

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS

LOK SABHA

UNSTARRED QUESTION NO. 4109

TO BE ANSWERED ON FRIDAY, 10TH AUGUST, 2018 / SHRAVANA 19, 1940 (SAKA)

CHECK FINANCIAL FRAUDS

QUESTION

4109. SHRI CHANDRAKANT KHAIRE:

Will the Minister of Finance be pleased to state:

- (a) whether Securities and Exchange Board of India proposes new rules for auditors and valuers to check financial frauds;
- (b) if so, the details thereof;
- (c) whether provision for punishment is likely to be made under the new rules; and
- (d) if so, the details thereof?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI PON. RADHAKRISHNAN)

(a) & (b): On July 13, 2018 SEBI has issued a Consultative Paper on proposed SEBI (Fiduciaries in the Securities Market) (Amendment) Regulations which has been uploaded on the SEBI website for seeking public comments.

The said Amendment Regulations proposes to bring amendment in various Regulations concerning the entities not registered with SEBI and who undertake third party fiduciary duty or assignment or engagement under the securities laws, in respect of any Issuer, Listed Companies, Pooled Investment Vehicle, Restructuring, Intermediaries, Market Infrastructure Entities or investors in the securities and issues any certificate, report etc. The fiduciary has been defined to include Chartered Accountants, Company Secretaries, Cost Accountants, Valuers, Monitoring Agencies, etc. It has been proposed that such a fiduciary shall ensure that the certificates, reports etc. issued by it are true in all material respects. These requirements would be in addition to their obligations under the respective laws.

These provisions which would require fiduciary to ensure that the certificates, reports etc. which are required to be issued by it under securities regulations are true in all material respects.

These Regulations seeks to ensure compliance with securities regulations by these entities.

(c) & (d): In the said consultation paper, SEBI has proposed to clarify that the Board, if after making or causing to be made an inquiry or investigation, is satisfied that the fiduciary has submitted false certificate or report, or has violated any of the provisions of SEBI regulations, the Board may take appropriate action under the concerned securities laws or regulations, against the fiduciary, its engagement partner or director, as the case may be.

Under the existing Securities Laws, depending on the nature of violations, SEBI may inter alia initiate actions under Section 11, 11B of SEBI Act for issuing appropriate directions, Adjudication Proceedings for imposing monetary penalty and/or institute Prosecution.
