Securities and Exchange Board of India (SEBI)

About

- SEBI is a **statutory body** established on April 12, 1992 in accordance with the provisions of the Securities and Exchange Board of India Act, 1992.
- The basic functions of the Securities and Exchange Board of India is to protect the interests of investors in securities and to promote and regulate the securities market.

Background

- Before SEBI came into existence, Controller of Capital Issues was the regulatory authority; it derived authority from the Capital Issues (Control) Act, 1947.
- In April, 1988 the SEBI was constituted as the regulator of capital markets in India under a resolution of the Government of India.
- Initially SEBI was a non statutory body without any statutory power.
- It became autonomous and given statutory powers by SEBI Act 1992.
- The headquarters of SEBI is situated in Mumbai. The regional offices of SEBI are located in Ahmedabad, Kolkata, Chennai and Delhi.

Structure

- SEBI Board consists of a Chairman and several other whole time and part time members.
- SEBI also appoints various committees, whenever required to look into the pressing issues of that time.

- Further, a **Securities Appellate Tribunal (SAT)** has been constituted to protect the interest of entities that feel aggrieved by SEBI's decision.
- SAT consists of a Presiding Officer and two other Members.
- It has the same **powers as vested in a civil court**. Further, if any person feels aggrieved by SAT's decision or order can **appeal to the Supreme Court**.

Securities Appellate Tribunal (SAT)

- **SAT is a statutory body** established under the provisions of the Securities and Exchange Board of India Act, 1992.
- It is to hear and dispose of appeals against orders passed by the Securities and Exchange Board of India or by an adjudicating officer under the Act; and to exercise jurisdiction, powers and authority conferred on the Tribunal by or under this Act or any other law for the time being in force.
- Consequent to government notification dated 27th May, 2014; SAT hears and disposes of appeals against orders passed by the Pension Fund Regulatory and Development Authority (PFRDA) under the PFRDA Act, 2013.
- Further, in terms of government notification dated 23rd March, 2015, SAT hears and disposes of appeals **against orders passed by the** Insurance Regulatory Development Authority of India (IRDAI) under the Insurance Act, 1938, the **General Insurance Business (Nationalization) Act, 1972** and the **Insurance Regulatory and Development Authority Act, 1999** and the Rules and Regulations framed there under.

Powers and Functions of SEBI

- SEBI is a **quasi-legislative and quasi-judicial body** which can draft regulations, conduct inquiries, pass rulings and impose penalties.
- It functions to fulfill the requirements of three categories –
    - **Issuers –** By providing a marketplace in which the issuers can increase their finance.
    - **Investors –** By ensuring safety and supply of precise and accurate information.
    - **Intermediaries –** By enabling a competitive professional market for intermediaries.
- By **Securities Laws (Amendment) Act, 2014,** SEBI is now able to regulate any money pooling scheme worth Rs. 100 cr. or more and attach assets in cases of non-compliance.
- SEBI Chairman has the authority to order **"search and seizure operations"**. SEBI board can also seek information, such as telephone call data records, from any persons or entities in respect to any securities transaction being investigated by it.
- SEBI perform the function of registration and regulation of the working of venture capital funds and collective investment schemes including mutual funds.
- It also works for promoting and regulating self-regulatory organizations and prohibiting fraudulent and unfair trade practices relating to securities markets.

SEBI's Achievements

- Prime Minister Manmohan Singh in 2006 said that **eternal vigilance** is the price of market stability and market growth. The regulator has kept the faith in its 25-year journey that has seen it steadily gain more powers to oversee India's capital markets.
- It has ensured a well-functioning market and driven market development: dematerialisation of shares, shortening settlement cycles, initiating nationwide electronic trading, introducing risk management systems, establishing clearing corporations, nurturing the mutual fund industry and so on.
- Rightly, the regulator has earned respect from domestic and global investors for improving the efficacy of the market. After all, there have been no broker defaults after 2001.
- Initiating the process of consultation papers before framing regulation has also enhanced its credibility with stakeholders.
- Today, the Indian capital market can compares favorably with mature markets.
- New initiatives for improving analytical capabilities, strengthening surveillance & risk management and to promote research have been taken by SEBI in recent years to counter the volatility in market.

Issues with SEBI

- In recent years SEBI role became more complex, the capital markets regulator is at a crossroads.
- There is **excessive focus on regulation of market** conduct and lesser emphasis on prudential regulation.
- SEBI statutory **enforcement powers are greater than its counterparts** in the US and the UK as it is armed with far greater power to inflict serious economic injury.

- It can **impose serious restraints on economic activity,** this is done based on suspicion, leaving it to those affected to shoulder the burden of disproving the suspicion, somewhat like preventive detention.
- Its **legislative powers are near absolute** as the SEBI Act grants wide discretion to make subordinate legislation.
- The component of prior consultation with the market and a system of review of regulations to see if they have met the articulated purpose is substantially missing. As a result, the fear of the regulator is widespread.
- Regulation, either rules or enforcement, is far from perfect, particularly in areas like insider trading.
- The Securities offering documents are extraordinarily bulky and have substantially been reduced to formal compliance rather than resulting in substantive disclosures of high quality.

Suggestions

- There is need of an attitudinal change, indeed, hundreds of inputs about the market being full of crooks necessitating a crackdown and severe intervention would be received.
- SEBI needs deep review and research as to what can be done better. The size of funds that get raised can never be a barometer of success for how this segment of the market regulation is performing.
- The foremost objective of SEBI should be cleaning up the policy space in this area of the market.
- SEBI must give special attention to human resources and matters within the organisation. SEBI must encourage lateral entry to draw the best talent.
- Alignment and fitment of senior employees upon merger of the Forward Markets Commission into Sebi remains an open area of work.
- Enforcement can be strengthened with continuous monitoring and improving market intelligence. This requires a rich talent pool.
- India’s financial markets are still segmented. One regulator can’t be blamed for another’s failure when the remit over a financial product overlaps.
- In this context a unified financial regulator makes eminent sense to remove both overlap and excluded boundaries.