PROFESSIONAL OPPORTUNITIES IN SECURITIES LAW

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Introduction

A security is a fungible, negotiable instrument representing financial value. Securities are broadly categorized into debt securities (such as banknotes, bonds and debentures) and equity securities, e.g., common stocks; and derivative contracts, such as forwards, futures, options and swaps.

Under Section 2(h) of the Securities Contracts (Regulation) Act,1956 - Securities includes:

- shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- derivative;
- units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- 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;

- units or any other such instrument issued to the investors under any mutual fund scheme;
- 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 maybe
- Government securities;
- such other instruments as may be declared by the Central Government to be securities;
- rights or interest in securities

These securities are traded on a stock exchange. A Stock Exchange is any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation, or a body corporate incorporated under the Companies Act, 1956 whether under a scheme of corporatisation and demutualisation or otherwise - for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.

<u>Professional Opportunities in Securities Market</u>

In the capital market scenario, Intermediaries, Investors, Issuers, Corporate and Regulatory Authority relies largely on skills of the Chartered Accountants in discharging their respective obligations to the investors.

Roles the chartered accountant plays in the capital market include:

- Investment advisor
- Profiling and Positioning of the business
- As an intermediary in the capital market themselves
- Institutional Sales
- Assist as a regulator working for SEBI or Stock Exchanges
- Policymaking, monitoring, review, surveillance and investigation.
- Formulating Financial Strategy and efficient capital structure
- Undertaking Due Diligence in a company’s IPO process
- Portfolio Structuring and management
- Financial Services Marketing
- Market Analysis
- Auditor
- Developing capital market communications

- Risk management
- Investment Banker
- Fund Manager
- Equity Trader
- Dealer
- Research Analyst
- Valuation

<u>Overview of Financial System and its Constituents</u>

The term "finance" in our simple understanding it is perceived as equivalent to 'Money'. But finance exactly is not money, it is the source of providing funds for a particular activity. Thus public finance does not mean the money with the Government, but it refers to sources of raising revenue for the activities and functions of a Government.

Providing or securing finance by itself is a distinct activity or function, which results in Financial Management, Financial Services and Financial Institutions. Finance therefore represents the resources by way funds are needed for a particular activity. We thus speak of 'finance' only in relation to a proposed activity. Finance goes with commerce, business, banking etc. Finance is also referred to as "Funds" or "Capital", when referring to the financial needs of a corporate body.

A financial system or financial sector functions as an intermediary and facilitates the flow of funds from the areas of surplus to the areas of deficit. A Financial System is a composition of various institutions, markets, regulations and laws, practices, money manager, analysts, transactions and claims and liabilities.

The word "system", in the term "financial system", implies a set of complex and closely connected or interlined institutions, agents, practices, markets, transactions, claims, and liabilities in the economy. The financial system is concerned about money, credit and finance-the three terms are intimately related yet are somewhat different from each other.

Financial System of India (or any country) consists of financial markets, financial intermediation and financial instruments or financial products.

A. FINANCIAL MARKETS

A Financial Market can be defined as the market in which financial assets are created or transferred. As against a real transaction that involves exchange of money for real goods or services, a financial transaction involves creation or transfer of a financial asset. Financial Assets or Financial Instruments represents a claim to the payment of a sum of money sometime in the future and /or periodic payment in the form of interest or dividend.

Money Market- The money market is a wholesale debt market for low-risk, highly-liquid, short-term instrument. The money market deals in money and short term financial assets that are as liquid as money or which can be readily converted into cash. Funds are available in this market for periods ranging from a single day up to a year. The Indian money market consists of both formal and informal segments.

Capital Market - The capital market is designed to finance the long-term investments. The transactions taking place in this market will be for periods over a year.

Components of Capital Market:
1. The primary market - where new issues are distributed to investors ; and
2. The secondary market- where existing securities are traded.

All Initial Public Offerings comes under the primary market and all market transactions other than initial public offerings are dealt in secondary market. Secondary market refers to a market where securities are traded after being initially offered to the public in the primary market and/or listed on the Stock Exchange. Secondary market comprises of equity markets and the debt markets.

Forex Market - The Forex market deals with the multicurrency requirements, which are met by the exchange of currencies. Depending on the exchange rate that is applicable, the transfer of funds takes place in this market. This is one of the most developed and integrated market across the globe.

Credit Market- Credit market is a place where banks, FIs and NBFCs purvey short, medium and long-term loans to corporate and individuals.

Regulation:

The Reserve Bank of India (RBI), the Government of India (Ministry of Finance) and Securities and Exchange Board of India (SEBI) are the three major institutions which regulate the various aspects of capital market and money market.

While the capital market consists of primary market (issue of securities by companies) and secondary market (buying and selling on the stock exchange), SEBI regulates the securities market and its various intermediaries including the stock exchanges, the Ministry of Finance and Reserve Bank of India regulate the money market through the mechanism of budget, statutory liquidity ratio and cash reserve ratio and periodical credit policies.

B. FINANCIAL INTERMEDIATION

Having designed the instrument, the issuer should then ensure that these financial assets reach the ultimate investor in order to garner the requisite amount. When the borrower of funds approaches the financial market to raise funds, mere issue of securities will not suffice. Adequate information of the issue, issuer and the security should be passed on to take place. There should be a proper channel within the financial system to ensure such transfer. To serve this purpose, **Financial intermediaries** came into existence.

Financial intermediation in the organized sector is conducted by a wide range of institutions functioning under the overall surveillance of the Reserve Bank of India. In the initial stages, the role of the intermediary was mostly related to ensure transfer of funds from the lender to the borrower. This service was offered by banks, FIs, brokers, and dealers. However, as the financial system widened along with the developments taking place in the financial markets, the scope of its operations also widened. Some of the important intermediaries operating in the financial markets include; investment bankers, underwriters, stock exchanges, registrars, depositories, custodians, portfolio managers, mutual funds, financial advertisers financial consultants, primary dealers, satellite dealers, self regulatory organizations, etc. Though the markets are different, there may be a few intermediaries offering their services in more than one market e.g. underwriter. However, the services offered by them vary from one market to another.

Intermediary	Market	Role
Stock Exchange	Capital Market	Secondary Market to securities
Investment Bankers	Capital Market, Credit Market	Corporate advisory services, Issue of securities
Underwriters	Capital Market, Money Market	Subscribe to unsubscribed portion of securities
Registrars, Depositories, Custodians	Capital Market	Issue securities to the investors on behalf of the

		company and handle share transfer activity
Primary Dealers Satellite Dealers	Money Market	Market making in government securities
Forex Dealers	Forex Market	Ensure exchange ink currencies

C. FINANCIAL INSTRUMENTS

Capital Market Instruments

The capital market generally consists of the following long term period i.e., more than one year period, financial instruments; In the equity segment Equity shares, preference shares, convertible preference shares, non-convertible preference shares etc and in the debt segment debentures, zero coupon bonds, deep discount bonds etc.

Hybrid Instruments

Hybrid instruments have both the features of equity and debenture. This kind of instruments is called as hybrid instruments. Examples are convertible debentures, warrants etc.

Money Market Instruments

The money market can be defined as a market for short-term money and financial assets that are near substitutes for money. The term short-term means generally a period upto one year and near substitutes to money is used to denote any financial asset which can be quickly converted into money with minimum transaction cost.

Overview of the Capital Market

The Capital Market is a market for financial investments that are Direct or indirect claims to capital (Gart, 1988). It is wider than the Securities Market and embraces all forms of lending and borrowing whether or not evidenced by the creation of a negotiable financial instrument (Drake, 1980).

The capital market is the market for securities, where companies and the government can raise long-term funds. The capital market includes the stock market and the bond market. Financial regulators, such as the U.S. Securities and Exchange Commission, oversee the capital markets in their designated countries to ensure that investors are protected against fraud. The capital markets consist of the primary market, where new issues are distributed to investors, and the secondary market, where existing securities are traded.

The financial sector plays an important role in the economy of any nation. A well-regulated and well-developed financial sector is vital to achieving the most basic need of efficient allocation of scarce resources.

Legislations governing the Capital Market

The Capital Issues (Control) Act, 1947 was the first piece of legislation passed in India to control the capital market. After that, the Companies Act, 1956 was passed with a view to regulate the formation, administration and dissolution of companies. The Securities Contracts (Regulation) Act, 1956 was passed with a view to prohibit speculation and unfair trading in the stock market as a way out for investors' protection. In the mean time the Globalization of financial market led to several changes in Indian Capital Market. The Capital Issues Control Act was replaced by the Securities and Exchange Board of India Act, 1992. The SEBI Act created an autonomous body by the name Securities and Exchange Board of India ("SEBI"). The SEBI acts as the capital market regulator by acquiring powers from the Companies Act 1956, the Securities Contracts (Regulation) Act 1956, and from various other legislations. SEBI has the prime objective of protecting the investors' interest. Among other guidelines, the SEBI has issued the guidelines for Disclosure of Information for Investor Protection (DIP) to protect the interest of the investors.

Main Legislations:

1. The Securities Contracts (Regulation) Act, 1956
2. The Securities & Exchange Board of India Act, 1992
3. The Depositories Act, 1996

The other relevant laws which affect the capital market are :-

1. The Foreign Exchange Management Act, 1999
2. Arbitration and Conciliation Act, 1996;
3. The Companies Act, 1956;

4. Recovery of Debts due to Banks and Financial Institutions Act, 1993
5. Banking Regulation Act 1949
6. Benami Transactions (Prohibition) Act, 1988
7. Indian Penal Code, 1860
8. Indian Evidence Act, 1872

Regulation of Capital Market in India

Hierarchy of Regulation of the Capital Market would be:

1. *Ministry of Finance of the Government of India*

2. *Department of Economic Affairs (DEA)* is the nodal agency of the Union Government to formulate and monitor country's economic policies and programmes having a bearing on internal and external aspects of economic management. One of the principal responsibilities of this Department is the preparation of the Union Budget every year.

3. *Capital Market Division of The Department of Economic Affairs*
It is primarily responsible for policy issues related to the orderly growth and development of the securities markets (i.e. share, debt and derivatives) and the functioning of Unit Trust of India (UTI) and Securities and Exchange Board of India (SEBI).

4. *Acts and Rules Administered by Capital Markets Division*

The principal subjects dealt with in the Capital Market Division are the following:
- Policy matters relating to the securities markets, related intermediaries and participants;
- Policy matters relating to the regulation and development of the securities markets and investor protection, including Debt Market

The main Acts/Rules being administered by Capital Markets Division are:-
- Securities and Exchange Board of India Act, 1992 and rules made thereunder;
- Securities Contracts (Regulation) Act, 1956 and rules made thereunder;
- Depositories Act, 1996 and Rules made thereunder;

The Capital Markets Division has been entrusted primarily with the responsibility of assisting the Government in framing suitable policies for the development of the securities market in consultation, inter-alia, with SEBI, RBI and other agencies. It also acts as the Secretariat for the High Level Coordination Committee on Financial Markets.

High Level Coordination Committee on Financial Markets (HLCCFM)

HLCCFM is the forum to deal with inter-regulatory issues arising in the financial and capital markets as India follows a multi-regulatory regime for financial sector. The Capital Market Division functions as the Secretariat of this Committee.

5. *Securities and Exchange Board of India (SEBI)*

The Securities and Exchange Board of India was established on April 12, 1992 in accordance with the provisions of the Securities and Exchange Board of India Act, 1992.

It functions as the nodal agency to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

International Organization of Securities Commissions (IOSCO)

Organisations such as International Organization of Securities Commissions, the Bank of International Settlement, the Joint Forum and the Financial Stability Forum have led initiatives to introduce best practice or international benchmarks in regulation to counter global vulnerabilities such as weaknesses in market foundations, uncertain growth prospects, difficulties in surveillance and enforcement of financial conglomerates and increased investor risk aversion.

The International Organization of Securities Commissions (IOSCO) is an international organization that brings together the regulators of the world’s securities and futures markets. It, along with its sister organizations, the Basel Committee on Banking Supervision and the International Association of Insurance Supervisors, together make up the Joint Forum of international financial regulators. Currently, IOSCO members regulate more than 95 percent of the world's securities markets.

IOSCO was created in 1983 with the decision to change from an inter-American regional association created in 1974 into a global cooperative body.
11 securities regulatory agencies from North and South America took this decision in April 1983 at a meeting in Quito, Ecuador. In 1984, securities

regulators from France, Indonesia, Korea and the United Kingdom were the first agencies to join the organization from outside the Americas. At the IOSCO Annual Conference in July 1986, held in Paris it was decided to create a permanent General Secretariat for IOSCO.

Today IOSCO is recognized as the international standard setter for securities markets. IOSCO currently has 199 members, divided into three main categories:

1. Ordinary members, which must be the primary regulators of securities and/or futures markets in a jurisdiction. A stock exchange or self-regulatory organization may be an ordinary member, but only if it is the jurisdiction’s primary securities regulator.

2. Associate members, which are other securities and/or futures regulators in a jurisdiction, if that jurisdiction has more than one. For example, the Commodity Futures Trading Commission in the United States and the British Columbia Securities Commission in Canada are associate members of IOSCO (with the U.S. Securities and Exchange Commission and the Ontario Securities Commission being the ordinary members).

3. Affiliate members, which include stock exchanges, self-regulatory organizations, and various stock market industry associations.

Currently, IOSCO has 114 ordinary members, 11 associate members, and 74 affiliate members.

India’s Securities and Exchange Board of India (SEBI) is a member of IOSCO and is also on the IOSCO Executive Committee

Today IOSCO is recognized as the international standard setter for securities markets. The Organization's wide membership regulates more than 95% of the world's securities markets and IOSCO is the world's most important international cooperative forum for securities regulatory agencies.

IOSCO adopted in 1998 a comprehensive set of Objectives and Principles of Securities Regulation (IOSCO Principles), which are today recognized as the international regulatory benchmarks for all securities markets. The Organization endorsed in 2003 a comprehensive methodology (IOSCO Principles Assessment Methodology) that enables an objective assessment of the level of implementation of the IOSCO Principles in the jurisdictions of its members and the development of practical action plans to correct identified deficiencies.

In 2002 IOSCO adopted a multilateral memorandum of understanding (IOSCO MOU) designed to facilitate cross-border enforcement and exchange of information among the international community of securities regulators.

2005 was a landmark year for IOSCO. The Organization endorsed the IOSCO MOU as the benchmark for international cooperation among securities regulators and set-out clear strategic objectives to rapidly expand the network of IOSCO MOU signatories by 2010. It approved as an unambiguous operational priority the effective implementation - in particular within its wide membership - of the IOSCO Principles and of the IOSCO MOU, which are considered as primary instruments to facilitate cross-border cooperation, reduce global systemic risk, protect investors and ensure fair and efficient securities markets.

Market Regulators Worldwide

Asia

1. Capital Market Board (Turkey)

2. Securities Bureau of the Ministry of Finance (Japan)

3. Securities Commission (Malaysia)

4. Securities and Exchange Commission (Bangladesh)

5. Securities and Futures Commission (Hong Kong)

6. Securities and Exchange Commission of Pakistan

Europe

1. BAWe - Bundesaufsichtsamt für den Wertpapierhandel (Germany)

2. Central Bank of Cyprus

3. CNMV - Comisión Nacional del Mercado de Valores (Spain)

4. COB - Comission des Opérations de Bourse (France)

5. CONSOB - Commissione Nazionale per le Società e la Borsa (Italy)

6. Financial Services Department (Jersey)

7. Financial Services Authority (United Kingdom) - http://www.fsa.gov.uk/

Australia

1. Australian Securities Commission

2. The New Zealand Securities Commission

North America

1. British Columbia Securities Commission (Canada)

2. Canadian Grain Commission

3. CFTC - U.S. Commodity Futures Trading Commission

4. SEC - U.S. Securities& Exchange Commission

Latin America

1. CNBV - Comisión Nacional Bancária y de Valores (Mexico)

2.CNV - Comisión Nacional de Valores (Argentina)

3. CONASEV - Comisión Nacional Supervisora de Seguros y Valores (Peru)

4. SVS - Superintendencia de Valores y Seguros (Chile)

5. Superintendencia de Valores (Colombia)

6. The Jamaica Stock Exchange

7. Comissao De Valores Mobiliários - Brazil

United Kingdom
Financial Services Authority (FSA) : http://www.fsa.gov.uk/

Canada:
Canadian securities regulation is managed through laws and agencies established by Canada's 13 provincial and territorial governments. Each province and territory has a securities commission or equivalent authority.

The largest of the provincial regulators is the Ontario Securities Commission. Other significant provincial regulators are the British Columbia and Alberta securities commissions, and the Quebec regulator, Autorité des marchés financiers.

Unlike any other major federations, Canada does not have a securities regulatory authority at the federal government level.
The provincial and territorial regulators work together to coordinate and harmonize regulation of the Canadian capital markets through the Canadian Securities Administrators (CSA).

Ontario Securities Commission : http://www.osc.gov.on.ca/

British Columbia securities commission: http://www.bcsc.bc.ca/

Alberta securities commissions:
http://www.albertasecurities.com/Pages/Default.aspx

Quebec regulator, Autorité des marchés financiers :
http://www.lautorite.qc.ca/index.en.html

Canadian Securities Administrators (CSA) : http://www.securities-administrators.ca/

Investment Industry Regulatory Organization of Canada (IIROC) :
http://www.iiroc.ca/English/Pages/home.aspx

Over the past fifteen years, there have been repeated efforts to create a single regulator but all have failed. Canada is the only member of the Group of Seven (G7) industrialized nations without a national securities watchdog.

On 28 May 2010, legislation was introduced in Parliament by the to give Canada a national securities regulator. This draft law would go a long way towards ending the province-by-province, territory-by-territory system of securities regulation of Canada. However, even if eventually approved, the bill to create a Canadian Securities Regulatory Authority (CSRA) would have serious limits, starting with the fact that provincial participation would be voluntary and two key provinces, Alberta and Quebec, have already vowed they will not co-operate.

United States:
Securities & Exchange Commission (SEC) (http://www.sec.gov/)
Commodity Futures Trading Commission (CFTC)
Federal Reserve System ("Fed")
Federal Deposit Insurance Corporation (FDIC)
Financial Industry Regulatory Authority (FINRA) (http://www.finra.org)
Office of the Comptroller of the Currency (OCC)
National Credit Union Administration (NCUA)
Office of Thrift Supervision (OTS)

The Securities Contracts (Regulation) Act, 1956

The Securities Contracts (Regulation) Act, 1956 (SCRA) containing a mere 31 sections, keeps a tight vigil over all the Stock Exchanges of India since 20th February 1957. It is an Act to prevent undesirable transactions in securities by regulating the business of dealing therein. The provisions of the Act were formerly administered by the Central Government. However, since the enactment of The Securities and Exchange Board of India Act, 1992 the Board established under it (SEBI) concurrently has powers to administer almost all the provisions of the Act.

Recognition of Stock Exchanges

By virtue of the provisions of the Act, the business of dealing in securities cannot be carried out without registration from SEBI. Any Stock Exchange which is desirous of being recognized has to make an application under Section 3 of the Act to SEBI, who is empowered to grant recognition and prescribe conditions including that of having SEBI's representation on the Stock Exchange and prohibiting the Stock Exchange from amending its rules without SEBI's prior approval. This recognition can be withdrawn in the interest of the trade or public. SEBI is authorized to call for periodical returns from the recognized Stock Exchanges and make enquiries in relation to their affairs. Every Stock Exchange is obliged to furnish annual reports to SEBI. Stock Exchanges are allowed to make rules only with the prior approval of SEBI. The Central Government and SEBI can direct Stock Exchanges to frame rules. Recognized Stock Exchanges are allowed to make bylaws for the regulation and control of contracts but subject to the previous approval of SEBI and SEBI has the power to amend the said bylaws. The Central Government and SEBI have the power to supersede the governing body of any recognized stock exchange and to suspend its business.

Corporatisation and Demutualisation of Stock Exchanges

Section 4A of the Act was added in the year 2004 for the purpose of corporatisation and demutualisation of stock exchange. Under section 4A of the Act, SEBI by notification in the official gazette may specify an appointed date on and from which date all recognised stock exchanges have to corporatise and demutualise their stock exchanges. Each of the Recognised stock exchanges which have not already being corporatised and demutualised by the appointed date are required to submit a scheme for corporatisation and demutualization for SEBI's approval. After receiving the scheme SEBI may conduct such enquiry and obtain such information as be may be required by it and after satisfying that the scheme is in the interest of the trade and also in the public interest, SEBI may approve the scheme.

Corporatisation is the process of converting the organizational structure of the stock exchange from a non-corporate structure to a corporate structure. Traditionally, some of the stock exchanges in India were established as "Association of persons". Corporatisation of such exchanges is the process of converting them into incorporated Companies.

Demutualisation refers to the transition process of an exchange from a "mutually-owned" association to a company "owned by shareholders". In other words, transforming the legal structure of an exchange from a mutual form to a business corporation form is referred to as demutualisation. The above, in effect means that after demutualisation, the ownership, the management and the trading rights at the exchange are segregated from one another.

Listing of Securities

A public limited company has no obligation to have its shares listed on a recognized Stock Exchange. But if a company intends to offer its shares or debentures to the public for subscription by issue of a prospectus, it must, before issuing such prospectus apply to one or more recognized stock exchanges for permission to have the shares or debentures intended to be so offered to the public to be dealt with in each of such stock exchange in terms of Section 73 of the Companies Act, 1956.

Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange (Section 21).

Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal and the company may appeal to Securities Appellate Tribunal (SAT) against such refusal.

A recognised stock exchange may delist the securities of any listed companies on such grounds as are prescribed under the Act. Before delisting any company from its exchange, the recognised stock exchange has to give the concerned company a reasonable opportunity of being heard and has to record the reasons for delisting that concerned company. The concerned company or any aggrieved investor may appeal to SAT against such delisting.(Section 21A).

Securities Appellate Tribunal (SAT)

"Securities Appellate Tribunal" means a Securities Appellate Tribunal established under section 15K(1) of the Securities and Exchange Board of India Act, 1992.

Sections 15k to 15Z of the Securities and Exchange Board of India Act, 1992 deals with the Securities Appellate Tribunal.

Appeal may be filed to SAT-

a. Against refusal, omission or failure of the recognized stock exchange to list the securities
b. Against the decision of the recognized stock exchange delisting the securities

The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal

The appeal to SAT under sub-section shall be in such form and be accompanied by such fee as may be prescribed. The Procedure for Appeal to the SAT is prescribed in the Securities Appellate Tribunal (Procedure) Rules 2000. The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal. The appeal filed before the Securities Appellate Tribunal shall be endeavored to be disposed off within six months from the date of receipt of the appeal.

The SAT shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of SCRA and of any rules. The Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings. The SAT shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of certain matters.

Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days (or further period not exceeding sixty days) from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order.

<u>Securities and Exchange Board of India</u>

The Securities and Exchange Board of India was established on April 12, 1992 in accordance with the provisions of the Securities and Exchange Board of India Act, 1992. The Securities and Exchange Board of India (SEBI) is the regulator for the securities market in India. It was formed officially with the SEBI Act 1992 being passed by the Indian Parliament. SEBI is headquartered in Mumbai, and has Northern, Eastern, Southern and Western regional offices in New Delhi, Kolkata, Chennai and Ahmedabad.

The Preamble of the Securities and Exchange Board of India Act, 1992 describes the basic functions of the Securities and Exchange Board of India as

"…..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 thereto"

<u>The Securities and Exchange Board of India Act, 1992.</u>

The Securities and Exchange Board of India Act, 1992 ("The SEBI Act") is having retrospective effect and is deemed to have come into force on January 30, 1992. Relatively a brief act containing only 35 sections, the SEBI Act governs all the Stock Exchanges and the Securities Transactions in India.

A Board by the name of the Securities and Exchange Board of India (SEBI) consisting of one Chairman and five members, one each from the department of Finance and Law of the Central Government, one from the Reserve Bank of India and two other persons and having its head office in Bombay and regional offices in Delhi, Calcutta and Madras has been constituted under the SEBI Act to administer its provisions. The Central Government has the right to terminate the services of the Chairman or any member of the Board. The Board decides all questions in its meeting by majority vote with the Chairman having a second or casting vote.

Section 11 of the SEBI Act provides that it shall be the duty of the Board to protect the interest of investors in securities and to promote the development of and to regulate the securities market by such measures, as it thinks fit. It empowers the Board to regulate the business in Stock Exchanges, to register and regulate the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers, etc., to register and regulate the working of collective investment schemes including mutual funds, to prohibit fraudulent and unfair trade practices and insider trading, to regulate take-overs, to conduct enquiries and audits of the stock exchanges, etc.

As all Stock Exchanges are required to be registered with SEBI under the provisions of the Act, under Section 12 of the SEBI Act all the stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deed, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediary who may be associated with the Securities Markets are obliged to register with the Board and the Board has the power to suspend or cancel such registration. The Board is bound by the directions given by the Central Government from time to time on questions of policy and the Central Government has the right to supersede the Board. The Board is also obliged to submit a report to the Central Government every year, giving true and full account of its activities, policies and programmes. Any one aggrieved by the Board's decision is entitled to appeal to the Central Government.

The Central Government has framed the following Rules by virtue of Section 29 of the SEBI Act:

a. The Securities Contract (Rules), 1957
b. Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudication Officer) Rules 2005
c. Depositories (Appeal To Securities Appellate Tribunal) Rules, 2000

SEBI empowered by Section 30 of the SEBI Act has made the following Regulations:

1. SEBI (Stock-brokers and Sub-brokers) Regulations,1992;
2. SEBI (Merchant Bankers) Regulations, 1992;
3. SEBI (Insider Trading) Regulations, 1992;
4. SEBI (Portfolio Managers) Regulations, 1993;
5. SEBI (Mutual Funds) Regulations, 1993;
6. SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993;
7. SEBI (Underwriters) Regulations, 1993;
8. SEBI (Debenture Trustees) Regulations, 1993;
9. SEBI (Bankers to an Issue) Regulations, 1994.
10. SEBI (Foreign Institutional Investors) Regulations, 1995.
11. SEBI (Depositaries and Participants) Regulations, 1996
12. SEBI (Custodian Of Securities) Regulations, 1996
13. SEBI (Mutual Funds) Regulations, 1996
14. SEBI (Venture Capital Funds) Regulations 1996
15. SEBI (Substantial Acquisition of Shares and Take Overs) Regulations, 1994
16. SEBI (Buyback Of Securities) Regulations, 1998
17. SEBI (Credit Rating Agencies) Regulations, 1999
18. SEBI (Collective Investment Schemes) Regulations, 1999
19. SEBI (Foreign Venture Capital Investors) Regulations, 2000
20. SEBI (Procedure For Board Meetings) Regulations, 2001
21. SEBI (Issue of Sweat Equity) Regulations, 2002
22. SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003
23. SEBI - Ombudsman Regulations 2003
24. SEBI (Central Database Of Market Participants) Regulations, 2003
25. SEBI (Self Regulatory Organizations) regulations, 2004
26. SEBI (Regulatory Fee On Stock Exchanges) Regulations, 2006
27. SEBI (Certification Of Associated Persons In The Securities Markets) Regulations, 2007
28. SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008

29. SEBI (Intermediaries) Regulations, 2008
30. SEBI (Issue and Listing of Debt Securities) Regulations, 2008
31. SEBI (Investor Protection and Education Fund) Regulations, 2009
32. SEBI (Delisting Of Equity Shares) Regulations, 2009
33. SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

Forward Markets Commission

http://www.fmc.gov.in/

The Forward Markets Commission (FMC) is the chief regulator of forwards and futures markets in India. As of March 2009, it regulates Rs 52 Trillion worth of commodity trade in India. It is headquartered in Mumbai and is overseen by the Ministry of Consumer Affairs, Food and Public Distribution, Government of India

The FMC is a statutory body set up in 1953 under the provisions of the Forward Contracts (Regulation) Act, 1952. It consists of two to four members, all appointed by the Indian Government. Currently, the Commission allows commodity trading in 22 exchanges in India, of which three are national.

The functions of the Forward Markets Commission are as follows:

(a) To advise the Central Government in respect of the recognition or the withdrawal of recognition from any association or in respect of any other matter arising out of the administration of the Forward Contracts (Regulation) Act 1952.

(b) To keep forward markets under observation and to take such action in relation to them, as it may consider necessary, in exercise of the powers assigned to it by or under the Act.

(c) To collect and whenever the Commission thinks it necessary, to publish information regarding the trading conditions in respect of goods to which any of the provisions of the act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government, periodical reports on the working of forward markets relating to such goods;

(d) To make recommendations generally with a view to improving the organization and working of forward markets;

(e) To undertake the inspection of the accounts and other documents of any recognized association or registered association or any member of such association whenever it considerers it necessary.

International Securities Associations

1. Securities Industry and Financial Markets Association (SIFMA)

http://www.sifma.org/

The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

New York:
120 Broadway, 35th Floor
New York, NY 10271-0080
(ph) +1.212.313.1200
(fx) +1.212.313.1301

Washington, D.C.:
1101 New York Avenue, NW, 8th Floor
Washington, DC 20005
(ph) +1.202.962.7300
(fx) +1.202.962.7305

2. World Federation of Exchanges (WFE)

http://www.world-exchanges.org/

WFE are trade association of 52 publicly regulated stock, futures and options exchanges.

Bombay Stock Exchange Ltd. and National Stock Exchange of India Ltd. are members of WFE.

3. International Securities Lending Association

http://www.isla.co.uk/

The International Securities Lending Association (ISLA) is a trade association established in 1989 to represent the common interests of participants in the securities lending industry. ISLA works closely with European regulators and in the United Kingdom has representation on the Securities Lending and Repo Committee, a committee of market practitioners chaired by the Bank of England. The Association has contributed to a number of major market initiatives, including the development of the UK Securities Borrowing and Lending Code of Guidance and the industry-standard lending agreement, the Global Master Securities Lending Agreement (GMSLA).

4. North American Securities Administrators Association

http://www.nasaa.org/home/index.cfm

Organized in 1919, the North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. NASAA is a voluntary association whose membership consists of 67 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico.

5. International Council of Securities Associations

http://www.icsa.bz/

The International Council of Securities Associations (ICSA) was established in 1988, in the aftermath of the severe stock market correction of 1987. In view of the growing linkages between national capital markets, the trade and self-regulatory associations representing the world's largest financial markets agreed to establish an international body of practitioners as a means to share information, work toward global best practices and promote mutual understanding. Originally named the International Council of Securities Dealers and Regulatory Associations, ICSA held its inaugural General Annual Meeting in 1988 in Tokyo, Japan. ICSA's founding members were the Financial Intermediaries, Managers and Brokers Regulatory Association (UK), the Association Francaise des Societes de Bourse (France), the Investment Dealers Association of Canada, Japan Securities Dealers Association, the Securities

Industry Association (U.S.) and the National Association of Securities Dealers (U.S.). ICSA is now comprised of 15 member organizations.

The objectives of the International Council of Securities Associations are:

- To aid and encourage the sound growth of the international capital market by promoting and encouraging harmonization and, where appropriate, mutual recognition in the procedures and regulation of that market; and,

- To promote the mutual understanding and exchange of information among ICSA members.

The membership of the International Council of Securities Associations (ICSA) is composed of trade associations and self-regulatory associations for the capital market in eleven countries as well as trade associations that represent the global capital market.

6. Canada - Mutual Fund Dealers Association (MFDA)

http://www.mfda.ca/

The MFDA was established in mid-1998 at the initiative of the Canadian Securities Administrators (CSA) in response to the rapid growth of mutual funds in Canada in the late 1980s from $40 billion to $400 billion and a recognition by the CSA that the mutual fund industry and investors would benefit from more effective regulation and oversight.

As of July 31, 2010, the MFDA has 139 Members. These Members represent approximately $278.2 billion of mutual fund assets under administration.

The Mutual Fund Dealers Association of Canada (MFDA) is the national self-regulatory organization (SRO) for the distribution side of the Canadian mutual fund industry. The MFDA is structured as a not-for-profit corporation and its Members are mutual fund dealers that are licensed with provincial securities commissions.

The MFDA is formally recognized as a self-regulatory organization by the provincial securities commissions in Alberta, British Columbia, Nova Scotia, Ontario, Saskatchewan, New Brunswick and Manitoba. An application for recognition is pending before the Superintendent of Securities of Newfoundland and Labrador.

About the Author

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Mr.Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. A senior partner of Adukia & Associates he has authored more than 34 books on a wide range of subjects. His books on IFRS namely, "Encyclopedia on IFRS (3000 pages) and The Handbook on IFRS (1000 pages) has served number of professionals who are on the lookout for a practical guidance on IFRS. The book on "Professional Opportunities for Chartered Accountants" is a handy tool and ready referencer to all Chartered Accountants.

In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in LaborLaws. He has been involved in the activities of the Institute of Chartered Accountants of
India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered

Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment.

He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI. He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pvt Ltd. He was also a member of the London Fraud Investigation Team.

Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real
Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops *and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally.. Mr. Adukia has delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.*

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*