SEBI

Subject – 1.2.6. Capital Markets
For M.A. (Corporate Law) & Adv. Diploma (Corporate Law)
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SEBI

- The Securities and Exchange Board of India was constituted as a non-statutory body on April 12, 1988 through a resolution of the Government of India. The Securities and Exchange Board of India was established as a statutory body in the year 1992 and the provisions of the Securities and Exchange Board of India Act, 1992 (15 of 1992) came into force on January 30, 1992.

Securities

- As per SC(R) Act, 1956 - “securities”— include
- (i) shares, scrips, stocks, bonds, debentures, 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];
- (ia) derivative;
- (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- (ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (id) units or any other such instrument issued to the investors under any mutual fund scheme;
- (ida) units or any other instrument issued by any pooled investment vehicle;
- (ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;
- (ii) Government securities;
- (iia) such other instruments as may be declared by the Central Government to be securities; and
- (iii) rights or interest in securities;

Preamble of SEBI Act,1992

- An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental ther

SEBI

- Source of Power – Legislation
  - SEBI Act,1992
  - SC (R) Act, 1956
  - Depositories Act, 1996
  - Companies Act, 2013
- Duty/Obligation/Function

CHAPTER IV
POWERS AND FUNCTIONS OF THE BOARD

- Read with preamble gives ample space to regulate.
- SEBI Website
- Cross-Sector Regulator?
- Overlap of Jurisdiction

Role of SEBI

- Legislates – Makes rules, regulations etc
- Investigates
- Penalises
- Quasi-Judicial?
- Ensures the Punishment – Ex. Cease & Desist

- Should there be any checks and balances?

SAT

- Securities Appellate Tribunal
- Section 15K
- Mumbai
- Powers of Civil Court
- Appeal
  - hear and dispose
  - orders passed by SEBI, AO,
- Insurance, Pension Funds
- SEBI is check?

Any other way forward?

- Report of the Financial Sector Legislative Reforms Commission 2013
- At present, India has a legacy financial regulatory architecture. The present work allocation, between RBI, SEBI, Insurance Regulatory and Development Authority (IRDA), Pension Fund Regulatory and Development Authority (PFRDA) and Forward Markets Commission (FMC), was not designed.
- The existing SEBI, FMC, IRDA and PFRDA will be merged into a new unified agency
- The existing Securities Appellate Tribunal (SAT) will be subsumed into the FSAT.

Thank You