel appellate proceedings before the Board and the Securities Appellate Tribunal. Such an arrangement may also give rise to forum shopping.

Further, a two-tier appellate mechanism may enable parties to prolong litigation and abuse the process, thereby defeating the objectives of the Code.

Global Jurisprudence

Comparable international practice cannot readily be adopted because of structural differences. For instance, in the United States, the initial orders are passed by Administrative Law Judges, who are functionally independent of the Commission. Their decisions are recommendatory in nature and attain finality only upon the issuance of an order by the Securities and Exchange Commission declaring the decision to have become final. Accordingly, the Commission has been conferred broader powers to affirm, reverse, modify, set aside or remand such proceedings. Further, there is no direct appeal against the orders of the Administrative Law Judge before any court, whereas the orders of the Commission are appealable before the Court of Appeals.

Under the SMC, however, a different structure has been envisaged. The Adjudicating Officer is an officer or Member of SEBI and the order passed by the Adjudicating Officer is final without requiring confirmation by the Board. Such orders are directly appealable before the Securities Appellate Tribunal, which may independently adjudicate upon the issues and grant appropriate relief. Accordingly, the Board's powers under Clause 21 have been confined to enhancing the penalty or directions imposed by the Adjudicating Officer, while the adjudicatory function itself is exercised exclusively by the Adjudicating Officer."

14.5 On the question of whether permitting the Securities Appellate Tribunal to review the decisions of the Adjudicating Officer reduces litigation, or whether permitting SEBI also to review such decisions would instead increase litigation, the Committee sought information from SEBI regarding the extent to which the analogous provisions under the existing securities laws had been invoked.

In its written reply, the Ministry stated as under:—

"The power to revise the orders of the Adjudicating Officer is based upon the existing provisions contained in section 15-I(3) of the SEBI Act, 1992, section 23-I(3) of the Securities Contracts (Regulation) Act, 1956 and section 19H(3) of the Depositories Act, 1996.

Under these enactments, the Board is empowered to revise the orders of the Adjudicating Officer and enhance the quantum of penalty where such order is considered not to be in the interest of the securities markets. The scope of the Board's power under Clause 21 has been broadened to enable it also to enhance the severity of the directions issued by the Adjudicating Officer, since the SMC unifies the adjudication process and enables the Adjudicating Officer to pass a consolidated order comprising directions, cease and desist orders, disgorgement orders and monetary penalties.

Moreover, the existing provision bars the calling for records only where the appeal has been disposed of and not where it is merely pending. The same position has been retained under the SMC.

Further, under the existing framework, the Securities Appellate Tribunal already possesses appellate jurisdiction over both the orders of the Adjudicating Officer and the Board. Consequently, it cannot be conclusively stated whether the proposed provisions would either reduce or increase litigation.

The number of cases pending before the Securities Appellate Tribunal as on 9 July 2026 is enclosed in the Annexure.

SEBI has further submitted that the existing revisionary power has been exercised only in seven scrips."

14.6 The Committee have examined Clause 21, which substantially reproduces the existing provisions contained in the SEBI Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 empowering the Board to call for and examine the records of proceedings before an Adjudicating Officer and enhance the penalty where the order is considered not to be in the interest of the securities markets.

The Committee further note that the proposed Code introduces procedural safeguards by prescribing specific timelines within which such revisionary powers are to be exercised.

14.7 The Committee are, however, of the considered view that the proposed revisionary power is one-sided in as much as it enables the Board only to enhance the penalty imposed by the Adjudicating Officer without conferring a corresponding power to reduce the penalty in appropriate cases.

The Committee feel that such an asymmetrical revisionary mechanism may not be fully consistent with the principles of fairness and natural justice. The Committee also observe that requiring every aggrieved person to approach the Securities Appellate Tribunal for reduction of penalty may result in avoidable litigation, increased costs and delays, particularly in view of the pendency of cases before the Tribunal.

14.8 The Committee, therefore, recommend that Clause 21 be suitably amended to reflect the revisionary nature of the power conferred upon the Board.

The Committee further recommend that the Board be empowered, on merits and after recording reasons in writing, not only to enhance but also to reduce or otherwise modify the penalty or directions passed by the Adjudicating Officer wherever the facts and circumstances of the case so justify.

The Committee also recommend that the second proviso to Clause 21(1) be suitably clarified to provide that the Board shall not call for or examine the records once an appeal has been filed before the Securities Appellate Tribunal, irrespective of whether such appeal has been disposed of.

This would ensure procedural fairness, avoid any overlap between the revisionary jurisdiction of the Board and the appellate jurisdiction of the Securities Appellate Tribunal, and maintain institutional clarity in the appellate framework.

CHAPTER XV

XV Power of the Adjudicating Officer or the Board to Rectify an Order

Clause 22

15.1 Clause 22 provides for the power of the Adjudicating Officer or the Board to rectify an order, as under:—

22 The Adjudicating Officer or the Board may, on his or its own motion or on a request made by any aggrieved party, modify an order passed under section 20 or section 21, as the case may be, to rectify any error apparent on the face of the record, within a period of thirty days from the date of such order:

Provided that, while rectifying the error, the Adjudicating Officer or the Board shall not modify the substantive part of the order."

15.2 The Committee sought to understand the rationale for distinguishing between the substantive and non-substantive parts of an order, particularly when an error apparent on the face of the record may itself be substantive in nature.

In response thereto, the Ministry stated as under:—

"The intention was only to limit the provision to apparent errors because, if there is any substantive difficulty with the order, it should ideally be tested before the appellate tribunal. That was the underlying thought process.

The idea was that the provision should not become a means of reopening the entire case.

It is only rectification. Perhaps a name has been incorrectly recorded, or an amount contains an error in decimal placement. The provision is intended to address such situations.

The intention is only rectification and not review. That is why the power has been given to the Adjudicating Officer or the Board to correct an order without, in effect, rehearing the matter. If a party seeks reconsideration of the substantive issues, the appropriate course would be to file an appeal.

They have confined the provision only to that aspect, Sir.

That is what is intended. Only such errors can be rectified. For the remaining issues, there will have to be a fresh hearing before a higher forum.

This provision is not titled as a review. It is not intended to confer a power of review. Such a power does not exist with the Adjudicating Officer."

15.3 The Committee also deliberated upon the distinction between rectification and review and observed that the clause incorporates only the ground of "error apparent on the face of the record" and does not include the ground of discovery of a new fact, as recognised under the Code of Civil Procedure.

The Committee noted that the present provision is intended only to enable rectification of apparent errors and not to permit a rehearing or de novo consideration of the matter.

15.4 The Committee, however, reiterated that once the power to rectify an error apparent on the face of the record is conferred, it may not be appropriate to restrict such rectification merely to clerical or non-substantive errors, particularly where the error itself is substantive in nature.

Accordingly, it was suggested that the proviso prohibiting modification of the substantive part of the order be reconsidered.

15.5 The Committee have examined Clause 22, which empowers the Adjudicating Officer or the Board to rectify any error apparent on the face of the record within a period of thirty days while prohibiting modification of the substantive part of the order. The Committee note that the provision is intended to confer only a limited power of rectification and not a power of review or rehearing.

15.6 The Committee are, however, of the view that while the rectification jurisdiction should remain confined to errors apparent on the face of the record, the nature of the error, rather than whether it affects a substantive or non-substantive part of the order, should determine whether rectification is permissible.

The Committee are of the considered view that an error apparent on the face of the record may, in appropriate cases, affect the substantive part of an order, and that the existing proviso may unnecessarily restrict the effective exercise of the power of rectification.

15.7 The Committee, therefore, recommend that Clause 22 be suitably amended to clarify that the power of rectification extends to correcting any error apparent on the face of the record, including an error affecting the substantive part of the order, provided that such rectification does not amount to a review, rehearing or reconsideration of the merits of the case.

The Committee further recommend that the proviso restricting modification of the substantive part of the order be suitably reconsidered so as to avoid defeating the very purpose of the rectification jurisdiction.

CHAPTER XVI

XVI Power of the Adjudicating Officer to Issue Directions or Warnings

Clause 23

16.1 Clause 23 provides for the power of the Adjudicating Officer to issue directions or warnings, as under:—

23 (1) Where the Adjudicating Officer is satisfied that it is necessary—

(a) in the interest of investors or the orderly development of the securities markets;

(b) to prevent the affairs of any securities markets service provider or market participant from being conducted in a manner detrimental to the interests of investors or the securities markets; or

(c) to secure the proper management of the persons referred to in clause (b),

he may issue such directions or warnings to any securities markets service provider, market participant or any other person associated with the securities markets, as he may deem fit.

(2) The directions or warnings referred to in sub-section (1) may include one or more of the following actions, namely:—

(a) suspension of trading of any securities on a stock exchange, subject to the orderly close-out;

(b) suspension of clearing of any contracts by any clearing corporation;

(c) cancelling or annulling any trades, or execution of any contract on any stock exchange, in whole or in part, and reversing any payments made in respect thereof;

(d) restraining persons from accessing the securities markets and prohibiting any person associated with the securities markets from buying, selling or otherwise dealing in securities for such period as may be specified in the order;

(e) suspending any office-bearer of any market infrastructure institution, self-regulatory organisation or securities markets service provider from holding such position for such period and in such entities or class of entities as may be specified in the order;

(f) directing a person holding securities or rights over any securities, or voting or management rights in an issuer, to divest such holdings or rights in such manner as may be specified in the order;

(g) directing any securities markets service provider, market infrastructure institution or self-regulatory organisation to divest securities or rights held by it in other entities in contravention of the provisions of this Code or the rules or regulations made thereunder, and specifying the manner of such divestment;

(h) directing the transfer of any proceeds or securities to a designated account;

(i) impounding and retaining the proceeds or securities in respect of any transaction under adjudication;

(j) pending adjudication, attaching the bank accounts or other property of any person involved in a contravention of any provision of this Code or the rules or regulations made thereunder for a period not exceeding ninety days:

Provided that the Board shall, within the said period of attachment, obtain confirmation from the Special Court having jurisdiction and, upon such confirmation, the attachment shall continue, and upon conclusion of the proceedings, the provisions of section 136 shall apply:

Provided further that only such property, bank account or accounts, or transactions entered therein, as relate to the proceeds actually involved in the contravention of the provisions of this Code or the rules or regulations made thereunder, shall be liable to attachment; or

(k) pending adjudication, directing any person not to dispose of or alienate any asset forming part of a transaction which is under adjudication:

Provided that the Adjudicating Officer may take any of the actions specified in clauses (i), (j) or (k) in respect of any issuer, not being an intermediary, where he has reasonable grounds to believe that such issuer has indulged in fraudulent and unfair practices or market abuse referred to in section 92 or section 93, as the case may be."

16.2 During the course of examination of the clause, certain stakeholders suggested a drafting change by substituting the word "namely" with the word "include" in sub-section (2), so that the provision is not construed as limiting the nature of the directions that may be issued by the Adjudicating Officer.

16.3 On being asked to explain the proposed change, the Ministry stated as under:—

"The change was only from 'namely' to 'include', because the word 'namely' may limit the nature of directions that can be issued. We have, therefore, accepted that drafting change. At present, the provision reads, 'the directions may include one or more of the following actions, namely…'."

16.4 Certain stakeholders also pointed out that clauses 23(2)(a) and 23(2)(b) empower the Adjudicating Officer to direct suspension of trading in any security on a stock exchange or suspension of clearing of any contract by a clearing corporation. However, the provision does not require the order to specify the period for which such suspension would remain in force.

It was submitted that the absence of such a requirement may result in an indeterminate restriction on trading or clearing, which could be disproportionate to the nature of the violation. Requiring the Adjudicating Officer to specify the duration of such directions would ensure that they remain proportionate, time-bound and do not operate as a de facto permanent suspension. It was further pointed out that a similar requirement already exists in clauses 23(2)(d) and 23(2)(e).

16.5 Regarding the suggestion that the Adjudicating Officer should be required to specify the duration of such directions, the Ministry, in its written reply, stated as under:—

"The concern is valid. In order to align the provision with clauses 23(2)(d) and 23(2)(e), appropriate drafting changes will be made."

16.6 On the question of whether a statutory requirement to record reasons in writing should be incorporated while issuing directions under Clause 23, particularly under clauses 23(2)(i), (j) and (k), the Ministry stated as under:—

“This flows from Clause 20, which sets out the powers of the Adjudicating Officer. Clause 20 provides that the Adjudicating Officer shall, upon receipt of the reply to the show cause notice and after considering all relevant material, pass an order taking one or more of the specified actions, including issuing directions under Clause 23.

Accordingly, any direction issued under Clause 23 forms part of the adjudication order itself. Such an order is necessarily expected to be a reasoned order and, therefore, it will already be in writing.”

16.7 On the question of whether Clause 23 contains both interim and final directions and whether the requirement of recording reasons in writing should be expressly incorporated, the Ministry further explained the scheme of Clauses 20 and 23 as under:—

“If we read Clause 20(b), which relates to the final order, it provides that the Adjudicating Officer shall, by an order, either dispose of the show cause notice if no cause exists or, if sufficient cause exists, take one or more of the specified actions. One such action is the issuance of appropriate directions or warnings under Clause 23.

Thus, Clause 23 merely sets out the nature of the directions or warnings that may be included in the final adjudication order. The Adjudicating Officer may issue one or more such directions together with any other action, such as cancellation of registration or imposition of penalty.

The change introduced under the Code is that, whereas at present Adjudicating Officers may pass separate orders at different stages, the proposed framework consolidates all consequential actions into one common adjudication order. If there is reason to believe that a contravention has occurred, the Adjudicating Officer will issue one consolidated order containing one or more of the available powers, supported by reasons.”

16.8 On the question of whether an express requirement to record reasons in writing should be incorporated in Clause 23, particularly in respect of powers such as attaching bank accounts or other property pending adjudication or directing a person not to dispose of or alienate assets, having regard to the interim nature of such directions and the need for adequate procedural safeguards, the Committee sought the views of the Ministry.

In response thereto, the Ministry stated:—

“We can do that, Sir.”

16.9 The Committee have examined Clause 23, which empowers the Adjudicating Officer to issue directions or warnings in the interests of investors and the orderly development of the securities markets. The Committee note that the provision confers wide-ranging powers, including the power to suspend trading or clearing, restrain access to the securities markets, impound proceeds, attach bank accounts or property and issue other consequential directions.

16.10 The Committee note the concerns expressed regarding the drafting of the provision, particularly that the use of the word "namely" in Clause 23(2) may be construed as limiting the scope of the directions that may be issued by the Adjudicating Officer. The Committee also note the absence of an express requirement to specify the duration of directions relating to suspension of trading or clearing under clauses 23(2)(a) and 23(2)(b), which may result in uncertainty and disproportionate restrictions.

16.11 The Committee further note the Ministry's clarification that directions under Clause 23 are intended to form part of the final adjudication order under Clause 20 and are, therefore, expected to be reasoned orders. The Committee are, however, of the view that where the provision specifically empowers the Adjudicating Officer to issue directions having immediate and significant consequences, particularly interim measures such as attachment of bank accounts or property, impounding of proceeds or securities and restraint on the alienation of assets pending adjudication, the requirement to record reasons in writing should be expressly incorporated in the Code itself.

16.12 The Committee, therefore, recommend that Clause 23 be suitably amended to expressly require the Adjudicating Officer to record reasons in writing while issuing directions under the clause, particularly directions of an interim nature.

The Committee further recommend that Clause 23(2) be suitably amended by replacing the word "namely" with the word "include" so as to clarify that the list of directions is illustrative and not exhaustive.

The Committee also recommend that clauses 23(2)(a) and 23(2)(b) be amended to expressly require the Adjudicating Officer to specify the period for which any direction suspending trading or clearing shall remain in force, thereby ensuring that such directions are proportionate, time-bound and consistent with the scheme of the Code.

CHAPTER XVII

XVII Settlement of Administrative and Civil Proceedings

Clause 26

17.1 Clause 26 provides for the settlement of administrative and civil proceedings, as under:—

26 (1) Notwithstanding anything contained in any other law for the time being in force, any person—

(a) who seeks to voluntarily disclose any true and vital information which may amount to a contravention of the provisions of this Code or the rules or regulations made thereunder; or

(b) against whom any proceedings may be initiated or have been initiated and are pending before the Board or any court or Tribunal, may file an application in writing to the Board proposing settlement of the proceedings initiated or to be initiated, subject to such conditions and payment of such fee, within such time and in such manner, as may be specified by regulations.

(2) The Board may constitute a committee, comprising such members and on such terms and conditions, for advising it on the settlement of proceedings in such manner as may be specified by regulations.

(3) The Board may, after taking into consideration the nature, gravity and impact of the default or contravention, the advice of the committee constituted for the purpose and such other factors as may be specified by regulations, by an order, consider the proposal for settlement, on payment of such amount by the applicant and on such terms and conditions as may be determined by the Board:

Provided that where the proposal for settlement is considered by the Board during the pendency of proceedings before a court or Tribunal, it shall place such proposal before such court or Tribunal for appropriate orders.

(4) Where an application under sub-section (1) is filed after the designation of the Adjudicating Officer, the adjudication proceedings shall continue, but no order under section 20 shall be passed until the settlement application is decided by the Board, and where the proposal for settlement is—

(a) accepted by the Board, the Adjudicating Officer shall, by an order, dismiss the show cause notice in respect of the applicant; or

(b) rejected by the Board, the Adjudicating Officer shall proceed to complete the adjudication and pass an order under section 20.

(5) Where the applicant fails to comply with the terms and conditions referred to in sub-section (3), the proceedings shall be initiated or continued before the Adjudicating Officer, the Tribunal or the court, as the case may be.

(6) The settlement proceedings shall be conducted in such manner as may be specified by regulations.

(7) No appeal shall lie to the Tribunal under section 85 against any order passed under this section.

(8) All settlement amounts, excluding the disgorgement amount and legal costs, realised under this Code shall be credited to the Consolidated Fund of India in such manner as may be prescribed."

17.2 On the question of the scope and intent of Clause 26, the Ministry explained that the provision is intended to facilitate the settlement of administrative and civil proceedings at any stage of the enforcement process. In this regard, the Ministry stated as under:—

"The title of Clause 26 itself refers to the 'settlement of administrative and civil proceedings'. This has been incorporated following stakeholder consultations. The settlement mechanism has been expanded because it may operate at any stage of the enforcement process. It provides an additional option to participants in the securities market who discover that they have committed a contravention or become aware of a violation to make a voluntary disclosure and seek settlement. Such a mechanism does not presently exist. It is, therefore, intended as an additional facility in furtherance of an investor-friendly regulatory framework.

I would also like to mention that, just as the existing settlement framework does not require an applicant to admit guilt, the proposed provision also does not require any admission, since it forms part of the settlement mechanism itself. The intention is that it should apply only to administrative and civil proceedings."

With regard to the suggestion that the substantive provision should expressly reflect the phraseology of the heading, the Ministry, in its written reply, clarified as under:—

"Clause 26(1)(b) refers to proceedings that may be initiated or have already been initiated and are pending against a person. The proceedings contemplated under this provision are administrative and civil proceedings. However, for abundant clarity, an appropriate drafting change may be carried out."

17.3 On being asked whether the timelines and procedures governing settlement of administrative and civil proceedings should be expressly incorporated in the Code instead of being left to regulations, and whether the expression "appropriate orders" in relation to proceedings before a court or the Securities Appellate Tribunal required reconsideration, the Ministry stated as under:—

"In relation to timelines and procedure, we examined the SEBI (Settlement Proceedings) Regulations, 2018 in detail. We found that those Regulations already prescribe a comprehensive procedure, which is well understood in the market. In practice, the settlement process requires consideration by multiple committees. There is a High Powered Advisory Committee headed by a former Judge and there is also an internal committee, which may seek additional information or require the personal appearance of the applicant. A settlement is arrived at only after such consideration.

The existing Regulations also prescribe timelines at different stages, including that an applicant may apply for settlement within sixty days from the service of the show cause notice; a revised application may be submitted within fifteen days; revised settlement terms may also be submitted within fifteen days; and a notice of demand is issued within seven days of acceptance by the High Powered Advisory Committee.

The applicable timelines may vary depending upon the facts and circumstances of each case. Accordingly, our submission is that hard-coding the procedure and timelines in the statute may neither be feasible nor desirable and may, in fact, prove restrictive. Leaving these matters to regulations, particularly when regulations are preceded by public consultation, would provide the necessary flexibility and enable SEBI to take into account stakeholder feedback while refining the settlement process. Settlement may occur at any stage of the enforcement cycle and, therefore, it would be preferable to retain the existing legislative approach."

17.4 The Committee have examined Clause 26, which provides for the settlement of proceedings. The Committee note that the objective of the provision is to facilitate the early resolution of administrative and civil proceedings, including through voluntary disclosure, thereby promoting regulatory efficiency while preserving investor confidence.

17.5 The Committee further note that the heading of the clause expressly refers to the settlement of administrative and civil proceedings, whereas the text of Clause 26(1)(b) refers

broadly to "any proceedings" without expressly reflecting this limitation. The Committee are of the view that the substantive provision should clearly correspond with the heading so as to remove any ambiguity regarding its scope and to avoid any interpretation that criminal proceedings are also capable of being settled under the provision.

17.6 The Committee, therefore, recommend that Clause 26(1)(b) be suitably amended to expressly provide that the settlement mechanism shall apply only to administrative and civil proceedings, consistent with the heading of the clause and the legislative intent underlying the provision. This would provide greater clarity, avoid interpretational uncertainty and ensure that the scope of the settlement mechanism is unambiguous.

CHAPTER XVIII

XVIII Power of the Board and the Adjudicating Officer to Pass Interim Orders

Clause 27

18.1 Clause 27 provides for the power of the Board and the Adjudicating Officer to pass interim orders, as under:—

27 (1) The Board may, for the purpose of passing an interim order, authorise the Chairperson, a whole-time Member or an officer not below the rank of Division Chief, if—

(a) pending an inspection under section 12 or an investigation under section 13; or

(b) upon completion of an inspection under section 12 or an investigation under section 13, but before an Adjudicating Officer has been designated under section 17,

it has reasonable grounds to believe that the person being inspected or investigated is taking, or is about to take, any action which—

(i) contravenes the provisions of this Code or the rules or regulations made thereunder;

(ii) may prevent the conduct of the inspection or investigation; or

(iii) may adversely affect the conduct of adjudication:

Provided that no person shall be authorised to pass an interim order in any matter if such person is conducting or has conducted the inspection or investigation in that matter.

(2) The person authorised under sub-section (1) or, where adjudication proceedings are pending, the Adjudicating Officer, as the case may be, may pass an interim order, for reasons to be recorded in writing, if he has reasonable grounds to believe that, in the absence of such an order—

(i) the interests of investors or the securities markets are likely to be adversely affected;

(ii) the person conducting the inspection or the Investigating Officer, as the case may be, will not be able to carry out the pending inspection or investigation; or

(iii) the final order to be passed by the Adjudicating Officer under section 20 may not be capable of enforcement owing to a change in circumstances:

Provided that no order shall be passed unless the person concerned has been given an opportunity of being heard:

Provided further that, in cases of urgency where the object of granting the interim order is likely to be defeated by delay, the requirement of providing an opportunity of being heard before passing the order may be dispensed with for reasons to be recorded in writing, and the person concerned shall be given an opportunity of being heard as soon as practicable thereafter.

(3) The interim order shall remain valid for a period not exceeding one hundred and eighty days.

(4) On the expiry of the period specified in sub-section (3), where the inspection or investigation has not been completed or, although completed, an Adjudicating Officer has not been designated, or where the adjudication proceedings are pending, as the case may be, and an extension of the interim order is sought, the Board may designate not more than three persons from amongst its Chairperson and whole-time Members who may, if satisfied, extend the interim order in writing.

(5) The provisions of sections 23 and 24 shall, mutatis mutandis, apply to all proceedings relating to the passing of an interim order."

18.2 Certain stakeholders pointed out that while the initial validity of an interim order, including an ex parte interim order, is limited to one hundred and eighty days, Clause 27(4), as drafted, permits extension of such order for a period of up to two years. It was submitted that such a prolonged extension may be excessive and onerous.

The stakeholders, therefore, suggested that extensions should be granted only in blocks of one hundred and eighty days, with reasons to be recorded in writing, and should remain co-terminous with the period permitted for inspection or investigation.

18.3 On being asked whether the maximum permissible extension of an interim order for a period of up to two years, as against an initial validity of one hundred and eighty days, was appropriate, the Ministry, in its written reply, stated as under:—

"The concern has merit. It may be clarified that every extension shall be valid for a period of one hundred and eighty days at a time, subject to an overall maximum period of two years. Appropriate drafting changes will be considered."

The Ministry further proposed the following drafting changes:—

"(4) On the expiry of the period specified in sub-section (3), if the inspection or investigation has not been completed or the inspection or investigation is completed but an Adjudicating Officer has not been designated or the adjudication is pending, as the case may be, and an extension of the interim order is sought, the Board may designate not more than three persons from amongst its Chairperson and whole-time Members who may, if satisfied, extend such interim order, for reasons to be recorded in writing:

Provided that every extension under this sub-section shall be for a period not exceeding one hundred and eighty days at a time.

Provided further that no extension shall be ordered after the expiry of two years from the date on which the interim order was first issued under this section."

18.4 The Committee have examined Clause 27. The Committee note that Clause 27(3) provides that an interim order shall remain valid for a period not exceeding one hundred and eighty days, whereas Clause 27(4), as originally drafted, permits extension of such interim order for a further period of up to two years.

The Committee observe that permitting an interim order to remain in force for such an extended period without requiring periodic reconsideration may result in an interim measure continuing for an unduly long duration and may impose an onerous burden upon the person concerned.

18.5 The Committee, therefore, recommend that every extension of an interim order under Clause 27(4) be limited to a period not exceeding one hundred and eighty days at a time, with

reasons for granting each extension being recorded in writing, subject to an overall maximum period of two years from the date on which the interim order was first issued.

The Committee further recommend that the necessary drafting changes be carried out in Clause 27(4) to clearly provide for both the maximum duration of each extension and the overall outer limit for the continuation of an interim order.

CHAPTER XIX

XIX Board to Delegate the Power of Registration

Clause 31

19.1 Clause 31 provides for the delegation of the power of registration by the Board, as under:—

31 (1) The Board may delegate the power of registration of any class or classes of intermediaries or investors to a market infrastructure institution or a self-regulatory organisation, by an order in writing, subject to such conditions, if any, as may be specified therein.

(2) The provisions of sections 28 and 29 shall, mutatis mutandis, apply to such registration under sub-section (1).

(3) The market infrastructure institution or self-regulatory organisation to whom the power has been delegated under sub-section (1) shall—

(a) maintain standards of fairness and confidentiality while exercising such delegated powers; and

(b) not refuse to grant a certificate of registration to any person except by an order passed after giving such person an opportunity of being heard.

(4) Where the market infrastructure institution or self-regulatory organisation refuses to grant a certificate of registration to any person, such person may apprise the Board of such refusal in writing, and the Board may issue such directions in the matter as it may deem appropriate."

19.2 Certain stakeholders suggested that, similar to the immunity afforded to the Board and its officers under Clause 139 of the Code, a corresponding safe harbour provision should also be extended to Market Infrastructure Institutions while exercising delegated regulatory functions under Clause 31.

It was submitted that, while the clause delegates statutory functions relating to registration to Market Infrastructure Institutions and Self-Regulatory Organisations, it does not extend corresponding legal

protection to such entities. Consequently, they may be exposed to liability for bona fide actions taken in the discharge of delegated functions.

The stakeholders pointed out that, for instance, where an intermediary obtains registration through a Market Infrastructure Institution by misrepresenting material facts, the Market Infrastructure Institution could subsequently be exposed to allegations of failure to exercise due diligence. In contrast, a similar consequence would not ordinarily arise in respect of the Board or its officers acting in good faith. It was submitted that the absence of an appropriate statutory safeguard may have a chilling effect on the personnel of Market Infrastructure Institutions while discharging delegated regulatory responsibilities.

19.3 Regarding the suggestion that similar protection should be extended to stock exchanges, clearing corporations and depositories while exercising delegated powers under the clause, the Ministry, in its written reply, stated as under:—

"The concern is accepted and appropriate protection will be extended to stock exchanges, clearing corporations and depositories, subject to the necessary safeguards. Appropriate drafting changes will be made."

19.4 On the question of whether Clause 31 should be clarified to expressly provide the manner in which the Board may delegate the power of registration, including delegation to a member in consultation with the Central Government, the Ministry proposed the following drafting formulation:—

31 (1) The power of registration of any class or classes of intermediaries or investors may be delegated—

(a) by the Board to a market infrastructure institution or a self-regulatory organisation; or

(b) by the Board, in consultation with the Central Government, to a member,

by an order in writing, subject to such conditions, if any, as may be specified therein."

19.5 The Committee have examined Clause 31, which empowers the Board to delegate the power of registration of any class or classes of intermediaries or investors to a Market Infrastructure Institution or a Self-Regulatory Organisation. The Committee further note that

entities exercising such delegated statutory and regulatory functions are required to take decisions in the discharge of powers entrusted to them under the Code.

19.6 The Committee observe that while Clause 139 provides protection to the Board and its officers in respect of acts done or purported to be done in good faith in the discharge of their functions under the Code, no corresponding protection is presently available to Market Infrastructure Institutions, including stock exchanges, clearing corporations and depositories, and their officers, while exercising powers delegated under Clause 31.

The Committee are of the view that the absence of such protection may expose these entities and their officers to undue liability for bona fide actions taken in the discharge of delegated statutory functions and may have a chilling effect on the effective exercise of such powers.

19.7 The Committee, therefore, recommend that appropriate provisions be incorporated in the Code to extend necessary protection to Market Infrastructure Institutions, including stock exchanges, clearing corporations and depositories, and their officers, in respect of acts done or purported to be done in good faith while exercising powers or discharging functions delegated under Clause 31.

The Committee further recommend that such protection should be appropriately circumscribed and should not extend to acts or omissions involving mala fide conduct, fraud, gross negligence or wilful misconduct.

19.8 The Committee further observe that Clause 31, as presently drafted, does not expressly clarify the manner in which the power of registration may be delegated, including the circumstances in which the Board may delegate such power to a Market Infrastructure Institution or a Self-Regulatory Organisation and those in which such power may be delegated to a member in consultation with the Central Government.

The Committee note that, in response to the concerns raised, the Ministry has proposed to amend Clause 31 to provide that the power of registration of any class or classes of intermediaries or investors may be delegated by the Board to a Market Infrastructure Institution or a Self-Regulatory Organisation or, by the Board in consultation with the Central Government, to a member, by an order in writing and subject to such conditions as may be specified therein.

19.9 The Committee are of the view that the proposed formulation would provide greater clarity regarding the manner in which the power of registration may be delegated and the authority competent to exercise such delegated powers.

The Committee, therefore, recommend that the proposed amendment to Clause 31 be incorporated in the Code, together with appropriate safeguards and accountability mechanisms governing the exercise of the delegated powers.

CHAPTER XX

XX Investment Schemes

Clause 32

20.1 Clause 32 provides for investment schemes, as under:—

32 (1) Any scheme or arrangement, the purpose or effect of which is to enable persons taking part therein, whether by becoming owners of any asset or any part thereof or otherwise, to participate in or receive a beneficial interest in the form of profits, income, dividend, produce or any other benefit arising from the acquisition, holding, management or disposal of any asset, or sums paid out of such profits, income, dividend, produce or benefit, and where—

(a) the persons participating in such scheme or arrangement do not have day-to-day control over the management of such assets, irrespective of whether or not they have the right to be consulted or to give directions; and

(b) the scheme or arrangement has the following characteristics—

(i) the contributions of the persons participating in such scheme or arrangement, and the profits, income, dividend, produce or benefit out of which payments are to be made to such persons, are pooled;

(ii) the contributions of the persons participating in such scheme or arrangement, or the assets acquired using such contributions, are managed as a whole by any person on behalf of the persons participating in such scheme or arrangement; and

(iii) the arrangement is not regulated by any other regulatory authority, shall be an investment scheme.

(2) The following schemes and arrangements shall not be treated as investment schemes—

(a) any scheme or arrangement made or offered by a co-operative society registered under the Co-operative Societies Act, 1912, or a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State; or

(b) deposits accepted by a non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934; or

(c) a contract of insurance to which the Insurance Act, 1938 applies; or

(d) any Scheme, Pension Scheme or Insurance Scheme made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or

(e) deposits as defined in clause (31) of section 2 of the Companies Act, 2013; or

(f) deposits accepted by a company declared as a Nidhi or a Mutual Benefit Society under section 406 of the Companies Act, 2013; or

(g) a chit business as defined in clause (e) of section 2 of the Chit Funds Act, 1982; or

(h) deposits accepted for the purposes of a real estate project as defined in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016; or

(i) a unit-linked insurance policy, scrip or any such instrument or unit, by whatever name called, which provides a component of investment in addition to a component of insurance and is issued by an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938; or

(j) such other schemes or arrangements as the Central Government may, in consultation with the Board, notify.

(3) Investment schemes shall be conducted, operated or promoted, including in relation to the contribution or subscription made by an investor, in such manner as may be specified by regulations."

20.2 Certain stakeholders suggested that contributions made pursuant to mandatory "skin in the game" requirements or employee contribution requirements prescribed by the regulator should be

exempted. It was also suggested that appropriate carve-outs may be considered for schemes established in the International Financial Services Centre, where there may not be an independent fund manager and the fund may be managed indirectly by the investor.

The stakeholders pointed out that the definition of an "investment scheme" requires that persons participating in the scheme or arrangement should not have day-to-day control over the management of the assets. It was further submitted that, in line with global practices, schemes may be established for a single investor or investor group, including sovereign wealth funds, family offices and large corporate groups. In such schemes, there may not be an independent fund manager, and the fund may instead be managed indirectly by the investor.

20.3 On the issue of providing appropriate carve-outs from the definition of "investment scheme" for mandatory "skin in the game" or employee contributions prescribed by the regulator, and for schemes established in the International Financial Services Centre where there may not be an independent fund manager and the fund is managed indirectly by a single investor or investor group, the Ministry, in its written submission, stated as under:—

"The concern is valid and appropriate drafting changes will be made."

20.4 During the deliberations, the Committee sought to understand the rationale for exempting mandatory "skin in the game" or employee contributions prescribed by the regulator. The Committee desired to know whether, if such contributions were treated as ordinary investor contributions under Clause 32(3), the manager or employee might inadvertently be treated as an investor for all regulatory purposes, thereby creating compliance and structuring difficulties.

The Committee also sought details of the existing framework prescribed by the Securities and Exchange Board of India, including the percentage and quantum of such contributions, the categories of funds to which such requirements apply, and the threshold requirements followed in other pooled investment vehicles, both in India and internationally.

In response thereto, the Ministry stated as under:—

"Sir, we will examine the regulations, since there are three categories of Alternative Investment Funds under the applicable regulations, and revert with the relevant information."

The Ministry further elaborated upon the matter as under:—

Current Position

At present, section 11AA of the Securities and Exchange Board of India Act, 1992 provides the statutory framework for collective investment schemes. However, details concerning such schemes, including matters relating to contributions or subscriptions made by investors, are prescribed through regulations. For instance, the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 and the Securities and Exchange Board of India (Mutual Funds) Regulations, 2026 govern the manner in which investors may subscribe to such schemes.

SMC Position

Clause 32 of the Securities Markets Code defines investment schemes and has been streamlined to bring schemes with specified characteristics within the regulatory jurisdiction of the Securities and Exchange Board of India, based on existing regulatory practice. Clause 32(3) further provides that investment schemes shall be conducted, operated or promoted, including in relation to contributions or subscriptions made by investors, in such manner as may be specified by regulations.

Current Position

Section 11AA of the Securities and Exchange Board of India Act, 1992 pertains to collective investment schemes. It specifies the characteristics of a collective investment scheme and provides a list of exclusions.

SMC Position

The definition of an investment scheme under Clause 32 of the Securities Markets Code broadens the concept of a collective investment scheme under section 11AA. The principal characteristics are—

(i) the arrangement denotes an interest or participation in profit-sharing;

(ii) management is undertaken by a separate entity;

(iii) investors do not exercise day-to-day control; and

(iv) contributions by investors are pooled.

The absence of day-to-day control by investors is an essential feature of an investment scheme and is also recognised in other jurisdictions, including the United States of America.

However, under the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2025, read with the circular dated 21 March 2025 concerning the framework for alignment of the interests of designated employees of Asset Management Companies with the interests of unitholders, the Securities and Exchange Board of India has prescribed that a minimum slab-wise percentage of the salary, perquisites, bonus or non-cash compensation, forming part of the gross annual cost to company and calculated net of income tax and statutory contributions, of designated employees of Asset Management Companies shall be mandatorily invested in units of Mutual Fund schemes in which they have a role or oversight.

Similarly, under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, sponsors and investment managers are required to maintain 'skin in the game'.

The rationale for such requirements is to align the economic interests of managers, sponsors and key employees with those of investors. Accordingly, 'skin in the game' contributions and employee contributions may be included as an exception to Clause 32(1)(a).

Preliminary Proposed Formulation

After Clause 32(1)(b), the following proviso may be inserted:—

'Provided that nothing in this clause (a) of this sub-section shall apply to any day-to-day control over the management of assets obtained pursuant to a requirement laid down under any law for the time being in force.'"

20.5 On being asked whether the removal of the monetary threshold and the adoption of a principle-based definition might render the provision overly broad, the Secretary, Ministry of Finance, stated during the deliberations that the proposed framework was not intended to create an overarching law, since only schemes required to be registered with the Securities and Exchange Board of India and not otherwise regulated by any other regulatory authority would fall within its ambit.

The Secretary further explained that the proposed proviso was intended to clarify that schemes involving mandatory "skin in the game" requirements under existing laws would continue to be treated as investment schemes, notwithstanding such participation by fund managers or employees.

The Ministry, in its written reply, further stated as under:—

"Section 2(da) of the Securities Contracts (Regulation) Act, 1956 defines the term 'pooled investment vehicle' to mean a fund established in India in the form of a trust or otherwise, such as a mutual fund, alternative investment fund, collective investment scheme or business trust as defined in sub-section (13A) of section 2 of the Income-tax Act, 1961, and registered with the Securities and Exchange Board of India, or such other fund which raises or collects monies from investors and invests such funds in accordance with regulations made by the Securities and Exchange Board of India.

Investment schemes established by pooled investment vehicles are governed under the respective Securities and Exchange Board of India regulations applicable to such schemes. Mutual funds are regulated under the Securities and Exchange Board of India (Mutual Funds) Regulations, 2026; real estate investment trusts under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014; infrastructure investment trusts under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014; alternative investment funds under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012; and collective investment schemes under the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999.

Each of these regulations makes suitable distinctions between different categories of investment schemes and prescribes requirements specific to the nature and proportionate to the size of such schemes.

Clause 32(3) of the Securities Markets Code provides that investment schemes shall be conducted, operated or promoted, including in relation to contributions or subscriptions made by investors, in such manner as may be specified by regulations. Accordingly, the Code adequately empowers the Board to specify all matters relating to investment schemes, including differential treatment based on their nature, size and purpose. Therefore, no amendment to the Securities Markets Code may be required in this regard.

By way of illustration, the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 prescribe the following differential monetary thresholds or corpus requirements for various schemes or funds—

(a) General requirement for Category I, Category II and Category III Alternative Investment Funds: each scheme must have a corpus of at least twenty crore rupees;

(b) Angel Funds, categorised as Category I Alternative Investment Funds: no minimum corpus requirement, as they are permitted to onboard only accredited investors;

(c) Corporate Debt Market Development Funds, categorised as Category I Alternative Investment Funds: no minimum corpus requirement;

(d) Social Impact Funds, categorised as Category I Alternative Investment Funds: each scheme must have a corpus of at least five crore rupees; and

(e) Special Situation Funds: each scheme must have a corpus of at least one hundred crore rupees.

Similar provisions exist for other investment schemes under the respective regulations governing them."

20.6 On being asked whether, in the absence of statutory thresholds, exemptions or differentiated treatment based on the size and nature of investment arrangements, the proposed provision might cast an unduly wide regulatory net, the Ministry stated in its written reply that a detailed response would be submitted.

20.7 Certain stakeholders suggested that the Code should clarify that the digital representation of an investment arrangement does not alter its legal character. It was submitted that any arrangement involving the pooling of funds, profit-sharing and absence of operational control by investors should be treated as a pooled investment scheme, even where it is implemented through digital tokens or distributed ledger technology, so as to prevent regulatory arbitrage in token-based investment structures.

It was further suggested that the possible application of the definition of "investment scheme", and of Clauses 32 and 33, to tokens, Virtual Digital Assets or crypto-assets should be expressly clarified by either their inclusion or exclusion, so as to avoid ambiguity and ensure regulatory certainty.

20.8 On being asked whether the Code should clarify that the digital form of an investment arrangement does not alter its legal character and that tokenised or distributed ledger-based

arrangements involving pooling of funds should continue to be treated as pooled investment schemes, the Ministry, in its written response, stated as under:—

"Clause 32, read with Clause 33, is broadly worded and covers all forms of entities, including trusts and arrangements 'or otherwise'. Clause 32(1) is particularly wide in scope, since it contemplates participation in pooled arrangements through full or partial ownership of assets, or otherwise.

Although India does not yet have a dedicated legal regime for Virtual Digital Assets, the sector is subject to regulation for the purposes of anti-money laundering and taxation.

The application of Clauses 32 and 33 would depend upon whether the relevant arrangement satisfies the elements of an 'investment scheme', rather than upon the nature of the underlying asset alone.

The extent of the jurisdiction of the Securities and Exchange Board of India in this area would depend upon the exercise of its regulation-making powers under Clause 32(3), which relate to the conduct, operation and promotion of investment schemes."

20.9 On being asked whether the exclusion of Virtual Digital Assets from the scope of Clause 32 would leave an unregulated grey area, the Ministry, in its written response, stated as under:—

"Under the Securities Markets Code, the application of Clauses 32 and 33 would depend upon whether the relevant arrangement satisfies the elements of an 'investment scheme', rather than upon the nature of the underlying asset alone. The extent of the jurisdiction of the Securities and Exchange Board of India in this area would depend upon the exercise of its regulation-making powers under Clause 32(3), which relate to the conduct, operation and promotion of investment schemes.

According to the Securities and Exchange Board of India, the definition of 'securities' under section 2(h) of the Securities Contracts (Regulation) Act, 1956, as incorporated in Clause 2(1)(zi) of the Securities Markets Code, is technology-neutral. Any tokenised representation of an existing security, such as a unit of an investment scheme, bond or share, would continue to fall within the scope of 'securities' under the Securities Contracts (Regulation) Act, 1956 and the Securities Markets Code, even where the form of record-keeping shifts to distributed ledger technology or a tokenised system.

In contrast, Virtual Digital Assets such as cryptocurrencies that do not exhibit the defining characteristics of a 'security' or 'derivative' under the Securities Contracts (Regulation) Act, 1956 or the Securities Markets Code may remain outside the scope of the definition of 'securities', notwithstanding their digital nature or the terminology used to describe them."

20.10 On being asked whether certain Virtual Digital Asset arrangements involving pooling of investor funds, passive participation by investors and management of assets by a third party possess characteristics similar to investment schemes under Clause 32 and, if so, whether such arrangements should expressly be brought within the regulatory framework of the Code, the Committee also sought the views of the Ministry on whether crypto-based investment schemes and crypto exchanges dealing in securities-like Virtual Digital Assets might otherwise remain outside the scope of the proposed Code and whether a suitable enabling provision should be incorporated.

In response thereto, the Ministry, in its written reply, stated as under:—

"The Securities Markets Code has been designed as a technology-neutral law. The definition of 'securities' under section 2(h) of the Securities Contracts (Regulation) Act, 1956, as incorporated in Clause 2(1)(zi) of the Securities Markets Code, is also technology-neutral. Any tokenised representation of an existing security, such as a unit of an investment scheme, bond or share, would continue to fall within the scope of 'securities' under the Securities Contracts (Regulation) Act, 1956 and the Securities Markets Code, even where the form of record-keeping shifts to distributed ledger technology or a tokenised system.

In contrast, Virtual Digital Assets such as cryptocurrencies that do not fall within the definitions of 'security' or 'derivative' under the Securities Contracts (Regulation) Act, 1956 or the Securities Markets Code may remain outside the purview of the definition of 'securities', notwithstanding their digital nature or the terminology used to describe them.

The position of the Central Government regarding crypto-assets, including Virtual Digital Assets, is that such assets are presently unregulated in India, except for the limited purposes of taxation, prevention of money laundering and reporting. Any regulatory framework for such assets would require significant international and domestic coordination. Accordingly, the inclusion of Virtual Digital Assets under the Securities Markets Code would require broader policy consideration by the Government and wider consultation among regulators and Departments. In view thereof, it may not be appropriate to include such assets within the Securities Markets Code at this stage.

The treatment of Virtual Digital Assets across jurisdictions is guided by their respective policy objectives. A brief comparison of the definitions of securities and the legal frameworks governing Virtual Digital Assets is set out below."

United States

“The definition of ‘securities’ under section 3(a)(10) of the Securities Exchange Act of 1934 is as follows:—

‘any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganisation certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, any put, call, straddle, option or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.’

The definition of securities in the United States is technology-neutral.

The United States does not have a dedicated legal framework for crypto-assets. However, the Howey Test is used to determine whether an instrument constitutes an investment contract. Since the definition of securities is technology-neutral, the Securities and Exchange Commission has applied this test to classify several Virtual Digital Assets as securities and subject them to securities regulation.”

Singapore

“The definition of ‘securities’ under section 2(1) of the Securities and Futures Act, 2001 is as follows:—

‘securities’ means—

(a) shares, units in a business trust or any instrument conferring or representing a legal or beneficial ownership interest in a corporation, partnership or limited liability partnership;

(b) debentures; or

(c) any other product or class of products as may be prescribed,

but does not include—

(d) any unit of a collective investment scheme;

(e) any bill of exchange;

(f) any certificate of deposit issued by a bank or finance company, whether situated in Singapore or elsewhere; or

(g) such other product or class of products as may be prescribed.'

The definition of securities in Singapore is technology-neutral.

In Singapore, the Monetary Authority of Singapore regulates crypto-related businesses under the Payment Services Act, 2019. Crypto-assets exhibiting the characteristics of securities may, however, be regulated under the Securities and Futures Act, 2001."

United Kingdom

"The legal framework in the United Kingdom applies distinct definitions of securities depending upon the context. For the regulation of activities relating to securities, section 22 of the Financial Services and Markets Act, 2000, read with Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order, 2001, treats the following kinds of investments as securities—

(a) shares in any body corporate;

(b) instruments creating or acknowledging indebtedness, including debentures, bonds, loan stocks and certificates of deposit;

(c) alternative finance investment bonds;

(d) government and public securities;

(e) warrants or instruments giving entitlement to investments;

(f) certificates representing certain securities;

(g) units in a collective investment scheme;

(h) rights under a pension scheme;

(i) emission allowances; and

(j) rights to or interests in the securities referred to above.

For the purposes of listing, the Financial Services and Markets Act, 2000, read with the United Kingdom Listing Rules, defines 'securities' as anything which has been, or may be, admitted to the official list and permits specified categories of securities to be listed, including equity shares, closed-ended investment funds, open-ended investment companies, certificates representing certain securities, non-equity shares, non-voting equity shares, debt and debt-like securities, securitised derivatives, warrants, options and other miscellaneous securities.

The definition of securities in the United Kingdom is technology-neutral.

Crypto-assets are regulated by the Financial Conduct Authority under the Financial Services and Markets Act, 2000. Crypto-assets possessing the characteristics of traditionally regulated activities are governed under the existing regulatory framework, while other qualifying crypto-assets and stablecoins are subject to a separate regulatory regime introduced under the Financial Services and Markets Act 2000 (Cryptoassets) Regulations, 2026."

European Union

"In the European Union, Virtual Digital Assets are regulated under the Markets in Crypto-Assets Regulation unless they are already governed under an existing regulatory framework. The Markets in Crypto-Assets Regulation operates as a residual framework governing digital assets that do not fall within any existing regime. Certain Virtual Digital Assets that qualify as financial instruments are regulated under the Markets in Financial Instruments Directive II.

Virtual Digital Assets possessing the characteristics of securities are generally regulated under the existing securities law framework in most jurisdictions, even where a specialised regulatory framework for Virtual Digital Assets exists. Since the definition of securities in such jurisdictions is technology-neutral, the existing securities law framework is applied to maintain regulatory coherence."

20.11 The Committee have examined Clause 32, which seeks to provide a statutory framework for investment schemes by broadening the scope of the existing concept of collective investment schemes. The Committee note that the clause provides, inter alia, that persons participating in such schemes should not have day-to-day control over the management of the assets. The Committee further note that detailed operational requirements relating to investment schemes, including contributions by investors, would continue to be governed through regulations.

20.12 The Committee take note of the concerns raised by various stakeholders that mandatory "skin in the game" or employee contributions prescribed under the existing regulatory framework for sponsors, investment managers and designated employees of investment vehicles, such as Alternative Investment Funds and Mutual Funds, may create ambiguity in the application of Clause 32.

The Committee also note the concerns that certain investment structures operating in the International Financial Services Centre, including sovereign wealth funds, family offices and other single-investor fund structures, may not have an independent fund manager and may instead be managed indirectly by the investor, and may therefore not fall squarely within the proposed statutory definition of an investment scheme.

20.13 The Committee, therefore, recommend that Clause 32 be suitably amended by incorporating an express proviso to clarify that mandatory regulatory requirements relating to day-to-day management shall not affect the character of an investment scheme.

The Committee accordingly recommend that the following proviso be incorporated after Clause 32(1)(b):—

"Provided that nothing in this clause shall apply to any day-to-day control over management of assets obtained pursuant to a requirement laid down under any law for the time being in force."

20.14 The Committee further recommend that, while finalising the provision, the Ministry may ensure that appropriate carve-outs are provided, wherever necessary, for recognised

investment structures operating in the International Financial Services Centre, so that legitimate and globally accepted fund structures are not subjected to unintended regulatory uncertainty under the proposed Code.

Virtual Digital Assets

20.15 The Committee note that the proposed Code adopts a technology-neutral definition of securities; however, it excludes Virtual Digital Assets (VDAs) that do not satisfy the legal characteristics of securities or derivatives under the proposed framework. The Committee further note that, although many categories of VDAs are increasingly traded and invested in as financial assets and exhibit characteristics commonly associated with securities and derivatives such as investment for financial returns, tradability on organised platforms, price discovery through market forces, speculative trading, leverage, and, in certain cases, exposure to the value or performance of an underlying asset or index they are not expressly recognised or regulated under the proposed Code unless they independently satisfy the statutory definition of a security or derivative. In view of the rapid growth of the VDA ecosystem and increasing retail participation, the Committee are of the view that this exclusion creates a regulatory grey area, resulting in regulatory uncertainty, exposing investors to heightened risks of fraud, market manipulation, misrepresentation and inadequate grievance redressal, while also creating opportunities for regulatory arbitrage. Such uncertainty may adversely affect investor confidence and undermine the integrity, transparency and orderly development of the securities market.

20.16 The Committee, therefore, recommend that the Government comprehensively examine the need for an appropriate statutory and regulatory framework for Virtual Digital Assets. Pending the establishment of a comprehensive legislative framework, the Government may consider introducing an interim mechanism through recognised Self-Regulatory Organisations (SROs) operating under the oversight of the designated regulator. Such a framework should prescribe minimum standards of governance, transparency, disclosure, investor protection, grievance redressal, compliance with prescribed codes of conduct and appropriate regulatory oversight, so as to mitigate risks arising from the existing regulatory vacuum while promoting market discipline and safeguarding investor interests.

CHAPTER XXI

XXI Pooled Investment Vehicles

Clause 33

21.1 Clause 33 provides for pooled investment vehicles, as under:—

33 (1) A pooled investment vehicle means a fund established in respect of an investment scheme, in the form of a trust or otherwise, such as a mutual fund, an alternative investment fund, a real estate investment trust, an infrastructure investment trust or such other fund, which raises or collects money from investors and invests such funds in such manner as may be specified by regulations.

(2) Notwithstanding anything contained in the Indian Trusts Act, 1882, or in any other law for the time being in force, or in any judgment, decree or order of any court, Tribunal or any other authority, a pooled investment vehicle, whether constituted as a trust or otherwise, and registered with the Board, shall be eligible to borrow and issue debt securities in such manner and to such extent as may be specified by regulations.

(3) Every pooled investment vehicle referred to in sub-section (2) shall, subject to the provisions of the trust deed, be permitted to provide security interest to lenders in terms of the facility documents entered into by such pooled investment vehicle.

(4) Where any pooled investment vehicle referred to in sub-section (2) defaults in repayment of the principal amount or payment of interest or any such amount due to the lender, the lender shall recover the defaulted amount and enforce the security interest, if any, against the trust assets by initiating proceedings against the trustee acting on behalf of such pooled investment vehicle in accordance with the terms and conditions specified in the facility documents:

Provided that, upon initiation of proceedings against the trust assets, the trustee shall not be personally liable and his assets shall not be utilised towards recovery of such debt.

(5) The trust assets which remain after recovery of the defaulted amount shall be remitted to the unit holders on a proportionate basis.”

21.2 Certain stakeholders suggested that the expression “trust deed” may be replaced with “constitutional documents”. It was submitted that, since pooled investment vehicles may not necessarily be constituted as trusts, a generic reference to constitutional documents would have broader applicability.

The stakeholders further pointed out that, while Clauses 33(1) and 33(2) refer to pooled investment vehicles constituted as trusts “or otherwise”, Clauses 33(3), 33(4) and 33(5) are confined to trust-specific terminology and should not be limited to pooled investment vehicles constituted as trusts.

21.3 On being asked for its views on the suggestion that the expression “trust deed” be replaced with “constitutional documents”, the Ministry, in its written reply, stated that the concern was valid and that appropriate drafting changes would be made.

21.4 On being asked about the proposed formulation of the provision, the Ministry, in its written reply, furnished the following draft formulation:—

“Clauses 33(3), 33(4) and 33(5) may be redrafted in the following manner to accommodate other corporate structures within the definition of pooled investment vehicles:

‘33. (1) …(3) Every pooled investment vehicle referred to in sub-section (2) shall, subject to the provisions of the trust deed or any other arrangement, be permitted to provide security interest to lenders in terms of the facility documents entered into by such pooled investment vehicle.

(4) Where any pooled investment vehicle referred to in sub-section (2) defaults in repayment of the principal amount or payment of interest or any such amount due to the lender, the lender shall recover the defaulted amount and enforce the security interest, if any, against the assets of a pooled investment vehicle, by initiating proceedings against the trustee or any other person acting on behalf of such pooled investment vehicle in accordance with the terms and conditions specified in the facility documents:

Provided that, upon initiation of proceedings against the trust assets or any other assets or otherwise, the trustee or such other person shall not be personally liable and his assets shall not be utilised towards recovery of such debt.

(5) The assets of the pooled investment vehicle, which remain after recovery of the defaulted amount shall be remitted to the unit holders on a proportionate basis.’”

21.5 The Committee have examined Clause 33, which provides the framework for pooled investment vehicles, including those constituted in the form of a trust or otherwise.

The Committee note the concerns raised by stakeholders that, while Clauses 33(1) and 33(2) recognise that a pooled investment vehicle may be constituted as a trust "or otherwise", Clauses 33(3), 33(4) and 33(5) continue to use trust-specific expressions such as "trust deed", "trust assets" and "trustee", thereby creating an inconsistency within the provision.

The Committee are of the view that retaining trust-specific terminology in the operative provisions may inadvertently exclude, or create ambiguity in relation to, pooled investment vehicles constituted in other legal forms, notwithstanding the broader scope of sub-sections (1) and (2).

The Committee, therefore, recommend that Clause 33 be modified as under:—

"(3) …(3) Every pooled investment vehicle referred to in sub-section (2) shall, subject to the provisions of the trust deed or any other arrangement, be permitted to provide security interest to lenders in terms of the facility documents entered into by such pooled investment vehicle.

(4) Where any pooled investment vehicle referred to in sub-section (2) defaults in repayment of the principal amount or payment of interest or any such amount due to the lender, the lender shall recover the defaulted amount and enforce the security interest, if any, against the assets of a pooled investment vehicle, by initiating proceedings against the trustee or any other person acting on behalf of such pooled investment vehicle in accordance with the terms and conditions specified in the facility documents:

Provided that, upon initiation of proceedings against the trust assets or any other assets or otherwise , the trustee or such other person shall not be personally liable and his assets shall not be utilised towards recovery of such debt.

(5) The assets of the pooled investment vehicle which remain after recovery of the defaulted amount shall be remitted to the unit holders on a proportionate basis.'"

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CHAPTER XXII

XXII Intermediary

Clause 34

22.1 Clause 34 provides for intermediaries, as under:—

34 (1) An intermediary shall facilitate or provide services related to the issue, sale, purchase or any dealings in securities in such manner as may be specified by regulations.

(2) A stock broker shall charge brokerage, deliver securities and make payment to the investor in such manner and within such period as may be specified by regulations.

(3) The Board may, if required, notify a new category of intermediary for the development of securities markets."

22.2 During the deliberations, the Committee examined the suggestions relating to Clause 34, particularly the proposal to delete sub-clauses (2) and (3). The Committee sought the views of the Ministry on the necessity of retaining a separate provision prescribing obligations specifically for stock brokers, especially when the expression "intermediary" is broadly defined under Clause 2(1)(q).

The Committee also desired to know the rationale for retaining the enabling provision empowering the Board to notify new categories of intermediaries under Clause 34(3), when the definition of "intermediary" already contains an inclusive clause.

Explaining the rationale, the Secretary, Department of Economic Affairs, Ministry of Finance, stated as under:—

"Sir, Clause 34 is about the functions of intermediaries. The suggestion was that Clause 34(2) may be deleted. However, we did not find any merit in deleting this provision because it casts a positive obligation on what a stock broker is required to do. Clause 34, as a whole, deals with the functions of intermediaries and the services they are expected to facilitate. Clause 34(2) is specific to stock brokers because they are one of the most important intermediaries in the securities market ecosystem. The obligations placed on stock brokers have been carried forward from the existing legal framework and have, therefore, been retained. The whole tenor of this provision is to cast positive obligations on intermediaries, particularly on stock brokers.

Similarly, with regard to Clause 34(3), the suggestion was that it may be deleted since the definition of 'intermediary' already covers the subject. However, we considered it necessary to retain this provision because intermediaries are important functionaries of the securities market ecosystem. The provision merely reiterates that, as the market evolves, new categories of intermediaries may emerge and the Board should have the power to notify such intermediaries so that they can function within the regulatory framework.

Clause 34(1) provides the overall framework by explaining that an intermediary is a person who facilitates or provides services relating to the issue, sale, purchase or dealing in securities. If, in future, any new category of intermediary emerges within this framework, the Board would have the power under Clause 34(3) to notify such category.

Further, the definition of 'intermediary' under Clause 2(1)(q) itself refers to persons notified by the Board under Clause 34(3). Thus, the definition derives its enabling power from Clause 34(3). Therefore, we considered it appropriate to retain the provision."

22.3 On the question of whether the expression "brokerage" in Clause 34(2) should be expanded to include "fee", in view of the prevailing market practice whereby stock brokers levy not only brokerage but also fees for various services rendered, so as to ensure that the provision accurately reflects the existing securities market framework, the Secretary, Department of Economic Affairs, Ministry of Finance, stated that the Ministry had taken note of the suggestion and would examine the matter while finalising the drafting of the provision.

22.4 The Committee have examined Clause 34 relating to intermediaries and note that the provision lays down the functions of intermediaries, prescribes specific obligations for stock brokers and empowers the Board to notify new categories of intermediaries in response to the evolving needs of the securities market.

22.5 The Committee note the Ministry's justification for retaining Clauses 34(2) and 34(3), particularly that stock brokers occupy a central role in the securities market ecosystem and that the power to notify new categories of intermediaries is necessary to accommodate emerging market participants within the regulatory framework.

22.6 The Committee are of the view that the existing framework under Clause 34 broadly strikes an appropriate balance between prescribing the core obligations of intermediaries and providing the flexibility necessary to respond to market developments. The Committee also note that the enabling power under Clause 34(3) forms the statutory basis for the inclusive definition of "intermediary" under the Code and, therefore, merits retention.

22.7 The Committee, however, recommend that Clause 34(2) be suitably amended to replace the expression "brokerage" with "brokerage or such other fees or charges, as may be applicable", or an equivalent formulation, so that the provision appropriately reflects prevailing market practices where stock brokers may levy charges for services in addition to brokerage. This would ensure greater clarity, avoid interpretational ambiguity and align the provision with the operational realities of the securities market.

CHAPTER XXIII

XXIII Obligations of Securities Markets Service Providers, Market Participants, etc.

Clause 35

23.1 Clause 35 provides for the obligations of securities markets service providers, market participants, etc., as under:—

35 (1) The securities markets service provider shall make fair disclosure of such information and at such frequency as may be specified by regulations.

(2) The securities markets service provider, market participant or a person associated with the securities markets shall furnish such information to the Board in such manner as may be specified by regulations.

(3) The securities markets service provider shall invest money collected by it in such manner and within such period as may be specified by regulations.

23.2 Certain stakeholders suggested that the provision should expressly clarify that the obligations contained therein are in addition to, and intended to give further effect to, the requirements prescribed under the Code and the rules and regulations made thereunder.

23.3 On being asked whether the provision should expressly clarify that the obligations contained therein are in furtherance of, and are to be read alongside, the requirements prescribed under the Code and the rules and regulations made thereunder, the Ministry stated as under:—

"The concern is acknowledged and appropriate drafting changes will be made."

The Ministry further proposed the following drafting amendments:—

35. Obligations of securities markets service providers, market participants, etc.

(1) The securities markets service provider shall make fair disclosure of any information, in furtherance of the provisions of this Code and the rules and regulations made thereunder.

(2) The securities markets service provider, market participant or a person associated with the securities markets shall furnish information to the Board in furtherance of the provisions of this Code and the rules and regulations made thereunder.

23.4 The Committee have examined Clause 35, which prescribes certain obligations for securities markets service providers, market participants and persons associated with the securities markets, including obligations relating to fair disclosure of information, furnishing of information to the Board and investment of money collected by securities markets service providers.

23.5 The Committee observe that the provision, as presently drafted, does not sufficiently clarify the relationship between the obligations expressly set out in the clause and the additional requirements prescribed under the Code and the rules and regulations made thereunder. The Committee are of the view that, for the avoidance of doubt and to ensure that the obligations specified in Clause 35 are not construed as exhaustive, the provision should expressly clarify that such obligations are in addition to, and are to be read in conjunction with, the requirements prescribed under the Code and the rules and regulations made thereunder.

23.6 The Committee, therefore, recommend that Clause 35 be suitably amended to expressly clarify that the obligations specified therein are in addition to, and are intended to give further effect to, the requirements prescribed under the Code and the rules and regulations made thereunder.

CHAPTER XXIV

XXIV Registration of Market Infrastructure Institutions

Clause 37

24.1 Clause 37 provides for the registration of Market Infrastructure Institutions, as under:—

37 (1) No person shall carry on business as a market infrastructure institution unless it is registered with the Board under this Code.

(2) Any person desirous of being registered as a market infrastructure institution shall make an application to the Board in such form and manner, and accompanied by such fee, as may be specified by regulations, including a copy of the bye-laws referred to in section 39 for the regulation and control of contracts, and a copy of documents relating generally to the constitution of the market infrastructure institution and, in particular, to—

(a) the governing body of such market infrastructure institution, its constitution and powers of management, and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the market infrastructure institution;

(c) the admission into the market infrastructure institution of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and re-admission of members therefrom or thereto;

(d) the procedure for the registration of partnerships as members of the market infrastructure institution in cases where the rules provide for such membership; and

(e) the nomination and appointment of authorised representatives and clerks.

(3) If the Board is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such other information, if any, as it may require, that—

(a) the bye-laws of the market infrastructure institution are in conformity with such conditions as may be specified by regulations, with a view to ensuring fair dealing and protecting the interests of investors;

(b) the applicant is willing to comply with such other conditions, including conditions regarding its members, as the Board may impose, after consultation with the governing board of the applicant and having regard to its standing and the nature of the securities dealt with by it, for carrying out the objects of this Code; and

(c) it is in the interest of trade and also in the public interest to grant registration, it may grant registration to the applicant in such form and subject to such conditions as may be specified by regulations:

Provided that where the application is found to be defective, the Board may return the application for rectification, if rectifiable, within such period as may be specified by regulations.

(4) Every grant of registration to a market infrastructure institution under this section shall be notified by the Board, and such registration shall take effect from the date of such notification.

(5) No application for registration under this section shall be refused unless the applicant has been given a reasonable opportunity of being heard, and the reasons for such refusal shall be communicated to the applicant in writing.

24.2 Certain stakeholders suggested that clause 37(2)(e) should be omitted, as the reference to the nomination and appointment of “authorised representatives and clerks” is no longer relevant. It was submitted that clause 37(2)(e), which requires the bye-laws and other documents of a Market Infrastructure Institution to contain provisions relating to the nomination and appointment of authorised representatives and clerks, has been carried forward from the Securities Contracts (Regulation) Act, 1956 and has since become redundant.

24.3 On the above suggestion, the Ministry, in its written reply, stated that the concern was acknowledged and that appropriate drafting changes would be made.

24.4 The Committee have examined Clause 37, which provides for the registration of Market Infrastructure Institutions and specifies the documents and particulars required to accompany an application for registration.

The Committee further note that clause 37(2)(e), relating to the nomination and appointment of "authorised representatives and clerks", has been carried forward from section 3(2)(e) of the Securities Contracts (Regulation) Act, 1956.

The Committee observe that, while the provision may have been relevant at the time of enactment of the Securities Contracts (Regulation) Act, 1956, the concept of "clerks" no longer reflects the present-day governance and operational framework of Market Infrastructure Institutions and has become obsolete.

The Committee, therefore, recommend the deletion of clause 37(2)(e), or, alternatively, the deletion of the reference to "authorised representatives and clerks", as the provision has become redundant and its removal would improve the clarity and contemporary relevance of the Code.

CHAPTER XXV

XXV Cancellation of Registration or Suspension of Business

Clause 38

25.1 Clause 38 provides for the cancellation of registration or suspension of business, as under:—

38 (1) Without prejudice to clause (a) of section 20, where the Board is of the opinion that the registration granted to a market infrastructure institution under sub-section (4) of section 37 should, in the interest of trade or in the public interest, be cancelled, it may, by order, cancel such registration in such manner as may be specified by regulations, and shall notify such cancellation:

Provided that no such order shall be made unless the applicant has been given an opportunity of being heard.

(2) No cancellation under sub-section (1) shall affect the validity of any contract entered into before the date of such notification, and the Board may, after consultation with the market infrastructure institution, make such provisions as it deems fit in the notification of cancellation or in any subsequent notification for the due performance of any contracts outstanding on that date.

(3) Without prejudice to sub-section (1), where, in the opinion of the Board, an emergency has arisen and it considers it expedient to do so for the purpose of meeting such emergency, it may, by notification and for reasons to be specified therein, direct a market infrastructure institution to suspend such part of its business, for such period not exceeding ninety days, and subject to such conditions as may be specified therein. Where, in the opinion of the Board, the interest of trade or public interest so requires, it may, by a similar notification, extend the said period for a further period of ninety days:

Provided that where the period of suspension is proposed to be extended beyond the first period, no notification extending such period shall be issued unless the governing board of the market infrastructure institution has been given an opportunity of being heard.

25.2 During the deliberations, the Committee sought to ascertain the procedural safeguards available under the Act, the rules or the regulations governing the exercise of the aforesaid powers by the Securities and Exchange Board of India. The Committee further enquired whether similar powers are available with other contemporary regulators in India and in comparable international

jurisdictions; the adjudicatory process followed in cases involving cancellation of registration, including illustrative instances from past practice; and the number of occasions on which the power of suspension has been exercised, together with the circumstances warranting such action.

In its written reply, the Ministry stated as under:—

Current Position

• At present, section 5 of the Securities Contracts (Regulation) Act, 1956 empowers the Central Government to withdraw the recognition granted to a stock exchange in the interest of trade or in the public interest. Before doing so, the Central Government is required to issue a written notice stating the reasons for the proposed withdrawal and provide an opportunity of hearing.

• Section 12 of the Securities Contracts (Regulation) Act, 1956 empowers the Central Government to suspend the business of a stock exchange where, in its opinion, an emergency has arisen. The Central Government may, by notification and for reasons recorded therein, direct a stock exchange to suspend its business for a period not exceeding seven days, subject to such conditions as may be specified in the notification.

• At present, there are no rules or regulations prescribing procedural safeguards in relation to the cancellation of registration or suspension of Market Infrastructure Institutions.

• There also does not appear to be a streamlined adjudicatory process governing such cancellation.

• The Central Government has formally exercised its power under section 5 of the Securities Contracts (Regulation) Act, 1956 only once, when it withdrew the recognition granted to the Hyderabad Stock Exchange.

SMC Position

• Under Clause 38(1), the Securities and Exchange Board of India may cancel the registration of a Market Infrastructure Institution where it is of the opinion that such cancellation is necessary in the interest of trade or in the public interest, after providing an opportunity of hearing. The manner of cancellation may be prescribed by regulations.

• Clause 38(2) provides that the Securities and Exchange Board of India may consult the concerned Market Infrastructure Institution and make such provisions as it deems fit in the notification of cancellation for the due performance of contracts entered into before the date of cancellation. The Board is also required to notify such cancellation.

• Under Clause 38(3), the Securities and Exchange Board of India is required to specify the reasons for suspension in the notification together with the applicable conditions. Such suspension cannot, in the first instance, exceed ninety days.

• However, to address concerns regarding the exercise of these powers, appropriate safeguards may be prescribed through regulations. While Clause 38(1) already enables the Board to prescribe the manner of cancellation through regulations, no corresponding regulation-making power has presently been provided in relation to suspension.

Contemporary Laws

(a) Banking Regulation Act, 1949 — Under section 22(4), the Reserve Bank of India may cancel the licence of a banking company where it ceases to carry on banking business in India or fails to comply with its statutory obligations.

(b) Insurance Act, 1938 — Under section 3(4), the Insurance Regulatory and Development Authority of India may suspend or cancel the registration of an insurer on specified grounds, including failure to comply with statutory obligations, contravention of the Act or non-compliance with directions issued by the Authority.

(c) Insolvency and Bankruptcy Code, 2016 — Under sections 201(5) and 210(5), the Insolvency and Bankruptcy Board of India is empowered to suspend or cancel the registration of an insolvency professional agency and an information utility, respectively.

(d) Payment and Settlement Systems Act, 2007 — Section 8 empowers the Reserve Bank of India to revoke the authorisation of a payment system provider for contravention of the Act, the regulations, the conditions of authorisation or any directions issued thereunder.

International Practice

(a) IOSCO Principles — Principles 33 and 34 provide that exchanges and trading systems should be subject to ongoing regulatory supervision and that authorisation should be reviewed or withdrawn where the exchange or trading system is unable to comply with the conditions of authorisation or with securities laws and regulations.

(b) United Kingdom — Under section 297 of the Financial Services and Markets Act, 2000, the Financial Conduct Authority may revoke the recognition of a recognised investment exchange where it fails to satisfy the recognition requirements or comply with statutory obligations.

(c) United States — Under section 19(h) of the Securities Exchange Act of 1934, the Securities and Exchange Commission may suspend, for a period not exceeding twelve months, or revoke the registration of a self-regulatory organisation where such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act, after providing notice and an opportunity of hearing.

(d) Singapore — Under section 14 of the Securities and Futures Act, 2001, the Monetary Authority of Singapore may revoke the approval or recognition of a stock exchange on specified grounds, including contravention of the Act or where it is operating in a manner contrary to the public interest.

In light of the above practices, the Ministry proposed that—

1. an enabling provision may be incorporated in Clause 38(3) empowering the Board to make regulations in this regard; and

2. appropriate procedural safeguards may be incorporated by specifying the relevant grounds for the exercise of such powers.

25.3 On being asked whether, in view of the systemic importance of Market Infrastructure Institutions, the exercise of the power to cancel their registration should be subject to consultation with the Central Government, the Committee also raised concerns regarding the need to incorporate more specific procedural safeguards to ensure that the exercise of such powers is transparent, balanced and not perceived as arbitrary.

Responding thereto, the Secretary, Ministry of Finance, stated as under:—

“For the suspension part, we had actually come up with exactly this proposal. We can again review these three Acts in which the power is vested with the regulator and, as you have specified, in certain cases, some consultation can be provided for.

Section 3(4) of the Insurance Act provides that the IRDAI may suspend or cancel the registration of an insurer on specified grounds, including failure to comply with statutory obligations, contravention of the provisions of the Act and non-compliance with directions issued by the Authority.

The Insurance Act also contains a provision under which, where the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to prejudice the interests of policyholders, it may, after giving an opportunity to the insurer, submit a report to the Central Government. If the Central Government is satisfied, it may appoint an Administrator for that insurer.

We also examined the international position, as directed by the Committee. We found that the IOSCO Principles provide for ongoing regulatory supervision of exchanges and trading systems, including the re-examination or withdrawal of authorisation where the system is unable to comply with the conditions of authorisation.

Similarly, in the United Kingdom, section 297 of the Financial Services and Markets Act, 2000 empowers the Financial Conduct Authority to revoke the recognition of a recognised investment exchange where it fails to satisfy the prescribed recognition requirements.

Since the registration is granted by SEBI and the conditions governing such registration are also prescribed by SEBI, the Securities Law Committee has proposed that the power of revocation should likewise vest with SEBI. We will provide an appropriate formulation."

25.4 The Committee have examined Clause 38, which empowers the Board to cancel the registration of a Market Infrastructure Institution in the interest of trade or the public interest and, in cases of emergency, to direct the suspension of its business. The Committee note that, while the clause substantially carries forward the existing framework under the Securities Contracts (Regulation) Act, 1956, it entrusts these significant regulatory powers to the Board under the proposed Code.

25.5 The Committee note that the Ministry has acknowledged the absence of a comprehensive statutory or regulatory framework governing the exercise of these powers, particularly in relation to the suspension of business, and has indicated that appropriate safeguards may be prescribed through regulations. The Committee further note that comparable domestic regulatory statutes and international jurisdictions generally provide for clear procedural safeguards, specified grounds, notice, opportunity of hearing and reasoned decision-making in the exercise of such powers.

25.6 The Committee are of the view that, considering the systemic importance of Market Infrastructure Institutions, the exercise of the power to cancel registration should be accompanied by adequate statutory and procedural safeguards so as to ensure transparency, accountability and fairness while preserving the operational independence of the regulator.

Accordingly, the Committee recommend that Clause 38(1) be suitably modified to provide for consultation with the Central Government before cancellation of the registration of a Market Infrastructure Institution.

The Committee further recommend that the Board be empowered to frame detailed regulations prescribing the grounds, objective criteria and procedure for cancellation and suspension, including the recording of reasons, opportunity of hearing, protection of existing contractual obligations and other requirements of due process.

However, the Committee are of the view that the emergency power of suspension under Clause 38(3) should continue to be capable of being exercised expeditiously by the Board in appropriate cases, subject to the safeguards prescribed under the Code and the regulations made thereunder.

CHAPTER XXVI

XXVI Power of Market Infrastructure Institutions to Make Bye-laws

Clause 39

26.1 Clause 39 provides for the power of Market Infrastructure Institutions to make bye-laws, as under:—

39 (1) A market infrastructure institution may, subject to the previous approval of the Board, make bye-laws consistent with the provisions of this Code and any rules or regulations made thereunder, for the regulation and control of contracts and conduct of its members and market participants.

(2) In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for the following matters, namely:—

(a) the appropriate mechanisms for safeguarding the interests of any investors in securities and beneficial owners thereof;

(b) the manner of holding, custody, pledging, hypothecation, lending, borrowing, issue, transfer, trading, transmission, conversion, transformation, consolidation, switching, clearing, delivery, settlement and other dealings in securities;

(c) the risk management and abuse prevention measures such as imposition of margins, position and price limits, circuit breakers, collateral management, auction of short positions, order restrictions, account suspensions, server placement and other technical requirements;

(d) the particular bye-laws, the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under section 47;

(e) the terms and conditions for accessing any services provided by the market infrastructure institution;

(f) the listing of securities, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in securities;

(g) the procedure for disbursing interest, dividend, bonus and other monetary benefits arising from the holding, transfer or any dealings in securities;

(h) the norms of fair and time-bound disclosure of material information by issuers;

(i) the internal control standards such as audits, review and monitoring;

(j) the inter se rights and obligations of members and market participants;

(k) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and the conditions relating thereto, and the forms of contracts in writing;

(l) the content, form and manner of executing member-client agreements;

(m) the measures relating to regulation of fees charged by members, dealings by members for their own account, and maintenance of separation of client funds and securities;

(n) the process of accrediting or empanelling persons providing services in connection with any dealings in securities;

(o) the procedure for conveying information to members and market participants;

(p) the levy and recovery of fees and penalties;

(q) the conduct of inspections, filing of information and such other matters in relation to regulation of its members;

(r) the obligations of members to supply such information or explanation and to produce such documents relating to their business as may be sought by the market infrastructure institution;

(s) the procedure for the settlement of claims or disputes or grievances, including settlement by mediation or arbitration, including through electronic means;

(t) the manner of conducting proceedings against the members and market participants for committing breach of the bye-laws and provisions for suspension or expulsion of members and market participants and cancellation of agreements with the market infrastructure institution;

(u) such other matters as may be specified by regulations.

(3) The bye-laws of a market infrastructure institution shall endeavour to—

(a) promote the objects of this Code;

(b) ensure non-discriminatory access to similarly placed persons using its services;

(c) minimise market abuse, fraudulent and unfair practices related to the securities markets;

(d) foster transparency; and

(e) ensure interoperability with other market infrastructure institutions.

Explanation.—For the purposes of this sub-section, the expressions—

(i) ‘non-discriminatory access’ means not creating differential obligations for similarly placed persons or not preventing similarly placed persons from availing a service provided by the market infrastructure institution; and

(ii) ‘transparency’ means that adequate information about the functions and transactions carried out on the market infrastructure institution is available to all the persons availing the services provided by it to enable them to make informed decisions about their transactions.

(4) Any bye-laws made under this section shall be subject to public consultation and be approved and notified by the Board:

Provided that the Board may, in the interest of trade or in the public interest, by an order and for reasons to be recorded in writing, dispense with the condition of public consultation.

(5) The Board may, either on a request in writing received by it from the governing board of a market infrastructure institution or on its own motion, after consultation with the governing board, make or amend bye-laws for all or any of the matters specified in sub-section (2), after recording the reasons thereof."

26.2 On the suggestion that the existing position under section 9 of the Securities Contracts (Regulation) Act, 1956, be retained, whereby bye-laws are framed and notified by Market Infrastructure Institutions after obtaining the approval of the Board, instead of requiring the Board itself to notify such bye-laws under the Code, and that the expression "notified by the Board" be omitted so as to preserve the existing regulatory framework, the Committee sought the views of the Ministry.

The Committee also desired that the process relating to public consultation and notification of rules and bye-laws be standardised and made uniform. In response, the Ministry stated that the concern had merit and informed the Committee that appropriate drafting changes would be made in the context of Clauses 39(5) and 40 to clarify the requirement relating to public consultation.

26.3 It was further suggested that the process of making or amending bye-laws should include initial consultation with, and approval of, the governing board of the Market Infrastructure Institution, followed by pre-publication for inviting comments from the public through publication in the Official Gazette at the Central and State Government levels. Thereafter, the governing board of the Market Infrastructure Institution should consider the comments received and submit the proposed bye-laws to the Board for approval, followed by final publication.

It was also submitted that, in certain cases, there may be a direction to amend the bye-laws urgently. In such cases, an exemption from pre-publication or public consultation may be considered on lines similar to the exemption available in respect of regulations under Clause 147(2).

The stakeholders further pointed out that, under Clause 39(4), the bye-laws of a Market Infrastructure Institution are subject to public consultation unless such consultation is dispensed with by the Board. Amendments to such bye-laws should be subject to the same requirement, irrespective of whether the amendment is initiated by the Board or by the Market Infrastructure Institution. Where public consultation is dispensed with, the reasons for doing so should be recorded in writing by the Board.

It was submitted that public consultation is particularly important in view of the infrastructural significance and interconnectedness of Market Infrastructure Institutions with their members, intermediaries, market participants and investors.

26.4 On the suggestion that the existing position under section 9 of the Securities Contracts (Regulation) Act, 1956, be retained, whereby bye-laws are framed and notified by Market Infrastructure Institutions after obtaining the approval of the Board, instead of requiring the Board itself to notify such bye-laws under the Code, and that the expression "notified by the Board" be omitted so as to preserve the existing regulatory framework, the Committee sought the views of the Ministry.

The Committee also desired that the process relating to public consultation and notification of rules and bye-laws be standardised and made uniform. In response, the Ministry stated that the concern had merit and informed the Committee that appropriate drafting changes would be made in the context of Clauses 39(5) and 40 to clarify the requirement relating to public consultation.

26.5 The Committee also examined Clause 39(3)(c), which requires the bye-laws of Market Infrastructure Institutions to, inter alia, "minimise market abuse, fraudulent and unfair practices". A concern was expressed that the use of the expression "minimise" may give rise to an unintended interpretation that a certain degree of market abuse is permissible or capable of being tolerated.

The Committee, therefore, sought to know whether the language of the provision could be reviewed and a more appropriate formulation, consistent with the objective of preventing or prohibiting market abuse, could be considered.

Responding to the concern, the Secretary, Department of Economic Affairs, Ministry of Finance, clarified as under:—

"Clause 39 merely specifies the matters that should be covered in the bye-laws of a Market Infrastructure Institution, including promoting the objectives of the Code, ensuring non-discriminatory access to similarly placed persons and addressing market abuse and fraudulent practices."

Acknowledging the concern raised by the Committee regarding the expression "minimise", the Secretary stated that the point was well taken and informed the Committee that the

language of the provision would be revisited in consultation with the Department of Legal Affairs.

26.6 On being asked whether it was necessary for every bye-law framed by a Market Infrastructure Institution to be notified by the Board after approval, or whether the concerned Market Infrastructure Institution itself could notify the approved bye-laws in the Official Gazette, and whether statutory timelines should be prescribed for according approval to such bye-laws in view of the delays pointed out by stakeholders, the Secretary, Ministry of Finance, stated during the oral evidence as under:—

"Sir, Clauses 39 and 40 relate to the power of the Market Infrastructure Institutions to make bye-laws and the power of the Board to issue directions. The discussion was about the manner in which the provision is presently worded, namely, that the Market Infrastructure Institution shall make the bye-laws, which will be approved and notified by SEBI.

The question arose as to whether it is necessary for SEBI to notify each of the bye-laws and, if the matter is left to the Market Infrastructure Institutions, which authority would get them notified in the Official Gazette. The stakeholders had also made this suggestion. The Market Infrastructure Institutions may get the bye-laws approved but may notify them themselves and, therefore, get them published in the Official Gazette."

26.7 When it was suggested that approval by the Board itself should suffice for the purpose of notification, the Ministry submitted as under:—

"It could be done, Sir. That is why the current formulation provides for approval and notification by the Board. Once the suggestion was received, we examined the current practice and found that the Market Infrastructure Institutions are already doing it."

26.8 The Committee observe that Clause 39 empowers Market Infrastructure Institutions to make bye-laws, subject to the previous approval of the Board, and further provides that such bye-laws shall be subject to public consultation and be approved and notified by the Board.

The Committee note that, under the existing framework, bye-laws are framed and notified by the concerned Market Infrastructure Institution after obtaining the approval of the Board. The Committee are of the view that the existing practice appropriately recognises the operational autonomy of Market Infrastructure Institutions while preserving the regulatory oversight of the Board.

26.9 The Committee further observe that, given the significant impact of bye-laws on market participants, intermediaries and investors, the process of making or amending bye-laws should ordinarily be preceded by public consultation so as to promote transparency and stakeholder participation.

At the same time, the Committee recognise that exceptional situations may arise where urgent regulatory intervention is warranted in the interest of trade or in the public interest. In such cases, dispensing with public consultation may be justified, provided that the reasons therefore are recorded in writing.

26.10 The Committee recommend that the requirement of public consultation should apply uniformly to the making as well as the amendment of bye-laws, irrespective of whether such amendment is initiated by the Market Infrastructure Institution or by the Board.

The Committee also recommend that, where public consultation is dispensed with on grounds of urgency or public interest, the reasons for such dispensation should invariably be recorded in writing so as to ensure transparency, consistency and accountability in the exercise of the regulatory powers of the Board.

The Committee further recommend that a statutory timeline be prescribed for the Board to dispose of proposals seeking approval of bye-laws so as to avoid undue delay and provide regulatory certainty.

The Committee also recommend that the notification process under Clause 39 be aligned with Clause 148 so that every bye-law, after being notified, continues to be laid before both Houses of Parliament in accordance with the procedure prescribed under the Code. This would ensure transparency, legislative oversight and consistency in the subordinate legislative framework.

CHAPTER XXVII

XXVII Power of the Board to Direct Bye-laws to Be Made or to Make Bye-laws

Clause 40

27.1 Clause 40 provides for the power of the Board to direct bye-laws to be made or to make bye-laws, as under:—

40 (1) Where, after consultation with the governing bodies of market infrastructure institutions generally or with the governing body of any market infrastructure institution in particular, the Board is of the opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct market infrastructure institutions generally or any market infrastructure institution in particular, as the case may be, to make any bye-laws or to amend any bye-laws already made in respect of all or any of the matters specified in sub-section (2) of section 39 within a period of two months from the date of the order.

(2) If any market infrastructure institution fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Board may make the bye-laws or amend the bye-laws made by the market infrastructure institution either in the form proposed in the order or with such modifications thereof as may be agreed to between the market infrastructure institution and the Board.

(3) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Official Gazette and, upon such publication, shall, notwithstanding anything to the contrary contained in the Companies Act, 2013, or in any other law for the time being in force, have effect as if they had been made or amended by the market infrastructure institution.

27.2 Suggestions were received from various stakeholders that amendments to bye-laws envisaged under the said clause should be subject to the same requirements of public consultation, irrespective of whether such amendments are initiated by the Board or by the Market Infrastructure Institution (MII). It was further suggested that, where public consultation is dispensed with, the reasons therefor should be recorded in writing by the Board.

It was submitted that public consultation is necessary in view of the importance, infrastructural nature and interconnectedness of Market Infrastructure Institutions with their members, intermediaries, market participants and investors.

27.3 When the Committee sought clarification regarding the requirement of public consultation under the said clause, the Ministry stated that the concern was accepted and that appropriate drafting changes would be made in the context of Clauses 39(5) and 40 to clarify the requirement relating to public consultation.

27.4 It was further suggested that the provision should permit a reasoned extension of up to sixty days in cases involving complex technological or process-related changes, having regard to their impact and implementation timelines. It was submitted that such changes would require multidisciplinary involvement. It was also pointed out that the process of amending bye-laws, including publication in the Official Gazette and obtaining the approval of the Board, is itself time-consuming.

27.5 When the Committee took up the suggestion regarding a reasoned extension for complex changes, the Ministry, in its written reply, stated that the concern was valid and that appropriate drafting changes would be made.

27.6 On the further suggestion that the period prescribed for making or amending bye-laws should be increased from two months to four months from the date of the order, the Ministry agreed with the suggestion and stated that the necessary drafting changes would be carried out.

27.7 The Committee have examined Clause 40, which empowers the Board to direct Market Infrastructure Institutions (MIIs) to make or amend bye-laws and, in the event of non-compliance, to itself make or amend such bye-laws.

The Committee observe that bye-laws governing Market Infrastructure Institutions have significant implications for market participants, intermediaries and investors and, therefore, any amendment thereto should ordinarily be preceded by an appropriate process of public consultation. The Committee are of the view that, where public consultation is dispensed with, the reasons for doing so should be recorded in writing so as to ensure transparency and accountability in the bye-law-making process.

27.8 The Committee further observe that the period of two months prescribed under Clause 40(1) for making or amending bye-laws may not be adequate in cases involving complex technological, operational or process-related changes requiring extensive consultation, systems development, testing and regulatory approvals. The Committee are of the view that a more realistic timeline would facilitate effective implementation without compromising the regulatory objectives.

27.9 The Committee, therefore, recommend that Clause 40 be suitably amended to provide that the making or amendment of bye-laws shall ordinarily be preceded by public consultation and that, where such consultation is dispensed with, the reasons therefor shall be recorded in writing by the Board.

The Committee further recommend that the period prescribed for making or amending bye-laws be increased from two months to four months, with an enabling provision permitting the Board to grant a reasoned extension in appropriate cases involving complex technological or operational changes.

This would ensure greater transparency, facilitate effective implementation, and strengthen the quality of the regulatory framework governing Market Infrastructure Institutions.

CHAPTER XXVIII

XXVIII Action for Contravention of Bye-laws

Clause 41

28.1 Clause 41 provides for action for contravention of bye-laws, as under:—

41 (1) Where a member contravenes any provision of the bye-laws, the market infrastructure institution may, by an order, take one or more of the following actions against such member, namely:—

(a) impose penalty;

(b) expel from membership;

(c) suspend from membership for a period specified therein;

(d) annul any transactions or contracts;

(e) direct payment of compensation to the affected party;

(f) suspend or freeze any account, collaterals or security deposits under the management of the market infrastructure institution; and

(g) take any other similar action not involving the payment of money:

Provided that before passing an order under clauses (b) to (g), an opportunity of being heard shall be given to such member.

(2) The market infrastructure institution shall have mechanisms to—

(a) monitor and identify contraventions of the provisions of this Code and the rules, regulations or bye-laws made thereunder;

(b) inform the Board of any such contraventions;

(c) take measures, including the imposition of penalties, against any member or market participant who contravenes the bye-laws; and

(d) undertake such other matters as may be specified by regulations.

28.2 Several stakeholders suggested that Clause 41(1)(f) should be modified to specify “demat account or bank account, as the case may be”, since the expression “account” is too broad and may give rise to varying interpretations.

28.3 It was further suggested that the proviso to Clause 41(1) should provide an exception enabling interim action to be taken without affording a prior opportunity of hearing in cases where such action is necessary to protect market integrity or safeguard investors’ interests. It was also suggested that a provision be incorporated for a post-decisional hearing in cases involving interim orders passed in emergent situations, since providing a prior opportunity of hearing may not always be feasible in such circumstances.

28.4 In response to the above suggestions, the Ministry stated that the suggestions had merit and that the necessary drafting changes would be made in the Code.

28.5 On being asked whether an opportunity of being heard should also be provided under Clause 41(1)(a), in keeping with the principles of natural justice, the Ministry stated as under:—

Current Position

Clause 41 is based on section 9(3)(b) of the Securities Contracts (Regulation) Act, 1956 and extends the consequences of contravention provided therein to all Market Infrastructure Institutions.

SMC Position

Clause 41(1) provides an inclusive list of actions that a Market Infrastructure Institution may take against a person for contravention of its bye-laws. While the other actions under the list require an opportunity of hearing to be provided, no such opportunity is presently required for the imposition of penalties. This distinction is based on the existing practice and procedure followed by stock exchanges for the imposition of penalties.

At present, stock exchanges impose penalties for violations of their bye-laws without providing an opportunity of hearing. Such penalties are based on objective criteria, including requirements relating to funds, securities, margins and security deposits, for which predetermined penalties have already been prescribed. Accordingly, the imposition of such penalties does not ordinarily require adjudication.

Clause 41(1)(a) is distinct from the penalties imposed by the Adjudicating Officer under Clause 20 through a final order, as Market Infrastructure Institutions impose penalties for contravention of their bye-laws in the ordinary course of discharging their regulatory functions, in accordance with the criteria prescribed by them.

In any event, an order passed or decision taken by a Market Infrastructure Institution is appealable before the Securities Appellate Tribunal under Clause 85(1)(g).

However, the concern may be accepted in order to make the requirement of providing an opportunity of hearing consistent across Clause 41(1). Further, as suggested by the Securities and Exchange Board of India, a provision for a post-decisional hearing may be incorporated in Clause 41 for urgent cases where Market Infrastructure Institutions are required to issue interim orders without providing a prior opportunity of hearing, so as to prevent delay.

The Secretary, Ministry of Finance, further supplemented the above during the oral evidence as under:—

“Some of the penalties are automated, and we found that certain standard penalties are already published, so the concerned persons are aware of them. Even then, there are two categories of penalties under clause (1)(a). Therefore, we felt that an appropriate approach would be to replace the existing proviso. Instead of limiting it to clauses (b) to (g), we propose to apply it uniformly by providing that ‘an opportunity of being heard shall be given to such member in such manner as may be specified by regulations’. The regulations can then provide appropriate fine-tuning for cases involving automated actions. Accordingly, we are in a position to accept this suggestion.”

28.6 The Committee have examined Clause 41, which empowers Market Infrastructure Institutions to take disciplinary action against members for contravention of their bye-laws.

The Committee further observe that the expression "account" used in Clause 41(1)(f) is broad and may be susceptible to varying interpretations, thereby creating uncertainty regarding the nature and extent of the power to suspend or freeze accounts. The Committee are of the view that greater precision in the language of the provision would promote legal certainty and avoid unintended consequences.

28.7 The Committee further observe that, while the proviso to Clause 41(1) requires an opportunity of being heard before specified actions are taken against a member, exceptional situations may arise where immediate interim measures are necessary to safeguard market integrity, protect investors' interests or prevent further regulatory harm. In such circumstances, insisting upon a prior hearing may not always be practicable.

The Committee, therefore, recommend that Clause 41 be suitably amended to clarify that the expression "account" shall mean the relevant demat account or bank account, as the case may be.

The Committee further recommend that the provision expressly empower Market Infrastructure Institutions to take interim action in exceptional and emergent circumstances without a prior hearing, subject to recording the reasons in writing and providing the affected person with a post-decisional opportunity of being heard within a reasonable period, in accordance with the principles of natural justice.

CHAPTER XXIX

XXIX Ownership Norms of Market Infrastructure Institutions

Clause 42

29.1 Clause 42 provides for the ownership norms of Market Infrastructure Institutions, as under:—

42 (1) A market infrastructure institution shall have diversified ownership by way of shareholding, subject to the following conditions, namely:—

(a) the members of a market infrastructure institution shall not collectively own more than such percentage of the equity shareholding in the market infrastructure institution;

(b) such maximum ownership interest is held by a class or classes of persons in a market infrastructure institution;

(c) such percentage of the total equity shareholding in a market infrastructure institution is held by a person;

(d) such ownership interest of different class or classes of persons is calculated and the manner of such calculation;

(e) such levels of cross-holding of a market infrastructure institution in other market infrastructure institutions and the acquisition, takeover, merger or consolidation of business amongst market infrastructure institutions;

(f) such period within which compliance with the ownership norms may be achieved; and

(g) such other diversified ownership norms as may be specified by regulations.

(2) A market infrastructure institution shall be managed in such manner that—

(a) the members of the governing board are eligible and qualified, and satisfy the fit and proper criteria;

(b) independent members are appointed to the governing board;

(c) any class or classes of market participants or users are appointed to the governing board; and

(d) such other appropriate measures are undertaken to ensure good governance and avoid any conflict of interest as may be specified by regulations.

(3) A market infrastructure institution shall be a company limited by shares and shall be demutualised in such manner as may be specified by regulations.

Explanation.—For the purposes of this sub-section,—

(i) "company limited by shares" shall have the same meaning as assigned to it in clause (22) of section 2 of the Companies Act, 2013;

(ii) "demutualised" means segregation of ownership and management from the trading rights, clearing rights or such other operational rights of the members of a market infrastructure institution, as the case may be.

(4) The provisions of this section shall apply notwithstanding anything to the contrary contained in the Competition Act, 2002 or the Companies Act, 2013.

29.2 Some stakeholders suggested that the provision contained in Clause 42(2)(c) should be deleted on the ground that the presence of market participants or investors on the governing board of a Market Infrastructure Institution may give rise to conflicts of interest and ought to be avoided.

It was further submitted that the appointment of market participants and users to the governing board of Market Infrastructure Institutions would adversely affect the governance framework of these critical market infrastructure institutions and would be contrary to the principle of demutualisation. It was also pointed out that the existing regulatory framework does not provide for the representation of market

participants or users on the governing board of Market Infrastructure Institutions. Further, there is presently no concept of “users” either under the existing legal framework or under the proposed Code.

29.3 On the issue relating to the deletion of Clause 42(2)(c) and the use of the expression “users”, which is neither defined in the Code nor explained elsewhere, the Ministry, in its written reply, stated that both the concerns were valid and clarified that such representation was intended only as an enabling provision and not as a mandatory requirement.

The Ministry further stated that the governing boards of Market Infrastructure Institutions may endeavour to include market participants as representatives, where considered appropriate, and that suitable drafting changes would be made accordingly.

29.4 On the question whether prescribing the ownership and governance norms through regulations carries the risk of their gradual dilution and confers excessive discretion on the Securities and Exchange Board of India, the Committee sought the views of the Ministry.

The Secretary, Ministry of Finance, during the oral evidence, stated as under:—

“The regulation-making power is intended to provide flexibility to SEBI. We had been advised to study the Bimal Jalan Committee Report, and we found that the Bimal Jalan Committee on Review of Ownership and Governance of Market Infrastructure Institutions recommended that, in order to reduce the influence of trading members on the governance of MIIs and to increase public shareholding, a diversified and dispersed ownership model should be adopted.

The Committee also acknowledged the importance of strengthening the regulation-making powers of SEBI, not to leave these matters to the MIIs, but to augment SEBI’s powers since it has the responsibility of regulating MIIs through direct supervision and monitoring.

Further, with respect to the procedure and criteria for recognition of MIIs, the Bimal Jalan Committee recommended that SEBI should prescribe the detailed requirements through its regulations so that it can regulate effectively.

Accordingly, the formulation in the Code provides that diversified ownership norms shall be prescribed through SEBI regulations. We have also examined the position in the United States, Canada and Hong Kong, where similar requirements are prescribed through subordinate legislation.”

29.5 On the question whether the ownership and governance norms under Clause 42 should be prescribed through regulations and whether this approach is consistent with the recommendations of the Bimal Jalan Committee, the Ministry, in its written submission, stated as under:—

Current Position

Clause 42 provides the ownership norms for Market Infrastructure Institutions, including the norms relating to diversified ownership and the constitution of the governing board.

Under the existing framework, sections 4A and 4B of the Securities Contracts (Regulation) Act, 1956 prescribe certain public shareholding requirements for stock exchanges and lay down the procedure for their corporatisation and demutualisation.

The detailed ownership requirements relating to stock exchanges, clearing corporations and depositories are contained in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 and the Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018, which recognise the principle of diversified ownership.

These provisions contain detailed norms relating to the maximum shareholding permitted for various classes of investors and market participants, the fit and proper criteria for holding securities of Market Infrastructure Institutions or occupying positions as key managerial personnel or directors, and procedural safeguards governing the appointment of directors, key managerial personnel and other office-bearers.

SMC Position

Continuing the existing regulatory framework, Clause 42 lays down the key principles relating to ownership and governance and enables SEBI to prescribe the detailed requirements relating to Market Infrastructure Institutions and their members through regulations.

This provides flexibility to SEBI to prescribe appropriate shareholding thresholds through regulations while maintaining the overarching requirement of diversified ownership. According to SEBI, this also enables the ownership norms to be revised in accordance with the evolving needs of the securities market.

The provision is also consistent with the recommendations of the Kania Committee (2002) on the Corporatisation and Demutualisation of Stock Exchanges, which recommended that the three principal stakeholders of stock exchanges—shareholders, brokers and the investing public through the regulator—should be represented on the governing board of a demutualised stock exchange.

The Bimal Jalan Committee on Review of Ownership and Governance of Market Infrastructure Institutions (2010) similarly recommended the adoption of a diversified and dispersed ownership model to reduce the influence of trading members on the governance of Market Infrastructure Institutions while increasing public shareholding. The Committee also recognised that certain eligible institutions could be permitted to hold a higher ownership interest in appropriate cases.

More importantly, the Bimal Jalan Committee recognised the need to strengthen the regulation-making powers of SEBI, having regard to its responsibility for direct supervision and regulation of Market Infrastructure Institutions. It further recommended that the detailed procedure and eligibility criteria relating to recognition should be prescribed through SEBI regulations rather than through the Securities Contracts (Regulation) Rules.

The Committee also recommended replacing the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding) Regulations, 2006 with a comprehensive framework governing the ownership and governance of stock exchanges.

Accordingly, the Securities Markets Code is consistent with the recommendations of the Bimal Jalan Committee. The necessary safeguards have already been incorporated under the Code for the making of regulations. Regulations framed by SEBI are subject to public consultation and parliamentary scrutiny, thereby ensuring transparency and accountability.

29.6 On being asked whether the expression “managed” should be substituted or omitted, the Ministry stated as under:—

“We could substitute the word ‘managed’ with ‘governed’.”

29.7 The Committee have examined Clause 42 and observe that it seeks to prescribe the ownership and governance norms for Market Infrastructure Institutions.

The Committee further observe that Clause 42(2)(c) enables the appointment of market participants or users to the governing board of a Market Infrastructure Institution. The Committee are of the view that the inclusion of market participants on the governing board may give rise to potential conflicts of interest and may not be consistent with the principle of

demutualisation, which seeks to maintain a clear separation between ownership, management and trading rights.

The Committee also observe that the expression "users" has neither been defined under the Code nor explained elsewhere, which may give rise to ambiguity in its interpretation and implementation.

The Committee, therefore, recommend that Clause 42(2)(c) be suitably modified to clarify that the inclusion of market participants, where considered appropriate, shall be only an enabling provision and not a mandatory requirement.

The Committee further recommend that the undefined expression "users" be omitted or suitably defined so as to avoid ambiguity.

The Committee also recommend that, in Clause 42(2), the expression "managed" be replaced with "governed", as agreed to by the Ministry, since the provision relates to the governance framework of Market Infrastructure Institutions.

CHAPTER XXX

XXX Power of the Central Government to Supersede

Clause 44

30.1 Clause 44 provides for the power of the Central Government to supersede, as under:—

44 (1) Without prejudice to any other powers vested in the Central Government under this Code, where the Central Government, on the recommendation of the Board, is of the opinion that the governing board of a market infrastructure institution or a self-regulatory organisation should be superseded, then, notwithstanding anything contained in any other law for the time being in force, it may serve on the governing board a written notice that it is considering the supersession of the governing board for the reasons specified in the notice and, after giving an opportunity of being heard, it may, by notification, declare the governing board of such market infrastructure institution or self-regulatory organisation to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing board, and, where more persons than one person are appointed, may appoint one of such persons to be the chairperson and another to be the vice-chairperson thereof.

(2) On the publication of a notification under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing board which has been superseded shall, from the date of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing board which has been superseded; and

(c) the property of the market infrastructure institution or self-regulatory organisation shall vest in such person or persons appointed under sub-section (1), as may be necessary for the purpose of enabling him or them to carry on the business of the market infrastructure institution or self-regulatory organisation.

(3) On the supersession of the board of a market infrastructure institution or self-regulatory organisation under sub-section (1), the person or persons appointed shall hold office for such period

as may be specified in the notification and the Central Government may, from time to time, by a like notification, vary such period.

(4) The Central Government may, at any time before the determination of the period of office of any person or persons appointed under this section, call upon the market infrastructure institution or the self-regulatory organisation to reconstitute the governing board in accordance with its bye-laws and, on such reconstitution, all the property of the market infrastructure institution or self-regulatory organisation which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall revest or vest, as the case may be, in the governing board so reconstituted:

Provided that until a governing board is so reconstituted, the person or persons appointed under sub-section (1) shall continue to exercise the powers and perform the duties.

30.2 Several stakeholders pointed out that Market Infrastructure Institutions include stock exchanges, depositories and clearing corporations. While the proposed Code provides procedural safeguards, such as the recording of reasons and the grant of an opportunity of hearing, it does not prescribe any time limit for the duration of supersession.

It was submitted that, in comparison, the Reserve Bank of India Act, 1934 and the Sabka Beema Sabki Raksha (Amendment of Insurance Laws) Act, 2025 prescribe a duration for the supersession of the governing boards of regulated entities. It was further submitted that, under laws providing for the supersession of regulated entities, such power is ordinarily exercised by the sectoral regulator rather than by the Central Government.

It was also clarified that, under the Securities Contracts (Regulation) Act, 1956, the power to supersede the governing board of a Market Infrastructure Institution or a Self-Regulatory Organisation is vested in the Central Government, although such power is also exercised by SEBI. It was submitted that SEBI, being the primary regulator responsible for granting and cancelling certificates of registration of Market Infrastructure Institutions and Self-Regulatory Organisations, would be the appropriate authority to determine whether the governing board of such an institution or organisation should be superseded.

It was further submitted that such power should be invoked only in the rarest of rare and urgent circumstances and that vesting the power in the Central Government may delay the process and create operational difficulties. Instances cited of the exercise of this power included the supersession of the governing bodies of the Pune Stock Exchange, Magadh Stock Exchange, Bhubaneswar Stock Exchange, Ahmedabad Stock Exchange and Uttar Pradesh Stock Exchange.

30.3 On the issue whether the power to supersede the governing board of a Market Infrastructure Institution or a Self-Regulatory Organisation should vest in SEBI, in view of the suggestion received from a stakeholder, the Committee sought the views of the Ministry.

The Secretary, Ministry of Finance, while deposing before the Committee, stated as under:—

"We had said that we would accept it. However, the Hon. Committee had suggested that the current provision of retaining it with the Central Government may continue.

One of the other discussion points was that, if it is on the recommendation of SEBI, how much flexibility can be exercised by the Central Government. Keeping in view both the concerns and the suggestions, what we would like to submit is that the power to supersede the Board of an MII may be retained with the Central Government, and it may be exercised in consultation with SEBI, rather than only on the recommendation of SEBI.

As regards the Board of an SRO, which is a self-regulatory organisation, basically a group such as AMFI comprising intermediaries or investors, we would request that this power be left to SEBI itself. Since Market Infrastructure Institutions are central to the functioning of the market, the Central Government may retain the power in their case."

30.4 When asked to examine whether appropriate checks and safeguards, including objective grounds, should be prescribed for the exercise of this power and whether the Central Government should also be enabled to exercise the power suo motu, the Ministry, in its written submission, stated as under:—

Under Clause 44, to supersede the board of the market infrastructure institution, the Central Government must act on the recommendation of the Board. Thus, the Central Government cannot exercise this power suo motu. To enable the Central Government to exercise this power suo motu, the clause may be suitably amended.

The Hon. Committee has suggested that the exercise of the power to supersede should be—

1. in consultation with the Board; and

2. in such manner as may be prescribed by the rules, with the safeguards specified therein.

These suggestions are accepted and the proposed formulation is redrafted in the following manner:—

44. (1) Without prejudice to any other powers vested in the Central Government under this Code, where the Central Government, on its own motion or on the recommendation of the Board, is of the opinion that the governing board of a market infrastructure institution or a self-regulatory organisation should be superseded, then, notwithstanding anything contained in any other law for the time being in force, it may serve on the governing board a written notice that it is considering the supersession of the governing board for the reasons specified in the notice and after giving an opportunity of being heard, it may, by notification, declare the governing board of such market infrastructure institution or self-regulatory organisation to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing board, and, where more persons than one person are appointed, may appoint one of such persons to be the chairperson and another to be the vice-chairperson thereof, in such manner as may be prescribed, which shall, inter alia, provide—

(a) the grounds, procedure and duration of such supersession;

(b) the members of the governing board which has been superseded shall, from the date of supersession, cease to hold office as such members and any other person or persons may be appointed to exercise and perform all powers and duties of the governing board which has been superseded;

(c) the period for which the person or persons appointed under clause (b) shall hold office and any extensions required to such period;

(d) the manner of vesting of property of the market infrastructure institution or the self-regulatory organisation in such person or persons under clause (b) as being necessary for the purpose of enabling him or them to carry on the business of the market infrastructure institution or self-regulatory organisation; and

(e) the manner of reconstitution of the governing board after determination of the period of appointment of the person or persons appointed under clause (b).

30.5 The Committee have examined Clause 44 and observe that the provision empowers the Central Government, on the recommendation of the Board, to supersede the governing board of a Market Infrastructure Institution or a Self-Regulatory Organisation.

The Committee further observe that Market Infrastructure Institutions, including stock exchanges, depositories and clearing corporations, perform critical functions in the securities market and operate under the direct regulatory and supervisory oversight of SEBI.

The Committee also note the concern that the provision does not prescribe any maximum period for supersession, unlike comparable financial sector legislation, and that stakeholders have suggested that the power be vested entirely in SEBI.

30.6 The Committee are, however, of the view that, having regard to the systemic importance of Market Infrastructure Institutions, the power to supersede their governing boards should continue to vest in the Central Government.

At the same time, the Committee consider that the existing formulation, requiring action only "on the recommendation of the Board", may unduly constrain the Central Government. The Committee, therefore, recommend that Clause 44 be modified to provide that the Central Government may exercise such power in consultation with the Board, thereby ensuring that due weight is accorded to SEBI's regulatory expertise while preserving the oversight of the Central Government in matters of systemic significance.

30.7 The Committee further recommend that, in the case of Self-Regulatory Organisations, the power of supersession should vest in SEBI, being the sectoral regulator directly responsible for their recognition, supervision and regulation.

The Committee also recommend that the Code prescribe an appropriate maximum period for supersession, with provision for extension only for reasons to be recorded in writing, so as to ensure that supersession remains a temporary and exceptional measure consistent with the principles of good governance and regulatory accountability.

CHAPTER XXXI

XXXI Contracts in Contravention of Bye-laws to Be Void

Clause 47

31.1 Clause 47 provides for contracts in contravention of bye-laws to be void, as under:—

47 Any contract which is in contravention of any bye-laws of a stock exchange specified in that behalf shall be void under clause (d) of sub-section (2) of section 39 with respect to—

(a) the rights of any member of the stock exchange who has entered into such contract in contravention of such bye-laws; and

(b) the rights of any other person who has knowingly participated in the transaction entailing such contravention:

Provided that nothing in this section shall be construed to affect the rights of a person other than a member of the stock exchange to enforce any such contract or to recover any sum under or in respect of such contract, if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (d) of sub-section (2) of section 39.

31.2 Some stakeholders suggested that the reference to bye-laws “specified in that behalf” be replaced with a specific reference to the provision under which such bye-laws are made, so as to remove ambiguity and provide greater clarity regarding the bye-laws whose contravention would render a contract void.

31.3 When the issue was taken up with the Ministry, the Ministry, in its written reply, stated as under:—

“The concern is valid and appropriate drafting changes will be made.”

The Ministry further provided the following formulation for the proposed drafting change:—

“47. Contracts in contravention of bye-laws to be void. Any contract which is in contravention of any bye-laws of a stock exchange specified under clause (d) of sub-section (2) of section 39 shall be void with respect to—"

31.4 The Committee note that Clause 47 provides that a contract entered into in contravention of the bye-laws of a stock exchange specified under clause (d) of sub-section (2) of Clause 39 shall be void in respect of the rights of a member of the stock exchange who has entered into such contract and the rights of any other person who has knowingly participated in the transaction entailing such contravention.

31.5 The Committee observe that the expression “specified in that behalf” in the provision, as originally drafted, is ambiguous and does not clearly identify the statutory provision under which the relevant bye-laws are made. The Committee are of the view that a specific reference to the enabling provision under which such bye-laws are specified would provide greater clarity and legal certainty regarding the contracts to which the provision applies.

31.6 The Committee, therefore, recommend that Clause 47 be suitably amended to replace the expression “specified in that behalf” with a specific reference to the bye-laws specified under clause (d) of sub-section (2) of Clause 39, as proposed by the Ministry.

CHAPTER XXXII

XXXII Exemptions for Certain Contracts

Clause 48

32.1 Clause 48 provides for exemptions for certain contracts, as under:—

48 Notwithstanding anything contained in this Code or any other law for the time being in force, a contract for the sale or purchase of, or other dealings in, securities falling under any one or more of the clauses mentioned hereunder shall not be deemed to be illegal and nothing in this Code shall be construed as requiring any person or persons desirous of entering into such contracts to obtain the prior permission of the Board, namely:—

(a) a spot delivery contract;

(b) a non-transferable specific delivery contract;

(c) contracts for pre-emption, including right of first refusal, tag-along rights, drag-along rights or such other similar rights contained in shareholders' agreements, investor agreements or the articles of association of companies or other body corporate;

(d) contracts in shareholders' agreements or the articles of association of companies or other body corporate for the purchase or sale of securities pursuant to the exercise of an option contained therein to buy or sell the securities, where—

(i) the title to and ownership of the underlying securities is held continuously by the selling party to such contract for a minimum period of one year from the date of entering into the contract;

(ii) the price or consideration payable for the sale or purchase of the underlying securities pursuant to the exercise of any option contained therein is in compliance with the applicable laws for the time being in force; and

(iii) the contract is settled by way of actual delivery of the underlying securities;

(e) standing agreements or arrangements for the delivery or supply of commodities;

(f) contracts, including derivatives under the provisions of Chapter IIID of the Reserve Bank of India Act, 1934; or

(g) contracts between such parties relating to such matters, on such terms and conditions as the Central Government may, by notification, specify.

32.2 Some stakeholders suggested that Clause 48(f) be amended by inserting a comma after the word “derivatives”, so that the provision reads: “contracts, including derivatives, under the provisions of Chapter IIID of the Reserve Bank of India Act, 1934; or”

32.3 On the issue raised regarding the proposed drafting change in Clause 48(f) to include a comma after the word “derivatives”, the Ministry, in its written reply, acknowledged the concern and stated as under:—

“The concern is valid and appropriate drafting changes will be made.”

32.4 The Committee note that Clause 48 provides for exemptions in respect of certain contracts, including contracts and derivatives under the provisions of Chapter IIID of the Reserve Bank of India Act, 1934.

32.5 The Committee observe that the absence of a comma after the word “derivatives” in Clause 48(f) may create ambiguity in the grammatical construction and interpretation of the provision. The Committee are of the view that the provision should be appropriately punctuated to make it clear that the exemption applies to “contracts, including derivatives, under the provisions of Chapter IIID of the Reserve Bank of India Act, 1934”.

32.6 The Committee, therefore, recommend that Clause 48(f) be suitably amended by inserting a comma after the word “derivatives” to improve the clarity and grammatical precision of the provision.

CHAPTER XXXIII

XXXIII Derivatives in Respect of Commodity

Clause 49

33.1 Clause 49 provides for derivatives in respect of commodity, as under:—

49. The Central Government may, in consultation with the Board, notify such commodities in respect of which a derivative may be entered into or made by any person.

33.2 Some stakeholders suggested that the following proviso be inserted:—

"Provided that where such contract is—

(i) regulated by the International Financial Services Centres Authority established under section 4 of the International Financial Services Centres Authority Act, 2019; and

(ii) issued in an International Financial Services Centre by, or involves at least one of the parties thereto being, a financial institution established in an International Financial Services Centre, the goods covered under such contract shall be such as are otherwise eligible for commodity trading under the regulatory framework of the International Financial Services Centres Authority."

It was submitted that, at present, the list consists of only 104 commodities in respect of which derivatives may be issued. Since commodity trading is expected to be enabled in the International Financial Services Centre (IFSC) shortly, it was suggested that the scope of commodities on which derivatives may be issued in the IFSC should be expanded. Accordingly, the power to notify such commodities, insofar as commodity derivatives in the IFSC are concerned, may be vested in the International Financial Services Centres Authority (IFSCA).

33.3 When asked whether the power to notify the list of commodities, insofar as commodity derivatives in the International Financial Services Centre are concerned, may be vested in the International Financial Services Centres Authority, the Ministry, during the deliberations, stated as under:—

"Although everywhere we are saying 'subject to the current law and the Code', in Clause 49 we have stated that we will accept this language and make the appropriate modifications because this provision does not presently contain such language."

33.4 The Committee have examined Clause 49 and observe that it empowers the Central Government, in consultation with the Board, to notify the commodities in respect of which derivative contracts may be entered into or made.

The Committee, however, observe that the provision does not expressly recognise the distinct regulatory framework applicable to commodity derivatives traded in the International Financial Services Centre (IFSC), which are regulated by the International Financial Services Centres Authority (IFSCA). The Committee are of the view that, in the absence of an enabling provision, the development of commodity derivatives in the IFSC may remain constrained by the list of commodities notified for the domestic market, notwithstanding the separate regulatory architecture established under the International Financial Services Centres Authority Act, 2019.

The Committee, therefore, recommend that Clause 49 be suitably amended to provide that, in respect of commodity derivatives regulated by the International Financial Services Centres Authority and traded in an International Financial Services Centre, the power to notify the eligible commodities may be exercised by the International Financial Services Centres Authority in accordance with the applicable legal and regulatory framework.

CHAPTER XXXIV

XXXIV Non-transferable Specific Delivery Contract, Spot Delivery Contract and Transferable Specific Delivery Contract

Clause 50

34.1 Clause 50 provides for non-transferable specific delivery contracts, spot delivery contracts and transferable specific delivery contracts, as under:—

50. (1) If the Central Government is of the opinion that, in the interest of trade or in the public interest, it is expedient to regulate and control non-transferable specific delivery contracts in commodities or securities or the business of dealing in spot delivery contracts, it may, by notification, declare that all or any of the provisions of this Code shall apply to—

(a) such class or classes of non-transferable specific delivery contracts in respect of such commodities or securities or class or classes of commodities or securities; and

(b) such class or classes of spot delivery contracts for the sale or purchase of such securities as may be specified therein.

Explanation.—For the purposes of this Chapter, the expressions—

(i) “specific delivery contract” means a derivative which provides for the actual delivery of specific qualities or types of underlying during a stipulated future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;

(ii) “non-transferable specific delivery contract” means a specific delivery contract, the rights or liabilities under which, or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other document of title relating thereto, are not transferable;

(iii) “spot delivery contract” means a contract which is not executed on a stock exchange and provides for—

(a) actual delivery of securities and payment of the price, either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money through post being excluded from the computation of the aforesaid period, if the parties to the contract do not reside in the same town or locality; or

(b) actual delivery of commodities and payment of the price therefor, either immediately or within such period, not exceeding eleven days after the date of the contract, inclusive of the actual period taken for the despatch of the commodities through post, road or any other physical means, and subject to such conditions as the Central Government may notify in respect of any commodity, where the period under such contract is not capable of extension by the mutual consent of the parties or otherwise,

but shall not include such contracts performed, either wholly or in part—

(i) by realisation of any sum of money being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or

(ii) by any other means whatsoever, as a result of which the actual tendering of the goods covered by the contract or payment of the full price therefor is dispensed with.

(2) A transferable specific delivery contract shall be subject to the provisions of this Code and shall be entered into or made on a stock exchange, except for such contracts as are specified under Chapter IIID of the Reserve Bank of India Act, 1934.

Explanation.—For the purposes of this Chapter, “transferable specific delivery contract” means a specific delivery contract which is not a non-transferable specific delivery contract and is subject to such conditions relating to its transferability as may be notified by the Central Government.

34.2 Some stakeholders suggested that clause (b) of section 2(i) of the Securities Contracts (Regulation) Act, 1956 should be retained in the Securities Markets Code in its existing form.

It was further suggested that, since the definitions presently contained in the Explanations are cross-referred to in other provisions of the Code, including the definition clause, they should appropriately be incorporated in Clause 2 itself.

In support of the suggestion, it was submitted that the definition of “spot delivery contract” in the proposed Code does not include the transfer of securities by a depository from the account of one

beneficial owner to the account of another beneficial owner where such securities are dealt with by a depository, as presently provided under section 2(i)(b) of the Securities Contracts (Regulation) Act, 1956. Consequently, the proposed definition does not encompass transfers effected through the depository system.

34.3 When the Committee took up the matter, the Ministry, in its written reply, stated as under:—

"Appropriate drafting changes will be made. The following language of clause 2(i)(b) of the Securities Contracts (Regulation) Act, 1956 may be added:—

'(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;'"

34.4 The Committee have carefully examined Clause 50 and observe that the existing formulation of the definition of "spot delivery contract" does not expressly recognise transfers of securities effected through the depository system from the account of one beneficial owner to the account of another beneficial owner, as presently provided under section 2(i)(b) of the Securities Contracts (Regulation) Act, 1956.

The Committee further observe that this omission may create ambiguity regarding the legal recognition of transfers undertaken through the depository mechanism.

The Committee also note that certain definitions presently incorporated as Explanations to Clause 50 are referred to in other provisions of the Code and, therefore, may more appropriately be placed in the definition clause to ensure greater consistency and ease of interpretation.

The Committee, therefore, recommend that Clause 50 be suitably amended to incorporate the existing language contained in section 2(i)(b) of the Securities Contracts (Regulation) Act, 1956 relating to transfers of securities through the depository system. The Committee further recommend that the relevant definitions presently contained in the Explanations to Clause 50 be appropriately relocated to Clause 2 of the Code to ensure uniformity and facilitate interpretation.

CHAPTER XXXV

XXXV Prohibition of Performance of Contracts without Registration

Clause 51

35.1 Clause 51 provides for the prohibition of performance of contracts without registration, as under:—

51 No person shall organise or assist in organising or become a member of any association or entity in any area which provides facilities for the performance of any contracts in securities, without being registered with the Board or permitted under Chapter IIID of the Reserve Bank of India Act, 1934 or specifically exempted by the Central Government by notification.

35.2 Some experts expressed the view that the existing provision of the Securities Contracts (Regulation) Act, 1956 should be reinstated by inserting the words “assisting in, entering into or” after the words “which provides facilities for”.

It was submitted that Clause 51 of the Securities Markets Code proposes the deletion of the expressions “assisting in” and “entering into”, which may enable unregistered platforms to adopt alternative business models by facilitating transactions as marketplaces without obtaining the requisite permission or undertaking activities otherwise not statutorily permitted.

35.3 On the specific suggestion of the stakeholders for reinstating the existing provision of the Securities Contracts (Regulation) Act, 1956, the Ministry concurred with the suggestion and stated that appropriate drafting changes would be carried out.

35.4 The Committee have examined Clause 51 and observe that it seeks to prohibit any person from organising or becoming a member of any association or entity which provides facilities for the performance of contracts in securities, unless such association or entity is registered with the Board, permitted under Chapter IIID of the Reserve Bank of India Act, 1934 or specifically exempted by the Central Government.

The Committee, however, observe that the proposed provision omits the expressions "assisting in" and "entering into", which are contained in the corresponding provision of the Securities Contracts (Regulation) Act, 1956.

The Committee are of the view that the omission of these expressions may inadvertently narrow the scope of the prohibition and create potential regulatory gaps. In particular, entities operating unregistered electronic platforms, digital marketplaces or other intermediary arrangements may seek to structure their activities in a manner that facilitates or assists the performance of contracts in securities without directly organising such transactions, thereby circumventing the regulatory framework envisaged under the Code.

The Committee further observe that such an interpretation may give rise to regulatory arbitrage and undermine the objective of ensuring that all activities relating to the performance of contracts in securities are carried out only through duly regulated entities.

35.5 The Committee, therefore, recommend that Clause 51 be suitably amended by restoring the expressions "assisting in" and "entering into" after the words "which provides facilities for".

The Committee are of the view that the proposed amendment would preserve the existing legislative intent under the Securities Contracts (Regulation) Act, 1956, comprehensively capture all activities relating to the performance of contracts in securities, prevent the emergence of unregulated business models, and ensure effective regulatory oversight of securities market activities.

CHAPTER XXXVI

XXXVI Rights of Holder of Securities to Dividends and Income in Respect of Securities

Clause 53

36.1 Clause 53 provides for the rights of holders of securities to dividends and income in respect of securities, as under:—

53 (1) It shall be lawful for the holder of any security whose name appears in the books of the issuer issuing the said security to receive and retain any dividend or profit or income or return of any kind declared by the issuer in respect thereof for any year, irrespective of the fact that the said security has already been transferred by it for consideration, unless the transferee, who claims such dividend or profit or income or return from the transferor, has lodged the security and all other documents relating to the transfer, as may be required by the issuer, with the issuer for being registered in its name within a period of fifteen days from the date on which the dividend or profit or income or return became due.

(2) The period specified in sub-section (1) shall be extended—

(a) in the case of the death of the transferee, by the actual period taken by the legal representative to establish the claim to the dividend or profit or income or return;

(b) in the case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for its replacement; and

(c) in the case of delay in the lodging of any security and other documents relating to the transfer due to reasons connected with the post, by the actual period of such delay.

(3) Nothing contained in sub-section (1) shall affect—

(a) the right of an issuer to pay any dividend or profit or income or return which has become due to any person whose name is, for the time being, registered in the books of the issuer as the holder of the security in respect of which such dividend or profit or income or return has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person any rights in relation to the transfer, where the issuer has refused to register the transfer of the security in the name of the transferee.

36.2 Certain experts expressed concern that the provision does not adequately reflect the near-complete dematerialisation of securities traded or held in the Indian securities market, as it continues to employ concepts relating to physical transfers, lodgement of securities and registration of transfers.

It was submitted that the provision should be suitably updated, as physical holdings of securities have become exceedingly rare and exceptional, and the regulatory framework governing the transfer and transmission of securities has evolved to facilitate holdings in dematerialised form.

36.3 On being asked whether the provision may be aligned with the framework governing transfers of securities in dematerialised form, the Ministry agreed with the suggestion and stated that appropriate drafting changes would be made to the provision in terms of its applicability to dematerialised shares.

36.4 The Committee have examined Clause 53 and note that it seeks to provide for the rights of holders of securities to receive dividends, profits, income or other returns in respect of securities transferred by them.

The Committee, however, observe that the provision continues to employ concepts such as lodgement of securities, transfer deeds and registration of transfers, which are primarily associated with physical securities. Given the near-complete dematerialisation of securities in the Indian securities market and the evolution of the regulatory framework governing the transfer and transmission of securities through the depository system, the Committee are of the view that the provision does not adequately reflect the prevailing market practice.

36.5 The Committee, therefore, recommend that Clause 53 be suitably revised to align its provisions with the framework governing securities held and transferred in dematerialised form. The Committee further recommend that references to physical transfer procedures, wherever no longer relevant, be appropriately modified so as to ensure consistency with the dematerialised securities regime and provide greater clarity and certainty in the implementation of the Code.

CHAPTER XXXVII

XXXVII Holding of Securities

Power of Board in Respect of Depository Services

Clause 55

37.1 Clause 55 provides for the power of the Board in respect of depository services, as under:—

55 (1) All securities or other regulated instruments held by a depository shall be dematerialised and in a fungible form.

(2) Every issuer offering securities for subscription to any person shall allot such securities in dematerialised form and every person subscribing to securities offered by an issuer shall hold such securities with a depository:

Provided that nothing in this sub-section shall affect the right of a person to continue holding securities issued before the commencement of this Code in physical form unless such person intends to sell or transfer such securities, in which case such securities shall first be dematerialised.

(3) Where securities are held with a depository under sub-section (2), the issuer shall inform the depository of the details of allotment of the securities, and, on receipt of such information, the depository shall enter the name of the allottee as the beneficial owner of those securities in its records.

(4) Nothing contained in sections 88 and 89 of the Companies Act, 2013 shall apply to a depository in respect of securities or other regulated instruments held by it on behalf of the beneficial owners.

37.2 Some stakeholders suggested that a proviso be inserted in Clause 55 to provide that nothing contained therein shall apply to units of mutual funds.

It was submitted that, keeping in view the critical role of mutual funds in promoting financial inclusion in India, particularly in tier-II and tier-III cities, it has not been made mandatory for mutual fund unitholders to open demat accounts. At present, mutual fund units may be held through Statements

of Account, and most investors continue to hold their units in that form. Considering the costs associated with opening and maintaining demat accounts and the objective of promoting financial inclusion, it was suggested that Clause 55 should not apply to units of mutual funds.

37.3 On the suggestion regarding the non-mandatory requirement of demat accounts for mutual fund unitholders and the need to exempt units of mutual funds from the applicability of Clause 55 in view of financial inclusion considerations and the costs associated with opening and maintaining demat accounts, the Ministry agreed with the concerns raised and stated that appropriate drafting changes would be made.

37.4 The Committee have examined Clause 55 and note that it seeks to mandate that all securities or other regulated instruments held through a depository shall be in dematerialised form. The Committee further note that the provision requires every person subscribing to securities to hold such securities with a depository.

The Committee, however, observe that the mandatory requirement of holding securities in dematerialised form may have unintended implications for mutual fund unitholders, who are presently permitted to hold units in the form of Statements of Account without the need to open and maintain demat accounts.

The Committee are of the view that mandating demat accounts for mutual fund units may increase compliance costs for small investors and could adversely affect financial inclusion, particularly in tier-II and tier-III cities, where a significant number of retail investors access mutual fund products through the existing non-demat framework.

37.5 The Committee, therefore, recommend that Clause 55 be suitably amended to expressly exempt units of mutual funds from the mandatory requirement of holding securities through a depository. Such an exemption would preserve the existing investor-friendly framework for mutual fund investments, promote financial inclusion and avoid imposing additional compliance costs on retail investors, while continuing to provide investors with the option of holding mutual fund units in dematerialised form if they so choose.

CHAPTER XXXVIII

XXXVIII Registration of Transfer of Security, etc.

Clause 58

38.1 Clause 58 provides for the registration of transfer of security, etc., as under:—

58 (1) Every depository shall, on receipt of information from a depository participant, register the transfer of a security or other regulated instrument in the name of the transferee.

(2) The records of a depository in respect of any security or other regulated instrument shall be conclusive proof of the title of the transferee over such security or other regulated instrument, as the case may be.

(3) Every depository shall, on receipt of information from a depository participant, register any transfer of a security in favour of an asset reconstruction company along with, or consequent upon, the transfer or assignment of a financial asset of any bank or financial institution under sub-section (1) of section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

(4) Every depository shall, on receipt of information from a depository participant, register any issue of new shares in favour of any bank or financial institution or asset reconstruction company or any other assignee of such bank, financial institution or asset reconstruction company, as the case may be, by conversion of part of their debt into shares pursuant to the reconstruction of debt of the company agreed between the company and the bank, financial institution or asset reconstruction company.

Explanation.—For the purposes of this section, the expressions “asset reconstruction company”, “bank” and “financial institution” shall have the same meanings as assigned to them respectively in clauses (ba), (c) and (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

38.2 Certain experts expressed concern that sub-clause (2) of Clause 58 should be modified, as, in its present form, it may not adequately account for necessary safeguards. It was submitted that the

provision does not address circumstances such as fraud, forgery, coercion, manifest error or technical glitches.

It was further submitted that the provision may be suitably revised, particularly since Clause 62(6) provides that "the depository shall indemnify such beneficial owner for any loss caused to the beneficial owner due to the negligence of the depository or its member." It was pointed out that the expression "loss caused due to the negligence" may be inconsistent with treating the depository's records as "conclusive proof" of the transferee's title.

38.3 On the concerns raised regarding the adequacy of safeguards under Clause 58(2), particularly that the provision, in its present form, does not adequately account for circumstances such as fraud, forgery, coercion, manifest error or technical glitches, and that treating the depository's records as "conclusive proof" may be inconsistent with the depository's obligation under Clause 62(6) to indemnify beneficial owners for losses caused due to negligence, the Ministry agreed with the concerns raised and stated that appropriate drafting changes would be made.

38.4 The Committee have examined Clause 58 and note that it seeks to accord conclusive evidentiary value to the records of a depository in respect of the title of the transferee over securities or other regulated instruments.

While the provision is intended to promote certainty and efficiency in the transfer of securities held through the depository system, the Committee observe that it does not expressly provide for exceptional circumstances such as fraud, forgery, coercion, manifest error or technical glitches.

The Committee further observe that the indemnification mechanism provided under Clause 62(6) for losses arising from the negligence of the depository may require suitable harmonisation with the conclusive evidentiary value accorded to depository records under Clause 58(2).

The Committee, therefore, recommend that Clause 58(2) be suitably amended to incorporate an enabling provision permitting rectification of depository records in cases involving fraud, forgery, coercion, manifest error, technical glitches or other exceptional circumstances. The Committee further recommend that the provision be appropriately harmonised with the indemnification framework under Clause 62(6), so as to ensure consistency in the statutory framework, adequately safeguard the rights of beneficial owners, and preserve the integrity and reliability of the depository system.

CHAPTER XXXIX

XXXIX Pledge or Hypothecation of Securities or Other Regulated Instruments Held through a Depository

Clause 59

39.1 Clause 59 provides for the pledge or hypothecation of securities or other regulated instruments held through a depository, as under:—

59 (1) Subject to such regulations and bye-laws as may be made in this behalf, a beneficial owner may, with the previous approval of the depository, create a pledge or hypothecation in respect of a security or other regulated instrument owned by it through a depository.

(2) Every beneficial owner shall give information of such pledge or hypothecation to the depository, and the depository shall thereupon make entries in its records accordingly, and such entry shall be conclusive proof of such pledge or hypothecation, as the case may be.

39.2 Certain stakeholders suggested that the following proviso be inserted in sub-clause (2):—

“Provided, however, that the conclusive proof of title shall be subject to such transfers being valid and lawful and not having been obtained by an act of fraud, malfeasance or misfeasance.”

It was submitted that, under the Depositories Act, 1996, section 7 relating to transfer and section 12 relating to pledge or hypothecation do not recognise the records of a depository as conclusive proof of ownership. It was further submitted that the proposed Code seeks to accord enhanced evidentiary value to the records of the depository but does not adequately account for cases involving fraudulent transfers, in respect of which the regulators or market infrastructure institutions may not have direct oversight.

Accordingly, it was suggested that an appropriate proviso be inserted to safeguard the interests of depositories and depository participants in cases involving unauthorised, fraudulent or dishonest transfers.

39.3 On the issue of the adequacy of safeguards under Clause 59(2), the Ministry agreed with the concerns raised and stated that appropriate drafting changes would be made.

39.4 The Committee have examined Clause 59 relating to the pledge or hypothecation of securities or other regulated instruments held through a depository and note that it provides that the entries made by the depository in its records shall constitute conclusive proof of such pledge or hypothecation.

The Committee further note that, unlike the existing provisions of the Depositories Act, 1996, the proposed provision accords conclusive evidentiary value to the records of the depository without expressly recognising situations where such entries may have arisen on account of fraud, malfeasance, misfeasance or other unauthorised or unlawful transfers.

39.5 The Committee are of the view that, while according conclusive evidentiary value to the records of the depository would promote certainty and efficiency in the securities market, the provision should also incorporate adequate safeguards to address exceptional circumstances involving fraudulent or unlawful transactions.

The Committee, therefore, recommend that Clause 59(2) be suitably amended by incorporating an appropriate proviso clarifying that the conclusive evidentiary value of entries in the records of the depository shall be subject to the pledge or hypothecation having been validly created and not obtained through fraud, malfeasance, misfeasance or any other unlawful means, so as to adequately protect the interests of beneficial owners, depositories and depository participants while preserving the integrity of the depository system.

CHAPTER XL

XL Public Issue and Listing of Securities

Clause 64

40.1 Clause 64 of the Bill provides for public issue and listing of securities. The provisions of the Bill are reproduced below:—

64 (1) Without prejudice to the provisions of this Code or any other law for the time being in force, no securities shall be offered to the public or listed on a stock exchange unless the issuer fulfils such eligibility criteria and complies with such requirements as may be specified by regulations.

(2) Every issuer intending to offer securities to the public or for listing shall, before issuing the offer document, make an application to each stock exchange for permission to list and shall comply with such conditions as may be specified by regulations.

(3) Where securities are listed on any stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange and such other conditions as may be specified by regulations.

(4) Where the permission under sub-section (2) has not been granted or refused, the issuer shall forthwith repay all money, if any, received from the applicant within such period and in such manner as may be specified by regulations, and the issuer and every director or trustee thereof, as the case may be, who is in default shall be jointly and severally liable to repay that money.

(5) The Board may, by general or special order—

(a) prohibit any company from issuing a prospectus, any offer document or advertisement soliciting money from the public for the issue of securities; or

(b) specify the conditions subject to which the prospectus, offer document or advertisement, if not prohibited, may be issued.

40.2 Some stakeholders suggested that greater clarity be provided regarding the timelines and procedures for the issuance of offer documents and the submission of IPO listing applications.

The Ministry, in its reply, stated that the provision is based on section 17A(2) of the Securities Contracts (Regulation) Act, 1956, which requires an application to be made to a stock exchange. The Ministry further stated that the Board has been empowered to make regulations specifying the eligibility criteria and other requirements relating to public issues and the listing of securities. The detailed timelines and procedures may, therefore, be specified through regulations. It was also stated that, at present, the detailed procedural requirements are contained in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

40.3 One stakeholder suggested that the words “each stock exchange” in Clause 64(2) be replaced with “one or more stock exchanges” to clarify that an issuer may choose to list its securities on one or more selected stock exchanges, rather than being required to seek listing on every stock exchange.

It was further submitted that, in sub-clause (5)(a) of Clause 64, the term “company” has been used. Since the term “company” has not been defined in the Bill, the definition under the Companies Act, 2013 would apply, thereby making the provision restrictive and excluding other entities such as body corporates, REITs and InvITs, which may also be listed under the proposed Code. It was, therefore, suggested that the term “issuer” may be used in place of “company” so that the Board’s powers are not unduly restricted.

40.4 During the course of evidence, the Secretary, Department of Economic Affairs, on the issue of the use of the expressions “each stock exchange” and “company”, stated as under:—

“Seeking approval from each stock exchange was never the legislative intention. We intend to amend it to provide that the application will be made only to those stock exchanges where the issuer intends to list. It is not necessary to seek approval from all stock exchanges. The second suggestion under this clause has also been accepted, wherein the term ‘company’ will be replaced by the word ‘person’.”

40.5 On the suggestion regarding the introduction of a fast-track approval mechanism for IPOs meeting specified eligibility thresholds, the Ministry stated that, under Clauses 64 and 65, the Board has been vested with broad regulation-making powers to govern various aspects relating to public issues and listing. Such requirements may be specified at the implementation stage, if considered necessary.

40.6 Some stakeholders also suggested that the Board be empowered to specify categories of issuers that may not be permitted to list or make further issues of securities on account of activities carried on in contravention of Government policy.

The Ministry, in its detailed reply, stated as under:—

"Clause 64(1) already provides regulation-making power to the Board to govern eligibility criteria and other requirements to be complied with by an issuer in relation to an issue. Further, Clause 64(5) empowers the Board to prohibit any company from issuing offer documents or soliciting money from the public for the issue of securities, and to specify the conditions subject to which such documents may be issued. Clause 64 also provides that every issuer intending to offer securities to the public or for listing shall make an application to each stock exchange for permission to list and shall comply with such conditions as may be specified by regulations. Further, Clause 65 empowers the Board to make regulations governing requirements for issuers in matters relating to, inter alia, corporate governance requirements, disclosures by issuers and any other matters incidental thereto. Clause 39 empowers a market infrastructure institution (in this case, a stock exchange) to make bye-laws governing conditions such as norms for fair and time-bound disclosure of material information by issuers, the terms and conditions for accessing any services provided by the market infrastructure institution, etc. In light of these provisions, such requirements may be provided at the implementation stage, if required."

40.7 The Committee have examined Clause 64 of the Bill and note that it provides that securities may be offered to the public or listed on a stock exchange only after the issuer fulfils the specified eligibility criteria and complies with the applicable requirements.

The Committee further note that the existing provision relating to listing is based on section 17A(2) of the Securities Contracts (Regulation) Act, 1956, which requires an application to be made to a stock exchange. The Committee also note that the Board has been empowered to specify, by regulations, the eligibility criteria and other requirements relating to public issues and the listing of securities.

During the course of examination, the Committee were given to understand that an issuer intending to offer securities to the public is required to make an application only to those stock exchanges where it proposes to list its securities before issuing the offer document. However, the Committee observe that the drafting of Clause 64(2) gives the impression that an issuer is required to submit an application to every stock exchange.

The Committee, therefore, recommend that suitable drafting changes be made to Clause 64(2) so as to clearly reflect the legislative intent.

40.8 The Committee further note that the term "company" has been used in Clause 64(5)(a), although it has not been defined in the Bill. The Committee observe that, in such a situation, the definition under the Companies Act, 2013 would apply, thereby restricting the scope of the provision and excluding other entities such as body corporates, REITs and InvITs, which may also be listed under this Code.

The Committee are of the considered view that the word "company" occurring in Clause 64(5)(a) should be replaced with an appropriate expression so as to enable the Board to regulate all listed entities.

40.9 The Committee note with concern that the detailed timelines and procedures governing the issuance of offer documents, submission of listing applications, the fast-track approval mechanism for initial public offers and the framework relating to issuers who may not be permitted to list or make further issues of securities on account of serious governance contraventions have not been incorporated in the Bill.

The Committee further note the Ministry's submission that these matters may be provided for at the implementation stage by exercising the regulation-making powers available under Clauses 64 and 65.

The Committee, therefore, recommend that the necessary regulations in this regard be framed within a definite time frame so as to address these issues at the earliest.

CHAPTER XLI

XLI Listing and Disclosure Requirements

Clause 65

41.1 Clause 65 of the Bill provides for listing and disclosure requirements, as under:—

65 (1) The requirements for issuers in matters relating to issue of capital, minimum offer size, issue and transfer of securities, corporate governance requirements, disclosures by issuers, substantial acquisition of shares and takeover of companies, public shareholding norms, concentration norms, prudential norms, risk management and any other matters incidental thereto shall be such as may be specified by regulations.

(2) Without prejudice to anything contained in sub-section (1), the Central Government may, by notification, in the public interest, exempt any listed public sector company from any or all of the requirements specified in sub-section (1).

Explanation.—For the purposes of this sub-section, "public sector company" means a body corporate constituted by an Act of Parliament or any State Legislature and includes a Government company as defined in clause (45) of section 2 of the Companies Act, 2013.

41.2 Some stakeholders expressed concern that the exemption proposed for public sector companies under Clause 65(2) amounts to discriminatory treatment of listed companies and may adversely affect the securities market.

The Ministry stated that the scope of the exemption available to public sector companies may be suitably restricted and that appropriate drafting changes would be made.

41.3 During the course of evidence, the Committee desired to know why public sector companies should not be required to comply with the same standards as any other listed company in matters relating to raising capital. In response, the Secretary stated as under:—

"We checked a few other statutes like the Companies Act and the Competition Act. Some exemptions are provided there as well."

41.4 During the deliberations, it emerged that the Competition Act does not exempt public sector companies from its substantive provisions. While the Government may choose to retain monopolies in certain sectors as a matter of public policy, the issue under consideration relates to the raising of capital from the securities market.

41.5 On being asked about the reasons for retaining Clause 65(2) in the Bill, the Secretary, during the course of evidence, stated as under:—

".. because sometimes Central Public Sector Companies (CPSCs) get listed and, going forward, they may need some exemptions on a case-to-case basis."

With regard to the current practice, the Secretary further stated:—

"Sir, right now, the formulation is that CPSCs which get listed, if they need an exemption, they have to approach SEBI. Under these regulations, including the LODR Regulations, they seek an exemption, which SEBI grants."

41.6 The Committee have examined Clause 65 of the Bill and note that it empowers the Board to specify, by regulations, the listing and disclosure requirements applicable to issuers. The Committee further note that the Clause empowers the Central Government to exempt any listed public sector company, by notification in the public interest, from any or all of such requirements.

41.7 The Committee observe that Clause 65(2) of the Bill provides for exemption of public sector companies from any or all of the listing and disclosure requirements. The Committee further observe that the principles governing such exemptions have been left to the Executive.

The Committee do not find merit in comparing the exemptions available to public sector or State-owned companies under statutes such as the Companies Act or the Competition Act, as the objectives of those enactments are materially different from those of the proposed Securities Markets Code.

41.8 The Committee note from the submissions of the Ministry that there may be circumstances in which public sector undertakings may require exemptions in the public interest.

The Committee are of the view that, instead of providing a broad statutory exemption merely on account of Government ownership, a narrow, tailored and time-bound carve-out in the public interest may be provided, where warranted, for specified debt-laden or financially distressed public sector undertakings.

41.9 The Committee are of the opinion that, as a general principle, similar listing and disclosure requirements should apply equally to public sector and private sector listed companies.

The Committee observe that Clause 65(2), in its present form, confers a blanket power to exempt all public sector companies from the mandatory listing and disclosure requirements. The Committee are of the view that, in the interest of the securities market, the scope of such exemption should be appropriately narrowed.

The Committee, therefore, recommend that any exemption from the listing and disclosure requirements for public sector undertakings should be granted only on a case-to-case basis, in the public interest, for reasons to be recorded in writing. The Committee further recommend that the Explanation to Clause 65(2) be suitably redrafted accordingly.

CHAPTER XLII

XLII Delisting of Securities

Clause 66

42.1 Clause 66 of the Bill provides for the delisting of securities, as under:—

66 (1) An issuer may apply to a stock exchange to get its securities delisted from such stock exchange in such manner as may be specified by regulations.

(2) Without prejudice to sub-section (1), a stock exchange may delist the securities of an issuer, after recording the reasons therefor, for continued contravention of any listing conditions or on any of the grounds as may be specified by regulations:

Provided that the securities of an issuer shall not be delisted unless such issuer has been given an opportunity of being heard.

42.2 On the issue of investor safeguards during the delisting process, the Ministry, during the course of evidence, submitted that the process of voluntary and compulsory delisting is presently governed by the SEBI (Delisting of Equity Shares) Regulations, 2021 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which contain adequate safeguards.

The Ministry further submitted that section 21A of the Securities Contracts (Regulation) Act, 1956 enables a stock exchange to delist securities, after recording the reasons therefor, on any of the grounds prescribed under the Securities Contracts (Regulation) Rules, 1957. The provision also requires that the concerned company be given a reasonable opportunity of being heard before its securities are delisted. Further, under section 21A(2) of the Securities Contracts (Regulation) Act, 1956, a listed company or an aggrieved investor may prefer an appeal before the Securities Appellate Tribunal against the decision of the stock exchange to delist its securities.

42.3 On being further asked about the provisions of the Bill through which investors have been protected, the Ministry stated as under:—

“Clause 66(1) is a new provision on voluntary delisting which is based on the existing regulations. It has been given a statutory anchor and regulation-making power has been provided to specify the procedure for voluntary delisting. Clause 66(2) is a modified provision based on section 21A(1) of the Securities Contracts (Regulation) Act, 1956 providing for delisting at the option of a stock exchange. The stock exchange may delist the securities of an issuer for continued contravention of the listing conditions or on any other grounds which may be specified through regulations. The clause provides for an opportunity of hearing to the issuer before its securities are delisted. Further, under Clause 85(1)(g), an aggrieved company can appeal against the order of the stock exchange. The existing regulations governing voluntary and compulsory delisting are continued under the Securities Markets Code framework and the existing safeguards will continue to apply. Moreover, specifying the detailed safeguards in the regulations would provide the necessary flexibility to update the framework in a timely manner while ensuring investor protection. As submitted by SEBI, such requirements need to be customised depending on the nature of the securities and are revised from time to time.”

42.4 On the types of delisting of securities, the Secretary, during the course of evidence, stated as under:—

“There are currently two types—voluntary delisting and compulsory delisting. These are governed by the SEBI (Delisting of Equity Shares) Regulations and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.”

42.5 With regard to investor safeguards, the Secretary further stated as under:—

“We would like to submit that Clause 66(1) is a new provision and Clause 66(2) is a modified provision based on the Securities Contracts (Regulation) Act. Some of the safeguards prescribed under the SEBI regulations in the case of voluntary delisting include an immediate public announcement, appointment of an independent merchant banker, independent due diligence by the stock exchange, an escrow mechanism and the reverse book building process for fair price discovery.”

42.6 The Secretary also informed the Committee that the mechanism for determining the delisting price and the operation of the reverse book building process are prescribed in the SEBI regulations.

42.7 When asked whether the power to specify the grounds for delisting has been delegated to the Board, the Secretary replied in the affirmative.

42.8 The Secretary further stated that the regulatory framework also contains a number of safeguards, including special provisions for small companies, the manner of operating the exit window and protection of residual shareholders.

42.9 With regard to the provisions relating to compulsory and voluntary delisting, the Secretary stated as under:—

"For compulsory delisting, a few grounds have been mentioned in sub-clause (2). For voluntary delisting, it is covered in the regulations. The stock exchange may delist after recording reasons for contravention of any listing conditions. The other grounds can be specified through regulations. An opportunity of being heard is also provided."

42.10 On the issue of whether a shareholder has the right to file an appeal in the case of voluntary delisting, the Secretary stated as under:—

"Sir, I will have to check that. But this particular process will succeed only if the votes of the public shareholders are obtained. The safeguard provided in the regulations is shareholder approval, subject to the condition that the special resolution succeeds only if the votes cast by public shareholders in favour are at least twice the votes cast against it. That is the safeguard presently available under the regulations. I have not seen any appeal provision. Sir, we will examine the matter."

42.11 On being further asked about an appeal in the case of voluntary delisting, the Secretary stated as under:—

"SEBI has informed us that both voluntary delisting and compulsory delisting can be appealed before the Securities Appellate Tribunal. In continuation of that, we are proposing to modify the current formulation because it is presently linked only to Clause 66(2), which deals with compulsory delisting. We propose to link it to Clause 66 as a whole, which covers both voluntary and compulsory delisting, so as to make the position amply clear."

42.12 The Committee have examined Clause 66 of the Bill and observe that it enables an issuer to apply to a stock exchange for the delisting of its securities. The Committee further note that the stock exchange may also, on its own, delist the securities of an issuer, subject to affording the issuer an opportunity of being heard.

42.13 The Committee note that a number of safeguards are presently available to investors during the delisting process under the SEBI (Delisting of Equity Shares) Regulations, 2021 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. These include an immediate public announcement, appointment of an independent merchant banker, independent due diligence by the stock exchange, an escrow mechanism, price discovery

through the reverse book building process, special provisions for small companies, an exit window and protection of residual shareholders.

The Committee observe that, although these safeguards are substantial, they are presently contained only in subordinate legislation and find no place in the principal statute. Consequently, an investor reading the Code would remain unaware of the statutory protections available.

The Committee, therefore, recommend that the essential principles of investor protection and safeguards in relation to delisting be incorporated in the principal statute itself.

42.14 The Committee further observe that, under Clause 66(2) read with Clause 85(2)(b), which substantially carries forward section 21A(2) of the Securities Contracts (Regulation) Act, 1956, an issuer or an investor aggrieved by a decision of a stock exchange in relation to compulsory delisting may prefer an appeal before the Securities Appellate Tribunal.

The Committee do not find a corresponding provision in respect of voluntary delisting under Clause 66(1). The Committee note that the principal safeguard presently available in the case of voluntary delisting is the requirement of a special resolution, which succeeds only where the votes cast by the public shareholders in favour are at least twice the votes cast against it.

The Committee, therefore, recommend that the Ministry examine the matter and provide, under Clause 66 read with Clause 85, a right of appeal to the Securities Appellate Tribunal for an investor aggrieved by a voluntary delisting under Clause 66(1), and make the necessary consequential amendments in the Bill.

CHAPTER XLIII

XLIII Right of a Clearing Corporation to Have Precedence over Other Rights and Attachments

Clause 70

43.1 Clause 70 of the Bill provides that the right of a clearing corporation shall have precedence over other rights and attachments. The provisions of the Clause are reproduced below:—

70. Subject to the provisions of the Insolvency and Bankruptcy Code, 2016, the right of a clearing corporation to recover its dues from the clearing members, incurred in discharge of their clearing and settlement functions, from the collaterals, deposits and other assets of the clearing members held by the clearing corporation for this purpose shall—

(a) in the case of insolvency, winding-up, liquidation or resolution, as the case may be, of such clearing member, have precedence over the rights of any other person in such insolvency, winding-up, liquidation or resolution proceedings;

(b) to the extent of the claims of the clearing corporation, have priority over any other attachment by any authority constituted under any law for the time being in force.

43.2 One stakeholder suggested that the phrase “subject to the provisions of the Insolvency and Bankruptcy Code, 2016” occurring in Clause 70 be substituted with the phrase “notwithstanding anything contained in any other law for the time being in force.”

It was submitted that the provision, in its present form, could adversely affect the amounts payable to investors whose transactions are cleared through clearing members. It was, therefore, suggested that the aforesaid words be deleted, as the existing formulation may place the interests of secured creditors ahead of those of investors who are not shareholders.

43.3 When asked to justify the use of the expression “subject to the provisions of the Insolvency and Bankruptcy Code, 2016”, the Secretary, during the course of evidence, stated as under:—

"The concern accepted is that Clause 70 seeks to protect the finality of settlement transactions and prevent the reversal of completed trades. The entire securities market works on the assumption and trust that once a trade is executed, it is completed; netting and settlement have occurred, shares have been transferred, payments have been made and deliveries have taken place. Therefore, to protect finality, Clause 70 presently states 'subject to the provisions of the IBC'. However, we found merit in accepting the suggestion that it should read 'notwithstanding anything contained in the IBC', as it would give primacy to Clause 70."

43.4 During the course of examination, the Secretary, while explaining why the claims of clearing corporations and the assets held for clearing and settlement functions should be protected where a company undergoes resolution under the Insolvency and Bankruptcy Code, stated as under:—

"We examined certain domestic and international laws in this regard. The Payment and Settlement Systems Act provides precedence over the IBC. The Bilateral Netting of Qualified Financial Contracts Act, 2020 also provides precedence over the IBC. The principle is that netting and settlement are important functions, and should one of the companies become insolvent, the trades that have commenced should be allowed to be settled. The IBC itself offers protection from liquidation, but it does not offer protection from resolution, which is the point we are making. Even in the case of resolution, perhaps this needs to be given precedence. The IOSCO Principles and the UNCITRAL Legislative Guide also provide that insolvency law should recognise financial contracts that permit set-off and netting of outstanding obligations promptly. The laws in the United States, Canada and Singapore similarly provide that the netting and settlement process should remain outside the insolvency process, whether in liquidation or resolution. Liquidation or resolution should not be the determining factor. We can provide suitable language."

43.5 During the course of evidence, when the Committee further enquired whether the Ministry supported replacing the words "subject to the provisions of the Insolvency and Bankruptcy Code, 2016" with "notwithstanding anything contained in…", the Secretary replied as under:—

"Yes, Sir. That is what we were submitting last time also."

43.6 The Committee have examined Clause 70 of the Bill and note that it accords precedence to the dues recoverable by a clearing corporation in discharge of its clearing and settlement functions over other rights and attachments.

The Committee further note that the securities market operates on the fundamental principles of certainty and finality of trades, ensuring that, once a trade is executed, netting and settlement are completed, securities are transferred and payments are made.

43.7 The Committee note with concern that the use of the phrase "subject to the provisions of the Insolvency and Bankruptcy Code, 2016" may place the interests of secured creditors ahead of those of investors who are not shareholders.

The Committee further note from the submissions of the Ministry that the Payment and Settlement Systems Act, 2007 and the Bilateral Netting of Qualified Financial Contracts Act, 2020 accord precedence to netting and settlement over the Insolvency and Bankruptcy Code, 2016.

The Committee also note that the IOSCO Principles and the UNCITRAL Legislative Guide on Insolvency Law recognise that insolvency laws should give effect to financial contracts permitting set-off and netting of outstanding obligations. The Committee further note that the laws of the United States, Canada and Singapore similarly keep the netting and settlement process outside the insolvency process, whether in liquidation or resolution.

43.8 In view of the foregoing, the Committee are of the considered opinion that preserving the certainty and finality of completed transactions is essential for maintaining market integrity, investor confidence and the stability of the securities market, which operates on the assumption and trust that, once a trade is executed, netting and settlement have been completed, securities have been transferred, payments have been made and deliveries have taken place.

The Committee, therefore, recommend that the words "subject to the provisions of the Insolvency and Bankruptcy Code, 2016" in Clause 70 be substituted with the words "notwithstanding anything contained in the Insolvency and Bankruptcy Code, 2016" so as to give primacy to the rights of the clearing corporation over other rights and attachments and to preserve the finality of settlements.

The Committee, therefore, recommend that the necessary amendment be carried out in Clause 70 of the Bill to safeguard the interests of investors.

CHAPTER XLIV

Chapter X of the Bill provides for the Investor Charter and Investor Grievance Redressal Mechanism, as under:

XLIV Investor Charter

Clause 71

44.1 Clause 71 of the Bill provides for an Investor Charter, as under:—

71 The Board may make an Investor Charter which shall provide for the principles for the protection of investors, facilitate their participation in the securities markets, and cover such other matters concerning investors, in such manner as may be specified by regulations.

44.2 One stakeholder suggested that Clause 71 be substituted with the following:—

"The Board shall, by regulations, make an Investor Charter which shall provide for the principles for the protection of investors, facilitation of investor participation in the securities markets, and such other matters concerning investors as may be specified."

44.3 On being asked about making the Investor Charter mandatory, the Secretary, during the course of evidence, stated as under:—

"…the Chapter basically says that the Board may make an Investor Charter. So, there was one issue about 'may' and 'shall'. It was agreed that we should probably use 'shall'."

44.4 The Committee have examined Clause 71 of the Bill and note that it empowers the Board to specify, by regulations, an Investor Charter providing for the principles for the protection of investors, facilitation of their participation in the securities markets and such other matters concerning investors.

44.5 The Committee observe that Clause 71, in its present form, does not mandatorily require the Board to make an Investor Charter. The Committee are of the view that making the

Investor Charter mandatory would better align the Code with its objective of strengthening investor protection and reinforcing investor confidence.

The Committee, therefore, recommend that the word "may" occurring in Clause 71 be substituted with the word "shall", thereby making it mandatory for the Board to provide for an Investor Charter.

44.6 The Committee are also of the view that the Investor Charter framed by the Board should set out the rights of investors and prescribe timelines for grievance redressal. The Committee further recommend that the Investor Charter should be published and periodically reviewed so as to keep pace with evolving market practices and developments.

CHAPTER XLV

XLV Investor Grievance Redressal Mechanism

Clause 72

45.1 Clause 72 of the Bill provides for an investor grievance redressal mechanism, as under:—

72 (1) The Board may provide for an investor grievance redressal mechanism and direct securities market service providers or issuers or their agents to provide similar mechanisms to receive, monitor and redress investor grievances in such manner and within such period as may be specified by regulations.

(2) Upon receipt of a grievance from an investor under the mechanism provided under sub-section (1), the Board, the securities market service provider or the issuer shall, within such period as may be specified by regulations, not exceeding seven days, inform the investor about the receipt of the grievance.

45.2 One stakeholder suggested that complaints relating to the non-redressal of grievances should be directly entertainable by the Ombudsperson, instead of requiring the complainant to first approach the investor grievance redressal mechanism envisaged under Clause 72(1) of the Bill. It was submitted that such an arrangement would expedite the resolution of complaints.

45.3 While stating that the issue has already been addressed in the Bill, the Ministry, in its detailed reply, submitted as under:—

"Under the existing framework, investors have the option to approach dispute resolution mechanisms administered by SEBI-regulated entities, including pre-conciliation, online conciliation and online arbitration, without being subject to any mandatory waiting period. Investors may thereafter file their grievances on the SCORES platform. The Securities Markets Code does not preclude the continued use of such first-level mechanisms and, in fact, equates them with the initial tier of grievance redressal under Clause 72. The preservation of this approach seeks to balance speed of resolution with procedural fairness and does not undermine investor confidence.

The Securities Markets Code establishes a two-tier framework for investor grievance redressal. Where a grievance is not resolved at the first level within 180 days, the investor may approach the

Ombudsperson under Clause 74, upon which the first-level proceedings shall abate. This is intended to ensure that the Ombudsperson mechanism is invoked only after the primary mechanisms have been given a fair opportunity to resolve the grievance.

The Securities Markets Code entrusts SEBI with the duty to protect investor interests and regulate the securities markets. In this context, SEBI officers acting as Ombudspersons are envisaged to discharge their functions independently and impartially, with SEBI remaining a non-party to the dispute. The powers and functions of the Ombudsperson are clearly set out under Clauses 72 to 78, and orders passed by the Ombudsperson are appealable to the Securities Appellate Tribunal under Clause 85(1)(f), thereby ensuring independent oversight. If any amendments to the regulations are required to align with this framework, they may be considered at the implementation stage."

45.4 One stakeholder submitted that a discretionary grievance redressal framework could lead to uneven implementation. It was suggested that a mandatory and uniform grievance redressal framework is essential in a retail-led market and would ensure predictable investor-facing standards across market participants.

Accordingly, it was proposed that Clause 72(1) be substituted with the following:—

"The Board shall provide an investor grievance redressal mechanism and shall require every securities market service provider, issuer or its agent to establish a similar mechanism to receive, monitor and redress investor grievances in such manner and within such period as may be specified by regulations."

45.5 Some stakeholders also suggested that it should be mandatory for the Board to provide an investor grievance redressal mechanism. When the Committee raised the issue with the Ministry, the Secretary, Department of Economic Affairs, stated during the course of evidence that the concern had been accepted and that the word "may" could be substituted with "shall".

45.6 Some stakeholders suggested that market infrastructure institutions be excluded from the applicability of the proposed provision. Responding to the suggestion, the Ministry stated as under:—

"Market infrastructure institutions provide services to investors in the securities markets, similar to certain functions performed by issuers. Accordingly, the investor grievance redressal provisions under the Code are also applicable to market infrastructure institutions. At present, SEBI also enables investors to redress grievances against market infrastructure institutions through its SCORES platform."

45.7 When enquired about the existing timelines for grievance redressal, the Secretary, during the course of evidence, stated as under:—

"Currently, there is no statutory grievance redressal mechanism. SEBI follows an administrative mechanism and has recently introduced a platform for this purpose. Under the existing platform, the market service provider receives the complaint. At present, the timelines provide for acknowledgement within seven days. The complaint is then required to be resolved within twenty-one days. If the complainant is not satisfied, the matter may be taken up again with the same entity, which takes another fifteen days. Thus, the entire process presently takes about sixty to ninety days."

45.8 The Committee have examined Clause 72 of the Bill and note that it empowers the Board to provide, by regulations, an investor grievance redressal mechanism and to direct securities market service providers, issuers and their agents to establish similar mechanisms for receiving, monitoring and redressing investor grievances.

45.9 The Committee further note that market infrastructure institutions have been brought within the ambit of Clause 72 on the ground that they form an integral part of the investor grievance redressal architecture and are themselves securities market service providers.

The Committee agree with the Ministry and recommend that the drafting of Clause 72(1) be suitably clarified so as to place it beyond doubt that the obligation to establish an investor grievance redressal mechanism extends to every securities market service provider, including market infrastructure institutions, intermediaries and self-regulatory organisations, as well as to issuers and their agents.

45.10 The Committee observe that the grievance redressal mechanism envisaged under Clause 72 is, in its present formulation, discretionary because of the use of the word "may" in sub-clause (1). The Committee are of the considered view that the Board should be under a mandatory obligation to provide an investor grievance redressal mechanism.

The Committee, therefore, recommend that the word "may" occurring in Clause 72(1) be substituted with the word "shall".

45.11 The Committee note the information furnished by the Ministry regarding the functioning of the SEBI Complaints Redress System (SCORES), under which a complaint is required to be acknowledged within seven days, the concerned entity is required to resolve the complaint and submit its action taken report within twenty-one calendar days, and a review may thereafter be sought, the entire process taking approximately sixty to ninety days.

The Committee are of the firm view that a tiered grievance redressal framework can be justified only if the first tier is both time-bound and effective.

CHAPTER XLVI

XLVI Board to Designate Ombudsperson to Redress Grievances

Clause 73

46.1 Clause 73 of the Bill provides for the Board to designate an Ombudsperson to redress grievances, as under:—

73 (1) The Board may designate one or more of its officers as Ombudspersons to receive and redress the grievances of investors under this Chapter.

(2) The Ombudsperson shall sit at such places having jurisdiction over such areas as the Board may notify in this behalf.

(3) The Ombudsperson shall redress grievances in such manner and within such timelines as may be specified by regulations.

46.2 During the course of examination, the Committee pointed out that the timelines for disposal of grievances had not been prescribed under Clause 73(3) of the Bill and had instead been left to be specified through regulations. When asked why the timelines had not been provided in the Bill, the Secretary, during the course of evidence, stated as under:—

“As of now, it is envisaged that this will come through regulations. There is no timeline. What it says is that it may be specified through regulations based on the complexity of the case.”

46.3 On being further asked whether an outer time limit could be prescribed in the statute itself, the Secretary stated during the course of evidence:—

“We could give an outer limit and maybe within that regulations can be made. We can give an outer limit.”

When the Committee further emphasised that the timeline should be provided in the statute itself, the Secretary stated:—

“We are saying 120 days, four months, after seeing the data.”

46.4 One stakeholder submitted that an Ombudsperson drawn from amongst the officers of SEBI to adjudicate complaints against SEBI-regulated intermediaries creates an inherent structural conflict of interest, since SEBI both supervises the regulated entities and controls the adjudicatory mechanism. It was suggested that effective investor grievance redressal requires institutional independence. Reference was also made to the Reserve Bank of India’s Integrated Ombudsman Scheme as a useful model, with independently appointed Ombudspersons, a dedicated budget and a publicly available annual report. It was, therefore, suggested that statutory independence of the Ombudsperson be expressly provided.

Responding to the issue, the Ministry stated as under:—

“The grievances before an Ombudsperson pertain to disputes between an investor and securities market service providers or issuers. SEBI remains an independent party in such disputes. Therefore, concerns relating to impartiality may not arise.”

46.5 The Committee have examined Clause 73 of the Bill and note that it empowers the Board to designate one or more of its officers as Ombudspersons to receive and redress investor grievances. The Committee further note that the Clause empowers the Board to determine their territorial jurisdiction and to specify, by regulations, the manner and timelines for grievance redressal.

46.6 The Committee further observe that Clause 73(1) provides for the Ombudsperson to be designated from amongst the officers of the Board itself. The Committee note the Ministry’s submission that the grievance before the Ombudsperson is not against the Board but against a securities market service provider or an issuer, and that the Board remains an independent third party to such disputes.

The Committee, while accepting this position, are of the view that the credibility of the mechanism will depend upon the demonstrable independence of the Ombudsperson from the operational and enforcement wings of the Board.

46.7 The Committee observe that no statutory timeline has been prescribed for the Ombudsperson to dispose of grievances and that the matter has been left entirely to regulations. The Committee are of the view that, in the absence of a statutory outer limit, the

very object of establishing an Ombudsperson under the Code, namely, speedy and effective grievance redressal, may be defeated.

The Committee note the Ministry's submission that an outer time limit for disposal of grievances by the Ombudsperson can be provided. The Committee, therefore, recommend that an outer limit of 120 days for the redressal of grievances by the Ombudsperson should be expressly provided in the statute itself.

CHAPTER XLVII

XLVII Procedure for Filing of Grievance and Complaint

Clause 74

47.1 Clause 74 of the Bill provides for the procedure for filing grievances and complaints, as under:—

74 (1) Any investor aggrieved by any deficiency in the services rendered by a securities market service provider or by any act or omission of an issuer shall seek resolution of his grievance through the investor grievance redressal mechanisms referred to in section 72 within a period of one hundred and eighty days from the date of first filing of such grievance.

(2) If the grievance of an investor is not resolved within the period specified above, he may file a complaint in writing before the Ombudsperson within a period of thirty days, in such form and manner as may be specified by regulations:

Provided that no complaint shall be maintainable where the investor has initiated proceedings before any court, tribunal or authority in respect of a matter which is directly or substantially in issue in such complaint.

Explanation.—For the purposes of this sub-section, the expression “deficiency” means any fault, imperfection, shortcoming or inadequacy in the quality, nature or manner of performance which is required to be maintained by or under this Code or any rules or regulations made thereunder, or has been undertaken to be performed by a securities market service provider in pursuance of a contract or otherwise in relation to any service in the securities market, and includes—

(i) any act of negligence, omission or commission by such person which causes loss or injury to the investor; and

(ii) deliberate withholding of relevant information by such person from the investor.

(3) Any proceedings before the investor grievance redressal mechanisms under section 72 shall abate upon the filing of a complaint before the Ombudsperson.

47.2 Some stakeholders expressed the concern that, under the existing framework, an investor may raise a grievance through the SCORES platform or through the Online Dispute Resolution (ODR) mechanism by way of conciliation or arbitration. If the investor is aggrieved by an arbitral award, the same is challengeable before the competent court under the Arbitration and Conciliation Act, 1996. It was submitted that the creation of the Ombudsperson would introduce a parallel avenue for grievance redressal and could encourage forum shopping.

47.3 In its detailed reply, the Ministry stated as under:—

"Under the existing framework, investors presently have the option to approach dispute resolution mechanisms administered by market infrastructure institutions, including pre-conciliation, online conciliation and online arbitration, without being subject to any mandatory waiting period. The Securities Markets Code does not preclude the continued use of such first-level mechanisms and, in fact, equates them with the initial tier of grievance redressal under Clause 72. The preservation of this approach seeks to balance speed of resolution with procedural fairness and does not undermine investor confidence.

The Securities Markets Code establishes a two-tier framework for investor grievance redressal. Where a grievance is not resolved at the first level within 180 days, the investor may approach the Ombudsperson under Clause 74, upon which the first-level proceedings shall abate. This is intended to ensure that the Ombudsperson mechanism is invoked only after the primary mechanisms have been given a fair opportunity to resolve the grievance.

The Securities Markets Code entrusts SEBI with the duty to protect investor interests and regulate the securities markets. In this context, SEBI officers acting as Ombudspersons are envisaged to discharge their functions independently and impartially, with SEBI remaining a non-party to the dispute. The powers and functions of the Ombudsperson are clearly set out under Clauses 72 to 78, and orders passed by the Ombudsperson are appealable to the Securities Appellate Tribunal under Clause 85(1)(f), thereby ensuring independent oversight."

47.4 One stakeholder suggested that sub-clause (1) be revised to read as follows:—

"Any investor aggrieved by any deficiency in the services rendered by a securities market service provider or by any act or omission of an issuer shall first seek resolution of his grievance through the investor grievance redressal mechanisms referred to in section 72. Such grievance shall be processed within a period of one hundred and eighty days from the date of its first filing."

In response, the Ministry stated as under:—

"The Code provides a two-tier framework for investor grievance redressal. Clause 72 recognises various existing investor grievance redressal mechanisms established by SEBI, securities market service providers, issuers or their agents. Investors are first required to seek resolution through such mechanisms. If the grievance is not resolved during that period, Clause 74(2) enables investors to escalate the grievance to the Ombudsperson. However, investors may also choose to continue pursuing the grievance through the mechanisms under Clause 72 even after the expiry of 180 days. Thus, escalation to the Ombudsperson after 180 days is merely an option available to the investor and is not mandatory. The current language adequately reflects this intention and no further changes may be required."

47.5 Some stakeholders further submitted that the definition of "deficiency" is subjective, as it includes expressions such as "imperfection", "shortcoming" and "inadequacy" in the quality of performance, which could result in unnecessary disputes and vexatious litigation.

47.6 In response, the Ministry stated that the provision extends to every person providing services in the securities market in order to strengthen investor protection. The objective is to provide statutory recognition to the existing investor grievance redressal framework and promote time-bound resolution of grievances. It was further stated that the detailed procedure for filing complaints and the exclusions therefrom may be prescribed through regulations, and that the interpretation of the expression "deficiency" would evolve through judicial and quasi-judicial precedents.

47.7 During the course of evidence, when the Committee pointed out that the Explanation defining the term "deficiency" should be repositioned so as to avoid interpretational ambiguity, the Secretary stated as under:—

"…the term 'deficiency' is defined in sub-section (2), whereas it is first used in sub-section (1). Therefore, we will reposition it."

47.8 One stakeholder suggested that a statutory timeline be prescribed for the disposal of complaints by the Ombudsperson. It was submitted that, although the Bill prescribes a period of 180 days for first-tier grievance redressal under Clause 74, it does not prescribe any timeline for disposal of complaints by the Ombudsperson.

In response, the Ministry stated as under:—

“No timeline for redressal of investor grievances by the Ombudsperson has been prescribed because the time required would depend upon the facts and circumstances of each case, including the availability of documents and witnesses, making it difficult to specify a definitive timeline. In any case, Clause 73(3) already empowers the Board to specify, by regulations, the manner and timelines for grievance redressal by the Ombudsperson.”

47.9 When the Committee pointed out during the course of evidence that the present language of Clause 74(1) creates confusion regarding the responsibility for resolving the grievance, the Secretary stated as under:—

“The responsibility has to be on the service provider. The present language suggests that the investor himself has to resolve his grievance. That is what is creating the confusion. The language has to be changed.”

47.10 In order to prevent multiple proceedings and ensure a single dispute resolution process, one stakeholder suggested that an appropriate provision be inserted to clarify that, where arbitral proceedings have already concluded, the matter should not be entertained by the Ombudsperson. It was further suggested that any parallel or overlapping dispute resolution mechanisms, including those under the SEBI Master Circular dated 31 July 2023, should not apply.

In response, the Ministry stated as under:—

“The concern may be accepted and appropriate drafting changes may be made to clarify that, where proceedings before an arbitration tribunal appointed under Clause 72 have been concluded within 180 days, the complainant shall not be entitled to approach the Ombudsperson.”

47.11 When the Committee enquired whether the complainant should necessarily wait for 180 days before approaching the Ombudsperson, the Secretary stated during the course of evidence as under:—

“We had earlier proposed a blanket time frame of 180 days, and the Committee had suggested 90 days. We are of the view that even a period of 90 days would work. There is no need to provide an additional period of 30 days.”

It was further informed that the timeline for resolution through the investor grievance redressal mechanism had been proposed to be reduced from 180 days to 90 days.

47.12 On the issue whether a complainant should be required to wait for the prescribed period before approaching the Ombudsperson even where the grievance had already been disposed of, but not to his satisfaction, the Ministry stated as under:—

"Appropriate drafting changes will be made to clarify that the complainant may approach the Ombudsperson even before the expiry of 180 days, after availing of the grievance redressal mechanism under Clause 72, if the resolution is not to his satisfaction."

47.13 The Committee have examined Clause 74 of the Bill and note that it requires an investor to first seek redressal of his grievance through the investor grievance redressal mechanisms referred to in Clause 72 within a period of one hundred and eighty days from the date of first filing of the grievance. The Committee further note that, if the grievance remains unresolved within the said period, the investor may either continue with the existing grievance redressal mechanism or, within thirty days thereafter, file a complaint before the Ombudsperson.

The Committee further note that the Clause defines the expression "deficiency" and provides that no complaint shall be maintainable before the Ombudsperson where proceedings have already been initiated before any court, tribunal or other authority in respect of the same matter.

47.14 The Committee observe that the present language of the Clause places the responsibility for resolving the grievance upon the investor rather than upon the grievance redressal mechanism or the service provider.

The Committee, therefore, recommend that suitable drafting changes be made so as to clearly fix accountability for grievance redressal upon the concerned mechanism or service provider, rather than upon the aggrieved investor.

47.15 The Committee further observe that, under the present drafting, a complainant is required to wait for the expiry of the prescribed period before approaching the Ombudsperson, even where the grievance has already been disposed of, but the complainant is dissatisfied with the outcome.

The Committee are of the considered view that a complainant should be entitled to approach the Ombudsperson before the expiry of the prescribed period where the grievance has already been resolved through the grievance redressal mechanism but the resolution is not satisfactory.

The Committee, therefore, desire that the necessary drafting changes be made in the Bill accordingly.

47.16 The Committee observe that Clause 74(1) presently provides a period of one hundred and eighty days for resolution of grievances through the investor grievance redressal mechanism. The Committee are of the view that this period may reasonably be reduced so that an investor may approach the Ombudsperson at an earlier stage where the grievance remains unresolved or the investor is dissatisfied with the resolution.

The Committee, therefore, recommend that the period of 180 days prescribed under Clause 74(1) be reduced to 90 days. Necessary drafting changes may accordingly be made in the Clause, along with all consequential amendments required in the other affected provisions of the Bill.

47.17 The Committee observe that the Explanation defining the expression "deficiency" has been placed under sub-clause (2), although the expression is first used in sub-clause (1). The Committee are of the view that the present placement of the Explanation may give rise to interpretational ambiguity.

The Committee, therefore, recommend that appropriate drafting changes be made to remove such ambiguity.

CHAPTER XLVIII

Appeal to Tribunal

Clause 85

48.1 Clause 85 provides for appeals to the Tribunal, as under:—

85 (1) Any person aggrieved by—

(a) an order passed under section 20;

(b) an order passed under sub-section (1) of section 21;

(c) an order passed under sub-sections (2) and (4) of section 27;

(d) an order passed or a decision made under clause (a) of sub-section (1) of section 29 or sub-section (1) of section 38;

(e) an order passed under clause (b) of sub-section (3) of section 31;

(f) an order passed under sub-section (1) of section 75;

(g) an order passed or decision made by any market infrastructure institution; or

(h) an order passed by the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority or the International Financial Services Centres Authority,

may prefer an appeal to the Tribunal having jurisdiction in the matter.

(2) Without prejudice to the provisions of sub-section (1), an appeal may be preferred to the Tribunal in the matter by—

(a) an issuer aggrieved by the decision of the stock exchange to refuse to list the securities of such company under sub-section (4) of section 64; or

(b) an issuer or an investor aggrieved by the decision of the stock exchange delisting the securities under sub-section (2) of section 66.

(3) Every appeal under sub-sections (1) and (2) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board, Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority, the International Financial Services Centres Authority, Ombudsperson, adjudicating officer, self-regulatory organisation or market infrastructure institution, as the case may be, is received by the person aggrieved and shall be in such form, manner and be accompanied by such fee as may be prescribed:

Provided that the Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-sections (1) and (2), the Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order, decision or directions appealed against and provide a copy of such order free of cost to the parties.

(5) The Tribunal may, under sub-section (4), grant permission for listing of securities and a stock exchange shall act in conformity with the order of the Tribunal.

(6) The appeal filed under sub-sections (1) and (2) shall be dealt with expeditiously and preferably be disposed of within a period of six months from the date of receipt of the appeal.

48.2 One stakeholder suggested that the provision for an appeal to the Securities Appellate Tribunal against an order of the Ombudsperson be deleted. It was submitted that an appeal against such an order may lie before an appellate authority from outside SEBI, without any further appeal to the Securities Appellate Tribunal or the Supreme Court.

It was further submitted that permitting appeals against orders of the Ombudsperson to lie before the Securities Appellate Tribunal may delay the disposal of other matters pending before the Tribunal. In the alternative, a separate appellate mechanism may be provided for appeals against orders of the Ombudsperson, with an appellate authority from outside SEBI and without any further appeal to the Securities Appellate Tribunal or the Supreme Court.

48.3 The Ministry, in its reply, stated as under:—

"Creating a separate mechanism for appeal against orders of the Ombudsperson would entail the creation of a new forum, which would require significant expenditure and capacity-building. On the other hand, the existing infrastructure and expertise of the Securities Appellate Tribunal, which already deals with legal issues relating to the securities markets, can be utilised for such appeals to ensure streamlined resolution of grievances."

48.4 Some stakeholders expressed concern that the scope of orders of SEBI appealable before the Securities Appellate Tribunal had been restricted. It was submitted that the Bill limits the appellate jurisdiction of the Tribunal to a specified list of orders and that orders of SEBI not covered under Clause 85 may fall outside its jurisdiction.

It was, therefore, suggested that the provisions of section 15T of the Securities and Exchange Board of India Act, 1992 be incorporated in Clause 85 so that any order of SEBI or of an adjudicating officer is appealable before the Securities Appellate Tribunal.

48.5 When the issue was taken up with the Ministry, the Secretary, during the course of evidence, stated as under:—

"…we are accepting that all orders of the Adjudicating Officer should be appealable. Our intention was never to restrict appeals only to final orders. Interlocutory orders were not intended to be excluded. If greater drafting clarity is required, we are willing to incorporate it. Similarly, clarification may be added regarding all orders of the Board."

48.6 One stakeholder expressed concern that the proviso to Clause 85(3) permits the Securities Appellate Tribunal to condone delay without prescribing any maximum period up to which such delay may be condoned. It was submitted that the absence of an outer time limit may prolong uncertainty regarding the finality of the decision.

48.7 During the course of evidence, the Committee pointed out that the period for condonation of delay is subject to an upper limit under several other enactments. Under the Competition Act, 2002, the period is sixty days; under the Insolvency and Bankruptcy Code, 2016, it is thirty days with a further period of fifteen days; under the Central Goods and Services Tax Act, 2017, it is three months with a further period of one month; under the Arbitration and Conciliation Act, 1996, it is three months with a further period of thirty days; and under the Electricity Act, 2003, it is forty-five days with a further period of sixty days.

48.8 Responding to the issue of prescribing an upper limit for condonation of delay, the Secretary, Department of Economic Affairs, stated as under:—

"We can amend it accordingly by providing that the appeal shall be filed within forty-five days and that delay may be condoned for a further period not exceeding forty-five days, similar to the provision contained in the statute governing the National Company Law Appellate Tribunal. There is an upper time limit up to which delay may be condoned."

48.9 One stakeholder suggested the insertion of a clarificatory provision to the effect that any order or decision of the Pension Fund Regulatory and Development Authority appealable to the Tribunal should be subject to further appeal only in the manner and before the forum provided under the Pension Fund Regulatory and Development Authority Act, 2013, and that no writ or other proceeding should lie in respect of such orders except as so provided.

48.10 The Ministry, in its written submission, stated that Clause 85 has been rationalised from section 15T(1) of the Securities and Exchange Board of India Act, 1992, sections 21A(2), 22A and 23L(1) of the Securities Contracts (Regulation) Act, 1956, and section 23A(1) of the Depositories Act, 1996, which provide for appeals from certain orders of SEBI, adjudicating officers, stock exchanges, the Pension Fund Regulatory and Development Authority, the Insurance Regulatory and Development Authority of India and the International Financial Services Centres Authority.

The Ministry further stated that the appellate framework under the Securities Markets Code is aligned with that under the Pension Fund Regulatory and Development Authority Act, 2013, under which an appeal against an order of the Pension Fund Regulatory and Development Authority lies before the Securities Appellate Tribunal, followed by a further appeal to the Supreme Court. It was also stated that writ jurisdiction is a constitutional remedy and cannot be barred by statute.

48.11 Some stakeholders suggested that Clauses 85(1)(e) and 85(1)(g) be omitted on the ground that SEBI is the regulator of market infrastructure institutions.

48.12 During the course of examination, the Ministry submitted that orders passed by market infrastructure institutions are also quasi-judicial orders in view of the powers delegated to them by SEBI. An appeal from such orders should, therefore, lie before the Securities Appellate Tribunal. It was further stated that the right of appeal against an order or decision of a market infrastructure institution is based on the existing provision contained in section 23L(1) of the Securities Contracts (Regulation) Act, 1956.

48.13 One stakeholder further submitted that Clause 85(1)(g) is inconsistent with the provision contained in Clause 31(4) of the draft Code and should be omitted, as SEBI is the regulator of market infrastructure institutions.

48.14 The Ministry, in its reply, stated that the appeal from an order or decision of a market infrastructure institution is based on the existing provision contained in section 23L(1) of the Securities Contracts (Regulation) Act, 1956. Clause 31(4) enables an aggrieved person to inform SEBI, which may take appropriate action against such market infrastructure institution in exercise of its regulatory powers. Further, the aggrieved person may also prefer an appeal before the Securities Appellate Tribunal, thereby providing independent oversight over the decisions of a market infrastructure institution.

48.15 On being asked whether a similar provision was required to be inserted in the International Financial Services Centres Authority Act, 2019 to clarify that all appeals against orders of the International Financial Services Centres Authority shall lie before the Securities Appellate Tribunal, the Ministry stated during the course of evidence that the concern had been accepted and that appropriate drafting changes may be made by adding a Schedule to the Code providing for an amendment to that Act.

48.16 On being further asked whether special Benches may be constituted for particular authorities or officers, the Ministry stated that Clause 80(2) empowers the Central Government to establish more than one Bench of the Securities Appellate Tribunal. Any requirement for establishing separate Benches may be considered at the implementation stage, if necessary.

48.17 On the issue of whether the Securities Appellate Tribunal should be vested with the power of contempt to ensure the enforceability of its orders, the Secretary, Department of Economic Affairs, stated as under:—

"…in the spirit of decriminalisation, we would submit that it should probably not have the power of contempt."

48.18 On being asked whether Technical Members could pass administrative orders in the absence of a Judicial Member, the Secretary stated during the course of evidence as under:—

"Sir, the procedure is provided in Clause 86. The Clause states that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, but shall be guided by the principles of natural justice and, subject to the provisions of this Code and the rules made thereunder, shall have the power to regulate its own procedure. We felt that this could be addressed under that provision because we could not find any statute in which this is specifically mentioned."

48.19 Stakeholders raised concerns regarding delays in the functioning of the Securities Appellate Tribunal, including delays arising from vacancies in the office of Judicial Member. During the course of evidence, the Committee desired to know whether a Technical Member could pass administrative orders in the absence of a Judicial Member. The Secretary stated as under:—

"We were not able to find any parallel provision. Rather, we found jurisprudence indicating that the presence of a Judicial Member is essential."

48.20 On being asked about the nature of administrative orders, the Secretary stated during the course of evidence as under:—

"These are procedural orders."

48.21 Further, on the issue of routine orders, the Ministry submitted during the course of evidence that routine orders of the Securities Appellate Tribunal passed by Technical Members, which have no adjudicatory implications or legal consequences for the parties, may be dealt with as a matter of procedure under Clause 86(4), which enables the Presiding Officer of the Tribunal to make provisions for the distribution of business. Further, under Clause 86(1), the Tribunal has the power to regulate its own procedure.

The Secretary further stated as under:—

"…as far as routine orders of the Securities Appellate Tribunal passed by Technical Members are concerned, which have no adjudicatory implications or legal consequences for the parties, such orders may not attract the principles laid down by the Supreme Court in its various judgments. What we understood from those judgments, and after discussion, is that nothing precludes Technical Members from passing such orders even under the existing framework."

On being further asked whether the language should be amended to make it clear that, in day-to-day administrative matters, the presence of a Judicial Member is not necessary, the Secretary stated as under:—

"The language does not need to be changed and should remain as it is. The view was that the existing language does not preclude such action."

48.22 During the course of evidence, when the Committee enquired whether interim orders were appealable, the Secretary stated as under:—

"Since they are intended to be appealable, we will have to provide appropriate language to clarify the position. We will do that."

48.23 The Committee have examined Clause 85 of the Bill and note that it provides for appeals to the Tribunal and specifies the orders and decisions against which such appeals may be preferred. The Committee further note that an appeal is required to be filed within a period of forty-five days from the date on which a copy of the order is received by the aggrieved person. The proviso to Clause 85(3) empowers the Tribunal to entertain an appeal after the expiry of the said period where it is satisfied that sufficient cause existed for the delay.

48.24 The Committee observe that the scope of orders of SEBI appealable before the Securities Appellate Tribunal appears to have been restricted under the Bill, as Clause 85 limits the appellate jurisdiction of the Tribunal to a specified list of orders. Consequently, orders of SEBI which are not expressly covered under Clause 85 may fall outside the jurisdiction of the Tribunal.

The Committee further observe that the present drafting may give rise to an interpretation that certain orders of the Board or the adjudicating officer, including interim orders, are not appealable before the Securities Appellate Tribunal. However, under section 15T of the Securities and Exchange Board of India Act, 1992, orders of the adjudicating officer are appealable before the Tribunal.

The Committee, therefore, recommend that suitable amendments be made in the Bill to ensure that any person aggrieved by an order of the Board or an adjudicating officer, including an interim order, has the right, in the interest of natural justice, to prefer an appeal before the Securities Appellate Tribunal. The Committee, further, recommend that separate bench may be considered in the Securities Appellate Tribunal to exclusively deal with the matters arising out of the orders of ombudsperson.

48.25 The Committee further observe that the proviso to Clause 85(3) deals with condonation of delay beyond the prescribed period of forty-five days. However, the statute does not prescribe an upper limit up to which such delay may be condoned.

The Committee note that several other statutes governing tribunals, including the Competition Act, 2002, the Insolvency and Bankruptcy Code, 2016, the Central Goods and Services Tax

Act, 2017, the Arbitration and Conciliation Act, 1996 and the Electricity Act, 2003, prescribe an upper limit for condonation of delay.

The Committee are of the considered view that prescribing an upper limit for condonation of delay is necessary to ensure finality and certainty in appellate proceedings. The Committee, therefore, recommend that an outer limit of forty-five days for condonation of delay be expressly provided in the statute in the interest of expeditious adjudication and justice.

48.26 During the course of examination, it was brought to the notice of the Committee that a corresponding provision is required to be inserted in the International Financial Services Centres Authority Act, 2019 to clarify that all appeals against orders of the International Financial Services Centres Authority shall lie before the Securities Appellate Tribunal.

The Committee, therefore, desire that appropriate drafting changes be made in the Bill by adding a Schedule to the Code providing for the necessary amendment to the International Financial Services Centres Authority Act, 2019.

48.27 The Committee note that delays in the functioning of the Securities Appellate Tribunal may sometimes arise because of the absence of a Judicial Member due to delay in appointment or other factors. The Committee further observe that a Technical Member of the Tribunal is presently not expressly empowered to pass even routine administrative orders in the absence of a Judicial Member.

The Committee were given to understand that such administrative orders relate to procedural matters. The Committee recognise the necessity of the presence of a Judicial Member for adjudication involving substantive questions of law.

The Committee note the Ministry's submission that routine orders which have no adjudicatory implications or legal consequences for the parties may be dealt with as a matter of procedure under Clause 86(4), which enables the Presiding Officer of the Tribunal to provide for the distribution of business. The Committee further note that the Securities Appellate Tribunal has the power to regulate its own procedure.

The Committee, therefore, recommend that an express provision be made enabling a Technical Member of the Tribunal to pass routine procedural orders so as to reduce delays arising from procedural matters. The Committee further, recommend that a separate bench in SAT be made to deal exclusively with the grievance arising out of the orders of Ombudsperson.

CHAPTER XLIX

PROHIBITION OF FRAUDULENT OR UNFAIR PRACTICES AND MARKET ABUSE

Prohibition of Fraudulent or Unfair Practices

Clause 92

49.1 Clause 92 of the Bill provides for the prohibition of fraudulent or unfair practices, as under:—

92 Prohibition of fraudulent or unfair practices.—No person shall, directly or indirectly, commit any of the following fraudulent or unfair practices,—

(a) use or employ, in connection with the issue, purchase, sale of or any dealings in securities listed or proposed to be listed on a stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with the issue or dealing in securities which are listed or proposed to be listed on a stock exchange;

(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 or dealing in securities which are listed or proposed to be listed on a stock exchange, in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(d) acquire control of any company or securities more than the specified percentage of equity share capital of a company whose securities are listed or proposed to be listed on a stock exchange in contravention of the regulations made under this Code;

(e) make any false or fraudulent entry in any record or any material and wilful omission of any statement in the record, to be prepared or submitted under the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(f) engage in such other fraudulent or unfair practices in the securities markets as may be specified by regulations.

49.2 Clause 93 of the Bill provides for the prohibition of market abuse, as under:—

93 Prohibition of market abuse.—No person shall, directly or indirectly, commit any of the following acts of market abuse, namely:—

(a) engage in insider trading;

(b) use or employ any device, scheme or artifice to defraud the investors in the securities markets;

(c) deal in securities while in possession of material or non-public information or communicating such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(d) publish or cause to publish or report or cause to report by a person dealing in securities, any false or misleading information relating to securities with the intent of artificially inflating, depressing, maintaining or causing fluctuation in the price of, supply of or demand for such securities, or creating a false or misleading impression as to the price of, supply of or demand for such securities;

(e) use its position to inflate, depress, maintain or cause fluctuation in the price of, supply of or demand for securities, or create a false or misleading impression as to the price of, supply of or demand for securities;

(f) place any order in securities, while directly or indirectly in possession of information which is not publicly available, regarding a substantial impending transaction in securities, its underlying or its derivative; or

(g) engage in such other activities as may be specified by regulations which adversely affects the integrity of the securities markets.

49.3 Some stakeholders pointed out that the conduct described in Clauses 92 and 93 substantially overlaps and that the same act may be classified either as a civil default under Clause 92 or as a criminal offence under Clause 93. It was pointed out, in particular, that the employment of a “device, scheme or artifice to defraud” appears in virtually identical terms in Clauses 92(b) and 93(b); that acts amounting to price manipulation are covered by Clause 92(c) as well as Clauses 93(d) and 93(e); and that the open-ended delegation in Clause 92(f) is replicated in Clause 93(g).

Since the consequences are radically different—a monetary penalty in one case and imprisonment extending to ten years, together with the collateral consequences under the law relating to money-laundering, in the other—it was submitted that the overlap creates a serious risk of arbitrary or

inconsistent enforcement and double jeopardy. It was, therefore, suggested that the sub-clauses be redrafted so as to be mutually exclusive or, alternatively, that a proviso be inserted in Clause 92 excluding acts amounting to market abuse from its scope.

49.4 On being asked about the overlap between Clauses 92 and 93, the Secretary, Department of Economic Affairs, submitted as under:—

"We will have a look at this and come back on this. We have received a number of suggestions on this. Many of the suggestions have been regarding Clauses 92 and 93. These are very significant provisions in which we have attempted to separate market abuse from fraudulent and unfair practices. What comes under Clause 92 will be a civil offence. What comes under Clause 93 will be a criminal offence."

"Market abuse is currently not a term used in any of the Acts. It has, however, appeared repeatedly through judgments and orders. Therefore, we are trying to codify it. But given the concerns raised and the repeated representations received, we are of the view that this needs to be modified. Clause 93 needs to be modified to sharpen the focus so that very serious and systemic offences, which have a significant and systemic impact, are covered under Clause 93, while Clause 92 should relate to fraudulent and unfair practices. So, we will have to work on this further and come back to you."

49.5 On the issue of the potential overlap between "fraudulent or unfair practices" under Clause 92 and "market abuse" under Clause 93, the Ministry, while acknowledging the concern in its written submission, further stated that the ambit of Clause 92(b) may presently overlap with Clause 93(b). Consequently, Clause 93 was being reviewed to ensure that the scope of market abuse is limited to conduct having an adverse impact on the integrity of the market. It was also stated that appropriate enabling powers may be conferred upon SEBI under Clauses 92 and 93 to effectively administer and enforce these provisions.

The Ministry, in its written reply, furnished the following formulation to address the concerns raised:—

Changes to Clause 92—To add a prohibition against misappropriation of funds and an enabling provision for administration of the Clause

92 (f) engage in or conceal the misappropriation or diversion or unauthorised use of funds raised from the securities market or raised or pooled from the investors in contravention of the provisions of this Code or any rules or regulations made thereunder;

(g) engage in such other fraudulent or unfair practices in the securities markets as may be specified by regulations.

(2) The administration and enforcement of this section shall be in such manner as may be specified in the regulations.

Changes to Clause 93—To circumscribe the scope of Clause 93(b) in order to avoid overlap with Clause 92(b) and to add an enabling provision for administration of the Clause

93. (b) use or employ any device, scheme or artifice to defraud which adversely affects the integrity of the securities markets.

(2) The administration and enforcement of this section shall be in such manner as may be specified in the regulations."

49.6 Some stakeholders submitted that the Securities Markets Code has decriminalised every offence except the offence under Clause 93. It was pointed out that, while offences under all three existing enactments were earlier criminal offences, only one provision in the proposed Code would continue to attract criminal liability.

Concern was particularly raised regarding Clause 93(g), which permits the Board to specify by regulations such other activities as may constitute market abuse. It was submitted that the consequences of contravention are severe and may extend to imprisonment for ten years. Therefore, the creation of criminal offences should not be left to regulations but should remain the exclusive function of Parliament.

A similar concern was raised regarding Clause 92(f), which permits the Board to specify other fraudulent or unfair practices. It was suggested that, at the very least, conduct attracting penal consequences should be set out in the principal legislation and should not be left to subordinate legislation.

It was further submitted that Clause 93(g) should be deleted and that the list of acts constituting market abuse and attracting criminal sanctions under Clause 96 should be exhaustive and expressly set out in the Code. SEBI may be authorised to issue guidance regarding the interpretation of the existing provisions but should not be empowered, by regulations, to create new categories of criminal conduct.

It was contended that the definition of criminal offences is a core legislative function which cannot be delegated to the executive or to a regulator, with reference being made to In re: Delhi Laws Act, 1912 (AIR 1951 SC 332). It was, therefore, submitted that permitting SEBI to expand the scope of Clause 93 through regulations may be constitutionally vulnerable on the ground of excessive delegation.

49.7 Some stakeholders further pointed out that, as a matter of sound legislative policy, the foundational elements of criminally actionable market abuse should be set out in the principal legislation. Otherwise, courts may uphold convictions based on norms which have not undergone legislative scrutiny.

49.8 On being asked whether the power conferred upon the Board under Clause 93(g) to specify additional acts constituting market abuse through regulations, thereby expanding the scope of conduct attracting criminal liability under Clause 96, amounts to excessive delegation, and whether such acts should instead be exhaustively specified in the Code itself, the Ministry, in its written submission, stated as under:—

"The Supreme Court of India has consistently held that economic laws stand on a different footing in terms of constitutional analysis. The limits of delegation are also well defined.

The legislature, after establishing the legislative policy, may confer discretion on an administrative agency regarding the execution of the policy and leave it to the agency to work out the details within the framework.

The delegation contemplated under Clauses 92 and 93 is consistent with the existing jurisprudence, legislative structure and regulatory practices under the securities laws. Section 12A of the Securities and Exchange Board of India Act, 1992 provides for certain broad acts to be categorised as unfair trade practices and manipulative conduct, while leaving the detailed identification of such practices to subordinate legislation, including the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015."

49.9 The Committee note that Clauses 92 and 93 seek to distinguish between fraudulent or unfair practices attracting civil consequences and market abuse attracting both civil and criminal consequences. The Committee further note the rationale advanced by the Ministry that the objective of introducing a separate framework for market abuse is to confine criminal liability to serious and systemic misconduct affecting the integrity of the securities market.

49.10 The Committee, however, observe that the present formulation gives rise to significant legal and constitutional concerns. The Committee find that certain acts described under Clauses 92 and 93 substantially overlap, thereby creating uncertainty as to whether the same conduct would attract civil penalties or criminal prosecution. In particular, the Committee note the potential overlap between Clause 92(b) and Clause 93(b), which has also been acknowledged by the Ministry. Such overlap is likely to result in inconsistent enforcement, uncertainty for market participants and avoidable litigation.

The Committee are of the considered view that provisions carrying criminal consequences must be drafted with a high degree of precision and certainty. Accordingly, particularly the overlapping fields of operation under Clause 92(b) and Clause 93(b), be comprehensively reviewed and redrafted so that their respective scopes are clearly demarcated. In this regard, Clause 93(b) should be confined to the use or employment of a device, scheme or artifice to defraud investors which has a demonstrable adverse impact on the integrity of the securities

market. The Committee further recommend that the other provisions of Clause 93 be correspondingly examined to ensure that only grave, wilful and systemic acts of market abuse having a demonstrable adverse impact on the integrity of the securities market attract criminal liability under Clause 96.

The Committee further recommend that the Principal Clause (headnote) of Clause 93 be suitably amended to reflect that the provision is confined to acts of market abuse involving serious and systemic misconduct affecting the integrity of the securities market. The Committee further recommend that the reference to "bye-laws" in Clause 93(c) be deleted because all possible acts of market abuse which require criminal action are covered under 93(a) to 93(f). Further, 93(g) confer the power to SEBI to declare any activity as criminal and the power to authorise to criminal action should be in the limit and should not be delegated and therefore 93(g) should be deleted. The essential ingredients of any conduct attracting criminal liability under Clause 96 should be clearly specified in the parent legislation, with subordinate legislation being limited to carrying out and operationalising the provisions of the Code.

The Committee further note that, acknowledging the concerns raised, the Ministry has proposed that the provisions relating to fraudulent or unfair practices under Clause 92 and market abuse under Clause 93 be removed from Clause 103 and that separate penalty provisions be introduced in the Chapter relating to penalties for contraventions of Clauses 92 and 93, respectively.

The Committee observe that the proposed formulation would provide for a separate and specific penalty framework for fraudulent or unfair practices and market abuse, while prescribing a similar gradation of penalties based on the extent of unlawful gain or loss caused and whether the same is quantifiable.

The Committee are of the view that such separate treatment may contribute to greater clarity in the enforcement framework, provided that the substantive scope of the two contraventions is clearly demarcated and that the same conduct is not made simultaneously liable to a civil penalty under Clause 92 and criminal prosecution under Clause 93, except where the Code expressly and clearly provides for such consequences.

The Committee, therefore, recommend that the proposed restructuring of the penalty provisions be considered in conjunction with a comprehensive redrafting of Clauses 92 and 93 so as to ensure consistency between the nature of the contravention, the applicable penalty and the consequences flowing therefrom.

49.11 The Committee are further of the considered view that Clause 93(g), which empowers the Board to specify additional acts of market abuse through regulations, warrants reconsideration. Since contravention of Clause 93 attracts criminal prosecution and

imprisonment under Clause 96, the Committee are of the view that the categories of conduct constituting criminal market abuse should be expressly and exhaustively specified in the primary legislation.

The Committee are of the view that, as a matter of sound legislative policy, the foundational elements of criminally actionable market abuse should be set out in the Code itself. The Committee note that the Supreme Court, in In re: Delhi Laws Act, 1912 (AIR 1951 SC 332), held that essential legislative functions cannot be delegated.

Accordingly, the Committee recommend that "Clause 93(g) should be deleted because all possible acts of market abuse which require criminal action are covered under 93(a) to 93(f). Further, 93 (g) confer the power to SEBI to declare any activity as criminal and the power to authorise to criminal action should be in the limit and should not be delegated and therefore 93(g) should be deleted". And that all acts constituting market abuse and attracting criminal liability under Clause 96 be exhaustively specified in the Code itself. The Board may be empowered to make regulations only for carrying out the provisions of this Chapter and clarifying their implementation, and not for creating new categories of criminally punishable conduct.

The Committee further recommend that the conduct constituting market abuse and attracting criminal liability under Clause 96 be exhaustively set out in the parent legislation. The Board may, however, be empowered to make regulations for carrying out the provisions of the relevant Chapter and for clarifying or operationalising the statutory framework, but such power should not extend to creating new categories of criminally punishable conduct.

49.12 The Committee also recommend that any residual regulation-making power under Clauses 92 and 93 be guided by clear statutory principles and objective standards so as to ensure legal certainty, avoid excessive delegation, preserve the distinction between civil and criminal liability, and promote transparent, consistent and fair enforcement of the Code.

The Committee would like to recommend the following formulation for the Principal Clause 93 (headnote) so as to clearly define and limit the scope of "Acts of market abuse" attracting severe criminal liabilities and also action under PMLA --

"93. No person shall directly or indirectly commit any of the following Acts on market abuse, which involve serious systemic misconduct affecting the integrity of the securities market, namely:- "

Further, the Committee recommend that Schedule II to the Bill be suitably amended to delete the reference to Clause 94. The Committee wants to make it very clear that changes proposed in Clause 93 regarding market abuse in the Principal Clause (headnote) and Clause 93(a) to 93(g) shall become effective for the purposes of inclusion of 'Clause 93 read with Clause 96' in the Second Schedule of the Bill.

CHAPTER L

OFFENCES AND PENALTIES

Punishment for Failure to Comply with Orders

Clause 94

50.1 Clause 94 of the Bill provides for punishment for failure to comply with orders, as under:—

94 Without prejudice to the imposition of any penalty under this Chapter, where any person—

(a) fails to comply with an interim order made under sub-section (2) of section 27; or

(b) fails to comply with the final order made under section 20,

he shall be punishable with imprisonment for a term which shall not be less than one month but may extend to ten years, or with fine which shall not be less than ten lakh rupees but may extend to twenty-five crore rupees, or with both.

50.2 Some stakeholders pointed out that different levels of penalty amounts have been prescribed under the provisions, ranging from one crore rupees to a maximum of one hundred crore rupees. It was also submitted that the framework appears inconsistent, particularly in view of the absence of a similar formulation in Clause 96.

Responding to the issue, the Ministry stated that Clauses 94 to 96 provide for criminal liability arising from the following acts:—

1. non-compliance with orders of an adjudicating officer;
2. non-compliance with directions of an investigating officer; and
3. market abuse.

50.3 The Ministry further stated that all other contraventions under the existing securities laws have been decriminalised and that Clauses 97 to 109 provide for penalties in respect of such defaults and contraventions. It was submitted that, while the framework under the Code is consistent, the provisions relating to offences and penalties may, for greater clarity, be placed in separate Chapters.

50.4 On the concern that decriminalisation should be confined strictly to minor infringements which do not cause prejudice to any person, the Ministry replied as under:—

"Under the Securities Markets Code, offences have been limited to three specific situations, as provided in Clauses 94, 95 and 96, and the remaining offences under the existing laws have been decriminalised. Thus, civil penalties have been provided for a wide range of contraventions under the Code.

While decriminalisation has been undertaken to promote ease of doing business, it was also necessary to ensure adequate deterrence against violations of the Code. Accordingly, the penalties have been updated and enhanced so as to maintain deterrence even in the absence of imprisonment.

Penalties under the securities laws were last revised in 2014 through the Securities Laws (Amendment) Act, 2014. Since the securities market has expanded significantly in terms of size, complexity and participation since 2014, it was considered necessary to further revise the penalties, keeping in view the increased scale and sophistication of financial offences.

Clauses 97 to 102 and Clause 109 relate to minor and technical contraventions. In respect of such contraventions, the maximum penalty that may be imposed is ten crore rupees or three times the amount of unlawful gain or loss.

Clauses 103 to 108 relate to contraventions of a more serious nature. In respect of such contraventions, the maximum penalty that may be imposed is one hundred crore rupees or three times the amount of unlawful gain or loss.

The Securities Markets Code, therefore, calibrates the penalties according to the gravity of the contraventions so as to ensure proportionality while maintaining deterrence."

50.5 During the course of evidence, it was pointed out that the Chapter deals with different categories of civil and criminal offences. Clauses 94 to 96 deal with criminal offences, whereas Clauses 97 to 109 deal with civil contraventions. On the issue of making a clear distinction between civil and criminal offences, the Secretary stated as under:—

“We should separate these two for better understanding.”

50.6 The Committee note that Clause 94 of the Bill provides that a person who fails to comply with an interim order or a final order made under the relevant provisions of the Code shall be punishable with imprisonment for a term which shall not be less than one month but may extend to ten years, or with fine which shall not be less than ten lakh rupees but may extend to twenty-five crore rupees, or with both.

The Committee further observe that the Chapter contains provisions relating to both civil and criminal offences.

50.7 The Committee note that criminal offences punishable with imprisonment or fine are dealt with under Clauses 94 to 96, whereas civil penalties are dealt with under Clauses 97 to 109. The Committee observe that these two categories are fundamentally distinct in legal jurisprudence and are enforced through different fora. Criminal offences are adjudicated by the courts, whereas civil contraventions are adjudicated by the adjudicating officer.

The Committee are, therefore, of the considered view that, in the interest of legislative clarity and ease of understanding, Chapter XIII, relating to offences and penalties, should be suitably restructured by separating the provisions relating to criminal offences from those dealing with civil penalties.

CHAPTER LI

Punishment for Market Abuse

Clause 96

51.1 Clause 96 of the Bill provides for punishment for market abuse, as under:—

96 Without prejudice to the imposition of any penalty under this Chapter, where any person commits, attempts to commit or abets the commission of market abuse, he shall be punishable with imprisonment for a term which may extend to ten years or with fine which shall not be less than ten lakh rupees but may extend to twenty-five crore rupees, or with both.

51.2 One stakeholder suggested that a reference to Clause 94 be incorporated in Clause 96. Responding to the suggestion, the Ministry stated that Clause 96 provides for punishment for market abuse, which includes certain fraudulent acts, whereas Clause 94 provides for punishment for failure to comply with orders passed under sections 20 and 27. It was further stated that these are two distinct subject matters. The Ministry also submitted that penalties for fraudulent or unfair practices under Clause 92 are provided under Clause 103 and that such contraventions have been decriminalised, with a corresponding enhancement in the quantum of penalties to maintain deterrence.

51.3 It was further suggested that the use of the conjunction “or” dilutes the severity of the punishment, as it leaves open the possibility of imposing only a monetary penalty even in cases warranting custodial punishment.

Responding to the suggestion, the Ministry stated as under:—

“Under section 24 of the Securities and Exchange Board of India Act, 1992, any offence is punishable with imprisonment for a term which may extend to ten years or with fine which may extend to twenty-five crore rupees, or with both. Under Clause 96, any person who commits, attempts to commit or abets the commission of market abuse shall be punishable with imprisonment for a term which may extend to ten years or with fine which shall not be less than ten lakh rupees but may extend to twenty-five crore rupees, or with both. The discretion continues to vest with the Special Court to impose imprisonment or fine or both. Even where the Special Court decides to impose only a fine, such punishment would follow a criminal prosecution, as Clause 96 is categorised as a criminal offence under the Code, thereby retaining its deterrent effect.”

51.4 A suggestion was also received regarding the inconsistency between the term of imprisonment specified in Clause 96 and that mentioned in the Notes on Clauses. When asked about this inconsistency during the course of evidence, the Secretary stated as under:—

"…there is an inconsistency in the term of imprisonment mentioned in Clause 96 and the Notes on Clauses relating to Clause 96. We have examined it and appropriate drafting changes can be made."

51.5 The Committee have examined Clause 96 of the Bill and note that it provides that any person who commits, attempts to commit or abets the commission of market abuse shall be liable to imprisonment for a term which may extend to ten years, or with fine which shall not be less than ten lakh rupees but may extend to twenty-five crore rupees, or with both, without prejudice to the imposition of any penalty under Chapter XIII.

51.6 The Committee observe that the present arrangement of the provisions relating to civil penalties and criminal offences lacks clarity. The Committee further note that the Ministry has accepted that the existing drafting contains inconsistencies.

The Committee, therefore, recommend that the Chapter be suitably restructured so that a clear distinction is maintained between offences and the penalties applicable thereto.

51.7 The Committee further observe that there is a discrepancy between the term of imprisonment specified in Clause 96 and that stated in the Notes on Clauses relating thereto. The Committee are of the view that such inconsistency may give rise to interpretational ambiguity.

The Committee, therefore, recommend that appropriate drafting changes be made to ensure that Clause 96 and the corresponding Notes on Clauses are fully aligned with each other and with the legislative intent.

CHAPTER LII

Penalty where No Specific Provision for Penalty is Provided

Clause 109

52.1 Clause 109 of the Bill provides for a residuary penalty where no specific provision for penalty is provided, as under:—

109 If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be liable to the following penalty:—

(a) where the default results in unlawful gain or causes loss to an investor or any other person, and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(b) where the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable, for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day during which such default continues, subject to a maximum of ten crore rupees.

52.2 One stakeholder suggested that, instead of prescribing a fixed monetary ceiling, the penalties under Clause 109 may be calibrated in proportion to the financial scale of the entity.

Responding to the suggestion, the Ministry stated as under:—

“A residuary penalty has been provided under Clause 109, which may be applied where no specific penalty has been prescribed. The penalty under this Clause is divided into two categories. The first category is linked to unlawful gains and losses where they are quantifiable. The second category provides a monetary ceiling where such gains or losses are not quantifiable. Given that this is a residuary provision, the prescribed amount provides a sufficient deterrent effect. The Code provides a graver set of penalties under Clauses 103 and 104 for conduct considered to be more egregious. Further, Clauses 19 and 111 provide detailed factors which may be taken into account while determining penalties.”

52.3 On being further asked why an approach similar to that adopted under the Competition Act, 2002, whereby penalties are linked to the financial scale of the entity, had not been adopted, the Ministry submitted as under:—

"The existing position has been retained under the Securities Markets Code. The provision is a residuary penalty for contraventions for which no separate penalty or punishment has been provided under the Code. The penalty under this Clause is divided into two categories. The first category is linked to unlawful gains and losses where they are quantifiable. In such cases, a penalty of up to three times the amount of such unlawful gain or loss may be imposed. The second category covers cases where unlawful gains and losses are not quantifiable. In such cases, a maximum penalty of ten crore rupees may be imposed. Given that this is a residuary provision, the prescribed amount provides a sufficient deterrent effect. The Code provides a more stringent set of penalties under Clauses 103 and 104 to address conduct that is considered more egregious.

Moreover, the Competition Act, 2002 and the Securities Markets Code have distinct purposes and objectives. Under the Competition Act, the size of the enterprise is a primary consideration, since preventing abuse of dominant position is one of the principal objectives of that Act. Under the Securities Markets Code, however, investor protection is the primary consideration, and the impact of the contravention on investors is the principal criterion for determining penalties.

Further, under Clause 19, deterrence is one of the factors that the adjudicating officer may take into account. Therefore, where necessary, higher penalties may be imposed on larger enterprises to ensure adequate deterrence. However, such action would depend upon the facts and circumstances of each case. Linking penalties directly to the scale of the entity may result in penalties that are disproportionate to the violation, which may not be appropriate in the context of securities laws, where the objective is to regulate conduct in the securities market and protect investors."

52.4 During the course of evidence, the Committee emphasised that the Hon'ble Supreme Court has repeatedly held that penalties should be proportionate to the nature of the offence. Responding to the issue, the Secretary stated as under:—

"We are saying that the principle of proportionality is embedded in the Securities Markets Code at different places."

52.5 The Ministry further stated that the provision is similar to section 450 of the Companies Act, 2013.

52.6 The Committee have examined Clause 109 of the Bill and note that it provides for a residuary penalty in respect of contraventions for which no separate penalty is prescribed

under the Code. The Committee further note that Clause 109 distinguishes between defaults where the unlawful gain or loss is quantifiable, in which case the penalty may extend to three times such gain or loss, and defaults where the unlawful gain or loss is not quantifiable, in which case a maximum penalty of ten crore rupees may be imposed.

The Committee, however, observe that a similarly graded structure is not readily discernible in several of the other specific penalty provisions contained in the Bill. While noting the Ministry's submission that Clause 109 is modelled on section 450 of the Companies Act, 2013, the Committee also recognise that the Hon'ble Supreme Court has consistently held in its various judgments that penalties should be proportionate to the nature and gravity of the offence.

The Committee, therefore, desire that the Ministry ensure that the penalty provisions under the Code are appropriately graded according to the nature and gravity of the contravention and are consistent with the principle of proportionality.

CHAPTER LIII

General Conditions for Board and other Regulatory Authority

Clause 121

53.1 Clause 121 of the Bill provides for the general conditions applicable to the Board and other regulatory authorities, as under:—

121 The Board and the other regulatory authority, while exercising their powers and performing their duties under this Chapter, shall—

(a) facilitate investor participation in other regulated instruments, ensure investor protection and promote the orderly development of the securities markets;

(b) consult and coordinate to ensure and achieve harmonisation of regulatory action in respect of any other regulated instrument; and

(c) make information available to each other relating to the issuance, holding, listing, trading and settlement of other regulated instruments in a timely manner.

53.2 One stakeholder suggested that clauses 121(b) and 121(c) be amended to provide that the Board and the other regulatory authority shall "consult and coordinate to ensure and achieve harmonisation of regulatory action in respect of the issuance, holding, listing, trading and settlement of any other regulated instruments."

53.3 On being asked whether Clause 121(b) may be made more specific and focused on coordination relating to the issuance, holding, listing, trading and settlement of other regulated instruments, the Ministry concurred with the suggestion and agreed to make appropriate drafting changes.

53.4 The Committee have examined Clause 121 of the Bill and note that it lays down the general conditions applicable to the Board and the other regulatory authorities while exercising their powers and performing their functions, including facilitating investor participation, ensuring investor protection and promoting the orderly development of the securities markets.

The Committee, however, observe that Clause 121(b), in its present formulation, is couched in broad terms and does not specifically identify the areas in which regulatory coordination is required. The Committee, therefore, recommend that Clause 121(b) be suitably redrafted so as to expressly provide for coordination in matters relating to the issuance, holding, listing, trading and settlement of other regulated instruments.

CHAPTER LIV

National Institute of Securities Markets

Clause 129

54.1 Clause 129 of the Bill provides for the National Institute of Securities Markets, as under:—

129 (1) The National Institute of Securities Markets, a public trust established by the Board, shall be deemed to have been established under this Code.

(2) The Board shall regulate the National Institute of Securities Markets for capacity building of intermediaries.

54.2 Some stakeholders suggested that the term "intermediaries" be substituted with "securities market service providers and investors" so as to broaden the scope and applicability of the provision.

54.3 On being asked about the suggestion relating to the substitution of the term "intermediaries" with "securities market service providers and investors", the Ministry, in its written reply, acknowledged the validity of the suggestion and stated that appropriate drafting changes may be incorporated.

54.4 During the course of deliberations, the Secretary, Department of Economic Affairs, reaffirmed the Ministry's position as under:—

"It says that 'for intermediaries' should be substituted by 'securities market service providers and investors'. We feel that is a very good suggestion and we should broaden the scope."

54.5 The Committee have examined Clause 129 of the Bill and note that it provides statutory recognition to the National Institute of Securities Markets, which has hitherto functioned without an explicit legislative foundation, and entrusts the Board with regulating the Institute for the capacity building of intermediaries. The Committee appreciate the objective of providing a statutory basis to the National Institute of Securities Markets and recognise the important role played by the Institute in promoting education, research, training and capacity building in the securities market ecosystem.

54.6 The Committee further note the concerns expressed by stakeholders that the existing reference to "intermediaries" narrows the scope of the Institute's mandate, whereas the securities market comprises a much wider ecosystem, including securities market service providers, investors and other market participants. The Committee further note that the Ministry has agreed to substitute the term "intermediaries" with "securities market service providers and investors". The Committee are of the view that such substitution would more appropriately reflect the broader role of the National Institute of Securities Markets in strengthening investor awareness, financial literacy and capacity building.

CHAPTER LV

Power of Board to Delegate

Clause 132

55.1 Clause 132 of the Bill provides for the power of the Board to delegate, as under:—

132 The Board may, by general or special order in writing, delegate to any Member, officer of the Board or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code, except the powers exercisable under sections 128, 146 and 149, as it may deem necessary.

55.2 A suggestion was received that the power of delegation should not extend to “any other person”, on the ground that core regulatory functions should remain non-delegable in order to preserve institutional accountability and regulatory integrity.

On being asked about the rationale for permitting delegation of powers to “any other person” under Clause 132, the Ministry, in its written reply, stated as under:—

“Clause 132 is based on section 19 of the Securities and Exchange Board of India Act, 1992 and the same position has been retained under the Securities Markets Code. Clauses 146 and 149 provide for the regulation-making and subsidiary instruction-making powers of the Board, which encompass the entire scope of the quasi-legislative functions of SEBI. These powers are expressly excluded from delegation under the Code. Wherever the Securities Markets Code provides a specific regulation-making power, for example, the designation of the adjudicating officer under Clause 17, such power is to be exercised collectively by the Board.

Delegation of powers by the Board under Clause 132 is consistent with the overall scheme of the Code. In practice, SEBI issues orders under section 19 of the Securities and Exchange Board of India Act, 1992. Such orders are generally in the nature of distribution of administrative responsibilities among various officers of SEBI, unless a specific regulation-making power is provided. These orders are also published on the SEBI website.

Various functions of the Board under the Code may be delegated for reasons of administrative efficiency or to utilise the expertise of other persons. For instance, under Clause 15(3), the Investigating Officer is empowered to requisition the services of any police officer or officer of the Central Government to assist in an investigation. Similarly, under Clause 136, the Recovery Officer,

who is an officer of the Board, may seek the assistance of the local district administration, including the local police, while exercising recovery powers."

55.3 With regard to comparable legislation, the Ministry stated as under:—

"Section 54A of the Reserve Bank of India Act, 1934, section 230 of the Insolvency and Bankruptcy Code, 2016, section 49 of the Pension Fund Regulatory and Development Authority Act, 2013 and section 23 of the Insurance Regulatory and Development Authority Act, 1999 permit the respective authorities to delegate their functions to other members or officers."

55.4 On being asked about the prevailing practice, the Secretary, Department of Economic Affairs, stated during the course of evidence that the Ministry would verify whether the power to delegate functions to "any other person" had ever been exercised and, if so, the manner in which such power had been exercised.

55.5 On being asked whether any contemporary legislation permits a regulator to delegate its powers to "any other person", the Secretary, Ministry of Finance, referred to section 49 of the Pension Fund Regulatory and Development Authority Act, 2013, which contains a similar provision, and stated that the Ministry would examine whether, and in what manner, such powers had been exercised under both the Pension Fund Regulatory and Development Authority Act, 2013 and the Securities and Exchange Board of India framework.

55.6 On being asked whether regulatory functions, such as investigation, inquiry or adjudication, could be delegated to private persons outside the control of the Government, the Secretary, Department of Economic Affairs, stated that the Ministry would examine the issue.

55.7 The Committee have examined Clause 132 of the Bill and note that it empowers the Board to delegate its powers and functions to any Member, officer of the Board or "any other person", subject to the conditions specified therein, except in respect of the powers exercisable under sections 128, 146 and 149.

The Committee are of the view that the expression "any other person" is unduly broad and may permit the delegation of regulatory functions to persons outside the control of the Government or the Board. The Committee consider that such powers require a high degree of institutional accountability and ought not to be delegated to persons who are not part of the regulatory framework.

The Committee, therefore, recommend that the expression "any other person" be deleted from Clause 132 and that the necessary drafting changes be carried out accordingly.

CHAPTER LVI

Protection of Action Taken in Good Faith

Clause 139

56.1 Clause 139 of the Bill provides for protection of action taken in good faith, as under:—

139 No suit, prosecution or other legal proceeding shall lie against the Central Government or the Board or any officer of the Central Government or any Member referred to in sub-section (1) of section 4, officer or other employee of the Board for anything which is done or intended to be done in good faith under this Code or the rules or regulations or bye-laws made thereunder.

56.2 Some stakeholders suggested that the protection available for actions taken in good faith should also be extended to the members and officers of the Market Infrastructure Institutions (MIIs) and the Securities Appellate Tribunal (SAT) while discharging their functions under the Code. It was submitted that the Securities Appellate Tribunal performs adjudicatory functions under the Code and, therefore, protection against legal proceedings for bona fide acts should also be extended to its Presiding Officer, Members, officers and employees, in line with comparable statutory frameworks.

It was further submitted that the role and responsibilities of Market Infrastructure Institutions, particularly stock exchanges and clearing corporations, have increased under the Securities Markets Code, 2025. Since Market Infrastructure Institutions act as first-level regulators and undertake various regulatory functions in good faith, and are presently afforded protection under the Securities Contracts (Regulation) Act, 1956, it was suggested that a harmonised framework be provided under the proposed Code by extending similar protection to the officers and members of the Market Infrastructure Institutions and the Securities Appellate Tribunal.

56.3 During the course of deliberations on the issue of extending protection for actions taken in good faith to the Market Infrastructure Institutions and the Securities Appellate Tribunal, the Secretary, Department of Economic Affairs, stated as under:—

“To extend the good faith protection to MII and SAT, which we have accepted.”

56.4 The Committee have examined Clause 139 of the Bill and note that it provides protection from legal proceedings to the Central Government and its officers, the Board, its Members, officers and employees, for actions taken in good faith under the provisions of the Code.

The Committee further note that the Securities Appellate Tribunal performs adjudicatory functions under the Code, while the Market Infrastructure Institutions, particularly stock exchanges and clearing corporations, perform important regulatory functions as first-level regulators. The Committee also note that the roles and responsibilities of the Market Infrastructure Institutions have increased significantly under the proposed Securities Markets Code as compared to the Securities Contracts (Regulation) Act, 1956.

The Committee are of the considered view that the Presiding Officer, Members, officers and employees of the Securities Appellate Tribunal, while discharging their adjudicatory functions, and the officers and members of the Market Infrastructure Institutions, while discharging their statutory functions, exercise important responsibilities and are required to act and take decisions in good faith in the discharge of their respective duties.

The Committee are of the view that extending similar protection to such functionaries would enable them to discharge their statutory responsibilities fairly, independently and without apprehension of unnecessary legal proceedings, while remaining accountable under the framework of the Code. The Committee further note that the Securities Contracts (Regulation) Act, 1956 already provides protection for actions taken in good faith by the Market Infrastructure Institutions.

The Committee, therefore, recommend that the protection available under Clause 139 be extended to the Presiding Officer, Members, officers and employees of the Securities Appellate Tribunal, and to the officers and members of the Market Infrastructure Institutions, with appropriate safeguards, and that the necessary drafting changes be made.

CHAPTER LVII

Exemption from Tax on Income

Clause 140

57.1 Clause 140 of the Bill provides for exemption from tax on income, as under:—

140 Notwithstanding anything contained in the Income-tax Act, 2025 or any other law for the time being in force relating to tax on income, profits or gains, the Board shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains derived.

Explanation.—For the removal of doubts, it is hereby clarified that, until the provisions of the Income-tax Act, 2025 come into force, the corresponding provisions of the Income-tax Act, 1961 shall apply.

57.2 On being asked whether the Ministry had consulted the Central Board of Direct Taxes regarding the exemption proposed to be granted to the Board from income-tax in respect of its income, profits or gains, the Secretary stated during the course of evidence as under:—

"The matter would be taken up with the CBDT."

57.3 Thereupon, the Secretary, Department of Economic Affairs, reiterated that the matter would be taken up with the Central Board of Direct Taxes.

57.4 The Committee have examined Clause 140 of the Bill and note that it seeks to exempt the Board from payment of income-tax or any other tax in respect of its income, profits or gains. The Committee further note that, since exemptions relating to income-tax are governed by the Income-tax Act, 2025, the corresponding provisions of that Act should appropriately reflect the exemption proposed under the Code to ensure its effective implementation.

The Committee, therefore, recommend that the Ministry pursue the matter with the Central Board of Direct Taxes to ensure that the exemption proposed under Clause 140 is appropriately reflected in the relevant provisions of the Income-tax Act, 2025.

CHAPTER LVIII

Code not to Apply in Certain Cases

Clause 143

58.1 Clause 143 of the Bill provides for cases where the Code shall not apply, as under:—

143 (1) The provisions of this Code shall not apply to the Central Government, the Reserve Bank, any local authority or any corporation established by a special law, or any person who has effected any transaction with or through the agency of any such authority referred to in this sub-section:

Provided that the provisions of this Code shall apply to such transactions or securities that are listed or proposed to be listed, and to the issuer of such securities.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government is of the opinion that, in the interest of trade and commerce or the economic development of the country, it is necessary or expedient so to do, it may, by notification, exempt any class of contracts from the application of the provisions of this Code, subject to such conditions, limitations or restrictions, if any, as may be specified.

58.2 Some stakeholders suggested that the clause be amended by inserting the words "State/Union Territory Government" after "Central Government" so as to make it explicit that the provisions of the Code would not apply to the State Governments and Union Territory Governments as well.

58.3 On being asked about the suggestion relating to the addition of "State/Union Territory Government" after "Central Government", the Ministry, in its written reply, agreed with the suggestion and stated that the provision is based on section 28 of the Securities Contracts (Regulation) Act, 1956, which refers to "Government" and not specifically to the "Central Government". Accordingly, the Ministry stated that the provision may be aligned with the corresponding provision of the Securities Contracts (Regulation) Act, 1956.

58.4 During the course of deliberations, the Secretary, Department of Economic Affairs, stated as under:—

"DEA is of the view that only the term 'Government' may be used, as the same is defined in the General Clauses Act, 1897 to mean the following:

According to the General Clauses Act, 1897:

Section 3 – Definitions

(23) 'Government' or 'the Government' shall include both the Central Government and any State Government;

(60) 'State Government',—

(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government.

Hence, Clause 143 may be amended by replacing 'Central Government' with 'Government'."

58.5 Thereupon, the Committee observed that, since the proposed legislation is a Union enactment, the words "State/Union Territory Government" should be inserted after "Central Government".

58.6 The Committee have examined Clause 143 of the Bill and note the submission of the Ministry that, under the General Clauses Act, 1897, the term "Government" includes both the Central Government and the State Governments and that, in the case of Union Territories, the relevant provisions of that Act also apply. However, the Committee are of the view that, since the Securities Markets Code, 2025 is a proposed Union legislation, it would be more appropriate to expressly specify "State/Union Territory Government" after "Central Government" so as to avoid any ambiguity regarding the applicability of the Code.

The Committee, therefore, recommend that Clause 143 be suitably amended to insert "State/Union Territory Government" after "Central Government".

CHAPTER LIX

Process of Issuing Regulations

Clause 147

59.1 Clause 147 of the Bill provides for the process of issuing regulations, as under:—

147 (1) The Board shall ensure transparency while making regulations by—

(a) publishing draft regulations, along with such other details, on its website and inviting public comments for a specified period prior to issuing the regulations;

(b) publishing a general statement of its response to the public comments, not later than the date of notification of the regulations; and

(c) periodically reviewing such regulations.

(2) Notwithstanding anything contained in sub-section (1), where the Board is of the opinion that the regulations are required to be made urgently in the public interest, it may, for reasons to be recorded in writing, dispense with the requirement of publication of the draft regulations.

59.2 Some stakeholders suggested that suitable exemptions from public consultation should be expressly provided in the Securities Markets Code in respect of internal matters. It was submitted that the Securities and Exchange Board of India has framed the Securities and Exchange Board of India (Procedure for Making, Amending and Reviewing of Regulations) Regulations, 2025, prescribing the process for regulation-making, public consultation and stakeholder engagement in the interest of transparency, notwithstanding the absence of any statutory requirement mandating public consultation prior to the making of regulations.

It was further submitted that regulation 9 of the said Regulations exempts public consultation in respect of regulations relating to the internal organisational matters of the Board; procedural requirements or issues which, in the opinion of the Chairperson, do not involve any substantive policy changes; and amendments to the said Regulations.

59.3 In response to the suggestion regarding suitable exemptions from public consultation for internal matters, the Secretary, Department of Economic Affairs, stated during the course of deliberations as under:—

"SEBI had requested exemption also for internal matters and we had been instructed to examine formulations adopted in other Acts, which we had presented earlier. We found that the Competition Act contains suitable language, which we have proposed in response to the stakeholder consultation. Accordingly, a provision may be added to provide that, where the subject matter of the regulations relates solely to the internal functioning of the Board, it may, for reasons to be recorded in writing, dispense with the requirement of public consultation."

59.4 The Committee have examined Clause 147 of the Bill and note that it seeks to ensure transparency in the process of making regulations by requiring the publication of draft regulations, inviting public comments thereon, publishing the Board's response to such comments and undertaking periodic review of the regulations.

The Committee, however, note with concern that the Bill does not provide any exemption from public consultation in respect of matters relating solely to the internal functioning of the Board. The Committee are of the view that regulations relating to the internal organisational matters of the Board, procedural requirements or issues that do not involve any substantive policy changes, and amendments to the regulations governing the regulation-making process may not require public consultation.

The Committee, therefore, recommend that an exemption from public consultation be provided only where the regulations relate solely to the internal functioning of the Board, subject to the reasons for such exemption being recorded in writing.

Chapter- LX

The Prevention of Money-laundering Act, 2002

Clause 155

60.1 The Prevention of Money-laundering Act, 2002 shall be amended in the manner provided in the Second Schedule.

60.2 During the deliberations, concerns were raised regarding the proposal under Clause 155 to include certain offences under the proposed Securities Markets Code as scheduled offences under the Prevention of Money-Laundering Act, 2002 (PMLA). It was pointed that such inclusion could result in disproportionate enforcement consequences, particularly where the underlying contraventions involve technical, procedural or regulatory non-compliance rather than serious fraudulent or criminal misconduct, thereby imposing significant collateral consequences on regulated entities.

In this regard, on the question as to what criteria were adopted by the Ministry for identifying the offences proposed to be included in the Schedule to the PMLA and whether there was any legal, regulatory or impact assessment undertaken before finalising this proposal. And safeguards envisaged to ensure that the stringent provisions of the PMLA are invoked only in cases involving serious market abuse or other grave misconduct. The Ministry in its written reply stated as under:

Current Position

Currently, SA-12A (Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control) and SA-24 (Offences for contravention of the provisions of the Act) are incorporated as Scheduled Offences under PMLA. Under SA-24, any contravention of the SEBI Act and the rules and regulations thereunder was a contravention.

Position under SMC

Under SMC, the offences have been decriminalised and limited to only 3 categories:

1) Non compliance of orders of an AO [clause 94].
2) Non-compliance of directions of an IO [clause 95].
3) Market Abuse [clause 96].

Clause 155 read with Schedule II of SMC thus provides a consequential amendment to the PMLA. Through this amendment, SA-12A and 24 in the Schedule are replaced with the following:

1) Clause 93 (Prohibition of Market Abuse) read with Clause 96 (Punishment for Market Abuse).
2) Clause 94 (Punishment for Non Compliance of orders of the Adjudicating Officer).

The linkage to PMLA has only been extended to Clause 94 and 96, instead of the omnibus criminal provision under SA-24 in the existing position to balance the objective of decriminalisation with ensuring deterrence and to promote market certainty.

International Position

Recommendation 3 of International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (FATF Recommendations) requires that: “Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences”. The list of designated offences under FATF Recommendations includes “insider trading and market manipulation”. Market manipulation is a subset of the umbrella term “market abuse” and includes acts like inflating prices, indices, and influencing dealings in securities.

Thus, according to the FATF recommendations as well, countries are required to categorise contraventions such as insider trading and market manipulation as contraventions under money laundering.

In the United States, money laundering offences under 18 U.S.C. § 1956 apply to the proceeds of a "specified unlawful activity", which expressly includes a range of federal securities offences such as securities fraud, insider trading and market manipulation. The United Kingdom follows an all-crimes approach under the Proceeds of Crime Act 2002, under which the proceeds of any criminal offence, including offences under the financial services and market abuse regime, constitute "criminal property" and may give rise to money laundering offences. Singapore adopts a scheduled predicate offence model under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA), where money laundering offences apply to the proceeds of specified "serious offences"; the First Schedule to the CDSA expressly includes numerous offences under the Securities and Futures Act 2001, including insider trading, false trading, market manipulation and other market misconduct offences. Thus the position under SMC is consistent with other countries.

60.3 Certain stakeholders have also expressed apprehension that disclosures or admissions made during settlement proceedings under Clause 26 of the SMC may subsequently be relied upon in proceedings under the PMLA, thereby exposing the person concerned to parallel criminal consequences. They have, therefore, suggested that appropriate statutory safeguards may be considered to prevent any unintended prejudice. In response to the concern raised, the Ministry in its written reply stated that:

Clause 26 of the SMC is an expansion of the settlement procedure under the existing framework which allows individuals facing civil or administrative enforcement actions to resolve their cases by disclosing all relevant information and reaching a settlement with SEBI. The settlement does not require an admission of guilt as provided in the SEBI (Settlement Proceedings) Regulations, 2018. The same position is continued under the SMC. Given the predicate offence under the PMLA gets established only when the offence in the primary act is proved, no proceedings under the PMLA can be initiated when a contravention is settled which is in relation to civil and administrative proceedings only.
However, it is noted that settlement of civil and administrative proceedings does not bar criminal prosecution if the same act or contravention can result in both civil and administrative actions (by SEBI), as well as criminal proceedings (in court) (such as the prohibition of market abuse under Clause 93 of the SMC). These two sets of enforcement measures, civil or criminal, can operate

independently or simultaneously, depending on SEBI's assessment of the severity of the violation. Thus, settlement does not technically remove criminal liability.
This position is also supported by judicial precedents. The Bombay High Court, while deciding whether exoneration of adjudication proceeding will result in *ipso facto* quashing of criminal prosecution, has held that:

> *"**20.** …. **exoneration in departmental or regulatory proceedings will bind criminal prosecution only in very limited situations**. Three conditions must be satisfied. First, the adjudicating authority must have examined all the facts and evidence in detail and given a clear finding. An order passed only on technicalities like limitation or jurisdiction cannot bar prosecution. Second, there must be a clear conclusion that the allegations were wholly baseless or not proved at all. Third, the order must contain a clean declaration of innocence, holding the person not guilty of the misconduct. **A mere absence of penalty or grant of benefit of doubt does not amount to exoneration on merits**."*

A similar issue was also discussed by the Bombay High Court in *Manoj Gokulchand Seksaria* case, which held that in view of the consent terms passed by SEBI, it would not be in the interest of justice to continue with the criminal proceedings, as it would be tantamount to an abuse of the process of the law. However, the Supreme Court set aside this case and remanded the matter to the Division Bench of the High Court without commenting on the merits of this point.

Thus, if the same facts or issues are also involved in criminal proceedings, the situation is not fully resolved for the person settling the matter. For criminal proceedings, the individuals have separate recourse to seek compounding of an offence under Clause 117 and obtain immunity from prosecution for any offence under Clause 135.

60.4 With regard to the concern that the offence of "Market Abuse" is broadly framed and leaves significant aspects of the prohibited conduct to be specified through subordinate legislation, it was suggested that the definition and essential ingredients of the offence be articulated with greater precision in the parent legislation, so that only clearly defined and serious instances of market misconduct attract the additional consequences under the PMLA. It was further pointed out that, in Clause 93(b), the use of the expression "material or non-public information", instead of "material and non-public information", may unintentionally widen the scope of the offence. In response to these concerns, the Ministry, in its written reply, stated as under:

Delegation to Subordinate Legislation

Section 12A of the SEBI Act, 1992 which contains a list of various prohibitions relating to usage of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control. Contravention of Section 12A carries criminal liability. It is to be noted that earlier SEBI expanded the scope of these practices by issuing regulations such as SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 and SEBI (Prevention of Insider Trading) Regulations, 2015. These regulations were issued under the general regulation-making powers of the SEBI as no statutory anchor was provided under section 12A to expand the list of prohibitions.

Under **SA-24**, the contraventions of these regulations would also attract criminal liability. This framework, under which SEBI identifies specific prohibited conduct through subordinate legislation,

has operated effectively for several years and has been retained under the SMC.

60.5 The Committee note that Clause 155 read with Schedule II of the Bill seeks to make certain offences under the Securities Markets Code, 2025, predicate offences under the Prevention of Money-Laundering Act, 2002. In this regard, the Ministry has stated that, while the existing framework under the SEBI Act, 1992 includes an omnibus provision covering contraventions of the Act and the rules and regulations made thereunder, the proposed Securities Markets Code seeks to decriminalise such contraventions and retain criminal liability only for three categories of offences, namely, non-compliance with orders of the Adjudicating Officer under Clause 94, non-compliance with directions of the Investigating Officer under Clause 95 and market abuse under Clause 96. The Ministry has further stated that the linkage with the PMLA has been limited to market abuse under Clause 93 read with Clause 96 and non-compliance with orders of the Adjudicating Officer under Clause 94, with a view to balancing decriminalisation with the need to maintain deterrence and promote market certainty.

60.6 The Committee observe that Clauses 93 and 96, which relate to market abuse and its punishment, respectively, have been included in Schedule II to the PMLA. The Ministry has furnished a detailed justification for this inclusion, inter alia, by referring to the FATF Recommendations and the international practice of treating serious securities market offences, including insider trading and market manipulation, as predicate offences for money laundering. The Ministry has also emphasised that the provisions relating to market abuse are intended to address serious conduct affecting the integrity of the securities markets and has stated that the scope of Clause 93(b) is proposed to be narrowed to prevent overlap with Clause 92 and to ensure greater precision in defining the offence.

However, the Committee note that Clause 94, which provides for punishment for non-compliance with orders of the Adjudicating Officer, has also been included in Schedule II to the PMLA. While the Ministry has justified the inclusion of market abuse offences under Clauses 93 and 96 on the ground that such offences constitute serious market misconduct and are consistent with international standards and practices. Non-compliance with an order of the Adjudicating Officer is, in essence, a failure to comply with a regulatory or adjudicatory direction and does not, by itself, constitute conduct involving market manipulation, insider trading or other substantive market abuse. Further, the Securities Markets Code itself provides a specific enforcement mechanism for dealing with non-compliance with orders of the Adjudicating Officer under Clause 94. The Committee are, therefore, of the view that subjecting such non-compliance, in addition, to the consequences of its classification as a scheduled offence under the PMLA would be disproportionate. The Committee are of the view that the mere fact that an offence carries criminal liability under the Securities Markets Code may not, by itself, be sufficient to justify its inclusion as a scheduled offence under the PMLA, particularly given the stringent and wide-ranging consequences that may follow from such classification.

60.7 The Committee, therefore, recommend that the reference to Clause 94 be omitted from Schedule II to the PMLA, in view of the distinct nature of the offence of non-compliance with an order of the Adjudicating Officer.

60.8 The Committee emphasise that the proposed amendments to Clause 93, including the amendment of the principal clause (headnote), the amendment to Clause 93(b), the deletion of the reference to "bye-laws" in Clause 93(c), and the deletion of Clause 93(g), assume particular significance in view of the proposed inclusion of Clause 93 read with Clause 96 in Schedule II to the PMLA under Clause 155. The Committee, therefore, recommend that the amendments to Clause 93 recommended in the preceding paragraphs of this Report be made applicable in the Schedule II as well naturally, so as to ensure that the scope and ingredients of the market abuse offences attracting the consequences of a scheduled offence under the PMLA are clearly, precisely and appropriately defined in the legislation.

CHAPTER LXI

Excessive Delegation

61.1 Several stakeholders expressed concerns that the Securities Markets Code, 2025 delegates a large number of substantive matters to rules and regulations, particularly in relation to market structure, innovation, investor classification, registration and supervision of intermediaries, market misconduct, governance standards and regulatory procedures. Concerns were also expressed that the definition of “market participant” under Clause 2 may be interpreted to extend to investors in a manner that could result in regulatory overreach. Further concerns were raised regarding Clause 31, which enables the delegation of registration and supervisory functions to Market Infrastructure Institutions (MIIs) and Self-Regulatory Organisations (SROs), on the ground that core regulatory functions, such as registration, grant, refusal, suspension and cancellation of registration, ought ordinarily to remain with the Board. It was also contended that such delegation may result in interpretational issues, compliance burdens and inconsistency with the existing regulatory architecture.

61.2 Further concerns were raised regarding Clause 92(f), which enables the Board to specify additional fraudulent and unfair trade practices through regulations; Clause 93(g), which empowers the Board to specify additional acts constituting market abuse, read with Clause 96 prescribing criminal penalties; Clause 143, which confers broad powers on the Central Government to exempt any class of persons, entities or transactions from the operation of the Code; Clause 17(4), read with Clause 146(2)(j), which enables the Board to specify the procedure governing adjudication proceedings through regulations; and other provisions, including Clauses 11, 13(5), 33, 37 and 42, where substantial regulatory powers are proposed to be exercised through delegated legislation. It was contended that such provisions may give rise to concerns of excessive delegation, particularly where they relate to criminal liability, adjudicatory safeguards or other essential legislative functions.

61.3 In response to these concerns, the Ministry submitted that the regulation-making power of the Board has been retained and expanded under the Securities Markets Code to ensure effective regulation of the securities market. Since the Board is a specialised regulator possessing subject-matter expertise, the operational details required for implementation of the Code are to be specified through subordinate legislation. The Ministry clarified that the definition of “market participant” has been introduced for drafting consistency and is intended to serve as an umbrella expression covering issuers, investors and intermediaries participating in the securities market.

With regard to Clause 31, the Ministry submitted that the delegation of certain registration and supervisory functions to MIIs and SROs is only an enabling provision intended to leverage their specialised expertise and operational reach, while the Board continues to retain overall regulatory supervision, specify eligibility conditions, impose conditions on delegated entities and review their actions. The Ministry further stated that, once the legislature has laid down the legislative policy, it may confer discretion upon an administrative authority regarding the implementation of that policy and that the jurisprudence relating to delegated legislation and sub-delegation is well settled.

61.4 With regard to Clauses 92 and 93, the Ministry submitted that the proposed framework is consistent with the existing securities law architecture, under which section 12A of the Securities and Exchange Board of India Act, 1992 prescribes broad statutory prohibitions, while the detailed identification of fraudulent, unfair and insider trading practices is provided through subordinate legislation. The Ministry further stated that regulations framed under the Code would be subject to public consultation and parliamentary scrutiny.

61.5 The Committee have examined the provisions of the Securities Markets Code, 2025 and note that it seeks to establish a comprehensive and future-ready regulatory framework for the securities market by conferring substantial regulation-making powers upon the Board and enabling the delegation of certain functions to Market Infrastructure Institutions and Self-Regulatory Organisations. The Committee recognise that the securities market is dynamic, technology-driven and constantly evolving and that delegated legislation is indispensable for prescribing technical standards, operational requirements and other matters requiring flexibility and periodic modification.

The Committee further note the rationale advanced by the Ministry that a specialised regulator such as the Board is best placed to specify detailed implementation measures within the broad legislative framework laid down under the Code. The Committee also recognise that, when exercised within clearly defined statutory boundaries, delegated legislation facilitates the effective implementation of the law by enabling timely regulatory responses to market developments, technological innovations and evolving business practices without requiring frequent legislative amendments. Such flexibility promotes regulatory efficiency, operational certainty and ease of doing business.

61.6 The Committee are of the view that delegated legislation should be exercised within clearly defined statutory boundaries so that the regulatory framework remains transparent, predictable and does not give rise to a perception of excessive delegation or unguided discretion. The Committee consider that regulations framed through a process of meaningful consultation and adequate scrutiny inspire confidence among investors and regulated entities, provide greater regulatory certainty, facilitate ease of doing business and significantly reduce the likelihood of avoidable litigation.

61.7 At the same time, the Committee are of the considered view that an appropriate balance must be maintained between regulatory flexibility and legislative certainty. While delegated legislation is well suited for specifying procedural, technical and administrative matters, provisions involving substantive rights and obligations, criminal liability, adjudicatory safeguards, eligibility conditions, enforcement standards and the essential features of the regulatory framework should ordinarily be incorporated in the Code itself.

The Committee observe that several provisions of the Code confer broad discretionary powers upon the Board in areas such as registration and supervision of intermediaries, governance standards for market institutions, determination of market misconduct, grant of exemptions from the operation of the Code and adjudicatory procedures. In the absence of adequate statutory guidance, such broad delegations may give rise to legal uncertainty, inconsistent interpretation and avoidable litigation, while diminishing regulatory certainty for market participants.

61.8 The Committee further observe that Clause 31 enables the Board to delegate registration and supervisory functions to Market Infrastructure Institutions and Self-Regulatory Organisations. While the Committee recognise the operational efficiencies and institutional expertise that such entities may bring to the regulatory framework, they are of the view that functions relating to the grant, refusal, suspension and cancellation of registration involve significant legal and commercial consequences and, therefore, require an appropriate statutory framework.

Accordingly, the Committee recommend that the Code should clearly specify the nature and extent of the functions that may be delegated, the principles governing such delegation, the accountability framework applicable to delegated entities, the supervisory and oversight powers of the Board and an effective mechanism for review of decisions taken by Market Infrastructure Institutions or Self-Regulatory Organisations. The Committee further recommend that such delegation should remain enabling in nature and should not dilute the Board's primary responsibility and accountability as the statutory regulator.

61.9 The Committee are particularly concerned that certain provisions of the Code, including Clauses 92(f), 93(g), 17(4) read with Clause 146(2)(j) and Clause 143, confer delegated powers in areas having significant legal consequences. The Committee are of the considered view that matters relating to the creation or expansion of criminal liability, prescription of essential procedural safeguards governing adjudication, conferral of broad exemption powers and other issues affecting substantive rights and liabilities should be governed by clear statutory principles. While delegated legislation may appropriately supplement the statutory framework by specifying implementation details and operational requirements, it should not determine matters involving essential legislative policy or substantive legal consequences.

61.10 In view of the foregoing, the Committee recommend that the Government undertake a comprehensive review of all provisions involving extensive delegation of legislative powers, particularly Clauses 11, 13(5), 17(4) read with Clause 146(2)(j), 31, 33, 37, 42, 92(f), 93(g) read with Clause 96 and 143, with a view to ensuring that the Code itself lays down adequate legislative policy, objective standards, eligibility criteria, procedural safeguards and guiding principles. The Committee are of the view that delegated legislation should supplement the statutory framework by specifying matters of implementation and administration and should

not become the principal source for determining substantive rights, obligations or regulatory policy.

61.11 The Committee further recommend that every enabling provision conferring regulation-making or delegated powers should clearly define the scope, purpose and limits of such delegation. Regulations framed under the Code should remain consistent with the objectives and scheme of the Code and, wherever practicable, be preceded by meaningful public consultation and adequate regulatory scrutiny. Where such regulations materially affect rights, obligations or regulatory requirements, they should be accompanied by an appropriate explanatory statement setting out their objectives and rationale. Such an approach would strengthen transparency, accountability and regulatory certainty, reinforce investor confidence, facilitate ease of doing business and minimise the scope for ambiguity and avoidable litigation, while preserving the flexibility necessary for the effective regulation of a dynamic and evolving securities market.

New Delhi; **BHARTRUHARI MAHTAB**
21st July, 2026 ***CHAIRPERSON,***
30, Asaadh 1948 (Saka) ***STANDING COMMITTEE ON FINANCE***

Appendix – I

Minutes of the Ninth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 08th January, 2026 from 1200 hrs. to 1400 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri Suresh Kumar Kashyap
4. Shri Kishori Lal
5. Shri Harendra Singh Malik
6. Thiru Arun Nehru
7. Shri N. K. Premachandran
8. Smt. Sandhya Ray
9. Prof. Sougata Ray
10. Dr. K. Sudhakar
11. Shri Manish Tewari
12. Shri Balashowry Vallabhaneni
13. Shri Prabhakar Reddy Vemireddy

RAJYA SABHA

14. Shri Narain Dass Gupta
15. Shri Yerram Venkata Subba Reddy
16. Shri S. Selvaganabathy
17. Shri Sanjay Seth
18. Dr. Dinesh Sharma
19. Shri Pramod Tiwari

SECRETARIAT

1. Shri Gaurav Goyal - Joint Secretary
2. Smt. Bharti Sanjeev Tuteja - Director
3. Shri Kuldeep Singh Rana - Deputy Secretary
4. Shri T. Mathivanan - Deputy Secretary

WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Mr. Solomon Arokiaraj, Additional Secretary
3. Mr. Deepak Ranjan, Director

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee convened to have a briefing by the Department of Economic Affairs (Ministry of Finance) in regard to examination of the Securities Markets Code Bill, 2025. He then apprised the Committee of the provisions governing the referral of Bills and the time limit for examining a Bill which is generally three months and may be extended with the permission of the Hon'ble Speaker. He also pointed out that the present Bill had been referred to the Committee with a request from the Minister-in-charge to present the report by the first day of the next session, that is, the Budget Session of 2026. However, the Committee observed that the time allocated for examination and reporting is less than half of the usual three-month period which may be insufficient given the need for a comprehensive review in view of the Bill's potential impact. The Committee further decided to invite stakeholders, interest groups and experts to share their views on the Bill, as this would enable wider consultations and provide a holistic understanding of the proposed legislation.

3. Thereafter, the Chairperson welcomed the representatives of the Department of Economic Affairs. After the customary introduction of the witnesses, the Chairperson apprised them of the Direction 55(1) of the Directions by the Speaker. The Secretary, Department of Economic Affairs, thereafter, made a power-point presentation on the subject highlighting the rationale and Principles adopted for the Code and as to how the Bill integrates scattered and overlapping provisions into a comprehensive legal framework. In the presentation the secretary inter-alia highlighted the key aspects of the Bill justifying as to how the Bill ensures improved regulatory Governance, Market Integrity, Ease of doing Business, streamlines Fact-Finding and Adjudication processes, strengthens Investor protection, promotes innovation and co-ordination, etc.

4. Subsequent to the presentation, the Committee deliberated upon several points with the representatives of Department of Economic Affairs, Ministry of Finance which, *inter-alia*, covered decriminalization of certain offences, excessive power to the executive by way of delegated legislation, conflict of interest in the selection of Ombudsperson, Composition of the Board, expansion of powers given to the SEBI, serving of prior notice *vis-a-vis* serving of prior notice etc.

5. The Hon'ble Members also sought clarifications on various other issues relating to the subject and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied by them during the discussion, to the Secretariat within 10 working days.

The witnesses then withdrew.
The Committee then adjourned.
A verbatim record of the proceedings has been kept.

Appendix – II

Minutes of the Tenth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Wednesday, the 20th January, 2026 from 1100 hrs. to 1300 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri Lavu Sri Krishna Devarayalu
4. Shri Suresh Kumar Kashyap
5. Smt. Sandhya Ray
6. Dr. Jayanta Kumar Roy
7. Dr. K. Sudhakar

RAJYA SABHA

8. Shri Narain Dass Gupta
9. Shri Yerram Venkata Subba Reddy
10. Shri S. Selvaganabathy
11. Shri Sanjay Seth
12. Dr. Dinesh Sharma
13. Smt. Darshana Singh
14. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

WITNESSES

National Stock Exchange of India Ltd. (NSE)

1. Shri. Ashishkumar Chauhan, MD & CEO
2. Shri. Piyush Chaurasia, Chief Regulatory Officer
3. Shri. Ankit Sharma, Chief Regulatory Officer
4. Shri. Shailesh Pathak, Senior Advisor - Policy Advocacy & Media
5. Shri. Amish Patel, Assistant Vice President - Corporate Communications.

Bombay Stock Exchange Ltd. (BSE)

1. Shri. Sundararaman Ramamurthy, MD & CEO
2. Shri. Shailesh Jain, Head-Legal
3. Shri. Varun Gupta, Deputy Vice President - Business Development Manager

At the outset the Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of the representatives of National Stock Exchange (NSE) and Bombay Stock Exchange (BSE), on the Securities Markets Code 2025. The chairperson then apprised the Members that to ensure wider consultation on the Bill, a Press Communique to invite views and suggestions of various stakeholders/ associations/ organizations have been issued. The last date for submission of suggestions in this regard is 23rd January, 2026. The Committee then reviewed the progress of examination of the Bill and after deliberation felt that they need to hear a range of stakeholders considering the wider impact of the Bill and decided seek extension of time up to last week of the second part of the Budget Session to present the report on the Bill. The Committee also decided to undertake on the spot study visit to Mumbai on the Securities Markets Code 2025 during February/ March, 2026.

[the witnesses were then called in]

2. The Chairperson welcomed the representatives of National Stock Exchange (NSE) and Bombay Stock Exchange (BSE) and apprised them of the Direction 55(1) of the Directions by the Speaker. After the customary introduction of the witnesses, respective MD & CEO of National Stock Exchange (NSE) and Bombay Stock Exchange (BSE) made a detailed power point presentation before the Committee highlighting their views inter alia on the Management of MIIs, definitions, market by-laws, penalty provisions, grievance redressal, investment of investors' money by MIIs, Governing Body, expulsion of membership, separate registration process for registration of intermediaries with the MIIs, inclusion of PaRRVA (Past Risk Rating Validation Agency) in the definition of intermediaries, etc. on the Securities Markets Code 2025.

3. The Hon'ble Members also sought clarifications on various other issues relating to the subject and the witnesses responded to the queries raised by the Members. The Chairperson then directed the representatives to furnish written replies to the points raised by the Members, which could not be readily replied by them during the discussion, to the Secretariat within 10 working days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

* * * * *

Appendix – III

Minutes of the Eleventh Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Monday, the 02nd February 2026 from 1600 hrs. to 1830 hrs. in Room No. 62, First Floor, Samvidhan Sadan, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

1. Shri Arun Bharti
2. Shri P.P. Chaudhary
3. Shri Rajesh Naranbhai Chudasama
4. Shri Lavu Sri Krishna Devarayalu
5. Shri Suresh Kumar Kashyap
6. Thiru Arun Nehru
7. Shri N.K. Premachandran
8. Dr. C. M. Ramesh
9. Smt. Sandhya Ray
10. Dr. Jayanta Kumar Roy
11. Dr. K. Sudhakar
12. Shri Manish Tewari
13. Shri Prabhakar Reddy Vemireddy

RAJYA SABHA

14. Shri P. Chidambaram
15. Shri Narain Dass Gupta
16. Shri Praful Patel
17. Shri Yerram Venkata Subba Reddy
18. Shri S. Selvaganabathy
19. Shri Sanjay Seth

20. Dr. Dinesh Sharma

21. Smt. Darshana Singh

22. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

WITNESSES

Securities and Exchange Board of India (SEBI)

6. Shri Tuhin Kanta Pandey, Chairperson
7. Shri Kamlesh Chandra Varshney, Whole Time Member
8. Ms. G. Babitha Rayudu, Executive Director
9. Shri Jeevan Sonparote, Executive Director
10. Shri Shashikumar Valsakumar, Executive Director
11. Shri Sunil Jayawant Kadam, Executive Director
12. Shri Vijayant K. Verma, Regional Director, Northern Regional Office
13. Shri Vijayakrishnan G., Chief General Manager

At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of the representatives of the Securities and Exchange Board of India (SEBI) on the *Securities Markets Code (SMC), 2025*. The Chairperson informed the Committee that thirteen (13) stakeholders had submitted their views/suggestions on the Bill in response to the press release issued and emails sent to them in this regard.

[the witnesses were then called in]

2. The Hon'ble Chairperson welcomed the representatives of SEBI and invited them to share their views on how the provisions of the Bills would strengthen SEBI's regulatory functions, supervision of Market Infrastructure Institutions, ease of doing business, and investor protection. He also apprised them of Direction 55(1) of the Directions by the Speaker.

3. After the introduction of the witnesses, the Chairman, SEBI made a detailed PowerPoint presentation before the Committee. He outlined the current mandate and accountability framework of SEBI, provided an overview of the salient features of the Securities Markets Code, 2025, and elaborated upon the suggestions made by SEBI on the Bill. The major issues discussed during the sitting *inter-alia* include consolidation of Acts vis-à-vis dilution of separation of powers, concentration of legislative, executive, investigative, adjudicatory and quasi-judicial powers in the SEBI Board, delegation of legislative functions, provisions permitting search, seizure, attachment of property, freezing of bank accounts and prolonged interim orders including *ex-parte* actions, the 180 days' time limit to decide on appeals, the eight-year investigation limit, Inclusion of independent directors to the SMC Board, designation SEBI's officers as Ombudspersons, review of own orders by quasi-judicial authorities, initiation of Investigation without a recorded reason under Clause 13 etc.

4. The witnesses responded to some of the queries raised by the Members on the subject. The Hon'ble Chairperson directed the representatives of SEBI to furnish written replies to which could not be readily replied by them during the sitting, within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – IV

Minutes of the Thirteenth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Monday, the 09th February 2026 from 1500 hrs. to 1700 hrs. in Committee Room Samanvay-3, Parliament House, New Delhi.

PRESENT

Shri Bhartruhari Mahtab — Chairperson

LOK SABHA

1. Shri Arun Bharti
2. Shri P. P. Chaudhary
3. Shri Rajesh Naranbhai Chudasama
4. Shri Lavu Sri Krishna Devarayalu
5. Shri Suresh Kumar Kashyap
6. Thiru Arun Nehru
7. Shri N. K. Premachandran
8. Dr. C.M. Ramesh
9. Smt. Sandhya Ray
10. Prof. Sougata Ray
11. Shri Balashowry Vallabhaneni
12. Shri Prabhakar Reddy Vemireddy

RAJYA SABHA

13. Shri P. Chidambaram
14. Shri Narain Dass Gupta
15. Shri S. Selvaganabathy
16. Shri Sanjay Seth
17. Dr. Dinesh Sharma
18. Smt. Darshana Singh
19. Shri Pramod Tiwari

SECRETARIAT

1.	Smt. Bharti Sanjeev Tuteja	Director
2.	Shri Kuldeep Singh Rana	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	Deputy Secretary
4.	Shri T. Mathivanan	Deputy Secretary

WITNESSES

1.	Shri Ajay Seth	Chairman
2.	Shri G.R. Surya Kumar	CGM
3.	Shri Aleem Afaque	DGM

At the outset, the Hon'ble Chairperson welcomed the Members to the Sitting of the Committee convened to hear the views of the representatives of the Insurance Regulatory and Development Authority of India (IRDAI) on the Securities Markets Code (SMC), 2025.

[the witnesses were then called in]

2. The Hon'ble Chairperson welcomed the representatives of IRDAI and invited them to share IRDAI's views/ suggestions, which would assist its deliberations and help ensure that the Securities Market Code, 2025 serves the best interests of the Indian financial ecosystem. He also apprised them of Direction 55(1) of the Directions by the Speaker**.**

3. After the introduction of the witnesses, the Chairman, IRDAI made a detailed PowerPoint presentation before the Committee. He gave an overview of the salient features of the Securities Markets Code, 2025, and elaborated upon the three suggestions proposed by IRDAI relating to (i) the Preamble to the Code, (ii) Clause 127 (Annual Reports), and (iii) Clause 132 (Delegation of Powers) of the Code. Thereafter, the Chairman apprised the Committee of IRDAI's views on Public Comments received on the Bill. The major issues discussed during the sitting, inter alia, included the investigation timeline; inclusion of audited accounts; investigations by multiple agencies; credit rating agencies; delegation of powers by the Board; ULIP regulations; Collective Investment Schemes; prohibition of fraudulent or

unfair practices and market habits; and additional safeguards for insurance policyholders indirectly exposed to securities markets.

4. The witnesses responded to the queries raised by the Members on the subject. The Hon'ble Chairperson directed the representatives of IRDAI to furnish written replies to which could not be readily replied by them during the sitting, within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – V

Minutes of the Fourteenth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Wednesday, the 11th February 2026 from 1500 hrs. to 1630 hrs. in Room No. 62, Samvidhan Sadan, New Delhi.

PRESENT

Shri Bhartruhari Mahtab — Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P. P. Chaudhary
4. Shri Rajesh Naranbhai Chudasama
5. Shri Lavu Sri Krishna Devarayalu
6. Shri Kishori Lal
7. Shri N. K. Premachandran
8. Dr. C.M. Ramesh
9. Smt. Sandhya Ray
10. Prof. Sougata Ray
11. Dr. Jayanta Kumar Roy
12. Shri Balashowry Vallabhaneni
13. Shri Prabhakar Reddy Vemireddy

RAJYA SABHA

14. Shri Narain Dass Gupta
15. Shri Yerram Venkata Subba Reddy
16. Shri S. Selvaganabathy
17. Shri Sanjay Seth

18. Smt. Darshana Singh

19. Dr. M. Thambidurai

20. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	Director
3.	Shri Kuldeep Singh Rana	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	Deputy Secretary
5.	Shri T. Mathivanan	Deputy Secretary

WITNESSES

1.	Shri T. Rabi Sankar	Deputy Governor
2.	Smt. Dimple Bhandia	Chief General Manager

At the outset, the Hon'ble Chairperson welcomed the Members to the Sitting of the Committee convened to consider two agenda (i) Consideration and Adoption of draft ATR on the 26th Report (18th Lok Sabha) on the subject "Roadmap for Indian Economic Growth in Light of Global Economic and Geopolitical Circumstances" pertaining to the Ministry of Finance (Department of Economic Affairs) and (ii) to hear the views of the representatives of the Reserve Bank of India (RBI) on the Securities Markets Code (SMC), 2025.

2. The Committee thereafter took up consideration of the aforesaid draft Action Taken Report. The Hon'ble Chairperson invited suggestions, if any, from the Members. Following a brief discussion, the draft Report was adopted by the Committee.

[the witnesses were then called in]

3. The Hon'ble Chairperson welcomed the representatives of RBI and invited them to provide the Committee with vital insights into the broader implications of the Securities Market Code, 2025, on its operational mandate

and statutory authority. He further added that the Committee's objective was to ensure harmony between the RBI's enforcement mechanisms and the provisions of the proposed Code. He also apprised them of Direction 55(1) of the Directions by the Speaker**.**

4. After the introduction of the witnesses, Deputy Governor, RBI began the PowerPoint presentation with a brief background on the role of the Reserve Bank of India (RBI) as a financial sector regulator. He elaborated on the extant statutory arrangements for financial markets in India, including government securities, foreign exchange, money markets, and derivatives on interest rates, credit, and foreign exchange. He then elaborated provisions under RBI Act Chapter 3(d), Section 45(w) under Chapter 3(d). Thereafter, he apprised the Committee of their key suggestions, which *inter-alia* included matters relating to definitions, powers of SEBI, inter-regulatory coordination, nomination of an Executive Director or Deputy Governor by RBI to the Board and crtain drafting related issues.

5. The other major issues discussed during the sitting *inter-alia* included significant regulatory powers of SEBI, decriminalisation of many minor and procedural violations under the Bill, using 'Concurrence' instead of 'Consultation', Joint powers/responsibility of SEBI and RBI and other financial sector regulators, recognition of secured creditors, systematic market stability risks, RBI's evaluation of Code's impact on regulation and development of Government Securities and the corporate bond markets, and Operational, legal and institutional challenges in implementation of the Securities Market Code, 2025 etc.

6. The witnesses responded to the queries raised by the Members on the subject. The Hon'ble Chairperson directed the representatives of RBI to furnish written replies to which could not be readily replied by them during the sitting, within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – VI

Minutes of the Twenty-third Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Friday, the 10th April, 2026 from 1100 hrs. to 1240 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P.P. Chaudhary
4. Shri Suresh Kumar Kashyap
5. Shri Kishori Lal
6. Shri Harendra Singh Malik
7. Shri N.K. Premachandran
8. Dr. C. M. Ramesh
9. Smt. Sandhya Ray
10. Shri Manish Tewari

RAJYA SABHA

11. Shri Narain Dass Gupta
12. Shri Praful Patel
13. Shri Yerram Venkata Subba Reddy
14. Shri Sanjay Seth
15. Dr. Dinesh Sharma
16. Smt. Darshana Singh
17. Shri Pramod Tiwari

SECRETARIAT

1.	Smt. Bharti Sanjeev Tuteja	-	Director
2.	Shri Kuldeep Singh Rana	-	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

WITNESSES

1. Shri M. Damodaran, Former Chairperson, Securities and Exchange Board of India (SEBI)
2. Ms. Divyani Garg, President, Excellence Enablers Private Limited

At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of Shri M. Damodaran, Former Chairperson, SEBI on the Securities Markets Code, 2025.

[the witnesses were then called in]

2. The Hon'ble Chairperson welcomed Shri M. Damodaran, Former Chairperson of SEBI, and his colleague to the sitting and invited the former to share his views on the proposed framework under the Securities Markets Code, 2025, particularly with regard to achieving an appropriate balance between ordinary legislation and delegated powers, the need to avoid regulatory concentration and ensure institutional balance, and the importance of clear demarcation of jurisdiction among financial sector regulators. He further added that the Committee would also value his perspective on strengthening oversight and accountability mechanisms, ensuring adequate flexibility within a codified framework, and addressing potential challenges in transition and implementation, while safeguarding coherence and stability across India's interconnected financial markets. The Chairperson also apprised him of Direction 55(1) issued by the Speaker*.*

3. After the introduction of the witnesses, the major issues discussed during the sitting included, *inter-alia*, the size of the Board and its comparison with the SEC in the United States; tenure of the Chairperson and Members; number of Whole-time Members; Regulatory Impact Assessment (RIA); pricing of IPOs; capacity building; small investors; reducing the number of scams; strengthening of insider trading regulations; investor education; post-notice and pre-notice provisions in Clause 14(6); delegation of powers in Clause 31(1); exemptions to PSUs

under Clause 65(1); National Institute of Securities Markets (NISM); deletion of the words "Subject to the Provisions of this Act"; subsidiary instructions under Clause 149; appointment of Ombudsman; and renaming of the Tribunal.

4. Shri M. Damodaran, Former Chairperson, SEBI responded to the queries raised by the Members on the subject. The Hon'ble Chairperson directed him to furnish written replies to which could not be readily replied by him during the sitting, within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – VII

Minutes of the Twenty-fourth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Friday, the 10th April, 2026 from 1240 hrs. to 1340 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P.P. Chaudhary
4. Shri Suresh Kumar Kashyap
5. Shri Kishori Lal
6. Shri Harendra Singh Malik
7. Shri N.K. Premachandran
8. Dr. C. M. Ramesh
9. Smt. Sandhya Ray
10. Shri Manish Tewari

RAJYA SABHA

11. Shri Narain Dass Gupta
12. Shri Praful Patel
13. Shri Yerram Venkata Subba Reddy
14. Shri Sanjay Seth
15. Dr. Dinesh Sharma
16. Smt. Darshana Singh
17. Shri Pramod Tiwari

SECETARIAT

1.	Smt. Bharti Sanjeev Tuteja	-	Director
2.	Shri Kuldeep Singh Rana	-	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
4.	Shri T. Mathivanan	-	Deputy Secretary

WITNESSES

1. Ms. Shruti Rajan, Partner, Financial Regulatory and Enforcement Practice, TRILEGAL
2. Shri Anubhav Ghosh, Partner, Financial Regulatory and Enforcement Practice, TRILEGAL

At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of TRILEGAL on the Securities Markets Code, 2025.

[the witnesses were then called in]

2. The Hon'ble Chairperson welcomed the representatives of TRILEGAL and invited them to share their insights on the most pressing questions surrounding the Securities Markets Code, 2025. These included ensuring regulatory clarity, avoiding overlaps between authorities, maintaining institutional balance, strengthening enforcement, and addressing whether any aspects of the proposed framework might pose legal challenges while safeguarding coherence and stability across India's interconnected financial markets. The Chairperson also apprised them of Direction 55(1) issued by the Speaker*.*

3. After the introduction of the witnesses, the representatives of TRILEGAL made a PowerPoint Presentation before the Committee. They elaborated on the issues relating to subsidiary instructions, systemic impact, disgorgement, appointment of an ombudsman, constitution of the Securities Appellate Tribunal, and the issue of cross-examination. Following the presentation, the major issues discussed during the sitting included, *inter-alia*, the 180-day period for investigations and the eight-year limitation period; the introduction of a mandatory cooling-off or institutional firewall mechanism to ensure that officers involved in investigations have no indirect influence on adjudicating authorities; subsidiary instructions; appointment of an ombudsman; rules or procedures for enforcement of the authority's quasi-judicial functions; and the role of judicial officers.

4. The witnesses responded to the queries raised by the Members on the subject. The Hon'ble Chairperson directed them to furnish written replies to which could not be readily replied by him during the sitting, within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – VIII

Minutes of the Twenty-fifth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 23rd April, 2026 from 1100 hrs. to 1330 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P.P. Chaudhary
4. Shri Harendra Singh Malik
5. Shri N.K. Premachandran
6. Smt. Sandhya Ray
7. Shri Manish Tewari

RAJYA SABHA

8. Shri Narain Dass Gupta
9. Shri S. Selvaganabathy
10. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

1. Dr. M. S. Sahoo, Former Chairperson, Insolvency and Bankruptcy Board of India (IBBI) and Whole-time Member of the Securities and Exchange Board of India (SEBI)

At the outset, the Hon'ble Chairperson welcomed the Members and the witness to the sitting of the Committee convened to hear the views of Dr. M.S. Sahoo, Former Chairperson, IBBI and Whole-time Member, SEBI, on the proposed provisions of the Securities Markets Code, 2025, particularly with regard to the regulatory framework, delegated powers to MIIs, and the potential challenges in the dynamic securities market. The Chairperson highlighted his extensive contributions to policymaking, regulatory reforms, and India's regulatory architecture and market evolution. The Chairperson also apprised him of Direction 55(1) issued by the Hon'ble Speaker.

2. Thereafter, the witness made a PowerPoint presentation on the Securities Markets Code, 2025, elaborating upon its strengths and advancements including issue-wise and clause-wise improvements, consolidation aspects, governance reforms, regulatory and execution framework, enforcement designs, the role of MIIs (from market to state), depository architecture and related suggestions.

3. Other key issues discussed during the presentation included, inter alia, the long title of the Code; consolidation as a legislative objective; investor protection vis-à-vis the ombudsperson mechanism; grievance redressal mechanism; exemptions for public sector companies; delegated legislation; decriminalisation of offences; fraudulent and unfair trade practices; market abuse; adjudication rules; separation of powers; enforcement and penalties; fees vis-à-vis taxes; composition of the Board; clause 4(iv) relating to expertise of Board Members; tenure of Board Members; conflict of interest framework; regulatory impact assessment; external evaluation mechanism; depository-participant framework; harmonised accountability framework for MIIs; and the IFSC Code.

4. The Committee also sought clarifications on various other issues relating to the subject and the witness responded to some of those queries. The Chairperson then directed him to furnish written replies to the remaining points, which could not be readily replied by him during the discussion, to the Secretariat within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – IX

Minutes of the Twenty-sixth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 23rd April, 2026 from 1415 hrs. to 1545 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

1. Shri Arun Bharti
2. Shri P.P. Chaudhary
3. Shri Harendra Singh Malik
4. Shri N.K. Premachandran
5. Smt. Sandhya Ray
6. Shri Manish Tewari

RAJYA SABHA

7. Shri Narain Dass Gupta
8. Shri S. Selvaganabathy
9. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Institute of Cost Accountants of India (ICMAI)

1. CMA (Dr.) K.Ch. A.V.S.N. Murthy, Council Member & Chairman, Corporate Laws Committee
2. CMA Chittaranjan Chattopadhyay, Council Member
3. CMA (Dr.) Ashish P. Thatte, Council Member
4. CMA (Dr.) S.K. Gupta, Managing Director, RVO
5. CMA Dhiraj Sachdev, Cost Accountant
6. CMA A. Sekar, Co-opted Member, Corporate Laws Committee

Institute of Company Secretaries of India (ICSI)

1. CS Pawan G Chandak, President
2. CS Dwarakanath Chennur, Vice President
3. CS Dhananjay Shukla, Immediate Former President
4. CS Manish Gupta, Former President
5. CS Asish Mohan, Secretary
6. CS Lakshmi Arun, Director

Institute of Chartered Accountants of India (ICAI)

1. CA. Jay Chhaira, Chairman, Financial Markets and Investors Awareness Committee
2. CA. Hans Raj Chugh, Vice-Chairman, Financial Markets and Investors Awareness Committee
3. CA. Durgesh Kumar Kabra, Central Council Member
4. Dr. Amit Agrawal, Secretary, Financial Markets and Investors Awareness Committee

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the Sitting of the Committee convened for deliberations with the representatives of Institute of Cost Accountants of India (ICMAI), Institute of Company Secretaries of India (ICSI) and Institute of Chartered Accountants of India (ICAI) on the Securities Markets Code, 2025. The Chairperson highlighted that these three institutions, established under Acts of Parliament, have played a foundational role in shaping India's corporate, financial, and governance ecosystem and together they represent the pillars of financial reporting, cost and performance

management, and corporate governance which are central to the strength and credibility of the securities market. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker

2. Thereafter, the Committee deliberated upon, inter alia, Clauses 4 to 11 relating to the establishment, management, and administration of the Board; inspection and extension of the investigation period from eight years to ten years; Clause 17 relating to the qualifications of the Adjudicating Officer; quantification of unlawful gains; timelines for calling records; disgorgement; registration of investors; pooled investment vehicles; strict oversight of exchanges; recognition of cost accountants in the Code as eligible professionals for conducting internal audits of stockbrokers; valuation of securities for insolvency purposes; forensic accounting and auditing of listed companies; listing and disclosure requirements; designation of an Ombudsman by the Board; settlement mechanisms and settlement orders; fraudulent practices and market abuse; penalties for failure to maintain cost records or file cost audit reports; subsidiary instructions; advisory committees; and valuation of securities and assets for regulatory purposes.

3. The other key issues discussed during the sitting included, inter alia, regulatory impact assessments; algorithmic and high-frequency trading; cybersecurity; Investor Education Fund; development of the corporate bond market; rating agencies; protection of small- and micro-cap companies; systemic impact; fairness and integrity of the securities market; powers of the Board and the Adjudicating Officer to pass interim orders, including extensions thereof; appeals to tribunals; imprisonment extending up to ten years; timelines for disposal of complaints by the Ombudsman; appointment of the Ombudsman; training of intermediaries and regulatory officers; implementation of an automated case allocation system for appointing investigating officers; inclusion of representatives from professional institutes such as ICAI, ICSI, and ICMAI on the Board of NISM; and the definition of beneficial owners and regulatory sandboxes.

4. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish written replies to the remaining points, which could not be readily replied by them during the discussion, to the Secretariat within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – X

Minutes of the Twenty Seventh Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 24th April, 2026 from 1110 hrs. to 1310 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

11. Shri P.P. Chaudhary
12. Shri Suresh Kumar Kashyap
13. Shri Harendra Singh Malik
14. Shri N.K. Premachandran
15. Dr. C.M. Ramesh
16. Smt. Sandhya Ray
17. Shri Manish Tewari
18. Shri Prabhakar Reddy Vermireddy

RAJYA SABHA

19. Shri Narain Dass Gupta
20. Shri Yerram Venkata Subba Reddy
21. Shri S. Selvaganabathy
22. Shri Sanjay Seth
23. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

LIST OF WITNESSES

Pension Fund Regulatory and Development Authority (PFRDA)

1. Shri Sivasubramanian Ramann, Chairperson, PFRDA
2. Shri Randip Singh Jagpal, Whole Time Member (Law)
3. Shri Rahul Ravindran, Executive Director

International Financial Services Centres Authority (IFSCA)

1. Shri K. Rajaraman, Chairperson
2. Dr. Praveen Trivedi, Executive Director (Legal)
3. Shri Pradeep Ramakrishnan, Executive Director (Capital Market)
4. Shri Pavan Shah, General Manager (Capital Market)
5. Shri Ankit Bhansali, General Manager (Legal)

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for deliberations with the representatives of International Financial Services Centres Authority (IFSCA) and Pension Fund Regulatory and Development Authority (PFRDA) on the proposed provisions under the Securities Markets Code, 2025, particularly with regard to the regulatory framework, delegated powers to MIIs, and potential challenges in the dynamic securities market. The Chairperson observed that their insights would help ensure that the Code not only strengthens market integrity and investor protection but also fosters innovation and sustainable growth. The Chairperson also apprised them of Direction 55(1) issued by the Speaker.

2. Thereafter, Chairperson, PFRDA, elaborated on the National Pension System (NPS), NPS Trust, PFRDA's review of the Securities Markets Code, Clause 141, pension funds, definitions of intermediaries and securities, and investment and pension schemes. This was followed by a brief outline of IFSCA by the Chairperson, IFSCA who then presented on the Securities Markets Code, 2025. The key issues discussed during the presentation included, inter alia, the definition of intermediaries; investment schemes; the definition of 'listing' under Section 2; the investigation period, ownership norms for MIIs; derivatives in commodities market; international financial services centre; overlapping provisions of PFRDA and IFSCA; subsidiary instructions; ombudsman mechanism; regulatory arbitrage; business in the securities market in IFSCA and pooled investments.

3. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish written replies to the remaining points, which could not be readily replied by them during the discussion, to the Secretariat within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XI

Minutes of the Twenty-Eight Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 24rd April, 2026 from 1400 hrs. to 1610 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

1. Shri P.P. Chaudhary
2. Shri Suresh Kumar Kashyap
3. Shri Harendra Singh Malik
4. Shri N.K. Premachandran
5. Dr. C.M. Ramesh
6. Smt. Sandhya Ray
7. Shri Manish Tewari
8. Shri Prabhakar Reddy Vermireddy

RAJYA SABHA

9. Shri Narain Dass Gupta
10. Shri Yerram Venkata Subba Reddy
11. Shri S. Selvaganabathy
12. Shri Sanjay Seth
13. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary
5.	Shri T. Mathivanan	-	Deputy Secretary

PART I

LIST OF WITNESSES

Insolvency and Bankruptcy Board of India (IBBI)

1. Shri Ravi Mital, Chairperson
2. Shri Bhushan Kumar Sinha, Whole-time Member
3. Shri Jithesh John, Executive Director
4. Ms. Medha Shekar, Assistant General Manager

At the outset, the Hon'ble Chairperson welcomed the Members and the witnesses to the sitting of the Committee convened to deliberate on the Securities Markets Code, 2025. He observed that the IBBI continues to play a critical role in implementing the insolvency and bankruptcy framework, thereby enhancing credit discipline and investor confidence. The Chairperson noted that IBBI's insights and recommendations have consistently contributed to strengthening the country's regulatory architecture and will be useful in ensuring that the Code meets its objectives of enhancing investor confidence, preserving market integrity, and promoting sustainable growth. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. Thereafter, the Committee deliberated with the IBBI representatives on various provisions of the Securities Markets Code, 2025, including the mechanism for clearing corporations, the Insolvency and Bankruptcy Code waterfall mechanism, strengthening of the Securities Appellate Tribunal (SAT), clauses 68, 86, 139, 136(3) and 142 of the Code, section 238 of the Insolvency and Bankruptcy Code, and matters concerning financial service providers.

3. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish written replies to the remaining points, which could not be readily replied by them during the discussion, to the Secretariat within ten days.

The witnesses then withdrew.

PART II

LIST OF WITNESSES

Federation of Indian Chambers of Commerce & Industry (FICCI)

1. Shri Pramod Rao, Chairman, FICCI working Group on Securities Markets Code
2. Shri Suresh Nair, Member FICCI and Compliance Officer & Head Legal, National Securities Depository Limited
3. Ms. Abha Seth, Assistant Secretary General
4. Dr. Santosh Parashar, Director

Associated Chambers of Commerce & Industry of India (ASSOCHAM)

1. Dr. Venkatachalam Shunmugam, Partner, MCQube
2. Ms. Nipa Sheth, Chairman, National Council on Corporate Bonds
3. Shri Vineet Nahata, Managing Committee Member
4. Shri S.C. Aggarwal, Managing Committee Member
5. Dr. S.P. Sharma, Chief Economist
6. Dr. Shikha Bagai, Senior Member
7. Shri Rajesh Singh, Vice President, Trust Group
8. Shri Ankit Krishna, Deputy Director

The Hon'ble Chairperson welcomed the witnesses to the sitting of the Committee convened to deliberate on the Securities Markets Code, 2025. He observed that both industry bodies viz., FICCI and ASSOCHAM, have consistently represented industry interests, facilitated dialogue between policymakers and market participants, and contributed meaningfully to economic reforms. The Chairperson further emphasized that collaboration among regulators, industry bodies and market participants will be essential for the Code to achieve its objectives. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. During the deliberations, the major issues discussed included, inter alia, preserving the independence of the Securities and Exchange Board of India (SEBI); retention of registration and supervision with the capital markets regulator; registration of investors and sponsors; settlement principles under the Securities Markets Code, 2025; pooled investment vehicles; Ombudsperson; listing of companies without an offering of securities; treatment of unlisted companies; criminalization of misconduct; inter-regulatory jurisdictional disputes; definition of commodities; investor-facing operational matters such as nomination, transmission of securities, and succession in joint-account; investor protection and ease of

doing business; grievance redressal mechanism; clause 93; investment schemes and the status of crypto-assets; absence of a framework for algorithmic trading; systemic disclosure exemptions for listed public sector undertakings; structural separation of investigation and adjudication; market abuse; introduction of a sunset framework or mandatory dematerialization of physical securities; extension of the cooling-off period; and regulatory sandboxes.

3. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish written replies to the remaining points, which could not be readily replied by them during the discussion, to the Secretariat within ten days.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XII

Minutes of the Thirty-fourth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 11th June, 2026 from 1100 hrs. to 1315 hrs. in Committee Room C, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P.P. Chaudhary
4. Shri Lavu Sri Krishna Devarayalu
5. Shri Suresh Kumar Kashyap
6. Shri Kishori Lal
7. Shri Harendra Singh Malik
8. Shri N.K. Premachandran
9. Dr. C.M. Ramesh
10. Smt. Sandhya Ray
11. Dr. Jayanta Kumar Roy
12. Shri Manish Tewari
13. Shri Prabhakar Reddy Vermireddy

RAJYA SABHA

14. Shri Narain Dass Gupta
15. Shri Yerram Venkata Subba Reddy
16. Shri S. Selvaganabathy
17. Shri Sanjay Seth
18. Dr. Dinesh Sharma
19. Shri Vinod Shridhar Tawde
20. Dr. M. Thambidurai

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Law and Justice (Legislative Department)

1. Dr. Rajiv Mani, Secretary
2. Ms. Akali V. Konghay, Additional Secretary
3. Shri R.K. Pattanayak, Additional Secretary (Retd.)
4. Shri Niraj Kumar, Joint Secretary & Legal Adviser
5. Smt. Arti Chopra, Additional Legislative Counsel

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for oral evidence of the representatives of the Ministry of Law and Justice on the Bill, "The Securities Market Code, 2025". The Chairperson noted that the Committee had received a large number of suggestions from stakeholders, including market institutions, regulatory bodies, professional associations, industry chambers, experts, and members of the public, and had referred relevant drafting concerns to the Ministry of Law and Justice (Legislative Department) for their comments; whereupon they had furnished detailed comments on 17 issues. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. Thereafter, the Committee discussed the status of other suggestions referred to the Ministry of Law and Justice and sought clarification as to why only 17 suggestions had received detailed comments. In response, the Secretary, Ministry of Law and Justice (Legislative Department) stated that the Ministry had examined all the suggestions but had responded in detail only to those concerns where a drafting clarification or modification was feasible within the existing policy framework.

3. The Committee then took up clause-wise consideration of the drafting concerns referred to the Ministry of Law and Justice (Legislative Department), pertaining to Clause 41 (Action for contravention of bye-laws); Clause 2(1)(v) (definition of a Market Infrastructure

Institution); Clause 2(zn) (definition of "stock exchange"); Clauses 23(1) and 23(2) (Power of adjudicating officer to issue directions or warnings); Clause 25 (disgorgement and restitution); Clause 19 (Factors for adjudication); Clause 70 (Rights of a Clearing Corporation shall have precedence over other rights and attachments); Clause 45 (Contracts to be illegal in certain circumstances); Clause 146 (Powers to make regulations); Clause 121 (General conditions for Board and other regulatory authority); Clause 120 (Cooperation between Board and other regulatory authority); and Clause 74 (Procedure for filing of grievance and complaint).

4. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within five days' time keeping in view the imminent finalisation of the Committee's report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XIII

Minutes of the Thirty-fifth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 11th June, 2026 from 1400 hrs. to 1600 hrs. in Committee Room C, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

1. Shri Arun Bharti
2. Shri P.P. Chaudhary
3. Shri Lavu Sri Krishna Devarayalu
4. Shri Suresh Kumar Kashyap
5. Shri Kishori Lal
6. Shri Harendra Singh Malik
7. Shri N.K. Premachandran
8. Dr. C.M. Ramesh
9. Smt. Sandhya Ray
10. Dr. Jayanta Kumar Roy
11. Shri Manish Tewari
12. Shri Prabhakar Reddy Vermireddy

RAJYA SABHA

13. Shri Narain Dass Gupta
14. Shri Yerram Venkata Subba Reddy
15. Shri S. Selvaganabathy
16. Shri Sanjay Seth
17. Dr. Dinesh Sharma
18. Shri Vinod Shridhar Tawde
19. Dr. M. Thambidurai

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Shri Alok Tiwari, Joint Secretary
3. Shri Deepak Ranjan, Director
4. Ms. Surobhi Mukherjee, Deputy Director

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) for Clause-by-clause examination of the Bill 'The Securities Market Code, 2025'. He then informed that the Committee had received 1,064 stakeholder suggestions on various clauses of the Bill and had forwarded them to the Ministry in three batches for comments and response. The chairperson appreciated the Ministry's efforts in examining the issues raised by stakeholders and in providing its considered views thereon. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. Thereafter, the Secretary, Ministry of Finance (Department of Economic Affairs), made a presentation outlining the total drafting and substantive changes accepted, those not accepted, and the total comments already addressed under the SMC Bill. The Committee then held clause-by-clause discussions up to Chapter VIII, which inter-alia included: Clause 13 (Investigation); Clause 58 (Registration of transfer of security, etc.); Clause 85 (Appeal to Tribunal); the Preamble of the Bill; the definition of "Intermediary"; the definition of "unlawful gains" and qualification; Clause 64 (Public issue and listing of securities); Clause 72 (Investor grievance redressal mechanism); Clause 73 (Board to designate Ombudsperson to redress

grievances); Clause 74 (Procedure for filing of grievance and complaint); Clause 92 (Prohibition of fraudulent or unfair practices); Clause 93 (Prohibition of market abuse); Clause 16 (Bar on initiation of inspection or investigation); the definition of “systemic impact”; Clause 21 (Board to call for records); the depository system; and Clause 59(i) (Pledge or hypothecation of securities or other regulated instruments held through a depository).

3. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within five days’ time keeping in view the imminent finalisation of the Committee’s report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XIV

Minutes of the Thirty-Sixth and Thirty-Seventh Sittings of the Standing Committee on Finance (2025-26)

The Committee sat on Friday, the 12th June, 2026 from 1100 hrs. to 1300 hrs. & from 1400 hrs. to 1600 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri P.P. Chaudhary
3. Shri Kishori Lal
4. Shri Harendra Singh Malik
5. Shri N. K. Premachandran
6. Dr. C. M. Ramesh
7. Smt. Sandhya Ray
8. Dr. Jayanta Kumar Roy
9. Shri Manish Tewari

RAJYA SABHA

10. Shri Narain Dass Gupta
11. Shri Yerram Venkata Subba Reddy
12. Shri S. Selvaganabathy
13. Shri Sanjay Seth
14. Dr. Dinesh Sharma
15. Shri Vinod Shridhar Tawde

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri Kuldeep Singh Rana	-	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Shri Alok Tiwari, Joint Secretary
3. Shri Deepak Ranjan, Director
4. Ms. Surobhi Mukherjee, Deputy Director

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) for Clause-by-clause examination of the Bill 'The Securities Market Code, 2025'. He then informed that the Committee would take up Clauses 1 to 50 of the Bill, covering all three batches for detailed clause-by-clause consideration, to examine each provision systematically and seek the Ministry's views, clarifications, and comments wherever necessary. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. The Committee thereafter commenced clause-by-clause examination of the Securities Market Code (SMC) Bill. Before commencing the formal clause-by-clause consideration, the Committee briefly revisited issues relating to the Ombudsperson framework, penalty provisions, settlement mechanisms, depository ownership records etc.

3. The clause-by-clause discussions inter-alia included: Preamble, Clause 1 (Short title, extent and commencement), Clause 2 (Definitions), Clause 3 (Securities and Exchange Board of India), Clause 4 (Composition of Board), Clause 5 (Terms and conditions of service of Chairperson and Members of Board),Clause 6 (Removal of Members from office), Clause 8 (Meetings of Board), and Clause 11 (Powers and functions of Board).

The Committee then adjourned for lunch.

4. The Committee resumed clause-by-clause examination of the Securities Market Code (SMC) Bill which inter alia included discussion on Clause 12 (Inspection), Clause 13(Investigation) and Clause14(General powers and obligations of Investigating Officer) Clause16 (Bar on initiation of inspection or investigation), Clause 17 (Power of Board to designate adjudicating officer), Clause 20 (Final order by adjudicating officer),Clause 21 (Board to call for records), Clause 22 (Power of adjudicating officer or Board to rectify order), Clause 23 (Power of adjudicating officer to issue directions or warnings), and Clause 25 (Power of disgorgement and restitution).

5. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within five days' time keeping in view the imminent finalisation of the Committee's report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XV

Minutes of the Thirty-Eight and Thirty-ninth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 18th June, 2026 from 1100 hrs. to 1300 hrs. & from 1400 hrs. to 1545 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri Suresh Kumar Kashyap
3. Shri Kishori Lal
4. Shri Harendra Singh Malik
5. Thiru Arun Nehru
6. Shri N.K. Premachandran
7. Smt. Sandhya Ray
8. Prof. Sougata Ray
9. Dr. Jayanta Kumar Roy
10. Shri Manish Tewari

RAJYA SABHA

11. Shri Narain Dass Gupta
12. Shri Yerram Venkata Subba Reddy
13. Shri S. Selvaganabathy
14. Shri Sanjay Seth
15. Shri Vinod Shridhar Tawde

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Shri Alok Tiwari, Joint Secretary
3. Shri Deepak Ranjan, Director
4. Ms. Surobhi Mukherjee, Deputy Director

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) for Clause-by-clause examination of the Bill 'The Securities Market Code, 2025'. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. The Committee then took up clause-by-clause examination of the Securities Market Code, 2025 Bill which *inter alia* included discussions on: Clause 26 (Settlement of administrative and civil proceedings), Clause 27 (Power of Board and adjudicating officer to pass interim order), Clause 28 (Registration of intermediaries, etc.), Clause 29 (Surrender, suspension and cancellation of certificate of registration), Clause 30 (Registration of investors), Clause 31 (Board to delegate power of registration), Clause 32 (Investment schemes), Clause 33 (Pooled investment vehicles), Clause 34 (Intermediary), Clause 35 (Obligation of securities markets service provider, market participant, etc.), Clause 37 (Registration of market infrastructure institution), Clause 38 (Cancellation of registration or suspension of business), Clause 39 (Power of market infrastructure institution to make bye-laws), Clause 40 (Power of Board to direct bye-laws to be made or to make bye-laws), Clause 41 (Action for contravention of bye-laws), Clause 42 (Ownership norms of market infrastructure institution), Clause 44 (Power of Central Government to supersede), Clause 45 (Contracts to be illegal in certain circumstances), Clause 46 (Validity of contracts), Clause 47 (Contracts in contravention of bye-laws to be void), Clause 48 (Exemptions for certain contracts), and Clause 49 (Derivatives in respect of commodity).

The Committee then adjourned for lunch.

4. The Committee resumed clause-by-clause examination of the Securities Market Code (SMC) Bill which inter alia included discussion on Clause 50 (Non-transferable specific delivery contract, spot delivery contract and transferable specific delivery contract), Clause 52

(Manner of dealing in securities through market infrastructure institution), Clause 53 (Rights of holder of securities to dividends and income in respect of securities), Clause 54 (Power of Board in respect of depository services), Clause 55 (Securities to be in dematerialised and fungible form),Clause 56 (Process of dematerialisation), Clause 58 (Registration of transfer of security, etc), Clause 59 (Pledge or hypothecation of securities or other regulated instrument held through depository), Clause 61 (Rights of registered owner and beneficial owner), Clause 62 (Rights and obligations of depository), Clause 64(Public issue and listing of securities), Clause 65 (Listing and disclosure requirements), Clause 66(Delisting of securities), Clause 68(Netting and settlement), Clause 69(Delivery arrangements of contracts in securities), Clause 70 (Right of a clearing corporation shall have precedence over other right and attachments), Clause 71(Investor charter), Clause 72 (Investor grievance redressal mechanism), Clause 73 (Board to designate Ombudsperson to redress grievances), Clause 74(Procedure for filing of grievance and complaint), Clause 75 (Order of Ombudsperson), Clause 76 (Ombudsperson to inform Board regarding contravention of Code), Clause 77 (Ombudsperson to have certain powers of civil court), and Clause 78 (Orders of Ombudsperson not to bar Board from taking any action).

5. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within five days' time keeping in view the imminent finalisation of the Committee's report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XVI

Minutes of the Forty-Fourth and Forty-Fifth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Thursday, the 09th July, 2026 from 1100 hrs. to 1340 hrs. & from 1430 hrs. to 1710 hrs. in Committee Room B, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

2. Shri P.P. Chaudhary
3. Shri Lavu Sri Krishna Devarayalu
4. Shri Kishori Lal
5. Shri Harendra Singh Malik
6. Thiru Arun Nehru
7. Smt. Sandhya Ray

RAJYA SABHA

8. Shri P. Chidambaram
9. Shri Narain Dass Gupta
10. Shri Praful Patel
11. Shri S. Selvaganabathy
12. Shri Sanjay Seth
13. Dr. Dinesh Sharma

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri Kuldeep Singh Rana	-	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Shri Alok Tiwari, Joint Secretary
3. Shri Deepak Ranjan, Director
4. Ms. Surobhi Mukherjee, Deputy Director

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened for oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) for deliberating upon the issues that were kept pending for further clarification during the previous sittings on the Bill 'The Securities Market Code, 2025'. He then informed the Committee that during the previous sittings, forty-five issues from different clauses and the issue of excessive delegated legislation Bill were kept pending to enable the Ministry to furnish additional information and clarifications on those issues. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. The Committee then took up clause-by-clause examination of the Bill "The Securities Market Code, 2025" which *inter alia* included discussions on: Clause 2(1)(zp)(Trading member), Clause 5 (Terms and conditions of service of Chairperson and Members of Board), Clause 13 (Investigation), Clause 14 (General powers and obligations of Investigating Officer), Clause 16 (Bar on initiation of inspection or investigation), Clause 17 (Power of Board to designate adjudicating officer), Clause 21 (Board to call for records), Clause 26 (Settlement of administrative and civil proceedings), Clause 27 (Power of Board and adjudicating officer to pass interim order), Clause 32 (Investment Schemes), Clause 33 (Pooled investment vehicles), Clause 38 (Cancellation of registration or suspension of business), Clause 39 (Power of market infrastructure institution to make bye-laws),

The Committee then adjourned for lunch.

3. The Committee resumed its clause-by-clause examination of the Securities Market Code, 2025 Bill which inter alia included discussion on Clause 42 (Ownership norms of market infrastructure institution), Clause 61 (Rights of registered owner and beneficial owner), Clause 65 (Listing and disclosure requirements), Clause 70 (Right of a clearing corporation shall have precedence over other right and attachments), Clause 73 (Board to designate Ombudsperson to redress grievances), Clause 74(Procedure for filing of grievance and complaint), Clause 85 (Appeal to Tribunal), Clause 86 (Procedure and powers of Tribunal), Clause 92 (Prohibition of

fraudulent or unfair practices), Clause 94 (Punishment for failure to comply orders), Clause 109 (Penalty where no specific provision for penalty is provided), Clause 124 (Fund), Clause 132 (Power of Board to delegate), Clause 136 (Recovery of amounts), Clause 143 (Code not to apply in certain cases) and Clause 147 (Process of issuing regulations)

4. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within two or three days' time keeping in view the imminent finalisation of the Committee's report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XVII

Minutes of the Forty-Sixth Sitting of the Standing Committee on Finance (2025-26)

The Committee sat on Friday, the 17th July, 2026 from 1100 hrs. to 1315 hrs. in Committee Room B, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhartruhari Mahtab - Chairperson

LOK SABHA

1. Shri Arun Bharti
2. Shri Gaurav Gogoi
3. Shri Kishori Lal

RAJYA SABHA

4. Shri P. Chidambaram
5. Shri Narain Dass Gupta
6. Shri Sanjay Seth
7. Dr. Dinesh Sharma
8. Shri Vinod Shridhar Tawde
9. Shri Pramod Tiwari

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Shri Kuldeep Singh Rana	-	Deputy Secretary
3.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

LIST OF WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Ms. Anuradha Thakur, Secretary
2. Shri Alok Tiwari, Joint Secretary

3. Shri Deepak Ranjan, Director
4. Ms. Surobhi Mukherjee, Deputy Director

At the outset, the Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened to deliberate on the residual issues pertaining to the Securities Market Code, 2025. The Chairperson also apprised the witnesses of Direction 55(1) issued by the Speaker.

2. The Committee then took up the residual issues flagged to the Ministry pertaining to the Bill "The Securities Market Code, 2025" which *inter alia* included: the term 'Useful' in Clause 4(4), Cooling-off period under Clause 5, Possibility of misuse of the eight-year period and Systemic Impact in clause 16, Quantum of Penalty by SEBI in Clause 21, Incorporation of VDA-related regulation in Clause 32, enabling provision in clause 39(3)(c), Timeline for approval and publishing under clause 39(4), Redrafting of language in Clause 65(2), Fundamentals of the investor protection safeguards in Clause 66, Putting an outer limit to grievance redressal in clause 73(3), Redrafting of relevant part of clause 74(1), Power to technical member of SAT to pass administrative/ procedural orders in clause 85(1), Civil Contempt power of SAT in Clause 85(1), Rearranging/ realigning two separate chapters on punishment/penalties in clause 92, Redrafting of relevant part of Clause 109, Substitution of term "Intermediaries with "Securities market Services providers and investors" in Clause 129, Delegation of Powers to "any other person" in Clause 132, Extension of Good Faith Protection to MIIs and SAT in Clause 139, addition of "State/Union Territory Government after "Central Government" in Clause 143, Suitable exemption from public consultation relating to internal matters in clause 147, and clarification regarding timelines and transitional mechanisms for legacy instruments in Clause 152.

3. The Committee also sought clarifications on various other issues relating to the subject and the witnesses responded to some of those queries. The Chairperson then directed them to furnish the information, which could not be readily available during the discussion, to the Secretariat within two or three days' time keeping in view the imminent finalisation of the Committee's report on the Bill.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Appendix – XVIII

STANDING COMMITTEE ON FINANCE BRANCH

Minutes of the Forty-Seventh sitting of the Standing Committee on Finance (2025-26).

The Committee sat on Tuesday, the 21st July, 2026 from 1500hrs. to 1615 hrs. in Committee Room Samanway 3, Parliament House, New Delhi.

PRESENT

Shri Bhartruhari Mahtab – Chairperson

LOK SABHA

2. Shri Arun Bharti
3. Shri P. P. Chaudhary
4. Shri Rajesh Naranbhai Chudasama
5. Shri Lavu Sri Krishna Devarayalu
6. Shri K. Gopinath
7. Shri Suresh Kumar Kashyap
8. Shri Kishori Lal
9. Thiru Arun Nehru
10. Shri N. K. Premachandran
11. Dr. Jayanta Kumar Roy
12. Shri Manish Tewari

RAJYA SABHA

13. Shri Narain Dass Gupta
14. Shri Yerram Venkata Subba Reddy
15. Shri S. Selvaganabathy
16. Shri Sanjay Seth
17. Shri Vinod Shridhar Tawde
18. Dr. M. Thambidurai

SECRETARIAT

1.	Shri Gaurav Goyal	-	Joint Secretary
2.	Smt. Bharti Sanjeev Tuteja	-	Director
3.	Shri Kuldeep Singh Rana	-	Deputy Secretary
4.	Shri Kuldeep Singh Rathore	-	Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Committee took up the draft Report on the Bill 'Securities Market Code, 2025' pertaining to the Ministry of Finance for consideration and adoption.

3. After some deliberations, the Committee adopted the above draft Report with minor modifications and authorised the Chairperson to finalise and present the Report to the Parliament in the ongoing Monsoon Session.

The Committee then adjourned.

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AS INTRODUCED IN LOK SABHA

Bill No. 200 of 2025

THE SECURITIES MARKETS CODE, 2025

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THE FOURTH SCHEDULE.

Bill No. 200 of 2025

THE SECURITIES MARKETS CODE, 2025

A

BILL

to consolidate and amend the laws relating to the securities markets and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Code may be called the Securities Markets Code, 2025.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (*1*) In this Code, unless the context otherwise requires,—

(a) "adjudicating officer" means a person designated as such under sub-section (*1*) of section 17;

(b) "Bench" means a Bench of the Tribunal;

(c) "beneficial owner" means a person whose name is recorded as such with a depository in respect of any securities or other regulated instrument and the expression "beneficial ownership" shall be construed accordingly;

(d) "Board" means the Securities and Exchange Board of India referred to in sub-section (*1*) of section 3;

(e) "bye-laws" means the bye-laws made by a market infrastructure institution under section 39;

(f) "Chairperson" means the Chairperson of the Board appointed under section 4;

(g) "clearing corporation" means a person undertaking the activity of clearing and settlement of trades in securities, but does not include a system provider defined in the Payment and Settlement Systems Act, 2007. 51 of 2007.

Explanation.—For the purposes of this clause,—

(i) "clearing" means the process of transmitting, reconciling and to the extent applicable, confirming the payment obligations or transfers of securities prior to settlement; and

(ii) "settlement" means the completion of delivery and payment of funds or securities or underlying of a derivative, to the relevant parties in a contract in order to settle their obligations or to provide a title to the securities or underlying or both;

(h) "clearing member" means a person having clearing and settlement rights as specified in the bye-laws of a clearing corporation;

(i) "commodity" means any kind of goods, including any activity, service, right, interest or event relating to or associated with such goods, as may be notified by the Central Government in consultation with the Board;

(j) "contract" means a contract for or relating to the purchase or sale of securities;

(k) "depository" means a person engaged in the activity of providing depository services, but shall not include a person providing depository services in relation to a Government security, a Registry or a ledger account maintained by the Reserve Bank or its agent in accordance with the provisions of the Government Securities Act, 2006; 38 of 2006.

(l) "depository services" means any service relating to,—

(i) recording a transaction in securities or other regulated instrument, including the allotment or transfer or transmission of ownership of such securities or other regulated instrument in dematerialised form in the record or register of a depository;

(ii) distribution of any monetary or securities-based benefits associated with any securities or other regulated instrument;

(iii) facilitating electronic voting and exercising any interest and rights associated with any securities or other regulated instrument; or

(iv) such other services as may be specified by regulations;

(m) "derivative" includes,—

(i) a security derived from an underlying;

(ii) a contract for the actual or intended delivery of the underlying on a future date and which is not a spot delivery contract;

(iii) a contract that derives its value from prices or indices of prices or difference in prices of such underlying which may be settled with physical delivery of the underlying or by paying the difference in cash or equivalent;

(iv) a contract which provides for a right, with or without any obligation for the actual delivery of the underlying on a future date;

(v) a contract or a swap agreement for exchange of cash flows or underlying in future;

(vi) a contract which provides for exchange of one or more payments in future based on the value of the underlying;

(vii) a derivative structured upon the same or a different kind of derivative;

(viii) such other instruments as the Central Government may notify; and

(ix) a combination of any contract or agreement specified in sub-clauses (*i*) to (*viii*),

but shall not include derivative as defined in clause (*a*) of section 45U of the Reserve Bank of India Act, 1934 and such other instruments as the Central Government may notify in this regard;

2 of 1934.

(n) "Fund" means the Fund referred to in sub-section (*1*) of section 124;

(o) "goods" means any kind of movable property, other than actionable claims, money and securities;

(p) "Government security" shall have the same meaning as assigned to it in clause (*f*) of section 2 of the Government Securities Act, 2006;

38 of 2006.

(q) "intermediary" means,—

(i) an asset management company;

(ii) a banker to an issue;

(iii) a credit rating agency;

(iv) a custodian;

(v) a debenture trustee;

(vi) a depository participant;

(vii) an index provider in relation to indices traded in the securities markets;

(viii) an investment adviser;

(ix) an investment manager;

(x) a Know Your Customer Registration Agency;

(xi) a merchant banker;

(xii) a portfolio manager;

(xiii) a pooled investment vehicle;

(xiv) a registrar to an issue;

(xv) a research analyst;

(xvi) a share transfer agent;

(xvii) a stock broker;

(xviii) a trading member;

(xix) a trustee of trust deed;

(xx) an underwriter;

(xxi) a vault manager; and

(xxii) such other persons associated with the securities markets, as notified by the Board under sub-section (*3*) of section 34,

but shall not include a person carrying out the activities of the nature mentioned in section 34 relating to instruments referred to in Chapter IIID of the Reserve Bank of India Act, 1934; 2 of 1934.

(r) "investment scheme" means the scheme referred to in section 32;

(s) "Investor Protection and Education Fund" means the fund referred to in section 125;

(t) "issuer" means any person who makes or proposes to make or has made an issue of securities which are listed or to be listed;

(u) "listing" means the admission of securities for trading on a stock exchange and the expression "listed" shall be construed accordingly;

(v) "market infrastructure institution" means a stock exchange, a clearing corporation or a depository and includes such other class or classes of market infrastructure institutions, as may be notified by the Central Government, except those authorised or required to be authorised by other regulatory bodies;

(w) "market participant" means a person or its agent participating in the securities markets as an issuer or an investor.

Explanation.—For the purposes of this clause, an intermediary shall be deemed to be a market participant, if it participates in the securities markets as an investor or issuer;

(x) "member", in relation to—

(i) a stock exchange or a clearing corporation, means a trading member or a clearing member;

(ii) a depository, means a depository participant; and

(iii) any other market infrastructure institution notified under clause (*v*), means a member of such market infrastructure institution;

(y) "notification" means a notification published in the Official Gazette and the expressions "notify" or "notified" shall be construed accordingly;

(z) "other regulated instrument" means an instrument that is primarily regulated by other regulatory authority;

(*za*) "other regulatory authority" means an authority or body constituted or any department of the Central Government or the State Government authorised, under any other law for the time being in force to regulate goods, services, activities or transactions;

(*zb*) "person" includes—

(i) an individual;

(ii) a Hindu undivided family;

(iii) a company;

(iv) a firm;

(v) an association of persons or a body of individuals, whether incorporated or not;

(vi) a limited liability partnership;

(vii) a trust;

(viii) local authority; and

(ix) every artificial juristic person, not falling within any of the preceding sub-clauses;

(*zc*) "pooled investment vehicle" means a fund referred to in sub-section (*1*) of section 33;

(*zd*) "prescribed" means prescribed by rules made under this Code;

(*ze*) "record" includes the records maintained in the form of books or in such other form as may be specified by regulations and electronic record as defined in clause (*t*) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(*zf*) "Recovery Officer" means any officer of the Board authorised by general or special order in writing to exercise the powers of a Recovery Officer under this Code;

(*zg*) "regulations" means the regulations made by the Board;

(*zh*) "Schedule" means a Schedule appended to this Code;

(*zi*) "securities" include—

(i) shares, scrips, stocks, bonds, secured or unsecured debentures, warrants, or debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;

(ii) hybrid instruments;

(iii) convertible instruments;

(iv) derivatives;

(v) units or any other instruments issued in respect of any investment scheme by a pooled investment vehicle to the investors in such schemes;

(vi) security receipts managed and regulated in accordance with the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; 54 of 2002.

(vii) a certificate or an instrument, by whatever name called, issued to an investor by any issuer as a special purpose distinct entity which possesses any debt or receivable including mortgage debt, assigned to such entity, and acknowledging the beneficial interest of such investor in such debt or receivable including mortgage debt, as the case may be;

(viii) global depository receipts and Indian depository receipts;

(ix) notes or papers issued for the purpose of raising of capital, which are listed or proposed to be listed;

(x) Electronic Gold Receipts;

(xi) Government security managed and regulated under the provisions of the Reserve Bank of India Act, 1934 and the Government Securities Act, 2006; 2 of 1934. 38 of 2006.

(xii) zero coupon zero principal instruments;

(xiii) bullion spot delivery contract and bullion depository receipt with underlying bullion in respect of issuance and trading in an International Financial Services Centre under the provisions of the International Financial Services Centres Authority Act, 2019; 50 of 2019.

(xiv) onshore rupee bonds issued by multilateral institutions such as the Asian Development Bank and the International Finance Corporation;

(xv) other regulated instrument, to the extent it is permitted for listing under section 119;

(xvi) such other instruments as may be notified by the Central Government; and

(xvii) rights or interests in securities,

but shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer defined in clause (*9*) of section 2 of the Insurance Act, 1938; 4 of 1938.

(*zj*) "securities markets" means the markets related to securities;

(*zk*) "securities markets service provider" means an intermediary, a market infrastructure institution or a self-regulatory organisation;

(*zl*) "self-regulatory organisation" means a person, formed and promoted by a class of intermediaries or investors;

(*zm*) "Special Court" means the Special Court established or designated by the Central Government under section 113;

(*zn*) "stock exchange" means a person engaged in assisting, regulating or controlling the business of buying, selling or dealing in securities and undertaking other related functions, but shall not include agencies permitted to assist or facilitate buying, selling or dealing in instruments or securities under Chapter IIID of the Reserve Bank of India Act, 1934; 2 of 1934.

(*zo*) "subsidiary instructions" mean the instructions made under section 149 and include any circular, master circular, guideline and such other instrument;

(*zp*) "trading member" means a person having trading rights in any stock exchange and includes a stock broker;

(*zq*) "Tribunal" means the Securities Appellate Tribunal referred to in section 79;

(*zr*) "underlying" in respect of a derivative, means a security or a commodity or an actionable claim or money or currency or indices on any instrument or prices or yields or volatility or liquidity or credit score or ratings or events or activity or progress or a situation or financial measures or other instruments from which such derivative derives its value;

(*zs*) "unit" means an instrument by which contribution or subscription is made by an investor to an investment scheme or to any person and represents the beneficial interest or ownership of the unit holder in such investment scheme or person, as the case may be;

(*zt*) "unlawful gain" means an unlawful gain including the profit made and loss averted by a person.

(*2*) The words and expressions used herein and not defined, but defined in the Reserve Bank of India Act, 1934 and the Companies Act, 2013 shall have the same meanings assigned to them in those Acts.

2 of 1934.
18 of 2013.

CHAPTER II

ESTABLISHMENT, MANAGEMENT AND ADMINISTRATION OF BOARD

Securities and Exchange Board of India.

3. (*1*) The Securities and Exchange Board of India established and incorporated under section 3 of the Securities and Exchange Board of India Act, 1992 shall be deemed to have been established and incorporated under this Code, having its head office in Mumbai.

15 of 1992.

(2) The Board may establish its offices at other places in India.

(3) On and from the date of commencement of this Code, all properties and assets, movable or immovable, of or belonging to the Board and all rights and liabilities of the Board, shall continue to vest in the Board.

Composition of Board.

4. (*1*) The Board shall consist of the following Members to be appointed by the Central Government, namely:—

(a) Chairperson of the Board;

(b) two Members from amongst the officers of the Ministry of the Central Government dealing with Finance and administration of the Companies Act, 2013, *ex officio*;

18 of 2013.

(c) one Member from amongst the officers of the Reserve Bank, *ex officio*; and

(d) eleven other Members of whom at least five shall be whole-time Members.

(*2*) Without prejudice to anything contained in section 6, on the date of the commencement of this Code, the Chairman and Members appointed under section 4 of the Securities and Exchange Board of India Act, 1992, shall be deemed to be the Chairperson and Members appointed under clauses (*a*) and (*d*) of sub-section (*1*) for the remainder period.

15 of 1992.

(*3*) The Chairperson and Members referred to in clauses (*a*) and (*d*) of sub-section (*1*) shall be appointed by the Central Government, in such manner as may be prescribed and the members referred to in clauses (*b*) and (*c*) of that sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.

(*4*) The Chairperson and Members referred to in clauses (*a*) and (*d*) of sub-section (*1*) shall be persons of ability, integrity and standing in dealing with problems relating to securities markets or have special knowledge or experience of law, finance, economics, technology, commodity markets, accountancy, administration or in any other discipline which in the opinion of the Central Government is useful to the Board:

Provided that while appointing Members referred to in clause (*d*) of sub-section (*1*), the Central Government shall endeavour to appoint at least three persons with expertise in the securities markets.

Terms and conditions of service of Chairperson and Members of Board.

5. (*1*) The Chairperson and every whole-time Member of the Board shall hold office for a term not exceeding five years:

Provided that no person shall hold office as the Chairperson or a whole-time Member on attaining the age of sixty-five years.

(2) Every other Member referred to in clause (*d*) of sub-section (*1*) of section 4 shall hold office for a term not exceeding three years:

Provided that no person shall hold office as other Member on attaining the age of seventy years.

(3) The other terms and conditions of service of the Chairperson and the Members referred to in clauses (*a*) and (*d*) of sub-section (*1*) of section 4 shall be such as may be prescribed.

(4) The term of office of *ex officio* Members shall continue as long as they hold the office by virtue of which they are such Members.

(5) Notwithstanding anything contained in sub-section (*1*), or sub-section (*2*), the Central Government shall have the right to terminate the services of the Chairperson or a Member appointed under clauses (*a*) and (*d*) of sub-section (*1*) of section 4, at any time before the expiry of the period specified under sub-section (*1*) or sub-section (*2*), by giving notice of not less than three months in writing or three months' salary and allowances *in lieu* thereof, and the Chairperson or such Member, as the case may be, shall have the right to relinquish his office, at any time before the expiry of the period specified under sub-section (*1*) or sub-section (*2*), by giving notice of not less than three months in writing to the Central Government.

(6) The Chairperson and the whole-time Members shall not accept any employment under the Central Government or any State Government or any appointment with a securities markets service provider or a market participant or any other person associated with securities markets for a period of one year from the date on which they cease to hold office, except with the prior approval of the Central Government.

Removal of Members from office.

6. The Central Government shall remove a Member from the office, if such Member—

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

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government, involves moral turpitude;

(d) has, in the opinion of the Central Government, acquired any financial or other interests that is likely to prejudice his functions; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in the office detrimental to public interest:

Provided that no Member appointed under clauses (*a*) and (*d*) of sub-section (*1*) of section 4 shall be removed under clauses (*d*) and (*e*) of this section unless such Member has been given an opportunity of being heard in the matter.

Management of Board.

7. (*1*) The general superintendence, directions and management of the affairs and business of the Board shall vest in a Board of Members referred to in section 4 to exercise all powers and do all acts and things which may be exercised or done by the Board.

(2) Save as otherwise provided by regulations, the Chairperson shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by the Board, except the powers under sections 128 and 146.

Meetings of Board.

8. (*1*) The Members of the Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings, including quorum at such meetings and maintaining arrangements for recording, safe-keeping and publications of the decisions, as may be specified by regulations:

Provided that the Members of the Board may by circulation, take decisions in such manner as may be specified by regulations.

(2) The Chairperson, or if he is unable to attend a meeting of the Board for any reason, any other Member chosen by the Members present from amongst themselves at the meeting, shall preside over the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the Members present and voting, and in the event of equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote.

(*4*) Any Member, who has such direct or indirect interest, including the interest of any family member, as may be specified by regulations, in any matter coming up for consideration at a meeting of the Board shall, as soon as possible after the said interest has come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the meeting of the Board, and such Member shall not take any part in any deliberation or decision of the Board with respect to that matter.

(*5*) The provisions of sub-sections (*3*) and (*4*) shall *mutatis mutandis* apply to all decisions taken by way of circulation.

Officers and employees of Board.

9. (*1*) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Code.

(*2*) The qualifications, method of recruitment and terms and other conditions of service of officers and employees of the Board appointed under sub-section (*1*) shall be such as may be specified by regulations.

Vacancies, etc., not to invalidate proceedings of Board.

10. No act or proceeding of the Board shall be invalid merely by reason of,—

(*a*) any vacancy in, or any defect in the constitution of the Board;

(b) any defect in the appointment of a person acting as a Member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Powers and functions of Board.

11. (*1*) Subject to the provisions of this Code, the Board shall protect the interest of investors in securities and promote the development of, and regulate the securities markets, by such measures as it may deem fit.

(*2*) Without prejudice to the generality of the foregoing provisions, the Board shall exercise the powers and perform the following functions, namely:—

(*a*) register and regulate the market infrastructure institution;

(b) register and regulate the intermediaries;

(c) register and regulate the self-regulatory organisations;

(d) regulate the business in securities markets;

(e) regulate the issue, listing, delisting, transfer of securities, dealings in securities and other related matters by market participant, subject to the provisions of Chapter XV;

(f) regulate or prohibit the public issue of any prospectus, offer document or advertisement soliciting money by way of issue of securities;

(g) regulate or prohibit the solicitation of money from investors in respect of any investment scheme;

(h) regulate substantial acquisition of shares and take-over of companies;

(i) regulate the working of any class or classes of market participants, either directly or indirectly through a market infrastructure institution or a self-regulatory organisation;

(j) regulate the qualifications and certification of the securities markets service providers;

(k) protect the interest of investors, promote investor education and awareness and ensure effective and time-bound redressal of investor grievances;

(l) prohibit fraudulent and unfair practices relating to the securities markets and market abuse;

(m) promote training of intermediaries and market participants;

(n) promote transparency and best practices in its governance;

(o) ensure fair and timely disclosure of information by a securities markets service provider;

(p) ensure adequate training and capacity-building of its officers and employees for facilitating efficient discharge of functions;

(q) lay down principles for implementation of this Code;

(r) call for information from a securities markets service provider or a market participant or any other person associated with securities markets for the implementation of this Code;

(s) call for information and records from any person including any bank or a financial institution or any other authority or board or corporation established or constituted by or under any Central Act or State Act, which may be relevant to any inspection, investigation or adjudication in respect of any transaction in securities;

(t) call for information from or furnish information to, other authorities, whether in India or outside India, in the matters relating to prevention or detection of contraventions in respect of securities laws, subject to the provisions of other laws for the time being in force:

Provided that the Board, for the purposes of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;

(u) undertake inspection, investigation and adjudication;

(v) share any information or other documents obtained during inspection, investigation or adjudication, as the case may be, regarding the contravention of any other law for the time being in force with the authorities concerned, if such information or documents are relevant or useful to such authority;

(w) levy fees or other charges for carrying out the purposes of this Code which shall be reviewed periodically;

(x) conduct periodic research, regulatory impact assessment studies and audit of functioning and performance of securities markets including securities markets service provider, and publish such information and data on its website;

(*y*) maintain its website or any other universally accessible database of electronic information on securities markets, and publish on such website or database all regulations, subsidiary instructions, orders of the adjudicating officer and the Ombudsperson and any other information as it deems fit; and

(*z*) perform such other functions as may be prescribed.

(*3*) The Board shall review its performance and functioning including proportionality and effectiveness of the regulations made in this behalf.

(4) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clause (*r*) or clause (*s*) or clause (*u*) of sub-section (*2*), the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by the Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of a securities markets service provider or an issuer, at any place; or

(d) issuing commissions for the examination of witnesses or documents.

CHAPTER III

INSPECTION, INVESTIGATION, ADJUDICATION AND INTERIM ORDER

Inspection.

12. The Board may inspect a securities markets service provider, a market participant or any other person associated with securities markets in such manner as may be specified by regulations:

Provided that the Board may order inspection of any book or register or other document or record of any issuer, not being an intermediary, where the Board has reasonable grounds to believe that such issuer has been indulging in fraudulent or unfair practices or market abuse referred to in section 92 or section 93, as the case may be.

Investigation.

13. (*1*) If the Board, on receipt of any information or otherwise, has reasonable grounds to believe that—

(a) transactions in securities are being undertaken in a manner detrimental to the investors or the securities markets;

(b) any securities markets service provider, a market participant or any other person associated with the securities markets has contravened any of the provisions of this Code or the rules or regulations made thereunder, or any order issued by the Board; or

(c) any person has aided or abetted such contraventions,

it may, by an order in writing, direct one or more persons from amongst its Chairperson, whole-time Members or officers, to act as the Investigating Officer to investigate into such transactions or contraventions or the affairs of such securities markets service provider, a market participant or any other person associated with the securities markets and submit a report to the Board:

Provided that the Board may seek assistance of a securities markets service provider or an expert to assist the Investigating Officer under this Chapter, in such manner as may be specified by regulations.

(2) The order referred to in sub-section (*1*) shall be in such form as may be specified by regulations and the investigation shall be completed within a period of one hundred and eighty days:

Provided that where the investigation report is not submitted within the aforesaid period, the Investigating Officer shall provide the status of the investigation to the Board and record the reasons for the delay and request the whole-time Member concerned for extension of time:

Provided further that on receipt of a request for extension of time, the whole-time Member, if necessary, grant such extension, with such conditions, if any, as he may deem fit, or reject the request.

(3) The Investigating Officer shall, if quantifiable, quantify the unlawful gains made or likely to be made or the loss caused, or likely to be caused to an investor or group of investors as a result of any default or contravention in accordance with such criteria and manner as may be specified by regulations.

(4) If the Board, upon consideration of the investigation report is of the opinion that further investigation is called for, it may, by an order direct the Investigating Officer to make further investigation and submit a supplementary report within such period as specified therein.

(5) The procedure for conducting investigation under this Chapter shall be such as may be specified by regulations.

General powers and obligations of Investigating Officer.

14. (*1*) Notwithstanding anything contained in any other law for the time being in force, where an investigation has been directed under section 13,—

(a) every key managerial personnel, director, manager, secretary or other officer or employee of a securities markets service provider or a market participant or a person being a body corporate;

(b) every trustee or manager or employee of a securities markets service provider or a market participant or a person being a trust;

(c) every partner, manager, secretary or key managerial personnel or other officer of the firm or society of a securities markets service provider or a market participant or a person being a firm or society; and

(d) every other person or body of persons who has or had dealings in the course of business with any of the persons mentioned in clauses (*a*), (*b*) and (c), whether directly or indirectly,

shall—

(i) preserve and produce before the Investigating Officer or any person authorised by him in this behalf, all such books of account, registers, records, information and other documents in his custody or power relating to or having a bearing on the subject-matter of such investigation, as the case may be;

(ii) furnish any such statement or undertaking or certification relating thereto, as may be required, within such period as specified by the Investigating Officer or any person authorised by him in this behalf;

(iii) provide reasonable assistance to the Investigating Officer or any person authorised by him in this behalf, relating to the investigation; and

(iv) appear personally and take oath before the Investigating Officer when required to do so and answer any question put to him during such appearance in relation to the affairs of his business.

(2) The Investigating Officer shall record the examination referred to in sub-section (*1*) in writing, which shall be read over and explained to, or by, and signed by the person examined, which may thereafter be used in evidence.

(3) The Investigating Officer may keep in his custody any books, registers, other documents and record produced under sub-section (*1*) for a period of six months and shall thereafter return the same to the person concerned.

(4) The Investigating Officer, if deems necessary, may again call for any book, register, other document and record.

(5) If the person who produced the books, registers, other documents and records under sub-section (*1*), requires certified copies of the same, the Investigating Officer shall provide such copies.

(6) The Investigating Officer shall, before exercising his powers under this section against any person, serve a notice to him, in such form and manner as may be specified by regulations:

Provided that where the Investigating Officer is satisfied that the issuance of a notice shall cause undue delay in investigation or there is an apprehension that records, books of account, registers, information and other documents referred to in sub-section (*1*) may be destroyed, mutilated, concealed, altered, falsified or secreted, after the notice is served, he may, for reasons to be recorded in writing, dispense with issuance of such notice.

(7) Notwithstanding anything contained in any other law for the time being in force, the Investigating Officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of a securities markets service provider or an issuer, at any place; and

(d) issuing commissions for the examination of witnesses or documents.

Search and seizure.

15. (*1*) Where in the course of an investigation, the Investigating Officer has reasonable grounds to believe that the books, registers, other documents and records of, or relating to, any person, may be destroyed, mutilated, altered, concealed, falsified or secreted, the Investigating Officer may make an application to the Special Court for seizure of such books, registers, other documents and record.

(2) After considering the application and hearing the Investigating Officer, if necessary, the Special Court may, by order, authorise the Investigating Officer or any person authorised by him during the investigation—

(*a*) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and records are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, as he considers necessary for the purposes of the investigation:

Provided that the Special Court shall not authorise seizure of books, registers, other documents and record, of any issuer, not being an intermediary, unless such issuer indulges in market abuse referred to in section 93.

(3) The Investigating Officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (*2*) and it shall be the duty of every such officer to comply with such requisition.

(4) The Investigating Officer shall keep in his custody the books, registers, other documents and record seized under this section for such period as he considers necessary, not later than the conclusion of the investigation and thereafter shall return the same to the person from whose custody or power those were seized under sub-section (*2*) and inform the Special Court of such return:

Provided that the Investigating Officer may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(5) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023. 46 of 2023.

Bar on initiation of inspection or investigation.

16. (*1*) The Board shall not direct,—

(a) an inspection under section 12; or

(b) an investigation under section 13,

for default or contravention of any provisions of this Code or rules or regulations made thereunder, after the expiry of a period of eight years from the date of default or contravention:

Provided that the Board may direct inspection or investigation after the period specified above, in the event of a matter being referred to it by an investigating agency or if in the opinion of the Board, the default or contravention had or may have a systemic impact on the securities markets.

(2) In case of a continuing default or contravention, a fresh period under sub-section (*1*) shall begin to run at every moment of the time during which the default or contravention continues.

(3) If more than one default or contravention is committed in a series of connected acts forming the same transaction and such default or contravention are committed at different times, the period under sub-section (*1*) for these defaults or contraventions shall be deemed to have begun from the date of the last default or contravention.

Power of Board to designate adjudicating officer.

17. (*1*) Subject to sub-section (*2*), where the Board, after consideration of—

(a) the findings of the inspection made under section 12;

(b) the investigation report, together with any supplementary report, received under section 13,

and any other information, if any, is of the opinion that there are sufficient grounds to pass an order under section 20, it may designate one or more persons from amongst its Chairperson, whole-time Members or any other officer not below such rank of a Division Chief, as may be specified by regulations, to act as an adjudicating officer for the purposes of this Chapter.

(*2*) No person shall be designated as an adjudicating officer, if he has—

(a) authorised the initiation of the inspection or investigation, which is the basis for issuance of a show cause notice to a person in that matter; or

(b) been involved in the conduct of the inspection or investigation, which is the basis for issuance of a show cause notice to a person or assisted in the conduct of such processes in that matter; or

(c) considered the findings of the inspection or investigation in that matter and decided to appoint the adjudicating officer for adjudication under this Chapter; or

(d) considered any settlement application filed by a person to whom a show cause notice is to be issued in that matter; or

(e) passed an interim order under sub-section (*2*) of section 27.

(3) Where a person is designated as an adjudicating officer under sub-section (*1*), he shall not—

(a) conduct the inspection or investigation in respect of the person to whom the adjudicating officer has issued a show cause notice until the final disposal of the matter relating to such show cause notice; and

(b) consider or take a decision on any settlement application filed by a person to whom the adjudicating officer has issued a show cause notice.

(4) The adjudication proceedings shall be conducted in such manner as may be specified by regulations.

Power of adjudicating officer.

18. (*1*) For the purposes of adjudication under this Code, the adjudicating officer shall issue a show cause notice to the person concerned specifying the nature of the default or contravention alleged to have been committed, the period for reply to such notice, and enclose such relevant documents and particulars as may be specified by regulations.

(2) The person to whom a show cause notice has been issued under sub-section (*1*), shall submit the reply in writing along with evidence in support, if any, within such period as specified therein.

(3) If the noticee fails to show cause within the period specified therein, the adjudicating officer shall proceed to adjudicate the matter *ex parte*.

(4) Notwithstanding anything contained in any other law for the time being in force, the adjudicating officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(*a*) the discovery and production of books of account and other documents, at such place and time as may be specified by adjudicating officer;

(b) summoning and enforcing the attendance of persons and examining them on oath;

(c) inspection of any books, registers and other documents of a securities markets service provider or an issuer, at any place; and

(d) issuing commissions for the examination of witnesses or documents.

Factors for adjudication.

19. The adjudicating officer shall have due regard to the following factors before making any order under section 20, namely:—

(a) the order shall be proportionate to the default or contravention committed by the noticee and act as a deterrent against the commission of such default or contravention by the noticee or any other person in future;

(b) the nature, seriousness and impact of the default or contravention, including,—

(i) whether the contravention was deliberate, reckless or negligent;

(*ii*) duration and frequency or repetitive nature of the default or contravention;

(iii) unlawful gains made or likely to be made as a result of the default or contravention;

(iv) loss caused or likely to be caused to an investor or group of investors as a result of the default or contravention; or

(v) the impact of the default or contravention on the integrity of the securities markets;

(c) conduct of the noticee after the default or contravention, including—

(i) bringing to the notice of the Board, the default or contravention within a reasonable time;

(ii) remedial or preventive measures taken in respect of the default or contravention;

(iii) extent of cooperation with the Board during the inspection, investigation or adjudication;

(d) past conduct of the noticee or whether the noticee fulfils the fit-and-proper criteria to render its services in the securities markets;

(e) action taken in previous similar cases by any adjudicating officer; and

(f) any other factors which the adjudicating officer may consider necessary.

Final order by adjudicating officer.

20. The adjudicating officer shall, on receipt of the reply to the show cause notice and after considering all the relevant materials on record, by an order, either dismiss the show cause notice if no cause exists, or if sufficient cause exists take one or more of the following actions, namely:—

(a) suspend or cancel the certificate of registration granted under this Code;

(b) issue appropriate directions or warnings under section 23;

(c) pass an order under section 24;

(d) direct disgorgement under section 25; or

(e) impose penalty under sections 97 to 109:

Provided that no order shall be passed unless the person concerned has been given an opportunity of being heard in the matter.

Board to call for records.

21. (*1*) The Board may, call for and examine the record of any proceedings under this section within a period of thirty days from the date of the order passed by the adjudicating officer under section 20, and if it considers that such order is not in the interest of the securities markets, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty or the severity of any direction, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that the Board shall not call for the records and pass an order, where an appeal has been filed and disposed of under section 85.

(2) The Board shall pass an order within a period of four months from the date of calling for the record of any proceedings under this section.

(3) The provisions of sub-sections (*2*) and (*3*) of section 17 shall, *mutatis mutandis*, apply to sub-sections (*1*) and (*2*).

Power of adjudicating officer or Board to rectify order.

22. The adjudicating officer or the Board may, on his or its own motion or on a request made by any of the aggrieved party, modify an order passed under section 20 or section 21, as the case may be, to rectify any error apparent on the face of the record, within a period of thirty days from the date of such order:

Provided that while rectifying the error, the adjudicating officer or the Board shall not modify substantive part of the order.

Power of adjudicating officer to issue directions or warnings.

23. (*1*) Where the adjudicating officer is satisfied that it is necessary—

(a) in the interest of investors, or orderly development of securities markets;

(b) to prevent the affairs of any securities markets service provider or a market participant, being conducted in a manner detrimental to the interests of investors or securities markets; or

(c) to secure the proper management of the persons referred to in clause (*b*),

he may issue such directions or warnings, to all or any such securities markets service provider or a market participant or any other person associated with securities markets, as deemed fit.

(*2*) The directions or warnings referred to in sub-section (*1*), may include one or more of the following actions, namely:—

(a) suspension of trading of any securities on a stock exchange, subject to the orderly close out;

(b) suspension of clearing of any contracts by any clearing corporation;

(*c*) cancelling or annulling any trades, or execution of any contract on any stock exchange in full or part, and reversing any payments made in respect thereof;

(*d*) restraining persons from accessing the securities markets and prohibiting any person associated with securities markets to buy, sell or deal in securities for such period as may be specified in the order;

(*e*) suspending any office-bearer of any market infrastructure institution or self-regulatory organisation or securities markets service provider from holding such position for such period and in such entities or class of entities as may be specified in the order;

(f) directing a person holding securities or rights over any securities or voting or management rights in an issuer, to divest its holdings or rights, in such manner as may be specified in the order;

(g) directing any securities markets service provider, market infrastructure institution or self-regulatory organisation, to divest its securities or rights, in other entities, held in contravention of the provisions of this Code or the rules or regulations made thereunder and providing the manner of such disinvestment as may be specified in the order;

(h) directing the transfer of any proceeds or any securities to a designated account;

(i) impounding and retaining the proceeds or securities in respect of any transaction under adjudication;

(j) pending adjudication, attach bank accounts or other property of any person involved in contravention of any of the provisions of this Code or the rules or regulations made thereunder, for a period not exceeding ninety days:

Provided that the Board shall within the said period of attachment, obtain confirmation of the same from the Special Court having jurisdiction and, on such confirmation, the attachment shall continue and upon conclusion of the said proceedings, the provisions of section 136 shall apply:

Provided further that the property, bank account or accounts or any transaction entered therein, in so far as it relates to the proceeds actually involved in the contravention of any of the provisions of this Code or the rules or regulations made thereunder shall be allowed to be attached; or

(k) pending adjudication, direct any person not to dispose of or alienate an asset forming part of any transaction which is under adjudication:

Provided that the adjudicating officer may, take any of the actions specified in clause (*i*) or clause (*j*) or clause (*k*), in respect of any issuer, not being an intermediary, where he has reasonable grounds to believe that such issuer has indulged in fraudulent and unfair practices or market abuse referred to in section 92 or section 93, as the case may be.

Person to cease and desist from committing contravention.

24. If the adjudicating officer, pending adjudication or on completion thereof, finds that any person has contravened, or is likely to contravene, any provisions of this Code or the rules or regulations made thereunder, he may pass an order requiring such person to cease and desist from committing or causing such contravention:

Provided that the adjudicating officer shall not pass such order in respect of any issuer, not being an intermediary, unless the adjudicating officer has reasonable grounds to believe that such issuer has indulged in market abuse referred to in section 93.

Power of disgorgement and restitution.

25. (*1*) The adjudicating officer may direct any person who has made an unlawful gain by indulging in any transaction or activity in default or contravention of any of the provisions of this Code or the rules or regulations made thereunder, to disgorge an amount equivalent to the unlawful gain made by such contravention.

(2) The Board may provide restitution to the persons who have been affected by the default or contravention, from the amount so disgorged under sub-section (*1*), following such procedure and such criteria for distribution of the disgorged amount and the order of priority as may be specified by regulations, if the following conditions are satisfied,—

(a) the loss suffered is directly attributable to the default or contravention;

(b) the person who suffered the loss is identifiable;

(c) the amount disgorged is sufficient to provide restitution to similarly placed persons; and

(d) such other conditions as may be specified by regulations.

Settlement of administrative and civil proceedings.

26. (*1*) Notwithstanding anything contained in any other law for the time being in force, any person,—

(a) who seeks to voluntarily disclose any true and vital information which may amount to a contravention of the provisions of this Code and any rules or regulations made thereunder; or

(b) against whom any proceedings may be initiated or have been initiated and are pending before the Board or any court or Tribunal,

may file an application in writing to the Board, proposing for settlement of the proceedings initiated or to be initiated, subject to such conditions and payment of such fee, within such time and in such manner, as may be specified by regulations.

(2) The Board may constitute a committee with such members on such terms and conditions for advising it for the settlement of proceedings in such manner as may be specified by regulations.

(3) The Board may, after taking into consideration the nature, gravity and impact of default or contravention, the advice of the committee constituted for the purpose and such other factors as may be specified by regulations, by an order, consider the proposal for settlement, on payment of such amount by the applicant and on such terms and conditions as may be determined by the Board:

Provided that where the proposal for settlement is considered by the Board during the pendency of the proceedings before a court or Tribunal, it shall place such proposal before such court or Tribunal for appropriate order.

(4) Where an application under sub-section (*1*) is filed after the designation of the adjudicating officer, the adjudication proceedings shall continue, but no order under section 20 shall be passed till the settlement of such application is decided by the Board, and if the proposal for settlement is,—

(*a*) agreed by the Board, the adjudicating officer shall, by an order, dismiss the show cause notice in respect of the applicant; or

(*b*) rejected by the Board, the adjudicating officer shall proceed to complete the adjudication and shall pass an order under section 20.

(5) If the applicant fails to comply with terms and conditions referred to in sub-section (*3*), then the proceedings shall be initiated or continued before the adjudicating officer or the Tribunal or the court, as the case may be.

(6) The settlement proceedings shall be conducted in such manner as may be specified by regulations.

(7) No appeal shall lie to the Tribunal under section 85 against any order passed under this section.

(8) All settlement amounts, excluding the disgorgement amount and legal costs, realised under this Code shall be credited to the Consolidated Fund of India in such manner as may be prescribed.

Power of Board and adjudicating officer to pass interim order.

27. (*1*) The Board may, for the purpose of passing an interim order authorise the Chairperson, a whole-time Member or an officer not below the rank of Division Chief, if,—

(a) pending inspection under section 12 or investigation under section 13;

(b) upon completion of inspection under section 12 or investigation under section 13 but the adjudicating officer has not been designated under section 17,

it has reasonable grounds to believe that the person being inspected or investigated is taking or is about to take any action which—

(i) contravenes the provisions of this Code or the rules or regulations made thereunder;

(ii) may prevent the person from conducting inspection or investigation; or

(*iii*) may adversely affect the conduct of adjudication:

Provided that no person shall be authorised to pass an interim order in any matter, if such person is conducting or has conducted inspection or investigation in such matter.

(*2*) The person authorised under sub-section (*1*) or where the adjudication proceeding is pending, the adjudicating officer, as the case may be, may, pass an interim order, for reasons to be recorded in writing, if he has reasonable grounds to believe that if no such order is passed,—

(i) the interests of investors or securities markets shall be adversely affected;

(ii) the person conducting inspection or the Investigating Officer shall not be able to carry out pending inspection or investigation, as the case may be; or

(iii) the final order to be passed by the adjudicating officer under section 20 cannot be enforced due to change of circumstances:

Provided that no order shall be passed unless an opportunity of being heard is given to the person concerned:

Provided further that in cases of urgency, where the object of granting the interim order is likely to be defeated by delay, the requirement of providing an opportunity of being heard before passing an order may be dispensed with for reasons to be recorded in writing, and the concerned person shall be given an opportunity of being heard as soon as practicable thereafter.

(3) The interim order shall be valid for a period not exceeding one hundred and eighty days.

(4) On the expiry of the period specified in sub-section (*3*), if the inspection or investigation has not been completed or the inspection or investigation is completed but an adjudicating officer has not been designated or the adjudication is pending, as the case may be, and an extension of the interim order is sought, the Board may designate not more than three persons from amongst its Chairperson and whole-time Members, who, if satisfied, may extend such interim order in writing for a further period not exceeding two years.

(5) The provisions of sections 23 and 24 shall, *mutatis mutandis* apply to all the proceedings for passing an interim order.

CHAPTER IV

REGISTRATION OF INTERMEDIARIES AND OTHER PERSONS, INVESTMENT SCHEMES AND RELATED MATTERS

Registration of intermediaries, etc.

28. (*1*) No person shall carry on its business as an intermediary or a self-regulatory organisation or sponsor or cause to be sponsored or carry on or cause to be carried on any pooled investment vehicle or any investment scheme unless it is registered with the Board under this Code.

(2) Any person desirous of being registered under this Chapter, shall make an application to the Board in such form and manner, subject to such criteria and accompanied by such fee, as may be specified by regulations:

Provided that if the application is found to be defective, the Board may return the application for rectification, if rectifiable, within such period as may be specified by regulations.

(3) On receipt of an application under sub-section (*2*), the Board, on being satisfied that the application fulfils the requirements referred to in sub-section (*2*), may grant a certificate of registration to the applicant for such period, in such form and manner, subject to such terms and conditions, and within such period as may be specified by regulations:

Provided that the applicant who has been granted a certificate of registration under this sub-section, shall comply with such additional conditions as may be specified by regulations from time to time.

(4) No application for the grant of registration under this section shall be rejected, without giving an opportunity of being heard to the applicant and the reasons for such refusal shall be communicated to the applicant in writing.

Surrender, suspension and cancellation of certificate of registration.

29. (*1*) Any person who has been issued a certificate of registration under section 28 may apply to the Board for surrender of such certificate in such form and manner, subject to such conditions as may be specified by regulations, and the Board may,—

(a) by an order revoke the registration, if it is satisfied that such certificate may be surrendered; and

(b) impose any conditions to be fulfilled by the applicant before the certificate of registration is surrendered:

Provided that no conditions which are prejudicial to the applicant shall be imposed before giving him an opportunity of being heard.

(*2*) Without prejudice to sub-section (*1*), the adjudicating officer may suspend or cancel the certificate of registration under clause (*a*) of section 20, for such period as may be specified by regulations, on any of the following grounds, namely:—

(*a*) the person has not fulfilled the conditions of registration or has failed to comply with any specified criteria for obtaining the certificate of registration;

(*b*) the person has obtained the certificate of registration by making a false statement or misrepresentation or by any other unlawful means;

(*c*) the person has contravened the provisions of this Code or the rules or regulations or bye-laws made thereunder; or

(*d*) any other grounds as may be specified by regulations:

Provided that no order shall be made under this section unless the applicant has been given an opportunity of being heard.

Registration of investors.

30. (*1*) The Board may register such class or classes of investors as may be specified by regulations and no such person shall carry on its investment activity or business without such registration.

(2) The provisions of sections 28 and 29 shall, *mutatis mutandis*, apply in relation to registration of the persons referred to in sub-section (*1*).

Board to delegate power of registration.

31. (*1*) The Board may, delegate the power of registration of any class or classes of intermediaries or investors to a market infrastructure institution or a self-regulatory organisation, by an order in writing, subject to such conditions, if any, specified therein.

(2) The provisions of sections 28 and 29 shall, *mutatis mutandis*, apply for such registration under sub-section (*1*).

(3) The market infrastructure institution or a self-regulatory organisation to whom the power has been delegated under sub-section (*1*), shall,—

(a) maintain standards of fairness and confidentiality while exercising such delegated powers; and

(*b*) not refuse to grant a certificate of registration to a person, except by an order, after giving him an opportunity of being heard.

(4) Where the market infrastructure institution or the self-regulatory organisation refuses to grant a certificate of registration to any person, such person may apprise the Board of such refusal in writing, and the Board may issue appropriate directions in the matter.

Investment schemes.

32. (*1*) Any scheme or arrangement, the purpose or effect of which is to enable persons taking part in the same, whether by becoming owners of any asset or any part of it or otherwise, to participate in or receive beneficial interest in the form of profits or income or dividend or any produce or benefit arising from the acquisition, holding, management or disposal of any asset or sums paid out of such profits or income or dividend or produce or benefit, and where,—

(a) the persons participating in such scheme or arrangement do not have day-to-day control over the management of such assets, irrespective of whether or not they have the right to be consulted or to give directions; and

(*b*) the scheme or arrangement has the following characteristics,—

(i) the contribution of the persons participating in such scheme or arrangement and the profits or income or dividend or any produce or benefit out of which payments to be made to such person are pooled;

(ii) the contribution of the persons participating in such scheme or arrangement or the asset acquired using the contributions is managed as a whole by some person on behalf of the persons participating in such scheme or arrangement; and

(iii) the arrangement is not regulated by any other regulatory authority,

shall be an investment scheme.

(2) The following schemes and arrangements shall not be treated as investment schemes—

(a) being made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 or a society registered or deemed to be registered under any law relating to the co-operative societies for the time being in force in any State; or 2 of 1912.

(b) being deposits which are accepted by a non-banking financial company as defined in clause (*f*) of section 45-I of the Reserve Bank of India Act, 1934; or 2 of 1934.

(c) being a contract of insurance to which the Insurance Act, 1938, applies; or 4 of 1938.

(d) being any Scheme, Pension Scheme or the Insurance Scheme made under the Employees Provident Fund and Miscellaneous Provisions Act, 1952; or 19 of 1952.

(e) being a deposit as defined in clause (*31*) of section 2 of the Companies Act, 2013 are accepted; or 18 of 2013.

(f) being deposits which are accepted by a company declared as a *Nidhi* or a Mutual Benefit Society under section 406 of the Companies Act, 2013; or 18 of 2013.

(g) being a chit business as defined in clause (*e*) of section 2 of the Chit Fund Act, 1982; or 40 of 1982.

(h) being deposits which are accepted for the purpose of real estate project as defined in clause (*zn*) of section 2 of the Real Estate (Regulation and Development) Act, 2016; or 16 of 2016.

(i) being a unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer as defined in clause (*9*) of section 2 of the Insurance Act, 1938; or 4 of 1938.

(j) such other schemes or arrangements which the Central Government may, in consultation with the Board, notify.

(3) The investment schemes shall be conducted, operated or promoted including the matters relating to the contribution or subscription made by an investor in such manner as may be specified by regulations.

Pooled investment vehicles.

33. (*1*) A pooled investment vehicle means a fund established in respect of an investment scheme, in the form of a trust or otherwise, such as a mutual fund, an alternative investment fund, a real estate investment trust, an infrastructure investment trust or such other fund, which raises or collects money from investors and invests such funds in such manner as may be specified by regulations.

(2) Notwithstanding anything contained in the Indian Trusts Act, 1882 or in any other law for the time being in force or in any judgment, decree or order of any court, tribunal or any other authority, a pooled investment vehicle, whether constituted as a trust or otherwise, and registered with the Board, shall be eligible to borrow and issue debt securities in such manner and to such extent as may be specified by regulations. 2 of 1882.

(3) Every pooled investment vehicle referred to in sub-section (*2*) shall, subject to the provisions of the trust deed, be permitted to provide security interest to lenders in terms of the facility documents entered into by such pooled investment vehicle.

(*4*) Where any pooled investment vehicle referred to in sub-section (*2*), defaults in repayment of principal amount or payment of interest or any such amount due to the lender, the lender shall recover the defaulted amount and enforce security interest, if any, against the trust assets, by initiating proceedings against the trust assets, by initiating proceedings against the trustee acting on behalf of such pooled investment vehicle in accordance with the terms and conditions specified in the facility documents:

Provided that on initiation of the proceedings against the trust assets, the trustee shall not be personally liable and his assets shall not be utilised towards recovery of such debt.

(*5*) The trust assets, which remain after recovery of defaulted amount, shall be remitted to the unit holders on a proportionate basis.

Intermediary.

34. (*1*) An intermediary shall facilitate or provide services related to the issue, sale, purchase or any dealings in securities in such manner as may be specified by regulations.

(2) A stock broker shall charge brokerage, deliver securities and make payment to the investor in such manner and within such period as may be specified by regulations.

(3) The Board may, if required, notify a new category of intermediary for the development of securities markets.

Obligation of securities markets service provider, market participant, etc.

35. (*1*) The securities markets service provider shall make fair disclosure of such information and at such frequency as may be specified by regulations.

(2) The securities markets service provider, market participant or a person associated with securities markets shall furnish such information to the Board in such manner as may be specified by regulations.

(3) The securities markets service provider shall invest money collected by it in such manner and within such period as may be specified by regulations.

Governing norms of self-regulatory organisations.

36. (*1*) The Board shall approve the governing norms of a self-regulatory organisation.

(*2*) The governing norms of a self-regulatory organisation shall provide for the governance and operation of any contracts or agreements between them and their members including norms relating to the internal constitution and management of their affairs.

CHAPTER V

REGISTRATION AND REGULATION OF MARKET INFRASTRUCTURE INSTITUTION

Registration of market infrastructure institution.

37. (*1*) No person shall carry on its business as a market infrastructure institution, unless it is registered with the Board under this Code.

(*2*) Any person desirous of being registered as a market infrastructure institution shall make an application to the Board in such form and manner and accompanied by such fee, as may be specified by regulations, including a copy of the bye-laws referred to in section 39 for the regulation and control of contracts and a copy of documents relating in general to the constitution of the market infrastructure institution and in particular to,—

(a) the governing body of such market infrastructure institution, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the market infrastructure institution;

(c) the admission into the market infrastructure institution of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the market infrastructure institution in cases where the rules provide for such membership; and

(e) the nomination and appointment of authorised representatives and clerks.

(3) If the Board is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such other information, if any, as it may require that,—

(a) the bye-laws of the market infrastructure institution are in conformity with such conditions as may be specified by regulations, with a view to ensure fair dealing and to protect the interest of investors;

(b) the applicant is willing to comply with any other conditions, including conditions regarding its members, which the Board, after consultation with the governing board of the applicant and having regard to its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of the Code; and

(c) it shall be in the interest of trade and also in public interest to grant registration,

it may grant registration to the applicant in such form and subject to such conditions as may be specified by regulations:

Provided that if the application is found to be defective, the Board may return the application for rectification, if rectifiable, within such period as may be specified by regulations.

(4) Every grant of registration to a market infrastructure institution under this section shall be notified by the Board, and such registration shall have effect from the date of its notification.

(5) No application for registration under this section shall be refused unless an opportunity of being heard is given to the applicant and the reasons for such refusal shall be communicated in writing.

Cancellation of registration or suspension of business.

38. (*1*) Without prejudice to clause (*a*) of section 20, if the Board is of the opinion that the registration granted to a market infrastructure institution under sub-section (*4*) of section 37, in the interest of trade or in public interest be cancelled, the Board may by order cancel the registration in such manner as may be specified by regulations, and it shall notify cancellation of such certificate of registration:

Provided that no order shall be made unless the applicant has been given an opportunity of being heard.

(2) No cancellation under sub-section (*1*) shall affect the validity of any contract entered into or made before the date of the notification, and the Board may after consultation with the market infrastructure institution, make such provisions as it deem fit in the notification of cancellation or in any subsequent notification for the due performance of any contracts outstanding on that date.

(3) Without prejudice to sub-section (*1*), if in the opinion of the Board an emergency has arisen and the Board considers it expedient for the purpose of meeting the emergency, it may by notification and for reasons to be specified therein, direct a market infrastructure institution to suspend such of its business for such period not exceeding ninety days, subject to such conditions specified therein, and, if, in the opinion of the Board, the interest of trade or public interest requires that the period should be extended, it may, by a similar notification extend the said period for a further period of ninety days:

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued, unless the governing board of the market infrastructure institution has been given an opportunity of being heard in the matter.

Power of market infrastructure institution to make bye-laws.

39. (*1*) A market infrastructure institution may, subject to the previous approval of the Board, make bye-laws consistent with the provisions of this Code and any rules or regulations made thereunder, for the regulation and control of contracts and conduct of its members and market participants.

(2) In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for the following matters, namely:—

(a) the appropriate mechanisms for safeguarding the interests of any investors in securities and beneficial owners thereof;

(b) the manner of holding, custody, pledging, hypothecation, lending, borrowing, issue, transfer, trading, transmission, conversion, transformation, consolidation, switching, clearing, delivery, settlement and other dealings in securities;

(c) the risk management and abuse prevention measures such as imposition of margins, position and price limits, circuit breakers, collateral management, auction of short positions, order restrictions, account suspensions, server placement and other technical requirements;

(d) the particular bye-laws, the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under section 47;

(e) the terms and conditions for accessing any services provided by the market infrastructure institution;

(f) the listing of securities, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in securities;

(g) the procedure for disbursing of interest, dividend, bonus and other monetary benefits arising from the holding, transfer, or any dealings in securities;

(h) the norms of fair and time-bound disclosure of material information by issuers;

(i) the internal control standards such as audits, review and monitoring;

(*j*) the *inter se* rights and obligations of members and market participants;

(*k*) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and the conditions relating thereto, and the forms of contracts in writing;

(*l*) the content, form and manner of executing member-client agreements;

(*m*) the measures relating to regulation of fees charged by members, dealings by members for their own account, maintenance of separation of client funds and securities;

(*n*) the process of accrediting or empanelling persons providing services in connection with any dealings in securities;

(o) the procedure for conveying information to members and market participants;

(p) the levy and recovery of fees and penalties;

(q) the conduct of inspections, filing of information and such other matters in relation to regulation of its members;

(r) the obligations of members to supply such information or explanation and to produce such documents relating to their business as may be sought by the market infrastructure institution;

(s) the procedure for the settlement of claims or disputes or grievances including settlement by mediation or arbitration including through electronic means;

(t) the manner of conducting proceedings against the members and market participants for committing breach of the bye-laws and provisions for suspension, expulsion of members and market participants and cancellation of agreements with the market infrastructure institution;

(u) such other matters as may be specified by regulations.

(3) The bye-laws of a market infrastructure institution shall endeavour to,—

(a) promote the objects of this Code;

(b) ensure non-discriminatory access to similarly placed persons using its services;

(c) minimise market abuse, fraudulent and unfair practices related to the securities markets;

(d) foster transparency; and

(e) ensure interoperability with other market infrastructure institutions.

Explanation.—For the purposes of this sub-section, the expressions,—

(i) "non-discriminatory access" means not creating differential obligations for similarly placed persons or not preventing similarly placed persons from availing a service provided by the market infrastructure institution; and

(ii) "transparency" means that adequate information about the functions and transactions carried out on the market infrastructure institution is available to all the persons availing the services provided by it to enable them to make informed decisions about their transactions.

(4) Any bye-laws made under this section shall be subject to public consultation and be approved and notified by the Board:

Provided that the Board in the interest of trade or in public interest may, by an order and for the reasons to be recorded in writing, dispense with the condition of public consultation.

(5) The Board may either on a request in writing received by it from the governing board of a market infrastructure institution or on its own motion, may after consultation with the governing board, make or amend bye-laws for all or any of the matters specified in sub-section (*2*), after recording the reasons thereof.

Power of Board to direct bye-laws to be made or to make bye-laws.

40. (*1*) Where, after consultation with the governing bodies of market infrastructure institution generally or with the governing body of any market infrastructure institution in particular, the Board is of the opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct market infrastructure institution generally or any market infrastructure institution in particular, as the case may be, to make any bye-laws or to amend any bye-laws already made in respect of all or any of the matters specified in sub-section (*2*) of section 39 within a period of two months from the date of the order.

(2) If any market infrastructure institution fails or neglects to comply with any order made under sub-section (*1*) within the period specified therein, the Board may make the bye-laws or amend the bye-laws made by the market infrastructure institution either in the form proposed in the order or with such modifications thereof, as may be agreed to between the market infrastructure institution and the Board.

(3) Where in pursuance of this section any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Official Gazette, and, on the publication thereof, the bye-laws so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 2013, or in any other law for the time being in force, have effect, as if they had been made or amended by the market infrastructure institution.

18 of 2013.

Action for contravention of bye-laws.

41. (*1*) Where a member contravenes any provision of the bye-laws, the market infrastructure institution may, by an order take one or more of the following actions against such member, namely:—

(*a*) impose penalty;

(b) expel from membership;

(c) suspend from membership for a period specified therein;

(d) annul any transactions or contracts;

(e) direct to pay compensation to the affected party;

(*f*) suspend or freeze account, collaterals, or security deposits under the management of market infrastructure institution; and

(*g*) any other similar action not involving the payment of money:

Provided that before passing an order under clauses (*b*) to (*g*), an opportunity of being heard shall be given to such member.

(*2*) The market infrastructure institution shall have the mechanisms to,—

(a) monitor and identify contravention of the provisions of this Code and the rules or regulations or bye-laws made thereunder;

(b) inform the Board of any such contraventions;

(c) take measures including imposition of penalty, against such member or market participant who contravenes the bye-laws;

(d) undertake such other matters,

as may be specified by regulations.

Ownership norms of market infrastructure institution.

42. (*1*) A market infrastructure institution shall have diversified ownership by way of shareholding, subject to the following conditions,—

(*a*) the members of a market infrastructure institution shall not collectively own more than such percentage of the equity shareholding in market infrastructure institution;

(*b*) such maximum ownership interest is held by a class or classes of persons in a market infrastructure institution;

(*c*) such percentage of the total equity shareholding in a market infrastructure institution is held by a person;

(d) such ownership interest of different class or classes of persons is calculated and the manner of calculation thereof;

(e) such levels of cross holding of a market infrastructure institution in other market infrastructure institutions and the acquisition or takeover or merger or consolidation of business amongst market infrastructure institution;

(f) such period within which compliance of the ownership norms, may be achieved; and

(g) such other diversified ownership norms,

as may be specified by regulations.

(2) A market infrastructure institution shall be managed in such manner that,—

(a) the members of the governing board are eligible and qualified, and meet the fit and proper criteria;

(b) the independent members are appointed on the governing board;

(c) any class or classes of market participants or users are appointed on the governing board; and

(d) other appropriate measures are undertaken for ensuring good governance to avoid any conflict of interest,

as may be specified by regulations.

(3) A market infrastructure institution shall be a company limited by shares and shall be demutualised in such manner as may be specified by regulations.

Explanation.—For the purposes of this sub-section, the expressions,—

(i) "company limited by shares" shall have the same meaning as assigned to it in clause (*22*) of section 2 of the Companies Act, 2013; 18 of 2013.

(ii) "demutualised" means segregation of the ownership and management from the trading rights or clearing rights, or such other operational rights of the members of a market infrastructure institution, as the case may be.

(4) The provisions of this section shall apply notwithstanding anything to the contrary contained in the Competition Act, 2002 or the Companies Act, 2013. 12 of 2003. 18 of 2013.

Annual report.

43. A market infrastructure institution shall furnish a copy of its annual report and other information to the Board in such manner as may be specified by regulations.

Power of Central Government to supersede.

44. (*1*) Without prejudice to any other powers vested in the Central Government under this Code, where the Central Government, on the recommendation of the Board, is of the opinion that the governing board of a market infrastructure institution or a self-regulatory organisation should be superseded, then, notwithstanding anything contained in any other law for the time being in force, it may serve on the governing board a written notice that it is considering the supersession of the governing board for the reasons specified in the notice and after giving an opportunity of being heard, it may, by notification, declare the governing board of such market infrastructure institution or self-regulatory organisation to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing board, and, where more persons than one person are appointed, may appoint one of such persons to be the chairperson and another to be the vice-chairperson thereof.

(2) On the publication of a notification under sub-section (*1*), the following consequences shall ensue, namely:—

(a) the members of the governing board which has been superseded shall, from the date of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (*1*) may exercise and perform all the powers and duties of the governing board which has been superseded; and

(c) all such property of the market infrastructure institution or the self-regulatory organisation shall vest in such person or persons under sub-section (*1*) as being necessary for the purpose of enabling him or them to carry on the business of the market infrastructure institution or self-regulatory organisation.

(3) On the supersession of the board of a market infrastructure institution or self-regulatory organisation under sub-section (*1*), the person or persons appointed shall hold office for such period as may be specified in the notification and the Central Government may from time to time, by like notification, vary such period.

(*4*) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section, call upon the market infrastructure institution or the self-regulatory organisation to re-constitute the governing board in accordance with its bye-laws and on such re-constitution, all the property of the market infrastructure institution or self-regulatory organisation which has vested in, or was in the possession of, the person or persons appointed under sub-section (*1*), shall re-vest or vest, as the case may be, in the governing board so re-constituted:

Provided that until a governing board is so re-constituted, the person or persons appointed under sub-section (*1*) shall continue to exercise the powers and perform the duties.

CHAPTER VI

REGULATION OF CONTRACTS

Contracts to be illegal in certain circumstances.

45. (*1*) Unless otherwise permitted under this Code and the rules or regulations made thereunder or any other law for the time being in force, every contract for sale or purchase of securities, which is entered into otherwise than between members of a stock exchange or stock exchanges or through or with such member, shall be illegal:

Provided that the Central Government may notify any contract, which may be entered into otherwise than between members of a stock exchange or stock exchanges or through or with such member, to be legal.

(2) Any contract entered into between members of two or more stock exchanges shall—

(a) be subject to such terms and conditions as may be specified by the respective stock exchanges with the prior approval of the Board; and

(*b*) require prior permission from the respective stock exchanges, if so, specified by the stock exchanges with the prior approval of the Board.

(3) If the Central Government is satisfied that having regard to the nature or the volume of transactions in securities, it is necessary to prohibit contracts in certain cases, it may by notification, declare that no person shall, without the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification, except to the extent and in the manner, if any, specified therein.

(4) All contracts in contravention of the provisions of sub-section (*3*) entered into after the date of the notification issued thereunder shall be illegal.

Validity of contracts.

46. Notwithstanding anything contained in any other law for the time being in force, any contract including contracts that are traded on a stock exchange or settled on a clearing corporation shall be legal and valid, if such contracts are made in accordance with the provisions of this Code and the rules or regulations or bye-laws made thereunder.

Contracts in contravention of bye-laws to be void.

47. Any contract which is in contravention of any bye-laws of a stock exchange specified in that behalf shall be void under clause (*d*) of sub-section (*2*) of section 39 with respect to,—

(a) the rights of any member of the stock exchange who has entered into such contract in contravention of such bye-laws; and

(b) the rights of any other person who has knowingly participated in the transaction entailing such contravention:

Provided that nothing in this section shall be construed to affect the rights of a person other than a member of the stock exchange to enforce any such contract or to recover any sum under or in respect of such contract, if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (*d*) of sub-section (*2*) of section 39.

Exemptions for certain contracts.

48. Notwithstanding anything contained in this Code or any other law for the time being in force, a contract for sale or purchase of or other dealings in securities falling under any one or more clauses mentioned hereunder, shall not be deemed to be illegal and nothing in this Code shall be construed as requiring any person or persons desirous of entering into such contracts to obtain prior permission of the Board,—

(a) a spot delivery contract;

(b) a non-transferable specific delivery contract;

(c) contracts for pre-emption including right of first refusal, or tag-along or drag-along rights or such other similar rights contained in shareholders agreements or any investor agreement or articles of association of companies or other body corporate;

(d) contracts in shareholders agreements or articles of association of companies or other body corporate, for purchase or sale of securities pursuant to exercise of an option contained therein to buy or sell the securities, where—

(i) the title and ownership of the underlying securities is held continuously by the selling party to such contract for a minimum period of one year from the date of entering into the contract;

(ii) the price or consideration payable for the sale or purchase of the underlying securities pursuant to exercise of any option contained therein is in compliance with the laws for the time being in force as applicable; and

(iii) the contract is settled by way of actual delivery of the underlying securities;

(e) standing agreements or arrangements for delivery or supply of commodities;

(f) contracts, including derivatives under the provisions of Chapter IIID of the Reserve Bank of India Act, 1934; or 2 of 1934.

(g) contracts between such parties relating to such matters, on such terms and conditions as the Central Government may by notification specify.

Derivatives in respect of commodity.

49. The Central Government may in consultation with the Board, notify such commodities in respect of which a derivative may be entered into or made by any person.

Non-transferable specific delivery contract, spot delivery contract and transferable specific delivery contract.

50. (*1*) If the Central Government is of the opinion that in the interest of trade or in public interest, it is expedient to regulate and control non-transferable specific delivery contracts in commodities or securities or the business of dealing in spot delivery contracts, it may, by notification, declare that all or any of the provisions of this Code shall apply to,—

(a) such class or classes of non-transferable specific delivery contracts in respect of such commodities or securities or class of commodities or securities;

(b) such class or classes of spot delivery contracts for the sale or purchase of such securities,

as may be specified therein.

Explanation.—For the purposes of this Chapter, the expressions,—

(i) "specific delivery contract" means a derivative which provides for the actual delivery of specific qualities or types of underlying during a stipulated future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which names of both the buyer and the seller are mentioned;

(ii) "non-transferable specific delivery contract" means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other documents of title relating thereto are not transferable;

(iii) "spot delivery contract" means a contract which is not executed on a stock exchange and provides for,—

(a) actual delivery of securities and the payment of price, either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money through post being excluded from the computation of the period aforesaid, if the parties to the contract do not reside in the same town or locality; or

(b) the delivery of commodities and the payment of price, either immediately, or within such period not exceeding eleven days after the date of the contract inclusive of the actual period taken for the despatch of the commodities through post or road or any such physical means and subject to such conditions as the Central Government may notify in respect of any commodities, and where the period under such contract is not being capable of extension by the mutual consent of the parties thereto or otherwise, but shall not include such contracts performed either wholly or in part,—

(i) by realisation of any sum of money being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or

(ii) by any other means whatsoever, and as a result of which the actual tendering of the goods covered by the contract or payment of the full price therefor is dispensed with.

(2) A transferable specific delivery contract shall be subject to the provisions of this Code and shall be entered into or made on a stock exchange except for such contracts specified under Chapter IIID of the Reserve Bank of India Act, 1934. 2 of 1934.

Explanation.—For the purposes of this Chapter, "transferable specific delivery contract" means a specific delivery contract, which is not a non-transferable specific delivery contract and is subject to such conditions relating to its transferability as may be notified by the Central Government.

Prohibition of performance of contracts without registration.

51. No person shall organise or assist in organising or become a member of any association or entity in any area which provides facilities for the performance of any contracts in securities, without being registered with the Board or permitted under Chapter IIID of the Reserve Bank of India Act, 1934 or specifically exempted by the Central Government by notification. 2 of 1934.

Manner of dealing in securities through market infrastructure institution.

52. (*1*) No person shall deal in securities on a market infrastructure institution unless it is admitted as a member or a client of a member or a principal, in such manner as may be specified by regulations or bye-laws.

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

Provided that where the member has secured the consent or authority of such person otherwise than in writing, he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract:

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, the memorandum or the agreement of sale or purchase in respect of such closing out that it is acting as a principal.

Rights of holder of securities to dividends and income in respect of securities.

53. (*1*) It shall be lawful for the holder of any security whose name appears on the books of the issuer issuing the said security to receive and retain any dividend or profit or income or return of any kind declared by the issuer in respect thereof for any year, irrespective of the said security that has already been transferred by it for consideration, unless the transferee who claims such dividend or profit or income or return from the transferor has lodged the security and all other documents relating to the transfer which may be required by the issuer, with the issuer for being registered in its name within a period of fifteen days of the date on which the dividend or profit or income or return became due.

(2) The period specified in sub-section (*1*) shall be extended,—

(a) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend or profit or income or return;

(b) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(c) in case of delay in the lodging of any security and other documents relating to the transfer due to reasons connected with the post, by the actual period of the delay.

(3) Nothing contained in sub-section (*1*) shall affect,—

(a) the right of an issuer to pay any dividend or profit or income or return which has become due to any person whose name is for the time being registered in the books of the issuer as the holder of the security in respect of which the dividend or profit or income or return has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the issuer has refused to register the transfer of the security in the name of the transferee.

CHAPTER VII

HOLDING OF SECURITIES

Power of Board in respect of depository services.

54. (*1*) The powers of the Board shall extend to,—

(a) depository services provided by a depository; and

(*b*) any other regulated instrument, subject to such conditions and procedures as may be specified by regulations, for the issuance and holding of other regulated instrument through depositories, subject to the provisions contained in section 118.

(2) Nothing contained in this Chapter shall apply to Government security unless an agreement is executed to the contrary by any depository with the Government or Reserve Bank, as the case may be, under the provisions of the Government Securities Act, 2006 and the Reserve Bank of India Act, 1934.

38 of 2006.
2 of 1934.

Securities to be in dematerialised and fungible form.

55. (*1*) All securities or other regulated instrument held by a depository shall be dematerialised and in a fungible form.

(*2*) Every issuer offering securities for subscription to any person shall allot such securities in dematerialised form and every person subscribing to securities offered by an issuer shall hold such securities with a depository:

Provided that nothing shall affect the rights of a person to continue holding previously issued securities in physical form after the date of commencement of the Code unless such person intends to sell or transfer such securities, in which case, such securities shall have to be dematerialised first.

(3) Where securities are held with a depository under sub-section (*2*), the issuer shall inform such depository regarding the details of allotment of the security, and on receipt of such information the depository shall enter the name of the allottee as the beneficial owner of that security in its records.

18 of 2013.

(4) Nothing contained in sections 88 and 89 of the Companies Act, 2013, shall apply to a depository in respect of securities or other regulated instrument held by it on behalf of the beneficial owners.

Process of dematerialisation.

56. (*1*) Any person who has entered into an agreement through a depository participant, in the form specified by the bye-laws, with any depository for availing its services, shall surrender the certificate of security or other regulated instrument for which he seeks to avail the services of a depository, to the issuer of such security or other regulated instrument in such manner as may be specified by regulations.

(2) The issuer of such security or other regulated instrument, on receipt of certificate of security or other regulated instrument under sub-section (*1*), shall cancel such certificate or instrument and enter the name of the depository in respect of that security or other regulated instrument in its records and inform the depository within such period as may be specified by regulations.

(3) A depository shall, on receipt of information under sub-section (*2*), enter the name of the person referred to in sub-section (*1*) in its records, as the beneficial owner.

(4) A depository shall dematerialise the certificate of securities within such period as may be specified by regulations.

Depository to maintain a Register of beneficial owners.

57. Every depository shall maintain a register and an index of beneficial owners in the manner provided in section 88 of the Companies Act, 2013 and maintain any other particulars as may be specified by regulations or required by any other regulatory authority, where applicable.

18 of 2013.

Registration of transfer of security, etc.

58. (*1*) Every depository shall on receipt of information from a depository participant register the transfer of security or other regulated instrument in the name of the transferee.

(2) The records of a depository in respect of any security or other regulated instrument shall be conclusive proof of title of the transferee over such security or other regulated instrument, as the case may be.

(3) Every depository on receipt of information from a depository participant, register any transfer of security in favour of an asset reconstruction company along with or consequent upon transfer or assignment of financial asset of any bank or financial institution under sub-section (*1*) of section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. 54 of 2002.

(4) Every depository, on receipt of information from a depository participant, register any issue of new shares in favour of any bank or financial institution or asset reconstruction company or any other assignee of such bank or financial institution or asset reconstruction company, as the case may be, by conversion of part of their debt into shares pursuant to reconstruction of debt of the company agreed between the company and the bank or financial institution or asset reconstruction company.

Explanation.—For the purposes of this section, the expressions "asset reconstruction company", "bank", and "financial institution" shall have the same meanings as assigned to them respectively in clauses (*ba*), (*c*) and (*m*) of sub-section (*1*) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. 54 of 2002.

Pledge or hypothecation of securities or other regulated instrument held through depository.

59. (*1*) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository, create a pledge or hypothecation in respect of a security or other regulated instrument owned by it through a depository.

(*2*) Every beneficial owner shall give information of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly and such entry shall be the conclusive proof of such pledge or hypothecation, as the case may be.

Furnishing of information and records by depository and issuer.

60. (*1*) Every depository shall furnish to the issuer, information about the transfer of securities or other regulated instruments in the name of beneficial owners at such intervals and in such manner as may be provided by the bye-laws.

(*2*) Every issuer shall make available to the depository, copies of the relevant records in respect of securities or other regulated instrument held by such depository.

Rights of registered owner and beneficial owner.

61. (*1*) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security or other regulated instrument on behalf of a beneficial owner.

Explanation.—For the purposes of this section, the registered owner is a depository whose name has been entered as such in the register of the issuer.

(2) Save as otherwise provided in sub-section (*1*), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities or other regulated instrument held by it.

(3) The beneficial owner shall be entitled to all the rights and benefits and be subject to all the liabilities in respect of its securities or other regulated instrument held by a depository.

Rights and obligations of depository.

62. (*1*) Subject to the provisions of this Code, the rights and obligations of the depositories, depository participants and the issuers whose securities or other regulated instrument are dealt with by a depository shall be such as may be specified by regulations.

(*2*) The eligibility criteria for admission of securities or other regulated instrument into a depository and the manner of holding and transfer of such securities and other regulated instrument shall be such as may be specified by regulations.

(3) The manner of exercising the rights and interest in or arising from any securities or other regulated instrument held with the depository and any other connected operational or incidental matters shall be such as may be specified by regulations.

(4) Every depository shall maintain records relating to the beneficial owners of all securities or other regulated instrument held with it including records of clients of any depository participants in such manner as may be specified by regulations.

(5) Every depository shall adopt such procedures to prevent misappropriation of, or unauthorised access to, any securities or other regulated instrument held with it and shall adopt such good practices as may be specified by regulations for safeguarding the interests of the beneficial owners.

(*6*) Without prejudice to the provisions contained in any other law for the time being in force, the depository shall indemnify such beneficial owner for any loss caused to the beneficial owner due to the negligence of the depository or its member.

(*7*) Where the depository has indemnified due to the negligence of its member under sub-section (*6*), it shall have the right to recover the same from such member.

Bankers' Books Evidence Act, 1891 to apply to depositories.

18 of 1891.

63. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in clause (*2*) of section 2 of that Act.

CHAPTER VIII

LISTING AND DELISTING OF SECURITIES

Public issue and listing of securities.

64. (*1*) Without prejudice to the provisions of this Code or any other law for the time being in force, no securities shall be offered to the public or listed on a stock exchange unless the issuer fulfils such eligibility criteria and complies with such requirements as may be specified by regulations.

(2) Every issuer intending to offer securities to the public or for listing, before issuing the offer document, shall make an application to each stock exchange for permission to list and shall comply with such conditions as may be specified by regulations.

(3) Where securities are listed on any stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange and such other conditions as may be specified by regulations.

(*4*) Where the permission under sub-section (*2*) has not been granted or refused, the issuer shall forthwith repay all money, if any, received from the applicant within such period and in such manner as may be specified by regulations and the issuer and every director or trustee thereof, as the case may be, who is in default shall be jointly and severally liable to repay that money.

(*5*) The Board may, by general or special order,—

(a) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities; or

(b) specify the conditions subject to which the prospectus, the offer document or advertisement, if not prohibited, may be issued.

Listing and disclosure requirements.

65. (*1*) The requirements for issuer in matters relating to issue of capital, minimum offer size, issue and transfer of securities, corporate governance requirements, disclosures by issuers, substantial acquisition of shares and take-over of companies, public shareholding norms, concentration norms and prudential norms, risk management and any other matters incidental thereto may be such, as may be specified by regulations.

(*2*) Without prejudice to anything contained in sub-section (*1*), the Central Government may by notification in the public interest, exempt any listed public sector company from any or all of the requirements specified in sub-section (*1*).

Explanation.—For the purposes of this sub-section, "public sector company" means a body corporate constituted by an Act of Parliament or any State Legislature and includes a Government company as defined in clause (*45*) of section 2 of the Companies Act, 2013. 18 of 2013.

Delisting of securities.

66. (*1*) An issuer may apply to stock exchange to get its securities delisted from such stock exchange in such manner as may be specified by regulations.

(*2*) Without prejudice to sub-section (*1*), a stock exchange may delist the securities of an issuer, after recording the reasons therefor, for continued contravention of any listing conditions or on any of the grounds as may be specified by regulations:

Provided that the securities of an issuer shall not be delisted unless such issuer has been given an opportunity of being heard.

Refusal for listing or delisting of securities.

67. Where a stock exchange refuses to list or delist the securities of an issuer, such stock exchange shall furnish reasons for such refusal to such issuer in writing.

CHAPTER IX

NETTING AND SETTLEMENT

Netting and settlement.

68. (*1*) Notwithstanding anything contained in any other law for the time being in force,—

(a) the settlement of transactions undertaken on a stock exchange or clearing corporation shall be conducted in accordance with the settlement procedure, including netting or gross settlement, as specified in the bye-laws of such stock exchange or clearing corporation, as the case may be, with the prior approval of the Board; and

(b) a settlement, whether gross or net, effected under clause (*a*) shall be final and irrevocable as soon as the money, securities or other assets payable is determined, whether or not such money, securities or other assets are actually paid.

(2) Where a trading member, a clearing member or any of their clients is declared by a court of competent jurisdiction or tribunal as insolvent or is dissolved, wound-up or resolved, or a liquidator, an interim resolution professional, a resolution professional, an administrator, receiver or assignee, by whatever name called, whether provisional or otherwise, is appointed in a proceeding relating to insolvency, resolution or dissolution or winding-up of such member, then,—

(a) any order of adjudication, dissolution, winding-up, or resolution, as the case may be, shall not affect any settlement that has become final and irrevocable under sub-section (*1*); and

(b) the right of a clearing corporation or stock exchange, as the case may be, to appropriate any collaterals or deposits or margins contributed by the said trading member or clearing member or client towards its settlement or other obligations, in accordance with the bye-laws of such stock exchange or clearing corporation, as the case may be, shall remain unaffected.

(3) Where an order referred to in clause (*a*) of sub-section (*2*) is made with respect to a clearing corporation or a stock exchange, as the case may be, then, irrespective of such order or anything in any other law for the time being in force, the payment obligations and settlement instructions between the clearing corporation and the clearing members including those arising from transactions admitted for settlement at a future date, shall be determined forthwith by the clearing corporation, in accordance with the gross settlement or netting procedure, as the case may be, under the bye-laws of such clearing corporation, and such determination shall be final and irrevocable.

(*4*) Notwithstanding anything contained in any other law for the time being in force, any resolution professional, liquidator, administrator, receiver or assignee, by whatever name called, of a clearing corporation, whether appointed provisionally or otherwise, shall—

(a) not re-open any determination that has become final and irrevocable under sub-section (*3*);

(b) after appropriating in accordance with the bye-laws of the clearing corporation, the collaterals provided by the clearing members towards their settlement or other obligations, return the collaterals held in excess to the clearing members concerned; and

(*c*) while distributing any assets, apply the assets in priority against the dues arising out of settlement obligations of the clearing corporation and thereafter apply the assets against third party claims.

Explanation.—For the purposes of this section, the expressions—

(i) "netting" means the determination by a clearing corporation of—

(*A*) net payment;

(B) delivery obligations of the clearing members by setting off;

(C) adjustment of the *inter-se* obligations, claims arising out of buying and selling of securities, including the claims and obligations arising out of the determination by the clearing corporation, a stock exchange, on the insolvency, winding-up, liquidation or resolution of any clearing member, trading member or client; or

(D) such other circumstances of the transactions admitted for settlement at a future date so that only a net claim be demanded, or a net obligation be owed as the clearing corporation may specify in its bye-laws;

(ii) "resolution professional" shall have the same meaning as assigned to it in the Insolvency and Bankruptcy Code, 2016 and "liquidator" shall have the same meaning as assigned to it in the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016.

31 of 2016.
18 of 2013.

Delivery arrangements of contracts in securities.

69. A market infrastructure institution shall implement delivery arrangements in respect of contracts in securities including derivatives, in such form and manner as may be specified by regulations.

Right of a clearing corporation shall have precedence over other right and attachments.

70. Subject to the provisions of the Insolvency and Bankruptcy Code, 2016, the right of a clearing corporation to recover its dues from the clearing members, incurred in discharge of their clearing and settlement functions from the collaterals, deposits and other assets of clearing members held by the clearing corporation for this purpose shall,— 31 of 2016.

(a) in case of insolvency, winding-up, liquidation or resolution, as the case may be, of such clearing member, have precedence over the rights of any other person in such insolvency, winding-up, liquidation or resolution proceedings;

(b) to the extent of the claims of the clearing corporation, have priority over any other attachment by any authority constituted under any law for the time being in force.

CHAPTER X

INVESTOR CHARTER AND INVESTOR GRIEVANCE REDRESSAL MECHANISMS

Investor charter.

71. The Board may make an investor charter which shall provide for the principles for protection of investors and facilitate their participation in the securities markets, and such other matters concerning the investors, in such manner as may be specified by regulations.

Investor grievance redressal mechanism.

72. (*1*) The Board may provide for an investor grievance redressal mechanism and direct securities markets service provider or issuer or its agent to provide for similar mechanisms to receive, monitor and redress investor grievances in such manner and within such period, as may be specified by regulations.

(*2*) Upon receipt of a grievance from an investor as per the mechanism provided under sub-section (*1*), the Board, the securities markets service provider, or the issuer shall, within such period as may be specified by regulations, not exceeding seven days, inform the investor about the receipt of the grievance.

Board to designate Ombudsperson to redress grievances.

73. (*1*) The Board may designate one or more of its officers as Ombudsperson to receive and redress grievances of investors under this Chapter.

(2) The Ombudsperson shall sit at such places having jurisdiction over such areas as the Board may notify in this behalf.

(3) The Ombudsperson shall redress the grievances in such manner, subject to such timelines, as may be specified by regulations.

Procedure for filing of grievance and complaint.

74. (*1*) Any investor aggrieved by the deficiency in services rendered by a securities markets service provider or any act or omission of an issuer, shall resolve his grievance through the investor grievance redressal mechanisms referred to in section 72 within a period of one hundred and eighty days from the date of first filing of such grievance.

(2) If the grievance of investor is not resolved within the period specified above, he may file a complaint in writing with the Ombudsperson within a period of thirty days in such form and manner as may be specified by regulations:

Provided that no complaint shall be maintainable where the investor has initiated a proceeding before any court, tribunal, or authority in respect of a matter which is directly or substantially in issue of such complaint.

Explanation.—For the purposes of this sub-section, the expression "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under this Code, or any rules and regulations made thereunder, or has been undertaken to be performed by a securities markets service provider in pursuance of a contract or otherwise in relation to any service in the securities markets and includes—

(i) any act of negligence or omission or commission by such person which causes loss or injury to the investor; and

(ii) deliberate withholding of relevant information by such person to the investor.

(*3*) Any proceeding before the investor grievance redressal mechanisms under section 72 shall abate on filing of the complaint with the Ombudsperson.

Order of Ombudsperson.

75. (*1*) Where the Ombudsperson is satisfied that the averments contained in the complaint are true, he shall redress the complaint and may, by an order in writing, direct the respondent to—

(*a*) comply with its obligations;

(b) return the fees, charges or such other amount to the complainant, jointly or severally; or

(c) pay such amount as damages to the complainant as may be specified by regulations:

Provided that no order shall be passed unless the complainant and the respondent have been given an opportunity of being heard.

(*2*) Any order made under sub-section (*1*) shall be binding on the complainant and the respondent.

Ombudsperson to inform Board regarding contravention of Code.

76. At the time of redressal of complaint, if the Ombudsperson is of the opinion that the respondent has contravened any of the provisions of this Code or the rules or regulations made thereunder, he may inform the Board of such contravention.

Ombudsperson to have certain powers of civil court.

77. While exercising the powers under this Code, the Ombudsperson shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) discovery and inspection of documents;

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) issuing commissions for the examination of witnesses and compelling production of books of account and other records; and

(d) dismissing an application for default or deciding it *ex parte*.

Orders of Ombudsperson not to bar Board from taking any action.

78. No order made by the Ombudsperson shall bar the Board from taking any other action under this Code.

CHAPTER XI

SECURITIES APPELLATE TRIBUNAL

Securities Appellate Tribunal.

79. The Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 shall be deemed to be the Securities Appellate Tribunal for the purposes of this Code. 15 of 1992.

Composition of Tribunal and its Benches.

80. (*1*) The Tribunal shall consist of a Presiding Officer and such number of Judicial and Technical Members, as the Central Government may by notification determine, to exercise the powers and discharge the functions conferred on the Tribunal under this Code or any other law for the time being in force.

(*2*) Subject to the provisions of this Code,—

(a) the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof;

(b) the Benches of the Tribunal shall ordinarily sit at Mumbai and at such other places as the Central Government may, in consultation with the Presiding Officer, notify;

(c) a Bench may be constituted by the Presiding Officer of the Tribunal with two or more Judicial and Technical Members as he may deem fit:

Provided that every Bench shall consist of at least one Judicial and one Technical Member:

Provided further that in the absence of a Technical Member due to vacancy, a Bench may consist of the Presiding Officer and a Judicial Member.

Explanation.—For the purposes of sub-section (*2*), unless the context otherwise requires, a reference to "Judicial Member" shall also include "Presiding Officer".

(3) Notwithstanding anything contained in sub-section (*2*), the Presiding Officer may transfer a Judicial or a Technical Member from one Bench to another Bench.

Appointment, qualifications, terms and conditions of service of Presiding Officer and Members.

81. (*1*) The appointment, qualifications, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Tribunal shall be governed by the provisions of the law applicable to tribunals and the rules and regulations made thereunder.

Explanation.—For the purposes of sub-section (*1*), unless the context otherwise requires, "Member" means a Judicial Member and a Technical Member.

(2) On the date of commencement of this Code, the Presiding Officer and the Member of the Tribunal, shall continue to hold such office under the corresponding provisions of this Code till the completion of the remainder period, unless removed under the provisions of the law applicable to tribunals and the rules and regulations made thereunder.

(3) A Member of the Board referred to in sub-section (*1*) of section 4, or a member or part-time member of the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority or the International Financial Services Centres Authority, or any person at senior management level equivalent to the Executive Director of the Board or in such Authorities, shall not be appointed as Member of the Tribunal, during his service or tenure as such with the Board or with such Authorities, as the case may be, or within a period of two years from the date on which he ceases to hold office as such in the Board or in such Authorities.

Filling up of vacancies.

82. If any vacancy occurs in the office of the Presiding Officer or any other Member of the Tribunal, the Central Government shall appoint another person in accordance with the provisions of the law applicable to tribunals and the rules and regulations made thereunder to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

Senior-most Judicial Member to act as Presiding Officer in certain circumstances.

83. If any vacancy occurs in the office of the Presiding Officer by reason of his death, resignation or otherwise, the senior-most Judicial Member of the Tribunal shall act as the Presiding Officer until the date on which a new Presiding Officer is appointed and assumes charge.

Officers and employees of Tribunal.

84. (*1*) The Central Government shall provide the Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries, allowances and other conditions of service of the officers and employees of the Tribunal shall be such as may be prescribed.

Appeal to Tribunal.

85. (*1*) Any person aggrieved by,—

(a) an order passed under section 20;

(b) an order passed under sub-section (*1*) of section 21;

(c) an order passed under sub-sections (*2*) and (*4*) of section 27;

(d) an order passed or a decision made under clause (*a*) of sub-section (*1*) of section 29 or sub-section (*1*) of section 38;

(e) an order passed under clause (*b*) of sub-section (*3*) of section 31;

(f) an order passed under sub-section (*1*) of section 75;

(g) an order passed or decision made by any market infrastructure institution; or

(*h*) an order passed by the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority or the International Financial Services Centres Authority,

may prefer an appeal to the Tribunal having jurisdiction in the matter.

(*2*) Without prejudice to the provisions of sub-section (*1*), an appeal may be preferred to the Tribunal in the matter by,—

(a) an issuer aggrieved by the decision of the stock exchange to refuse to list the securities of such company under sub-section (*4*) of section 64; or

(b) an issuer or an investor aggrieved by the decision of the stock exchange delisting the securities under sub-section (*2*) of section 66.

(*3*) Every appeal under sub-sections (*1*) and (*2*) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board, Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority, the International Financial Services Centres Authority, Ombudsperson, adjudicating officer, self-regulatory organisation or market infrastructure institution, as the case may be, is received by the person aggrieved and shall be in such form, manner and be accompanied by such fee as may be prescribed:

Provided that the Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-sections (*1*) and (*2*), the Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order, decision or directions appealed against and provide a copy of such order free of cost to the parties.

(5) The Tribunal may, under sub-section (*4*), grant permission for listing of securities and a stock exchange shall act in conformity with the order of the Tribunal.

(6) The appeal filed under sub-sections (*1*) and (*2*) shall be dealt expeditiously and preferably be disposed of within a period of six months from the date of receipt of the appeal.

Procedure and powers of Tribunal.

86. (*1*) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the provisions of this Code and the rules made thereunder, shall have the powers to regulate its own procedure. 5 of 1908.

(2) The Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(3) Every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 229 and 267, and for the purposes of section 233 of the Bharatiya Nyaya Sanhita, 2023 and the Tribunal shall be deemed to be a civil court for all the purposes of section 215 and Chapter XXVIII of the Bharatiya Nagarik Suraksha Sanhita, 2023. 45 of 2023. 46 of 2023.

(4) The Presiding Officer of the Tribunal may, from time to time make provisions for the distribution of the business of the Tribunal amongst the Benches thereof.

(5) On the application of any of the parties, the Presiding Officer may, after notice to the parties concerned, and after hearing such of them as he may deem fit, or on his own motion without such notice, transfer any case pending before one Bench to any other Bench.

(6) If the Members of a Bench of the Tribunal differs in opinion on any point, such point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ and make a reference of such points to the Presiding Officer of the Tribunal who shall either hear the same himself or refer the case for hearing on such points by one or more of the other Members of the Tribunal and such point or points shall be decided by the majority of the Members of the Tribunal who have heard the case including those who first heard it.

Order constituting Tribunal to be final and not to invalidate its proceedings.

87. No order of the Central Government appointing any person as the Presiding Officer or a Member of the Tribunal shall be called in question in any manner, and no act or proceeding before the Tribunal shall be called in question in any manner on the ground merely of any vacancy or defect in the constitution of the Tribunal, as the case may be.

Right to legal representation.

88. A party may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or advocates or any of its officers to present his case before the Tribunal.

Explanation.— For the purposes of this section, the expressions—

(a) "advocate" shall have the same meaning as assigned to it in clause (*a*) of sub-section (*1*) of section 2 of the Advocates Act, 1961; 25 of 1961.

(b) "chartered accountant" shall have the same meaning as assigned to it in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949;

38 of 1949.

(c) "company secretary" shall have the same meaning as assigned to it in clause (*c*) of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980;

56 of 1980.

(d) "cost accountant" shall have the same meaning as assigned to it in clause (*b*) of sub-section (*1*) of section 2 of the Cost Accountants Act, 1959.

23 of 1959.

Limitation.

89. The provisions of the Limitation Act, 1963, shall, as far as may be, apply to an appeal made to the Tribunal.

36 of 1963.

Presiding Officer, Members and staff of Tribunal to be public servants.

90. The Presiding Officer, Members and other officers and employees of the Tribunal shall be deemed to be public servants within the meaning of clause (*28*) of section 2 of the Bharatiya Nyaya Sanhita, 2023.

45 of 2023.

Appeal to Supreme Court.

91. Any person aggrieved by any decision or order of the Tribunal may file an appeal to the Supreme Court, within a period of sixty days from the date of communication of the decision or order of the Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

CHAPTER XII

PROHIBITION OF FRAUDULENT OR UNFAIR PRACTICES AND MARKET ABUSE

Prohibition of fraudulent or unfair practices.

92. No person shall directly or indirectly commit any of the following fraudulent or unfair practices,—

(*a*) use or employ, in connection with the issue, purchase, sale of or any dealings in securities listed or proposed to be listed on a stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with the issue or dealing in securities which are listed or proposed to be listed on a stock exchange;

(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 or dealing in securities which are listed or proposed to be listed on a stock exchange, in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(d) acquire control of any company or securities more than the specified percentage of equity share capital of a company whose securities are listed or proposed to be listed on a stock exchange in contravention of the regulations made under this Code;

(e) make any false or fraudulent entry in any record or any material and wilful omission of any statement in the record, to be prepared or submitted under the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(f) engage in such other fraudulent or unfair practices in the securities markets as may be specified by regulations.

Prohibition of market abuse.

93. No person shall directly or indirectly commit any of the following acts of market abuse, namely:—

(a) engage in insider trading;

(b) use or employ any device, scheme or artifice to defraud the investors in the securities markets;

(c) deal in securities while in possession of material or non-public information or communicating such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Code or the rules or regulations or bye-laws made thereunder;

(d) publish or cause to publish or report or cause to report by a person dealing in securities, any false or misleading information relating to securities with the intent of artificially inflating, depressing, maintaining or causing fluctuation in the price of, supply of or demand for such securities, or creating a false or misleading impression as to the price of, supply of or demand for such securities;

(e) use its position to inflate, depress, maintain or cause fluctuation in the price of, supply of or demand for securities, or create a false or misleading impression as to the price of, supply of or demand for securities;

(f) place any order in securities, while directly or indirectly in possession of information which is not publicly available, regarding a substantial impending transaction in securities, its underlying or its derivative; or

(g) engage in such other activities as may be specified by regulations which adversely affects the integrity of the securities markets.

CHAPTER XIII

OFFENCES AND PENALTIES

Punishment for failure to comply orders.

94. Without prejudice to the imposition of any penalty under this Chapter, where any person—

(a) fails to comply with an interim order made under sub-section (*2*) of section 27; or

(b) fails to comply with the final order made under section 20,

he shall be punishable with imprisonment for a term which shall not be less than one month but may extend to ten years, or with fine which shall not be less than ten lakh rupees, but may extend to twenty-five crore rupees, or with both.

Punishment for failure to comply with directions of Investigating Officer.

95. Without prejudice to the imposition of any penalty under this Chapter, if any person fails without reasonable cause or refuses—

(a) to preserve and produce any book of accounts, registers, records, information and other documents;

(b) to furnish such statement or undertaking or certificate;

(c) to provide reasonable assistance;

(d) to appear personally and take oath before the Investigating Officer and answer any question put to him during such appearance;

(e) to sign the record of examination,

under sub-sections (*1*) and (*2*) of section 14, he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ten lakh rupees, but may extend to one crore rupees and also with a further fine which may extend to five lakh rupees for each day after the first day during which the failure or refusal continues, or with both.

Punishment for market abuse.

96. Without prejudice to the imposition of any penalty under this Chapter, where any person commits or attempts to commit or abets the commission of market abuse, he shall be punishable with imprisonment for a term which may extend to ten years or with fine which shall not be less than ten lakh rupees, but may extend to twenty-five crore rupees, or with both.

Penalty for failure to do certain acts.

97. If any person—

(a) fails to obtain certificate of registration and sponsors or carries on the activity in the securities markets without such certificate;

(b) fails to comply with the terms and conditions of certificate of registration;

(c) furnishes any false statement for the purpose of opening or operation of an account with a securities markets service provider;

(d) fails to make an application for listing of its schemes as specified in the regulations;

(*e*) fails to refund the application money paid by investors within the period specified in the regulations;

(f) fails to despatch, submit or credit any unit certificates or securities to any investor as specified in the regulations;

(g) fails to furnish or file any information, document, books, returns or report within the period specified therefor in the regulations, to the Board or to a stock exchange, as the case may be;

(h) fails to furnish or files false, incorrect or incomplete information, documents, books, return or any report;

(i) fails to maintain books of account or records;

(*j*) fails to enter into an agreement with its client;

(k) fails without reasonable cause or refuses to produce any record in its custody or power;

(l) fails to comply with the regulations made by the Board or bye-laws of a market infrastructure institution,

he shall be liable to a penalty specified as under,—

(i) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(*ii*) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for default by securities markets service provider.

98. If any securities markets service provider—

(*a*) fails to invest money collected by it in the manner or within the period as specified by regulations;

(*b*) fails to comply with any of the provisions of this Code, the rules or the regulations made thereunder, or directions issued by the Board or the bye-laws of a market infrastructure institution,

it shall be liable to a penalty specified as under,—

(i) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(ii) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for default by stock broker.

99. If any stock broker—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner and within the period as specified by regulations;

(c) fails to segregate securities or money of the client or clients or uses the securities or money of a client or clients for self or for any other client; or

(d) charges an amount of brokerage which is in excess of the brokerage as specified by regulations,

he shall be liable to a penalty specified as under,—

(i) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(ii) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for failure to redress grievances of investors.

100. If any securities markets service provider or any issuer or its agent after being called upon by the Board in writing including by electronic means, to redress the grievances of investors, fails to redress such grievances within the period and manner as specified by regulations, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(b) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for failure to dematerialise certificate of securities.

101. If any issuer or its agent or any intermediary, fails to dematerialise the certificate of securities, within such time period as specified by regulations or bye-laws or delays the process of dematerialisation of securities, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(*b*) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for failure to reconcile records.

102. If any depository or intermediary or any depository participant or its agent or any issuer, fails to reconcile the records of dematerialised securities with all the securities issued by the issuer as specified by regulations, it shall be liable to a penalty specified as under,—

(*a*) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(*b*) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Penalty for other non-compliance of certain provisions.

103. If any person,—

(a) fails to—

(i) disclose the aggregate of its shareholding in the body corporate before it acquires any shares of that body corporate;

(ii) make a public announcement to acquire shares at a minimum price;

(iii) make a public offer by sending letter of offer to the shareholders of the concerned company;

(*iv*) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer;

(v) comply with the final order under section 20;

(vi) comply with an interim order under section 27;

(vii) comply with the provisions of section 52;

(*viii*) comply with the provisions of section 58; or

(*ix*) comply with the orders of the Tribunal under section 85;

(b) without possessing a certificate of registration, represents, behaves, or otherwise holds itself out, in a manner which indicates that it possesses the same;

(*c*) manages, controls, assists or permits a place other than that of a stock exchange to be used for performance of contracts to be recorded or adjusted or rights or liabilities arising out of such contracts in any manner whatsoever, in contravention of the provisions of this Code;

(d) being a member of a stock exchange, settles any transaction of its clients *inter se* with another member or members, without executing such transactions through the stock exchange mechanism;

(e) not being a member of a stock exchange or its agent authorised as such under the bye-laws of such stock exchange,—

(i) wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Code through him;

(ii) canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts;

(f) joins, gathers or assists in gathering any person or persons for making bids or offers or for entering into or performing any contracts at any place other than the place of business specified in the bye-laws of a stock exchange;

(g) enters into any contract in contravention of section 45;

(h) enters into any contract in contravention of section 46;

(i) deals with securities in contravention of section 64;

(j) deals with securities in contravention of section 66;

(k) knowingly alters, conceals, mutilates, destroys or makes a false entry in any information, record (including electronic records), document or any tangible object, so as to impede, obstruct, or influence the examination, inquiry, investigation, audit, inspection, adjudication and a person shall be deemed to have altered, concealed, mutilated, destroyed or falsified such information, record or document if he fails to immediately report the matter to the Board or fails to preserve the same till such information continues to be relevant to any examination, inquiry, inspection, investigation, audit or adjudication, which may be initiated by the Board;

(l) without being authorised to do so,—

(i) access or tries to access, or denies access or modifies access parameters, to the regulatory data in the database;

(ii) downloads, extracts, copies, or reproduces in any form, the regulatory data maintained in the system database;

(iii) knowingly introduces any computer virus or other computer contaminant into the system database and brings out a trading halt;

(iv) disrupts the functioning of system database;

(v) knowingly damages, destroys, deletes, alters, diminishes in value or utility, or affects by any means, the regulatory data in the system database; or

(vi) knowingly provides any assistance to or causes any other person to do any of the acts specified in sub-clauses (*i*) to (*v*).

Explanation.—For the purposes of clause (*l*), the expressions "computer contaminant", "computer virus" and "damage" shall have the same meanings respectively assigned to them in section 43 of the Information Technology Act, 2000; 21 of 2000.

(m) indulges in any fraudulent or unfair practices under section 92;

(n) commits market abuse under section 93;

(o) misuses or makes unauthorised usage of the accounts maintained with the depository,

he shall be liable to a penalty specified as under,—

(i) if the default or contravention results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default or contravention, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(*ii*) if the default or contravention does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty for failure to conduct business in accordance with provisions of Code.

104. If any market infrastructure institution fails to conduct its business with its members or any issuer or its agent or any person associated with the securities markets in accordance with the provisions of this Code or the rules or regulations made thereunder, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(b) if the default does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty for failure to furnish periodical returns, etc.

105. If any market infrastructure institution or any self-regulatory organisation fails or neglects to furnish periodical returns or furnishes false, incorrect or incomplete periodical returns or fails or neglects to make or amend its bye-laws as directed by the Board or fails to comply with directions issued by the Board or the adjudicating officer, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(*b*) if the default does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty for failure to comply with orders of Ombudsperson.

106. If any securities markets service provider or any issuer or its agent fails to comply with the order made by the Ombudsperson under sub-section (*1*) of section 75, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(b) if the default does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty for default by person managing pooled investment vehicle.

107. If a person managing a pooled investment vehicle—

(a) fails to comply with the conditions specified in the listing agreement, listing or delisting conditions or commits a breach thereof;

(b) manipulates the books or financial statements or siphons of public issue proceeds of such entity,

he shall be liable to a penalty specified as under—

(i) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(ii) if the default does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty for excess dematerialisation or delivery of unlisted securities.

108. An issuer who dematerialises securities more than the issued securities of a company or delivers in the stock exchange the securities which are not listed on the stock exchange or delivers securities where no trading permission has been given by the stock exchange, it shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than ten lakh rupees, but may extend to three times the amount of such unlawful gain or loss made by such person as a result of the default, whichever is higher:

Provided that where the higher limit of the penalty as quantified by the adjudicating officer under this clause, is less than one hundred crore rupees, he may, for reasons to be recorded in writing, impose a penalty which may extend to one hundred crore rupees, if sufficient cause exists;

(*b*) if the default does not result in unlawful gain or loss to the person concerned, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than ten lakh rupees, but may extend to one hundred crore rupees.

Penalty where no specific provision for penalty is provided.

109. If any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be liable to a penalty specified as under,—

(a) if the default results in unlawful gain or causes loss to an investor or other persons and such gain or loss is quantifiable, a penalty which shall not be less than one lakh rupees but may extend to three times the amount of such unlawful gain or loss, whichever is higher;

(b) if the default does not result in unlawful gain or loss, or such unlawful gain or loss is not quantifiable for reasons to be recorded in writing, a penalty which shall not be less than one lakh rupees but may extend to one lakh rupees for each day of such default, subject to a maximum of ten crore rupees.

Contravention by companies.

110. (*1*) Where a company contravenes the provisions of this Code or the rules or regulations or orders made thereunder, every officer who, at the time when the contravention was committed, was in-charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against accordingly:

Provided that nothing contained in this section shall render any such person liable for the contravention, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in this section—

(a) an independent director;

(b) a non-executive director not being a promoter or a key managerial personnel,

shall be held liable in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through the process of the Board of Directors, and with his consent or connivance or where he had not acted diligently.

(3) Where a contravention has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer of the company, by whatever name called, such officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against accordingly.

Explanation.—For the purposes of this section, the expressions—

(*a*) "company" means any body corporate and includes a firm or other association of individuals;

(b) "officer", in relation to a—

(i) company, means an officer as defined in clause (*59*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*ii*) limited liability partnership or that of any other firm, shall mean a partner and employee of that firm;

(*iii*) any other body corporate or association of individuals shall mean any manager, secretary or any other employee by whatever name called.

Factors to be considered by adjudicating officer for imposition of penalty.

111. In addition to the factors specified under section 19, the adjudicating officer may also consider the following factors while imposing the penalty under sections 97 to 109,—

(a) the amount required to be disgorged under section 25; and

(b) any aggravating and mitigating circumstances.

Penalty to be credited to Consolidated Fund of India.

112. All sums realised by way of penalty by the Board under this Code shall be credited to the Consolidated Fund of India in such manner as may be prescribed.

CHAPTER XIV

SPECIAL COURTS

Establishment of Special Courts.

113. (*1*) For the purposes of providing speedy trial of offences under this Code, the Central Government may by notification, with the concurrence of the Chief Justice of the High Court concerned, for such area or areas as may be specified therein, establish or designate as many Special Courts as may be necessary:

Provided that any notification issued under section 26A of the Securities Contracts (Regulation) Act, 1956, section 26A of the Securities and Exchange Board of India Act, 1992, and section 22C of the Depositories Act, 1996, establishing or designating Special Courts and in force immediately before the date of commencement of this Code shall, on such commencement, be deemed to have been issued under this section and shall continue to have the same force and effect after such commencement until it is amended, rescinded or superseded under the provisions of this section. 42 of 1956. 15 of 1992. 22 of 1996.

(2) A Special Court shall consist of a single judge and he shall not be qualified for appointment as such, unless he immediately before such appointment, holds the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

(3) When trying an offence under this Code, a Special Court may also try an offence other than an offence under this Code with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023, be charged at the same trial. 46 of 2023.

(4) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, any offence committed under this Code and triable by a Special Court shall, until a Special Court is established or designated, be tried by a Court of Session exercising jurisdiction over the area: 46 of 2023.

Provided that nothing contained in this sub-section shall affect the powers of the High Court under section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to transfer any case or class of cases of which cognizance has been taken by a Court of Session under this section. 46 of 2023.

(5) Where any proceedings under sub-section (*4*) is pending before a Court of Session, such proceedings shall be transferred, heard and disposed of by a Special Court on being established or designated under this Code.

Appeal and revision.

114. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXXI and XXXII of the Bharatiya Nagarik Suraksha Sanhita, 2023 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. 46 of 2023.

Application of Bharatiya Nagarik Suraksha Sanhita to proceedings before Special Court.

115. (*1*) Save as otherwise provided in this Code, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (*v*) of section 2 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

46 of 2023.

(2) The person conducting prosecution referred to in sub-section (*1*) should have been in practice as an advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Central Government or a State Government, requiring special knowledge of law.

(3) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, the Special Court shall take cognizance of an offence without the accused being committed to it for trial and in trying the offence, the Special Court shall hold trial in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 as it applies to a trial before a Court of Session.

46 of 2023.

Cognizance of offences by court.

116. No court shall take cognizance of any offence punishable under this Code, except on a complaint made in writing by the Board, or an officer or a person authorised by it in this behalf.

Compounding of certain offences.

117. (*1*) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and with fine, may either before or after the institution of any proceeding, be compounded by, the Tribunal on such terms and conditions and on payment of such sum as may be prescribed, or a court before which such proceedings are pending:

46 of 2023.

Provided that any offence punishable under this Code shall not be compounded, if the investigation against such person is pending under this Code.

(*2*) Nothing in sub-section (*1*) shall apply to an offence committed by a person within a period of three years from the date on which a similar offence committed by it was compounded under this section.

Explanation.—For the purposes of this sub-section, any subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(*3*) The Tribunal or the court, as the case may be, shall not decide an application under sub-section (*1*), unless the Board has been given an opportunity of being heard in the matter.

(*4*) If any person fails to comply with the decision of the Tribunal or the court, as the case may be, the maximum amount of fine for the offence proposed to be compounded shall be twice the amount provided in the corresponding provisions in which punishment for such offence is provided.

(*5*) Where the compounding of any offence is made by the Tribunal after the institution of any proceedings before the court, such compounding shall be brought to the notice of such court in which the proceeding is pending and on such notice of the compounding of the offence being given, the person in relation to whom the offence is so compounded shall be discharged.

CHAPTER XV

INTER-REGULATORY COORDINATION

Issuance or holding of other regulated instrument.

118. (*1*) The other regulated instrument may be issued through or be held in a depository, under the provisions of any other law for the time being in force or any order or direction issued by other regulatory authority.

(*2*) The Board may, in consultation with the other regulatory authority provide the conditions and procedures relating to the issuance and holding of other regulated instrument through depositories as may be specified by regulations.

Listing and trading of other regulated instrument.

119. (*1*) The Board may permit any other regulated instrument to be listed on a stock exchange, if the listing of such other regulated instrument is permitted by other regulatory authority.

(2) The other regulated instrument which is listed on a stock exchange shall be listed, traded, cleared and settled in accordance with the provisions of this Code and shall be subject to such other conditions as may be specified by regulations in consultation with the other regulatory authority.

(3) Where the other regulated instrument has been permitted to be listed on a stock exchange, the Board and the other regulatory authority may implement such other measures as may be necessary or expedient to facilitate—

(a) interoperability of any platform for the holding or transfer of such other regulated instrument under its jurisdiction with any market infrastructure institution;

(b) its transfer from other platform under the jurisdiction of other regulatory authority to any market infrastructure institution, or *vice-versa*; and

(c) such other measures as may be deemed necessary.

Cooperation between Board and other regulatory authority.

120. The Board may enter into a memorandum of understanding with any other regulatory authority for the purpose of any matter, including the issuance, holding, listing or trading of any other regulated instrument through any market infrastructure institution and sharing of information thereto and on the *inter se* responsibilities between the Board and other regulatory authority.

General conditions for Board and other regulatory authority.

121. The Board and the other regulatory authority while exercising their powers and performing their duties under this Chapter shall—

(a) facilitate investor participation in other regulated instrument, ensure investor protection and promote the orderly development of securities markets;

(b) consult and coordinate to ensure and achieve harmonisation of regulatory action in respect of any other regulated instrument; and

(c) make information available to each other such as issuing, holding, listing, trading and settlement of other regulated instrument in a timely manner.

Board to take action against entity registered with other regulatory authority.

122. (*1*) Where a person registered with the other regulatory authority contravenes any provisions of this Code or the rules or regulations or bye-laws made thereunder, the Board may either on its own motion or upon a reference being made by such other regulatory authority, initiate appropriate proceedings against such person and shall inform such other regulatory authority.

(2) Where the Board is of the opinion that the person referred to in sub-section (*1*) has contravened the provisions of the law under which it is registered, including any rules or regulations or bye-laws made thereunder, it shall inform the other regulatory authority concerned about such contravention for necessary action in accordance with such law.

CHAPTER XVI

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

123. The Central Government may, after due appropriation made by the Parliament by law in this behalf, make grants to the Board of such sums of money as the Central Government may think appropriate for the purposes of this Code.

Fund.

124. (*1*) The Securities and Exchange Board of India General Fund established under section 14 of the Securities and Exchange Board of India Act, 1992, shall be deemed to be the Fund for the purposes of this Code and there shall be credited thereto,—

15 of 1992.

(*a*) all grants, fees and charges received by the Board under this Code;

(b) all sums received by the Board as costs pursuant to an order of a court or Tribunal, as the case may be; and

(c) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied to meet—

(a) the salaries, allowances and other remuneration of the Members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(*c*) the expenses for the purposes of this Code; and

(*d*) the capital expenditure, in accordance with the annual capital expenditure plan approved by the Board.

(3) The Board shall constitute a reserve fund and twenty-five per cent. of the annual surplus of the General Fund in any financial year shall be credited to such reserve fund which shall not exceed the total of annual expenditure of the preceding two financial years.

Explanation.—For the purposes of this sub-section, annual surplus means the sum credited to the General Fund in a financial year under sub-section (*1*) in excess of the sum applied in that financial year for the purposes specified in sub-section (*2*).

(4) The sum credited to the reserve fund shall be utilised for the purposes of meeting the expenses of the Board in the discharge of its functions, as may be decided by the Board.

(5) After crediting the portion of the annual surplus under sub-section (*3*), the remaining annual surplus of the General Fund for that financial year shall be credited to the Consolidated Fund of India.

Investor Protection and Education Fund.

125. (*1*) The Investor Protection and Education Fund established under the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009 shall be deemed to be the Investor Protection and Education Fund for the purposes of this Code and there shall be credited thereto,—

(a) contribution as may be made by the Board to the Investor Protection and Education Fund;

(b) grants and donations to the Investor Protection and Education Fund by the Central Government, State Governments, or such other persons as may be specified by regulations;

(c) amounts disgorged under section 25;

(d) interest or other income received out of any investments made from the Investor Protection and Education Fund; and

(e) such other funds as may be decided by the Board.

(2) The Investor Protection and Education Fund shall be administered and utilised by the Board in such manner as may be specified by regulations for the promotion of education, awareness and protection of investors:

Provided that the disgorged amounts credited under clause (*c*) of sub-section (*1*) and any interest accrued thereto as credited to the Investor Protection and Education Fund, shall be first utilised by the Board for the purpose of making restitution under sub-section (*2*) of section 25, and thereafter, any remaining amount shall be utilised in accordance with this sub-section.

Accounts and audit.

126. (*1*) The Board shall maintain proper accounts and other relevant records, and prepare an annual statement of accounts along with the accounts of the Investor Protection and Education Fund, in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts referred to in sub-section (*1*) shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts referred to in sub-section (*1*) as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government, who shall cause the same to be laid before each House of Parliament.

Returns and reports.

127. (*1*) The Board shall furnish to the Central Government, at such time and in such form and manner, as may be prescribed, or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities markets, as the Central Government may require, from time to time.

(2) Without prejudice to the provisions of sub-section (*1*), the Board shall, after the end of each financial year within a period of ninety days, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policies and programmes during the previous financial year.

(3) A copy of the report received under sub-section (*2*) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER XVII

MISCELLANEOUS

Regulatory sandbox.

128. (*1*) The Board may establish a regulatory sandbox for the development of a new product, contract or service in the securities markets along with any exemptions or modifications, on its own motion or on an application made by any person, in such manner as may be specified by regulations.

(2) If a product, contract or service referred to in sub-section (*1*) falls within the jurisdiction of one or more other regulatory authority, any exemption given or modification made, shall be in consultation with such regulatory authority.

(3) The Board shall, while establishing a regulatory sandbox,—

(*a*) consider the impact of the proposed product, contract or service on the systemic stability of the securities markets, amongst other factors;

(b) ensure that there are adequate safeguards to protect the interests of the investors and recipients of the services; and

(c) specify by regulations the conditions and procedure for making an application for participation in the regulatory sandbox.

National Institute of Securities Markets.

129. (*1*) The National Institute of Securities Markets, a public trust established by the Board shall be deemed to have been established under this Code.

(*2*) The Board shall regulate the National Institute of Securities Markets for capacity building of intermediaries.

Members, officers and employees of Board to be public servants.

130. All Members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Code, to be public servants within the meaning of clause (*28*) of section 2 of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

Power of Central Government to issue directions.

131. (*1*) Without prejudice to the foregoing provisions of this Code, the Board shall, in exercise of its powers or the performance of its duties under this Code, be bound by such directions on questions of policy as the Central Government may give in writing to it, from time to time:

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Board to delegate.

132. The Board may, by general or special order in writing, delegate to any Member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Code, except the powers exercisable under sections 128, 146 and 149, as it may deem necessary.

Power of Central Government to supersede Board.

133. (*1*) If at any time the Central Government is of the opinion that—

(a) on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it, by or under this Code; or

(b) the Board has persistently made default in complying with any directions issued by the Central Government under this Code or in the discharge of the functions and duties imposed on it under this Code and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) circumstances exist which render it necessary in the public interest so to do,

it may, by notification, supersede the Board for such period, not exceeding six months, as may be specified therein.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Board,—

(*a*) all the Members of the Board shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Code, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (*3*), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all the property owned and controlled by the Board shall, until the Board is reconstituted under sub-section (*3*), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may re-constitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (*a*) of sub-section (*2*), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiry of the period of supersession take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Confidentiality to be maintained by Board and its Members.

134. The Board and its Members including its officers and employees, a market infrastructure institution and a self-regulatory organisation including their officers and employees and the members of their governing board, shall maintain confidentiality of any regulatory data and other commercially sensitive information that is obtained or produced in the discharge of their functions under this Code, unless—

(a) any provision of this Code or of any other law for the time being in force permits or requires its publication or disclosure;

(b) the person from whom it was obtained or the person to whom it relates, consents to its disclosure;

(c) such data or information is already available to the public from other sources;

(d) the disclosure enables or assists the Board or the market infrastructure institution concerned or self-regulatory organisation to discharge its functions under this Code; or

(e) the disclosure is directed by a judicial or a quasi-judicial authority having jurisdiction, for the purpose of any proceedings.

Power of Central Government to grant immunity.

135. (*1*) If the Central Government, on the recommendation of the Board, is satisfied, that any person, who is alleged to have contravened the provisions of this Code or the rules or regulations or bye-laws made thereunder, has made a full and true disclosure in respect of the alleged contravention, it may grant to such person, subject to such conditions as it may think fit, immunity from prosecution for any offence or from the imposition of any penalty under this Code with respect to the alleged contravention:

Provided that no immunity shall be granted in such cases where the proceedings have been instituted before the receipt of application for grant of such immunity:

Provided further that the recommendation of the Board shall not be binding upon the Central Government.

(*2*) Any immunity granted to a person under sub-section (*1*) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which it appears to have been guilty in connection with the contravention and shall also be liable to penalty to which such person would have been liable, had such immunity not been granted.

Recovery of amounts.

136. (*1*) If any person fails to—

(a) pay the penalty imposed;

(b) comply with any order of the adjudicating officer for refund of money;

(*c*) pay disgorgement amount;

(d) pay any fees due to the Board;

(e) pay the amount due pursuant to an order passed by an Ombudsperson under this Code,

the Recovery Officer may draw up under his signature a statement in the specified form, referred to as the certificate of recovery, specifying the amount due from the person and shall proceed to recover from such person the amount specified in such certificate by one or more of the following modes, namely:—

(i) attachment and sale of the person's movable property;

(ii) attachment of the person's bank accounts;

(*iii*) attachment and sale of the person's immovable property;

(iv) arrest of the person and his detention in prison;

(v) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 411 to 419 and 421 of the Income-tax Act, 2025 and any rules made under these provisions, in so far as may be, apply with necessary modifications, as if the said provisions and the rules were made under the provisions of this Code and such amount shall be deemed to be the amount due under this Code instead of income-tax under the Income-tax Act, 2025.

30 of 2025.

Explanation.—For the removal of doubts, it is hereby clarified that,—

(a) the person's movable or immovable property or money held in bank account shall include any property or money held in bank account which has been transferred without adequate consideration, directly or indirectly, on or after the date when the amount specified in the certificate had become due, by such person to any other person; and so far as the movable or immovable property or money held in bank account are transferred to a minor child, such property shall, even after the date of attainment of majority by such minor child, continue to be included in the person's movable or immovable property or money held in bank account for recovering any amount due from the person under this Code;

(b) any reference to appeal in Chapter XIX-D of the Income-tax Act, 2025, shall be construed as a reference to appeal before the Tribunal under section 85;

30 of 2025.

(c) the interest referred to in section 411 of the Income-tax Act, 2025 shall be calculated from the date the amount becomes payable by the person;

(d) till the provisions of the Income-tax Act, 2025 come into force, the corresponding provisions of the Income-tax Act, 1961 shall apply.

30 of 2025.

43 of 1961.

(2) The Recovery Officer may seek the assistance of the local district administration including local police while exercising the powers under sub-section (*1*).

(3) The recovery under sub-section (*1*), shall have precedence over any other claim against such person except the claims of secured creditors as defined in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

54 of 2002.

(4) The Recovery Officer may, on his own motion or on a request made by any party, rectify any error apparent on the face of the record in a certificate drawn or an order issued by him, within a period of thirty days from the date of issuance of such certificate or order.

(5) The Recovery Officer while rectifying any error under sub-section (*4*), shall not modify the substantive part of such certificate or order.

Continuance of proceedings.

137. (*1*) On the death of a person, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, had he not died, in the like manner and to the same extent as the deceased:

Provided that the legal representative shall be liable to pay any penalty only in case the penalty has been imposed before the death of the deceased person.

(2) For the purposes of sub-section (*1*), any proceeding for disgorgement, refund or an action for recovery before the Recovery Officer, except a proceeding for levy of penalty,—

(a) initiated against the deceased before his death, shall be deemed to have been initiated against the legal representative and may be continued against such legal representative from the stage at which it stood on the date of the death of the deceased; and

(b) which would have been initiated against the deceased, if he had survived and may be initiated against the legal representative,

and all the provisions of this Code shall apply accordingly.

(3) Every legal representative shall be personally liable for any sum payable by him in his capacity as legal representative if, while his liability for such sum remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(4) The liability of a legal representative shall be limited to the extent to which the estate of the deceased is capable of meeting such liability.

Explanation.—For the purposes of this section, the expression "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued.

Bar of jurisdiction of civil court.

138. (*1*) No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Board, the adjudicating officer, the market infrastructure institution and the Tribunal are empowered by, or under, this Code 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 powers conferred by or under this Code.

(*2*) No order passed by the Board, the adjudicating officer, the Ombudsperson or the market infrastructure institution shall be appealable, except as provided in section 85.

Protection of action taken in good faith.

139. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Board or any officer of the Central Government or any Member referred to in sub-section (*1*) of section 4, officer or other employee of the Board for anything which is done or intended to be done in good faith under this Code or the rules or regulations or bye-laws made thereunder.

30 of 2025.

140. Notwithstanding anything contained in the Income-tax Act, 2025 or any other law for the time being in force relating to tax on income, profit, gains, the Board shall not be liable to pay income-tax, or any other tax in respect of its income, profits or gains derived. Exemption from tax on income.

Explanation.—For the removal of doubts, it is hereby clarified that till the provisions of the Income-tax Act, 2025 come into force, the corresponding provisions of the Income-tax Act, 1961 shall apply.

30 of 2025.
43 of 1961.

141. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Code,— Power of Board not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005;

28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

50 of 2019.

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centres are concerned.

142. The provisions of this Code shall be in addition to, and not in derogation of the provisions of any other law for the time being in force. Application of other laws not barred.

143. (*1*) The provisions of this Code shall not apply to the Central Government, the Reserve Bank, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority referred to in this sub-section: Code not to apply in certain cases.

Provided that the provisions of this Code shall apply to such transactions or securities that are listed or proposed to be listed and to the issuer of such securities.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), if the Central Government is of the opinion that in the interest of trade and commerce or the economic development of the country, it is necessary or expedient so to do, it may notify any class of contracts to which the provisions of this Code shall not apply, subject to such conditions, limitations or restrictions, if any.

144. The Central Government may, by order published in the Official Gazette, direct that the powers except the powers under sections 131, 135 and 145 exercisable by it under this Code shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Board or the Reserve Bank. Power of Central Government to delegate.

145. (*1*) The Central Government may, by notification and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Code for carrying out the purposes of this Code: Power to make rules.

Provided that where the Central Government is of the opinion that the rules are required to be made urgently in public interest, it may, for reasons to be recorded in writing, dispense with the condition of previous publication.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointment of Chairperson and Members under sub-section (*3*) of section 4;

(b) the other terms and conditions under sub-section (*3*) of section 5;

(c) the other functions of the Board under clause (*z*) of sub-section (*2*) of section 11;

(d) the manner of crediting settlement amount to the Consolidated Fund of India under sub-section (*8*) of section 26;

(e) the salaries, allowances and conditions of service of the officers and employees of the Tribunal under sub-section (*3*) of section 84;

(f) the form, manner and fee for filing an appeal under sub-section (*3*) of section 85;

(g) the other matters under clause (*h*) of sub-section (*2*) of section 86;

(h) the manner of crediting all sums realised by way of penalty into Consolidated Fund of India under section 112;

(i) the terms and conditions and the sums payable under sub-section (*1*) of section 117;

(j) the form for maintaining proper accounts, other relevant records and the preparation of annual statement of account alongwith the accounts of the Investor Protection and Education Fund under sub-section (*1*) of section 126;

(k) the time, form and manner of furnishing returns, statements and particulars in regard to any proposed or existing programme for the promotion and development of securities markets under sub-section (*1*) of section 127;

(l) the form for submitting report, giving a true and full account of activities, policies and programmes during the previous financial year under sub-section (*2*) of section 127;

(m) any matter which is to be or may be prescribed or in respect of which provisions is to be made by rules.

Power to make regulations.

146. (*1*) The Board may, by notification make regulations not inconsistent with the provisions of this Code for carrying out the purposes of this Code.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the other services for the purposes of the definition of depository services under sub-clause (*iv*) of clause (*l*) of section 2;

(b) the form of records under clause (*ze*) of section 2;

(c) the time and place, the rules of procedure of transaction of business at the meetings of the Board, including quorum and the manner of maintaining arrangements for recording, safe-keeping and for taking decisions and publication thereof under sub-section (*1*) of section 8;

(d) the direct or indirect interest, including the interest of any family member, under sub-section (*4*) of section 8;

(e) the qualifications, method of recruitment and the terms and conditions of service of officers and employees of the Board under sub-section (*2*) of section 9;

(f) the manner for undertaking inspection of a securities markets service provider, a market participant or any other person associated with the securities markets under section 12;

(g) the manner of seeking assistance by the Board of a securities markets service provider or an expert to assist the Investigating Officer under sub-section (*1*), the form of the order directing investigation under sub-section (*2*), the criteria and manner of quantification of unlawful gains or losses under sub-section (*3*) and the procedure of conducting investigation under sub-section (*5*), of section 13;

(h) the form and manner of serving notice by the Investigating Officer under sub-section (*6*) of section 14;

(i) the rank of officer to be designated as an adjudicating officer under sub-section (*1*) of section 17;

(*j*) the manner for conducting adjudication proceedings under sub-section (*4*) of section 17;

(k) the relevant document and particulars to be enclosed with a show cause notice under sub-section (*1*) of section 18;

(l) the procedure, the criteria for distribution of disgorged amount, the order of priority and the other conditions to provide restitution from the disgorged amount under sub-section (*2*) of section 25;

(m) the conditions, the fee, the time and manner of filing an application for settlement of proceedings initiated or to be initiated under sub-section (*1*), the members, the terms and conditions for constitution of committee for advising the Board under sub-section (*2*), the other factors for settlement proceedings under sub-section (*3*) and the manner for conducting settlement proceedings under sub-section (*6*), of section 26;

(n) the form and manner, the eligibility criteria and fee payable and the period for rectification of the defects in the application for registration under sub-section (*2*) and the form and manner, the terms and conditions and the time period for issuing a certificate of registration and any additional conditions under sub-section (*3*), of section 28;

(o) the form and manner and the conditions for surrendering the certificate of registration under sub-section (*1*), and the period of suspension or cancellation of such certificate and the other grounds for such suspension or cancellation under sub-section (*2*), of section 29;

(p) the class or classes of investors under sub-section (*1*) of section 30;

(q) the manner in which investment schemes shall be conducted, operated or promoted including the matters related to contribution or subscription made by an investor under sub-section (*3*) section 32;

(r) the manner of investment of funds raised or collected under sub-section (*1*), and the manner and extent of borrowing and issuing debt securities by pooled investment vehicles under sub-section (*2*), of section 33;

(s) the manner of facilitating or providing services related to the issue, sale, purchase or any dealings in securities under sub-section (*1*), and the manner and the period within which to charge brokerage, deliver securities and make payment to an investor under sub-section (*2*), of section 34;

(t) the information and the frequency thereof under sub-section (*1*), and the manner of furnishing information by a securities markets service provider, market participant or a person associated with securities markets under sub-section (*2*), of section 35;

(u) the manner and the period to invest money by a securities markets service provider under sub-section (*3*) of section 35;

(v) the form, manner and fee for registration as a market infrastructure institution under sub-section (*2*), and the conditions for the bye-laws of the applicant, the form and other conditions for grant of registration to the applicant and the period for rectification of defects in the application for registration under sub-section (*3*), of section 37;

(w) the manner in which the Board may order to cancel the certificate of registration of market infrastructure institutions under sub-section (*1*) of section 38;

(x) such other matters under clause (*u*) of sub-section (*2*) of section 39;

(y) the mechanisms under sub-section (*2*) of section 41;

(z) the conditions under sub-section (*1*) of section 42;

(*za*) the manner of management of the board of market infrastructure institution under sub-section (*2*), and the manner of demutualisation of market infrastructure institution under sub-section (*3*), of section 42;

(*zb*) the manner of furnishing annual report and other information by market infrastructure institution to the Board under section 43;

(*zc*) the manner of being admitted as member or client of member or principal under sub-section (*1*) of section 52;

(*zd*) the conditions and procedures for issuance and holding of other regulated instrument through depositories under clause (*b*) of sub-section (*1*) of section 54;

(*ze*) the manner of surrender of certificate of security or other regulated instrument under sub-section (*1*), the time period for completion of the process of dematerialisation and informing the depository under sub-section (*2*), and the period for dematerialisation of the certificate of securities under sub-section (*4*), of section 56;

(*zf*) the other particulars to be maintained by depository under section 57;

(*zg*) the rights and obligations of depositories, depository participants and issuers under sub-section (*1*), the eligibility criteria for admission of securities or other regulated instrument on depositories and the manner of holding or transfer of such securities or other regulated instrument under sub-section (*2*), the manner of exercising the rights and interest and any other connected operational or incidental matters under sub-section (*3*), the manner of maintaining records by a depository under sub-section (*4*), and the procedures and good practices under sub-section (*5*), of section 62;

(*zh*) the eligibility criteria and requirements for securities to be offered to public and listed on stock exchange under sub-section (*1*), the conditions to be complied by every issuer intending to offer securities to the public or for listing under sub-section (*2*), the other conditions where securities are listed on stock exchange under sub-section (*3*) and the time period and manner in respect of repayment of all money under sub-section (*4*), of section 64;

(*zi*) the requirements and other matters under sub-section (*1*) of section 65;

(*zj*) the manner of delisting of securities by stock exchange under sub-section (*1*), and the grounds for such delisting under sub-section (*2*), of section 66;

(*zk*) the form and manner for implementing the delivery arrangements by a market infrastructure institution under section 69;

(*zl*) the manner of making the investor charter and such other matters concerning the investors under section 71;

(*zm*) the manner and the period for receiving, monitoring and redressing investor grievance under sub-section (*1*), and the period for informing the investor under sub-section (*2*), of section 72;

(*zn*) the manner and timelines for the grievance redressal under sub-section (*3*) of section 73;

(*zo*) the form and manner of filing a complaint to an Ombudsperson under sub-section (*2*) of section 74;

(*zp*) the amount to be paid to the complainant as damages under clause (*c*) of sub-section (*1*) of section 75;

(*zq*) the other fraudulent or unfair practices in the securities markets under clause (*f*) of section 92;

(*zr*) the other activities which adversely affects the integrity of the securities markets under clause (*g*) of section 93;

(*zs*) the conditions and procedures relating to the issuance and the manner of holding of other regulated instrument through depositories under sub-section (*2*) of section 118;

(*zt*) the other conditions for listing, trading, clearance and settlement of other regulated instrument on a stock exchange under sub-section (*2*) of section 119;

(*zu*) such other persons under clause (*b*) of sub-section (*1*) and the manner of administration and utilisation of the Investor Protection and Education Fund under sub-section (*2*), of section 125;

(*zv*) the manner of establishing a regulatory sandbox under sub-section (*1*) and the conditions, and procedure in respect of a regulatory sandbox under clause (*c*) of sub-section (*3*), of section 128;

(*zw*) the manner and conditions of issuing subsidiary instructions under sub-section (*1*) of section 149;

(*zx*) the manner of the constitution of Advisory Committees under section 150;

(*zy*) such other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Process of issuing regulations.

147. (*1*) The Board shall ensure transparency while making regulations by—

(a) publishing draft regulations along with such other details on its website, inviting public comments for a specific period prior to issuing regulations;

(b) publishing a general statement of its response to the public comments, not later than the date of notification of the regulations;

(*c*) periodically reviewing such regulations.

(*2*) Notwithstanding anything contained in sub-section (*1*), where the Board is of the opinion that the regulations are required to be made urgently in public interest, it may, for reasons to be recorded in writing, dispense with the condition of publication of draft regulations.

Rules, regulations, bye-laws and subsidiary instructions to be laid before Parliament.

148. Every rule, regulation and bye-law made and subsidiary instruction issued under this Code shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or regulation or bye-law or subsidiary instruction or both Houses agree that the rule or regulation or bye-law or subsidiary instruction should not be made or issued, such rule or regulation or bye-law or subsidiary instruction shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or bye-law or subsidiary instruction.

Subsidiary instructions.

149. (*1*) The Chairperson individually or with a whole-time Member; or two whole-time Members of the Board may, issue subsidiary instructions in such manner and subject to such conditions as may be specified by regulations for the following purposes, namely:—

(a) clarifying the ambiguity in any regulation, if any; and

(b) laying down any procedural requirement ancillary to any regulation:

Provided that before making such instructions, the concerned Advisory Committee constituted under section 150 may be consulted, if necessary.

(*2*) Any contravention of the subsidiary instructions shall amount to contravention of the regulations it relates to.

Advisory Committees.

150. The Board may constitute one or more Advisory Committees, in such manner as may be specified by regulations, to advise it on—

(a) matters relating to the making of subsidiary instructions under section 149; and

(b) any other issue relating to the administration of this Code:

Provided that the advice of or consultation with an Advisory Committee shall not be binding on the Board.

Power to remove difficulties.

151. (*1*) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the date of commencement of this Code.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

152. (*1*) The Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996 are hereby repealed: 42 of 1956. 15 of 1992. 22 of 1996.

Provided that sub-sections (*1*) and (*2*) of section 3 and section 15K of the Securities and Exchange Board of India Act, 1992 shall continue to apply as if that Act has not been repealed. 15 of 1992.

(*2*) Notwithstanding such repeal,—

(a) if, immediately before the commencement of this Code, there is any inspection or investigation, application, adjudication, trial or appeal pending, then such inspection, investigation, application, adjudication, trial or appeal shall be made or held or continued or disposed of, as the case may be, in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996, as in force immediately before such commencement (hereinafter referred to as the repealed enactments), as if this Code had not come into force; 42 of 1956. 15 of 1992. 22 of 1996.

(b) anything done or any action taken or purported to have been done or taken, including any rule, notification, regulation, scheme, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given shall, in so far as it is not inconsistent with the provisions of this Code, be deemed to have been done or taken under the corresponding provisions of this Code;

(c) any order, rule, notification, regulation, circular, guideline, scheme appointment, conveyance, mortgage, deed, registration, recognition, document or agreement made or issued, fee directed, resolution passed, direction given, proceeding initiated, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Code have effect as if the aforementioned Acts have not been repealed;

(d) any principle or rule of law or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;

(e) any person appointed under the provisions of the repealed enactments and holding office as such immediately before the commencement of this Code, shall, on such commencement continue to hold his office under the corresponding provisions of this Code, unless removed or superannuated;

(f) all funds constituted and established under the repealed enactments shall be deemed to be the funds constituted or established under the corresponding provisions of this Code and all money in such funds shall be treated accordingly; and

(g) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing, not in existence or in force shall not be revised or restored.

(3) The mention of particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of such repeal.

10 of 1897.

References to repealed enactments.

153. Any references in any other enactment or in any instrument to—

(a) the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 and the Depositories Act, 1996; or

42 of 1956. 15 of 1992. 22 of 1996.

(*b*) any rules or regulations or bye-laws made, or any circulars, schemes, orders or guidelines issued thereunder,

shall unless a different intention appears, be construed as a reference to the corresponding provisions of this Code, the rules, regulations or bye-laws made, or orders issued or subsidiary instruction issued thereunder.

Explanation.—For the purposes of this section, any references to,—

(a) "participant" as defined under clause (*g*) of sub-section (*1*) of section 2 of the Depositories Act, 1996, shall mean a depository participant under the provisions of this Code;

22 of 1996.

(b) "recognised stock exchange" defined under clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956, shall mean "stock exchange" as defined under clause (*zn*) of section 2 of this Code; or

42 of 1956.

(c) "rules or bye-laws" in relation to the stock exchanges shall mean "bye-laws" as defined under clause (*e*) of section 2 of this Code.

CHAPTER XVIII

AMENDMENTS TO CERTAIN ACTS

Amendment of Act 12 of 1974.

154. The Economic Offences (Inapplicability of Limitation) Act, 1974 shall be amended in the manner provided in the First Schedule.

Amendment of Act 15 of 2003.

155. The Prevention of Money-laundering Act, 2002 shall be amended in the manner provided in the Second Schedule.

Amendment of Act 17 of 2018.

156. The Fugitive Economic Offenders Act, 2018 shall be amended in the manner provided in the Third Schedule.

Amendment of Act 32 of 2023.

157. The Mediation Act, 2023 shall be amended in the manner provided in the Fourth Schedule.

THE FIRST SCHEDULE

(*See* section 154)

AMENDMENT TO THE ECONOMIC OFFENCES (INAPPLICABILITY OF LIMITATION) ACT, 1974

(12 OF 1974)

In the Economic Offences (Inapplicability of Limitation) Act, 1974, in the Schedule, after Entry 26, the following entry shall be inserted, namely:—

"27. The Securities Markets Code, 2025.".

THE SECOND SCHEDULE

(*See* section 155)

AMENDMENT TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

(15 OF 2003)

In the Prevention of the Money-laundering Act, 2002, in Part A of the Schedule, for Paragraph 11, the following paragraph shall be substituted, namely:—

"PARAGRAPH 11

OFFENCES UNDER THE SECURITIES MARKETS CODE, 2025

Section	Description of offence
93 read with 96	Prohibition of market abuse. Punishment for market abuse.
94	Punishment for failure to comply with orders.".

THE THIRD SCHEDULE

(*See* section 156)

AMENDMENT TO THE FUGITIVE ECONOMIC OFFENDERS ACT, 2018

(17 OF 2018)

In the Fugitive Economic Offenders Act, 2018, in the Schedule, for Entry VIII, the following entry shall be substituted, namely:—

"VIII.	Offences under the Securities Markets Code, 2025.
93 read with 96	Prohibition of market abuse. Punishment for market abuse.
94	Punishment for failure to comply with orders.".

THE FOURTH SCHEDULE

(*See* section 157)

AMENDMENT TO THE MEDIATION ACT, 2023

(32 OF 2023)

In the Mediation Act, 2023, in the First Schedule, for Entry 11, the following entry shall be substituted, namely:—

"11. Proceedings before the Board and the Securities Appellate Tribunal under the Securities Markets Code, 2025.".

STATEMENT OF OBJECTS AND REASONS

The sound regulation of securities markets is imperative as such markets are instrumental for effective mobilization of capital for productive investments, wealth creation and protection of investors' confidence.

2. The extant laws relating to the securities markets are primarily (*i*) the Securities Contracts (Regulation) Act, 1956 (42 of 1956) enacted to prevent undesirable transactions in securities by regulating the business of dealings therein; (*ii*) the Securities and Exchange Board of India Act, 1992 (15 of 1992) providing for the establishment of the Securities and Exchange Board of India (the "Board") as the primary regulator for the securities markets to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market; and (*iii*) the Depositories Act, 1996 (22 of 1996) that provides for regulation of depositories in securities. As these laws were enacted decades ago, a review was required to reform the extant legislative framework to align with the evolving regulatory practices, latest developments in technology and the changing character of securities markets.

3. The Securities Markets Code, 2025 seeks to repeal the aforesaid three Acts, rationalises and consolidates the existing provisions and provides a modern regulatory framework for investor protection and capital mobilisation at a scale commensurate with the emerging needs of the fast-growing Indian economy. The Code endeavours to build a principle based legislative framework to reduce compliance burden, improve regulatory governance and enhance dynamism of the technology driven securities markets. The language of the Code has been simplified to remove obsolete and redundant concepts, to duplication of provisions and incorporate consistent regulatory procedures for standard processes, and to ensure a uniform and streamlined framework of Securities Laws. The Code is expected to further develop the financial sector in general and securities markets in particular and make India self-reliant in terms of mobilising capital for productive investment.

4. The Code seeks to strengthen the regulatory mechanism of the "Board" by providing a transparent and consultative process for issuing any subordinate legislation. It also requires periodic review of such regulations for their proportionate and effective implementation and regulatory impact assessment studies. The Code seeks to eliminate conflict of interest by requiring the Members of the "Board" to disclose any "direct or indirect" interest while participating in decision-making. It enables the "Board" to maintain a reserve fund and transfer the surplus, if any, to the Consolidated Fund of India. It streamlines the adjudication procedure and ensures that all quasi-judicial actions are undertaken through a single adjudication process after an appropriate fact-finding exercise. The Code maintains an arm's length separation between inspection or investigation and adjudication proceedings and defines timelines for investigations and interim orders for a time-bound completion of the enforcement process.

5. As a significant progressive step, the Code decriminalises certain contraventions of minor, procedural and technical nature into civil penalties to facilitate the ease of doing business and to reduce the compliance burden. The civil penalties are anchored to unlawful gains or losses caused with a view to ensure appropriate and adequate response to the gravity of the contraventions. It promotes standardisation in quantifying unlawful gains and losses to investors and fosters objectivity in undertaking enforcement actions like penalty imposition. However, punishment for market abuse is provided to deter persons from committing contraventions that adversely affect the market integrity. Further, the Code provides restriction period for initiating inspection or investigation to avoid delayed enforcement measures.

6. The Code further seeks to strengthen investor protection, promote investor education and awareness, and ensure effective and time-bound redressal of investor grievances. It enables effective and prompt resolution of investor grievances by introducing the concept of an Ombudsperson as a comprehensive platform for redressal of any unresolved grievances. The Code also enables the Board to establish a Regulatory Sandbox to facilitate innovation in financial products, contracts and services. Furthermore, an enabling framework is established for the inter-regulatory coordination of other regulated instruments to facilitate a seamless process for listing of such instruments.

7. The Code also proposes to amend the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), the Prevention of Money-laundering Act, 2002 (15 of 2003), the Fugitive Economic Offenders Act, 2018 (17 of 2018) and the Mediation Act, 2023 (32 of 2023) in the manner provided in the Schedules annexed to the Code.

8. The Notes on Clauses explain in detail the various provisions contained in the Bill.

9. The Bill seeks to achieve the above objectives.

NEW DELHI; NIRMALA SITHARAMAN.

The 15*th December*, 2025.

Notes on clauses

Clause 1 of the Bill provides for the short title extent and commencement of the Code.

Clause 2 of the Bill provides for definition of various terms and expressions used in the proposed legislation.

Clause 3 of the Bill provides for the Securities and Exchange Board of India established and incorporated under section 3 of the Securities and Exchange Board of India Act, 1992, shall be the Board for the purposes of this Code.

Clause 4 of the Bill provides for the composition of the Board.

Clause 5 of the Bill provides for the terms and conditions of service of the Chairperson and Members of the Board.

Clause 6 of the Bill provides for the circumstances for removal of Chairperson and Member of the Board.

Clause 7 of the Bill provides for the management of the Board by its Board of Members and the Chairperson.

Clause 8 of the Bill provides for conduct of the meetings of the Board, including the requirement to disclose any direct and indirect interest including the interest of a family member as specified in the regulation.

Clause 9 of the Bill provides for appointment of officers and employees by the Board.

Clause 10 of the Bill provides that the vacancy or defect in the constitution of the Board or appointment of Members or irregularity in procedure shall not invalidate an act or proceedings of the Board.

Clause 11 of the Bill provides that the Board shall protect the interest of investors in securities and promote the development of, and regulate the securities markets, by such measures as it may deem fit, subject to the provisions of this Code. It also provides for specific powers and functions to be exercised or performed by the Board.

Clause 12 of the Bill provides for the powers and functions of the Board to inspect a securities markets service provider, a market participant or any other person associated with securities markets in such manner as may be specified by regulations.

Clause 13 of the Bill provides for the powers and functions of the Board relating to investigations.

Clause 14 of the Bill provides for general powers and obligations of the Investigating Officer and also imposes obligations on a person under investigation.

Clause 15 of the Bill provides for powers related to search and seizure in relation to the investigation conducted by the Investigating Officer.

Clause 16 of the Bill restricts the initiation of inspection and investigation after eight years, except in specific circumstances. It also specifies how to calculate the eight year period for different types of defaults or contravention in other circumstances.

Clause 17 of the Bill provides for the designation of the adjudication officer, once the inspection or investigation is completed, and where the Board is of the opinion that adjudication is required. It further provides for disqualification of certain persons from being appointed as an adjudicating officer to ensure the separation of functions.

Clause 18 of the Bill provides for that once the adjudicating officer is designated, the adjudicating officer shall issue a show cause notice containing the relevant details for the notice and the noticee shall reply in writing along with evidence in support; or else the adjudicating officer may proceed to adjudicate the matter *ex parte*. Further, the adjudicating officer is vested with the powers of a civil court.

Clause 19 of the Bill provides a list of factors that shall guide the adjudicating officer in determining the appropriate action to be taken in a matter, including its severity.

Clause 20 of the Bill provides for the final order to be passed in adjudication of a show cause notice. The adjudicating officer may either dismiss the show cause notice or pass a common order comprising one or more of the actions listed in this provision.

Clause 21 of the Bill empowers the Board to revise the final order passed by the adjudicating officer, to increase the quantum of penalty and the severity of the direction, where the adjudicating officer has decided to take those actions.

Clause 22 of the Bill empowers the adjudicating officer or the Board to rectify an order for typographical or other inadvertent errors, without modifying the substantive part of the order.

Clause 23 of the Bill provides for the power of the adjudicating officer to issue directions or warnings as part of the final order, where the grounds mentioned in sub-section (*1*) are satisfied.

Clause 24 of the Bill empowers the adjudicating officer to issue cease and desist orders, pending adjudication or on completion thereof final order.

Clause 25 of the Bill provides for the power of the adjudicating officer to disgorge an amount equivalent to the unlawful gains made by the default or contravention. It also enables the Board to provide restitution to persons affected by the default or contravention if certain conditions are fulfilled, in accordance with the procedure specified by the Board.

Clause 26 of the Bill provides for the settlement of administrative and civil proceedings. It also enables SEBI to consider a settlement application by persons seeking to voluntarily disclose true and vital information which may amount to a contravention.

Clause 27 of the Bill provides the power to pass interim orders after the initiation of the inspection and investigation and before the completion of adjudication. It further provides that the person concerned shall be given an opportunity of being heard before an interim order is issued against him; provided, this requirement may be dispensed with in case of urgency if the conditions for issuing an interim order are met. It also provides that the interim order shall remain valid for a period not more than one hundred eighty days which can be extended as per sub-section (*4*). It also provides for extension of the interim order up to two years.

Clause 28 of the Bill provides for mandatory registration requirements for intermediaries, self-regulatory organisations and sponsors of pooled investment vehicles and investment schemes in the securities markets.

Clause 29 of the Bill provides for the procedures for surrender, suspension and cancellation of registration of intermediaries and other persons holding a certificate of registration under clause 28 and the powers of the adjudicating officer to cancel the registration or suspend it for the period specified by the regulations.

Clause 30 of the Bill provides for the Board to specify by regulations a class or classes of investors to be registered with it.

Clause 31 of the Bill provides for the delegation of powers of registration by the Board in respect of any class or classes of intermediaries or investors to a market infrastructure institution or a self-regulatory organisation.

Clause 32 of the Bill provides for the provisions in relation to investment schemes with different characteristics and the schemes which shall not be treated as investment schemes.

Clause 33 of the Bill provides for the pooled investment vehicles to mean a fund that is established for investment scheme in the form of trust etc., and various provisions for the same.

Clause 34 of the Bill provides for the provisions in relation to intermediaries which shall provide services related to the issue, sale, purchase or any dealings in securities.

Clause 35 of the Bill provides for the obligation of securities markets service providers to make fair disclosure of such information and at such frequency as may be specified by regulations.

Clause 36 of the Bill provides for the Board to approve the governing norms of a self-regulatory organisation.

Clause 37 of the Bill provide for the mandatory registration requirements for market infrastructure institutions to carry out business in the securities markets.

Clause 38 of the Bill provides for cancellation of registration or suspension of business of market infrastructure institutions in the interest of trade or public interest. It further provides that no cancellation of registration or suspension of business shall be made without giving an opportunity of being heard to the applicant.

Clause 39 of the Bill empowers market infrastructure institutions to make bye-laws and specifies the details therein to be included in the bye-laws.

Clause 40 of the Bill provides the power of the Board to direct bye-laws to be made or to make such bye-laws.

Clause 41 of the Bill provides that where a member contravenes a bye-law of a market infrastructure institution, the market infrastructure institution may, by an order, take measures against such members.

Clause 42 of the Bill provides certain ownership norms for, and the manner of management of, market infrastructure institutions.

Clause 43 of the Bill provides that a market infrastructure institution shall furnish a copy of its annual report and such other information in such manner as may be specified by regulation, to the Board.

Clause 44 of the Bill empowers the Central Government, on the recommendation of the Board, to supersede the governing board of a market infrastructure institution or a self-regulatory organisation.

Clause 45 of the Bill provides the circumstances in which the contracts for or relating to the purchase or sale or any dealings in securities shall be illegal.

Clause 46 of the Bill provides that contracts shall be legal and valid if they are made in accordance with the provisions of the Code and any rules or regulations or bye-laws made thereunder and are traded on a stock exchange or settled by a clearing corporation in accordance with the regulations made by the Board in this behalf.

Clause 47 of the Bill provides that any contract which is in contravention of any bye-laws of a stock exchange specified on that behalf, shall be void.

Clause 48 of the Bill lists certain types of contracts which shall not be deemed to be illegal or require prior permission of the Board.

Clause 49 of the Bill empowers the Central Government to notify for commodity in respect of which a derivatives may be entered into or made by any person.

Clause 50 of the Bill empowers the Central Government in the public interest or trade to regulate and control non-transferable specific delivery contracts in commodity or securities, etc., to declare by notification for the applicability of provision of this Code for such class or classes of non-transferable specific delivery contracts and spot delivery contracts for the sale or purchase of such securities.

Clause 51 of the Bill provides for the prohibition of organising or to become member of any association or entity without any registration regarding performance of contracts in securities.

Clause 52 of the Bill prohibits persons to deal in securities through market infrastructure institutions without being a member or a principal.

Clause 53 of the Bill provides the provisions in relation to title to dividends and income from securities.

Clause 54 of the Bill provides for the powers of the Board in respect of depository services.

Clause 55 of the Bill provides for that securities and other regulated instruments in depositories shall be in a dematerialised and fungible form.

Clause 56 of the Bill provides for the process of dematerialisation in respect of securities and other regulated instruments held by depositories by surrendering the certificate of securities and other regulated instruments.

Clause 57 of the Bill provides for the requirements relating to the maintenance of the register and index of beneficial owners by a depository.

Clause 58 of the Bill provides for the manner of registration of the transfer of a security or other regulated instrument in the name of the transferee which shall be the conclusive proof of title of the transferee over such security or other regulated instruments.

Clause 59 of the Bill provides for the manner of creation of a pledge or hypothecation in respect of securities and other regulated instruments through a depository by the beneficial owner by the previous approval of the depository.

Clause 60 of the Bill provides for every depository to furnish information and records and cast duty on issuer to deposit the copy of all relevant records.

Clause 61 of the Bill provides for the rights of registered owners and the beneficial owner in respect of securities or other regulated instruments held by a depository.

Clause 62 of the Bill provides for the obligations of a depository in respect of the securities or other regulated instruments held by it. It further provides the eligibility criteria for admission of securities and the manner of holding the same and to maintain records of beneficial owner.

Clause 63 of the Bill provides the application of the Bankers' Books Evidence Act, 1891 in relation to a depository as if it were a bank as defined in section 2 of that Act.

Clause 64 of the Bill provides that no securities shall be offered to the public or listed on a Stock Exchange without fulfilling the eligibility criteria.

Clause 65 of the Bill empowers the Board to specify by regulations, the listing and disclosure requirements for issuers. It further provides that the Central Government may by notification in the public interest, exempt any listed public sector company from the requirements.

Clause 66 of the Bill enables the issuer to apply to the Stock Exchange to delist its securities. It further provides that the stock exchange may also on its own delist the securities of an issuer subject to giving an opportunity of hearing to the issuer.

Clause 67 of the Bill provides that the stock exchange may refuse to list or delist the securities of an issuer with reasons.

Clause 68 of the Bill provides for the manner of netting and settlement of transactions undertaken on a stock exchange or clearing corporation.

Clause 69 of the Bill provides for the Market Infrastructure Institution to implement delivery arrangements in respect of contracts of securities as per the regulations.

Clause 70 of the Bill provides precedence over other attachments to dues to be recovered by a clearing corporation in furtherance of its clearing and settlement functions.

Clause 71 of the Bill empowers the Board to specify by regulations, an investor charter providing principles for the protection of investors and facilitation of their participation in the securities markets and such other matters concerning the investors.

Clause 72 of the Bill provides for the Board to specify by regulation an investor grievance redressal mechanism and also direct a securities markets service provider and an issuer to provide investor grievance redressal mechanisms.

Clause 73 of the Bill empowers the Board to designate one or more of its officer as an Ombudsperson to receive and redress the grievances of investors.

Clause 74 of the Bill provides that the investor shall first resolve his grievance through the investor grievance redressal mechanisms referred to in section 72 within a period of one hundred and eighty days from the date of first filing of such grievance in any of these mechanisms. It further provides that if the grievance is not resolved within this period, the investor may choose to continue the resolution through these mechanisms or, within thirty days after the completion of this period, file a complaint with the Ombudsperson. It also provides an explanation to explain the meaning of deficiency in service. It also provides that a complaint cannot be filed before the Ombudsperson if a person has initiated a proceeding under any other law in respect of a matter that is directly or substantially in issue in such a complaint.

Clause 75 of the Bill provides that the Ombudsperson may pass an order to direct the respondent to comply with its obligation; return the fee; pay damages; etc., to the complainant after giving him an opportunity of being heard and such order shall be binding to both the parties.

Clause 76 of the Bill provides that while redressing a complaint, if the Ombudsperson is of the opinion that the respondent has contravened any provisions of the Code or the rules or regulations made thereunder, he may inform the Board of such contravention.

Clause 77 of the Bill provides that the Ombudsperson shall have certain powers of a civil court.

Clause 78 of the Bill provides that any order of an Ombudsperson shall not prevent the Board from taking any other action under the Code.

Clause 79 of the Bill provides that the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 shall be the Securities Appellate Tribunal, for the purposes of the Code.

Clause 80 of the Bill provides for the composition of the Tribunal and its Benches.

Clause 81 of the Bill provides for the appointment, qualifications, terms and conditions of service of the Presiding Officer and other Members of the Tribunal as per the applicable law. It further provides that on the date of commencement of the Code, the Presiding Officer and the Member of the Tribunal shall continue in their office till the remaining period of the tenure unless removed under the provisions of the applicable law.

Clause 82 of the Bill provides for the filling up of the vacancies in the office of the Presiding Officer or any other Member of the Tribunal.

Clause 83 of the Bill provides for the senior-most Judicial Member to act as Presiding Officer in case of vacancy in his office.

Clause 84 of the Bill provides for the officers and employees of the Tribunal. It further provides the officers and employees shall discharge their function under the General Superintendence of the Presiding Officer. It also provides that the Central Government may by rules provides for their salaries, allowance and other condition of service.

Clause 85 of the Bill provides for the appeal to the Tribunal. It provides for the orders or decisions against which an appeal can be made to the Tribunal. It further provides that the appeal may be filed within a period of fourty-five days from the date of order made to the Board. It also provides a proviso empowering the Tribunal to entertain an appeal beyond the said period with sufficient reasons.

Clause 86 of the Bill provides the powers of the Tribunal that of a civil court and shall follow the principle of natural justice. It further provides that proceeding before the Tribunal shall be deemed to a judicial proceeding within the meaning of Bharatiya Nyaya Sanhita, 2023. It also provides for various provisions of Presiding Officer.

Clause 87 of the Bill provides for that the order constituting the Tribunal shall be final and vacancies or defects in the constitution of the Tribunal, will not invalidate proceedings of the Tribunal.

Clause 88 of the Bill provides for the right to legal representation of a party before the Tribunal, either by itself or through persons authorised by such party.

Clause 89 of the Bill provides for the applicability of the provisions of the Limitation Act, 1963, as far as they apply to an appeal made to the Tribunal.

Clause 90 of the Bill provides that the Presiding Officer, Members and other officers and employees of the Tribunal be deemed as "public servants" within the meaning of clause (*28*) of section 2 of the Bharatiya Nyaya Sanhita, 2023.

Clause 91 of the Bill provides for the appeal to the Supreme Court within a period of sixty days from the date of communication of the decision or orders of the Tribunal by any aggrieved person. It further provides that the Supreme Court may entertain an appeal after the period of sixty days with sufficient cause.

Clause 92 of the Bill lists certain prohibited practices and dealings in securities which pertain to fraudulent or unfair practices such as use of any manipulative or deceptive device in connection with issue, purchase, sale or any dealing in securities; defraud in connection with issue or dealing in securities; make any false or fraudulent entry in any record; etc.

Clause 93 of the Bill lists certain grave acts which adversely affect the integrity of the market which are categorised as market abuse such as engage in insider trading, deal in securities while in possession of material or non-public information, place any order in securities while directly or indirectly in possession of information which is not publicly available, etc.

Clause 94 of the Bill provides for imprisonment for a term which shall not be less than one month but may extend to ten years or with fine of not less than ten lakh rupees but may extend to twenty-five crore rupees or both, if a person fails to comply with the interim order or the final order made under Chapter III.

Clause 95 of the Bill provides for the punishment for failure to comply with the directions of the Investigating Officer.

Clause 96 of the Bill provides for the imprisonment for a term which shall not be less than one month but may extend to ten years or with fine of not less than ten lakh rupees but may extend to twenty-five crore rupees or both, if any person contravenes, attempts to contravene, or abets the commission of market abuse.

Clause 97 of the Bill provides for the penalty for failure in obtaining certificates of registration, failure to furnish correct information or documents, etc. It further provides a monetary range for defaults or contraventions mentioned under sections 97 to 102 and section 109, within which the adjudicating officer shall impose an appropriate penalty while passing the final order for respective default or contravention. It also provides that the minimum penalty amount that should be imposed is fixed, the maximum penalty amount that can be imposed is linked to unlawful gains made by the defaulter or contravener, or loss caused to an investor or other persons and such quantification will depend on the facts and circumstances of each matter, and the criteria and manner for quantifying unlawful gains and losses will be specified in the regulations to ensure uniformity and certainty. It also provides that in cases where the unlawful gains or losses caused are not quantifiable, the maximum penalty amount is specifically provided.

Clause 98 of the Bill provides for the penalty for failure to invest the money collected by a securities markets service provider. It further provides that person who fails to comply with any provisions of this code, rules or regulations made thereunder or directions issued by the board or the bye-laws of a market infrastructure institution.

Clause 99 of the Bill provides for the penalty for contravention by stock brokers.

Clause 100 of the Bill provides for the penalty for failure to redress the grievances of investors.

Clause 101 of the Bill provides for the penalty for failure to dematerialise certificates of securities.

Clause 102 of the Bill provides for the penalty for failure to reconcile the records of dematerialised securities with all the securities issued by the issuer as per the regulations.

Clause 103 of the Bill provides for the penalty for other non-compliances. It provides a higher monetary range for defaults or contraventions mentioned under sections 103 to 108, within which the adjudicating officer shall impose an appropriate penalty while passing the final order for the respective default or contravention. It further provides that while the minimum penalty amount that should be imposed is fixed, the maximum penalty amount that can be imposed is linked to unlawful gains made by the defaulter or contravener, or loss caused to an investor or other persons. It also provides that such the quantification will depend on the facts and circumstances of each matter, and the criteria and manner for quantifying unlawful gains and losses will be specified in the regulations to ensure uniformity and certainty. It also provides that in case of these severe defaults or contraventions; there may be circumstances where the quantifiable unlawful gains or losses are relatively small. and the adjudicating officer may impose a higher penalty. It also provides that in cases where the unlawful gains or losses caused are not quantifiable, the maximum penalty amount is specifically provided.

Clause 104 of the Bill provides a penalty for failure of a market infrastructure institution to conduct its business in accordance with the provisions of this Code.

Clause 105 of the Bill provides a penalty for failure to furnish periodical returns, etc., by any market infrastructure institution or any self-regulatory organisation.

Clause 106 of the Bill provides a penalty for failure to comply with orders of an Ombudsperson.

Clause 107 of the Bill provides a penalty for default by persons managing a pooled investment vehicle.

Clause 108 of the Bill provides for a penalty for dematerialisation of securities in excess of the issued securities of a company or delivery of unlisted securities.

Clause 109 of the Bill is a residuary penalty provision for contraventions where no separate penalty is provided under the Code.

Clause 110 of the Bill provides for the liability of certain persons where a company commits a contravention, whether or not it results in a penalty or punishment. It further clarifies the extent of liability for independent and non-executive directors of a company in such circumstances and aligns it with the Companies Act, 2013.

Clause 111 of the Bill specifies the additional factors for imposition of penalty under sections 97 to 109. In addition to the factors mentioned in clause 19, the adjudicating officer shall also take into account—(*a*) the amount required to be disgorged and (*b*) any aggravating and mitigating circumstances. Disgorgement restores the noticee to its pre-contravention position, while penalties are imposed to ensure effective deterrence. When both actions are being undertaken, the adjudicating officer will harmonise the total monetary liability to serve these distinct objectives.

Clause 112 of the Bill provides for crediting all sums realised by way of penalties by the Board to the Consolidated Fund of India.

Clause 113 of the Bill provides for the establishment or designation of Special Courts for the trial of offences under the Code.

Clause 114 of the Bill provides for the appeals and revisions from the Special Court to the High Court concerned.

Clause 115 of the Bill provides that subject to certain exceptions, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall apply to the proceedings before the Special Court.

Clause 116 of the Bill provides that a court can take cognizance of an offence under the Code only upon written complaint made by the Board, or an officer or person authorised by it.

Clause 117 of the Bill provides for the compounding of offences under the Code by court or Tribunal, as the case may be. It provides that the offences under the Code may be compounded by—(*i*) the Tribunal, either before or after the proceedings related to such offences are instituted before the court, or (*ii*) the court, before which such proceedings are pending. It further provides that a person cannot apply for compounding of an offence committed by him within a period of three years from the date on which a similar offence committed by him was compounded under this section.

Clause 118 of the Bill provides for the manner in which other regulated instruments would be issued or held through depositories. It further provides that the Board may in consultation with other regulatory authority specify the conditions and procedure of issuance and holding of other regulated instrument through depositories.

Clause 119 of the Bill provides for the manner of listing and trading of other regulated instruments. It also provides that the other regulated instruments which is listed on a stock exchange shall be listed, traded, cleared and settled in accordance with the provisions of this Code and shall be subject to other conditions that are specified by the Board in consultation with other regulated authority.

Clause 120 of the Bill enables the Board to enter into a memorandum of understanding with other regulatory authority for various purposes.

Clause 121 of the Bill provides for the general conditions applicable on the Board and other regulatory authority, while exercising their powers or performing their functions under this Chapter such as to facilitate investor participation, ensure investor protection, promote the orderly development of securities markets, etc.

Clause 122 of the Bill empowers the Board to take action against a person who are registered with other regulatory authority in case of contravention of the provisions of the Code. It also provides that where the Board is of the opinion that such person has contravened the provisions of the law under which it is registered, it shall inform the concerned other regulatory authority about the contravention for taking appropriate action.

Clause 123 of the Bill provides for grants by the Central Government to the Board.

Clause 124 of the Bill provides that the General Fund, established under section 14 of the Securities and Exchange Board of India Act, 1992, shall be deemed to be the Fund for the purposes of the Code.

Clause 125 of the Bill provides that the Investor Protection and Education Fund established under the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009 shall be deemed to be the Investor Protection and Education Fund for the purposes of the Code.

Clause 126 of the Bill provides for the Board to maintain accounts and audit of the accounts by the Comptroller and Auditor-General of India.

Clause 127 of the Bill provides for furnishing of returns and reports by the Board to the Central Government within the period of ninety days after the end of each previous financial year. It also provides that a copy of the report shall be laid before each House of Parliament.

Clause 128 of the Bill provides the establishment of a regulatory sandbox for development of new products, contracts, or services in the securities markets.

Clause 129 of the Bill provides for the regulation of the National Institute of Securities Markets for capacity building of intermediaries.

Clause 130 of the Bill provides that the Members, officers and employees of the Board to be public servants.

Clause 131 of the Bill provides for the power of the Central Government to issue directions to the Board.

Clause 132 of the Bill provides for the delegation of certain powers by the Board except the powers under sections 128, 146 and 149.

Clause 133 of the Bill empowers the Central Government to supersede the Board for the circumstances mentioned therein. It further empowers the Central Government to take over all powers and functions of the Board on being superseded which shall be exercised by such persons as the Central Government may direct. It also empowers the Central Government to reconstitute the Board by fresh appointment.

Clause 134 of the Bill provides for the requirement to maintain confidentiality of the regulatory data under the Code by the Board (its officers, employees) and its Members, a market infrastructure institution and a self-regulatory organisation (including their officers, employees and the members of their governing boards).

Clause 135 of the Bill empowers the Central Government, on the recommendation of the Board, to grant immunity to any person who is alleged to have contravened the provision of this Code or rules, regulations or bye-laws made thereunder subject to conditions mentioned therein.

Clause 136 of the Bill provides for the procedure for recovery of amounts in case of failure by any person by various mode provided therein.

Clause 137 of the Bill provides for the continuance of proceedings under the Code after the death of a person.

Clause 138 of the Bill provides for the bar of jurisdiction of courts in certain cases in respect of quasi-judicial proceedings under the Code.

Clause 139 of the Bill provides for the protection from the legal proceeding to the Central Government or any of its officers or the Board, any member of the Board or its officers and employees for any action taken in good faith.

Clause 140 of the Bill provides for an exemption to Board from paying certain taxes.

Clause 141 of the Bill provides that the power of the Board does not apply to the International Financial Services Centre.

Clause 142 of the Bill provides provisions of this Code shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Clause 143 of the Bill provides that the Code will not apply in certain cases.

Clause 144 of the Bill empowers the Central Government to delegate its powers under the Code except the powers under sections 131,135 and 145.

Clause 145 of the Bill empowers the Central Government to make rules under the Code for various provisions enumerated therein. It further provides that the Central Government shall, before making any rules, comply with the condition of previous publication. It also empowers the Central Government to dispense with the requirements of previous publication in case of urgency in the public interest, for reasons to be recorded in writing.

Clause 146 of the Bill provides for the power of the Board to make regulations. In addition to the general powers of the Board to make regulations for carrying out the purposes of this Code, this provision provides a list of subject matter for which the specifications shall be through regulations.

Clause 147 of the Bill provides the procedure for issuing regulations by the Board. The Board shall, before making a regulation, invite public comment on the draft of the regulations. It further provides that the Board will provide an appropriate, reasonable period for inviting public comments and will also give a general statement of its response to the public comments. It also provides that this requirement may be dispensed with in case of urgency in the public interest, for reasons to be recorded in writing. It also provides that the Board shall periodically review the regulations made by it.

Clause 148 of the Bill provides that the rules, regulations, bye-laws and subsidiary instructions made under this Code be laid before the Parliament.

Clause 149 of the Bill provides the manner of issuing subsidiary instructions by the Board that clarify existing regulations or define the procedures ancillary to a regulation. It further provides that a subsidiary instruction can be issued by—(*i*) the Chairperson, individually or with a whole-time Member, or (*ii*) two whole-time Members. It also provides that the Board will also specify the manner and conditions for issuing subsidiary instructions.

Clause 150 of the Bill provides for the constitution of the Advisory Committees by the Board. It further provides that the Board may consult the Advisory Committee if it considers it necessary. It also provides that such consultation or advice shall not be binding.

Clause 151 of the Bill empowers the Central Government by order to remove difficulties that may arise in giving effect to the provisions of the Code. It further provides that no order shall be made after the expiry of a period of three years.

Clause 152 of the Bill provides for the repeal and savings of the existing enactments governing the securities markets and facilitates the transition from such repealed enactments to the provisions of the Code.

Clause 153 of the Bill provides that any reference to repealed enactments to be construed as a reference to the Code and the corresponding provisions.

Clause 154 of the Bill provides that the Economic Offences (Inapplicability of Limitation) Act, 1974 be amended in the manner provided in the First Schedule to align with the provisions of the Code.

Clause 155 of the Bill provides that the Prevention of Money-laundering Act, 2002 be amended in the manner provided in the Second Schedule to align with the provisions of the Code.

Clause 156 of the Bill provides that the Fugitive Economic Offenders Act, 2018 shall be amended in the manner provided in the Third Schedule to align with the provisions of the Code.

Clause 157 of the Bill provides that the Mediation Act, 2023 shall be amended in the manner provided in the Fourth Schedule to align with the provisions of the Code.

FINANCIAL MEMORANDUM

The Securities Markets Code, 2025, if enacted, is not likely to involve any expenditure, either recurring or non-recurring, from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clause (*1*) of clause 145 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (*2*) of the said clause specifies the matters in respect of which such rules may be made. These matters, *inter alia*, includes—

(*a*) the manner of appointment of Chairperson and Members under sub-section (*3*) of section 4; (*b*) the other terms and conditions of service of Chairperson and members under sub-section (*3*) of section 5; (*c*) the other functions of the Board under clause (*z*) of sub-section (*2*) of section 11; (*d*) the manner of crediting settlement amount to the Consolidated Fund of India under sub-section (*8*) of section 26; (*e*) the salaries, allowances and conditions of service of the officers and employees of the Tribunal under sub-section (*3*) of section 84; (*f*) the form, manner and fee for filing an appeal under sub-section (*3*) of section 85; (*g*) the other matters under clause (*h*) of sub-section (*2*) of section 86; (*h*) the manner of crediting all sums realised by way of penalty into Consolidated Fund of India under section 112; (*i*) the terms and conditions and the sums payable under sub-section (*1*) of section 117; (*j*) the form for maintaining proper accounts, other relevant records and the preparation of annual statement of account along with the accounts of the Investor Protection and Education Fund under sub-section (*1*) of section 126; (*k*) the time, form and manner of furnishing returns, statements and particulars in regard to any proposed or existing programme for the promotion and development of securities markets under sub-section (*1*) of section 127; (*l*) the form for submitting report, giving a true and full account of activities, policies and programmes during the financial year under sub-section (*2*) of section 127; (*m*) any matter which is to be or may be prescribed or in respect of which provisions is to be made by rules.

2. Sub-clause (*1*) of clause 146 of the Bill empowers the Board to make regulations for carrying out the provisions of the proposed legislation. Sub-clause (*2*) of the said clause specifies the matters in respect of which such regulations may be made. These matters, *inter alia*, includes—

(*a*) the other services for the purposes of the definition of depository services under sub-clause (*iv*) of clause (*l*) of section 2; (*b*) the form of records under clause (*ze*) of sub-section (*1*) of section 2; (*c*) the time and place, the rules of procedure of transaction of business at the meetings of the Board, including quorum and the manner of maintaining arrangements for recording, safe-keeping and for taking decisions and publication thereof under sub-section (*1*) of section 8; (*d*) such direct or indirect interest, including the interest of any family member, under sub-section (*4*) of section 8; (*e*) the qualifications, method of recruitment and the terms and conditions of service of officers and employees of the Board under sub-section (*2*) of section 9; (*f*) the manner for undertaking inspection of a securities markets service provider, a market participant or any other person associated with the securities markets under section 12; (*g*) the manner of seeking assistance by the Board of a securities markets service provider or an expert to assist the Investigating Officer under sub-section (*1*), the form of the order directing investigation under sub-section (*2*), the criteria and manner of quantification of unlawful gains or losses under sub-section (*3*) and the procedure of conducting investigation under sub-section (*5*), of section 13; (*h*) the form and manner of serving notice by the Investigating Officer under sub-section (*6*) of section 14; (*i*) the rank of officer to be designated as an adjudicating officer under sub-section (*1*) of section 17; (*j*) the manner for conducting adjudication proceedings under sub-section (*4*) of section 17; (*k*) the relevant document and particulars to be enclosed with a show cause notice under sub-section (*1*) of section 18; (*l*) the procedure, the criteria for distribution of disgorged amount,

the order of priority and the other conditions to provide restitution from the disgorged amount under sub-section (*2*) of section 25; (*m*) the conditions, the fee, the time and manner of filing an application for settlement of proceedings initiated or to be initiated under sub-section (*1*), the members, the terms and conditions for constitution of committee for advising the Board under sub-section (*2*), the other factors for settlement proceedings under sub-section (*3*) and the manner for conducting settlement proceedings under sub-section (*6*), of section 26; (*n*) the form and manner, the eligibility criteria and fee payable and the period for rectification of the defects in the application for registration under sub-section (*2*) and the form and manner, the terms and conditions and the time period for issuing a certificate of registration and any additional conditions under sub-section (*3*), of section 28; (*o*) the form and manner and the conditions for surrendering the certificate of registration under sub-section (*1*), and the period of suspension or cancellation of such certificate and the other grounds for such suspension or cancellation under sub-section (*2*), of section 29; (*p*) the class or classes of investors under sub-section (*1*) of section 30; (*q*) the manner in which investment schemes shall be conducted, operated or promoted including the matters related to contribution or subscription made by an investor under sub-section (*3*) or section 32; (*r*) the manner of investment of funds raised or collected under sub-section (*1*), and the manner and extent of borrowing and issuing debt securities by pooled investment vehicles under sub-section (*2*), of section 33; (*s*) the manner of facilitating or providing services related to the issue, sale, purchase or any such dealings in securities under sub-section (*1*), and the manner and the period within which to charge brokerage, deliver securities and make payment to an investor under sub-sections (*2*), of section 34; (*t*) the fair disclosure of information and the frequency thereof under sub-section (*1*) and, the manner of furnishing information by a securities markets service provider, market participant or a person associated with securities markets under sub-section (*2*), of section 35; (*u*) the manner and the period to invest money by a securities markets service provider under sub-section (*3*) of section 35; (*v*) the form, manner and fee for registration as a market infrastructure institution under sub-section (*2*) and, the conditions for the bye-laws of the applicant, the form and other conditions for grant of registration to the applicant and the period for rectification of defects in the application for registration under sub-section (*3*), of section 37; (*w*) the manner in which the Board may order to cancel the certificate of registration of market infrastructure institutions under sub-section (*1*) of section 38; (*x*) such other matters under clause (*u*) of sub-section (*2*) of section 39; (*y*) the mechanisms under sub-section (*2*) of section 41; (*z*) the conditions under sub-section (*1*) of section 42; (*za*) the manner of management of the board of market infrastructure institution under sub-section (*2*) and the manner of demutualisation of market infrastructure institution under sub-section (*3*) of section 42; (*zb*) the manner of furnishing annual report and other information by market infrastructure institution to the Board under section 43; (*zc*) the manner of being admitted as member or client of member or principal under sub-section (*1*) of section 52; (*zd*) the conditions and procedures for issuance and holding of other regulated instrument through depositories under clause (*b*) of sub-section (*1*) of section 54; (*ze*) the manner of surrender of certificate of security or other regulated instrument under sub-section (*1*), the time period for completion of the process of dematerialisation and informing the depository under sub-section (*2*), and the period for dematerialisation of the certificate of securities under sub-section (*4*), of section 56; (*zf*) the other particulars to be maintained by depository under section 57; (*zg*) the rights and obligations of depositories, depository participants and issuers under sub-section (*1*), the eligibility criteria for admission of securities or other regulated

instrument on depositories and the manner of holding or transfer of such securities and other regulated instrument under sub-section (*2*), the manner of exercising the rights and interest and any other operational or incidental matters under sub-section (*3*), the manner of maintaining records by a depository under sub-section (*4*), and the procedures and good practices under sub-section (*5*), of section 62; (*zh*) the eligibility criteria and requirements for securities to be offered to public and listed on stock exchange under sub-section (*1*), the conditions to be complied by every issuer intending to offer securities to the public or for listing under sub-section (*2*), the other conditions where securities are listed on stock exchange under sub-section (*3*) and the time period and manner in respect of repayment of all money under sub-section (*4*), of section 64; (*zi*) the requirements and other matters under sub- section (*1*) of section 65; (*zj*) the manner of delisting of securities by stock exchange under sub-sections (*1*) and the grounds for such delisting under sub-section (*2*), of section 66; (*zk*) the form and manner for implementing the delivery arrangements by a market infrastructure institution under section 69; (*zl*) the manner of making the investor charter and such other matters concerning the investors under section 71; (*zm*) the manner and the period for receiving, monitoring and redressing investor grievance under sub-section (*1*) and the period for informing the investor under sub-section (*2*), of section 72; (*zn*) the manner and timelines for the grievance redressal under sub-section (*3*) of section 73; (*zo*) the form and manner of filing a complaint to an Ombudsperson under sub-section (*2*) of section 74; (*zp*) the amount to be paid to the complainant as damages under clause (*c*) of sub-section (*1*) of section 75; (*zq*) the other fraudulent or unfair practices in the securities markets under clause (*f*) of section 92; (*zr*) the other activities which adversely affects the integrity of the securities markets under clause (*g*) of section 93; (*zs*) the conditions and procedures relating to the issuance and the manner of holding of other regulated instrument through depositories under sub-section (*2*) of section 118; (*zt*) the other conditions for listing, trading, clearance and settlement of other regulated instrument on a stock exchange under sub-section (*2*) of section 119; (*zu*) the grants and donations to other persons under clause (*b*) of sub-section (1) and the manner of administration and utilisation of the Investor Protection and Education Fund under sub-section (*2*), of section 125; (*zv*) the manner of establishing a regulatory sandbox under sub-section (*1*) and the conditions and procedure for making an application under clause (*c*) of sub-section (*3*), of section 128; (*zw*) the manner and conditions of issuing subsidiary instructions under sub-section (*1*) of section 149; (*zx*) the manner of the constitution of Advisory Committees under section 150; (*zy*) such other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

3. Sub-clause (*1*) of clause 39 of the Bill empowers a market infrastructure institution to make bye-laws for carrying out the provisions of the proposed legislation. Sub-clause (*2*) of the said clause enumerates the matters in respect of which such bye-laws may be made which includes—

(*a*) the appropriate mechanisms for safeguarding the interests of any investors in securities and beneficial owners thereof; (*b*) the manner of holding, custody, pledging, hypothecation, lending, borrowing, issue, transfer, trading, transmission, conversion, transformation, consolidation, switching, clearing, delivery, settlement and other dealings in securities; (*c*) the risk management and abuse prevention measures such as imposition of margins, position and price limits, circuit breakers, collateral management, auction of short positions, order restrictions, account suspensions, server placement and

other technical requirements; (*d*) the particular bye-laws, the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under section 47; (*e*) the terms and conditions for accessing any services provided by the market infrastructure institution; (*f*) the listing of securities, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in securities; (*g*) the procedure for disbursing of interest, dividend, bonus and other monetary benefits arising from the holding, transfer, or any dealings in securities; (*h*) the norms of fair and time-bound disclosure of material information by issuers; (*i*) the internal control standards such as audits, review and monitoring; (*j*) the *inter-se* rights and obligations of members and market participants; (*k*) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and the conditions relating thereto, and the forms of contracts in writing; (*l*) the content, form and manner of executing member-client agreements; (*m*) the measures relating to regulation of fees charged by members, dealings by members for their own account, maintenance of separation of client funds and securities; (*n*) the process of accrediting or empanelling persons providing services in connection with any dealings in securities; (*o*) the procedure for conveying information to members and market participants; (*p*) the levy and recovery of fees and penalties; (*q*) the conduct of inspections, filing of information and such other matters in relation to regulation of its members; (*r*) the obligations of members to supply such information or explanation and to produce such documents relating to their business as may be sought by the market infrastructure institution; (*s*) the procedure for the settlement of claims or disputes or grievances including settlement by mediation or arbitration including through electronic means; (*t*) the manner of conducting proceedings against the members and market participants for committing breach of the bye-laws and provisions for suspension, expulsion of members and market participants and cancellation of agreements with the market infrastructure institution; (*u*) other matters as may be specified by regulations; (*w*) sub-section (5) of section 39 empowers the Board to make bye-laws over the matter enumerated under sub-section (2) thereof.

4. The matters in respect of which rules, regulations, subsidiary instructions or bye-laws, may be made or issued under the aforesaid provisions are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE ECONOMIC OFFENCES (INAPPLICABILITY OF LIMITATION) ACT, 1974

(12 OF 1974)

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THE SCHEDULE

(*See* section 2)

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26. The Goods and Services (Compensation to States) Act, 2017 (15 of 2017).

EXTRACT FROM THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

(15 OF 2003)

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THE SCHEDULE

[*See* section 2(*y*)]

PART A

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PARAGRAPH 11

OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(15 OF 1992)

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial.
24	Acquisition of securities or control.

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EXTRACT FROM THE FUGITIVE ECONOMIC OFFENDERS ACT, 2018

(17 OF 2018)

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THE SCHEDULE

[*See* section 2(*l*) and (*m*)]

VIII. Offences under the Securities and Exchange Board of India Act, 1992 (15 of 1992)

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.
24	Offences for contravention of the provisions of the Act.

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EXTRACT FROM THE MEDIATION ACT, 2023

(32 OF 2023)

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THE FIRST SCHEDULE

(*See* section 6)

DISPUTES OR MATTERS NOT FIT FOR MEDIATION

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11. Proceedings before the Securities and Exchange Board of India, and the Securities Appellate Tribunal, under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

* * * * *

LOK SABHA

A

BILL

to consolidate and amend the laws relating to the securities markets and for matters connected therewith or incidental thereto.

(*Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs*)

LOK SABHA

CORRIGENDUM

to

The Securities Markets Code, 2025

[*To be/As introduced in Lok Sabha*]

S. No.	Page No.	Line(s) No.	For	Read
1.	Page 59, against line 39,- insert marginal citation "30 of 2025."			

NEW DELHI;

December 17, 2025
Agrahayana 26, 1947 (Saka)