

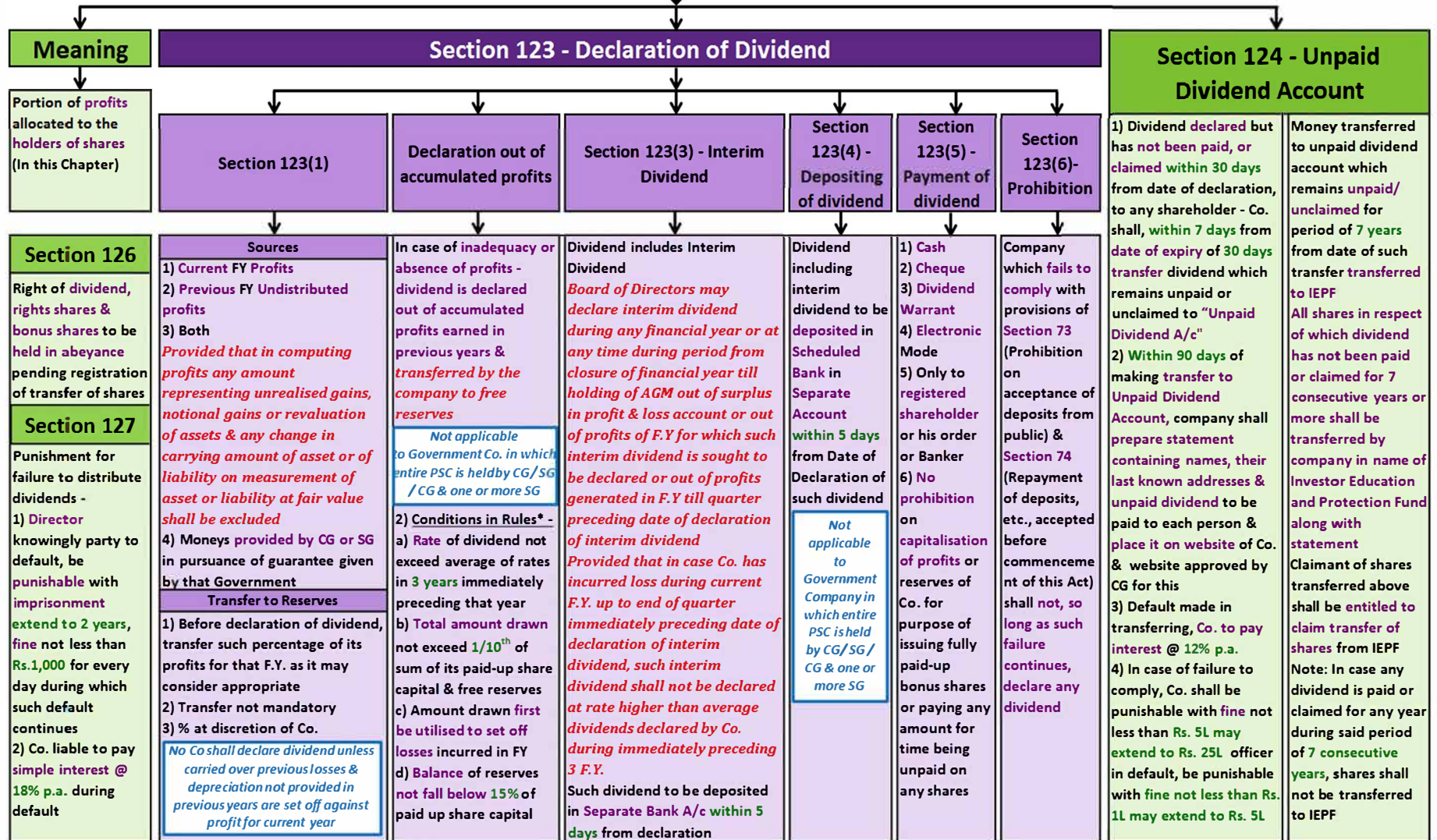
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Declaration and Payment of Dividend (Chart 1.1)



*Companies (Declaration and Payment of Dividend) Rules, 2014

Declaration and Payment of Dividend (Chart 1.2)

Section 125 - Investor Education and Protection Fund

125(1)- Establishment of IEPF	125(2)- Deposit of fund	125(3)- Utilisation of Fund	125(4)- Application to Authority to claim funds	125(5)- Establishment of Authority for Refund of claims	125(6)- Management & Administration	125(7)- Resources to Authority	125(8)- Administration & Accounts of Fund	125(9)- Power of authority to expend fund for specific object of sec 125(3)	125(10)- Audit & Reporting	125(11)- Reporting to CG
CG Shall Establish	a) Grands by CG b) Donation by CG c) Unpaid Dividend Account d) Amt in General Revenue a/c e) Amt lying in IEPF fund u/s 205C f) Interest or other income received out of investment made from fund g) Amt Received under sub section (4) h) Application money received by co i) Matured Deposits j) Matured Debentures k) Interest accrued l) Sale proceed of fractional shares m) Redemption amt of Preference shares	a) Refund in respect of unclaimed dividends, matured deposits, matured debentures, application money due for refund & interest thereon b) Promotion of investors' education, awareness & protection c) Distribution of any disgorged amt among eligible & identifiable applicants d) Reimbursement of legal expenses incurred in pursuing class action suits under sections 37 & 245 by members, debenture-holders or depositors as may be sanctioned by Tribunal	Any person claiming to be entitled to amt referred in sub-section (2) may apply to authority constituted under sub-section (5) for payment of money claimed	CG can constitute authority with: 1 Chairman, Other members not exceeding 7 & CEO	CG have power to decide following things by making new rules a) Administration of Fund b) Appointment of chairperson c) Appointment of Members d) Appointment of CEO e) Holding of meetings of authority	CG have power to provide offices, officers, employees & resources to authority by making rules	Authority Shall: a) Administer Fund b) Prepare & maintain records as needed as per CAG	It shall be competent for authority constituted under sub-section (5) to spend money out of Fund for carrying out objects specified in sub-section (3)	1) Audit of IEPF will be conducted by CAG 2) CAG will decide time, frequency & scope of audit 3) Audited accounts & audit report shall be forwarded by authority to CG annually or on demand	Authority & CAG shall prepare following documents & reports before parliament of India a) Annual report b) Audit report by CAG

Accounts of Companies (Chart 2.1)

Section 128 - Books of accounts, etc. to be kept by company						Section 129 - Financial Statement				Section 130- RE-OPENING OF ACCOUNTS ON COURT'S OR TRIBUNAL'S ORDERS	Section 133 - CG to prescribe AS
Section 128(1) - Manner and Place of Maintenance	As per Rules* - Electronic form	Section 128(2) - Books of Branch Office	Section 128(3), (4) - Persons who can inspect	Section 128(5) - Period of Maintenance	Section 128(6) - Persons Responsible & Penalty	Section 129(1) - Form of Financial Statements	Section 129(2) - Laying of Financial Statements		Section 129(5) - Deviations from Accounting Standards	1) Co. shall not re-open its BOA & not recast its FS, unless application is made by - a) Central Govt, b) Income-tax authorities, c) Securities & Exchange Board, d) any other statutory regulatory body or authority or any person concerned & an order is made by court of competent jurisdiction or Tribunal to effect that - i) Relevant earlier accounts were prepared in a fraudulent manner; or ii) affairs of co. were mismanaged during relevant period, casting a doubt on reliability of FS 2) Court or Tribunal, shall give notice to CG, IT authorities, securities & Exchange Board or any other statutory regulatory body or authority concerned or any other person concerned & shall take into consideration representations made by them before passing any order under this section 3) Accounts so revised or re-cast shall be final 4) No order shall be made in respect of re-opening of books of account relating to period earlier than 8 F.Y.s immediately preceding current F.Y. 5) Where direction has been issued by CG under proviso to section 128(5) for keeping of books of account for period longer than 8 years, books of account may be ordered to be re-opened within such longer period	CG may prescribe Accounting Standards recommended by ICAI in consultation with & after examination of recommendations made by National Financial Reporting Authority (NFRA) Until National Financial Reporting Authority is constituted u/s 132, CG may prescribe standards of accounting or any addendum thereto, as recommended by ICAI in consultation with & after examination of recommendations made by NAC on AS constituted Note: NFRA not yet constituted u/s 132 of Companies Act, 2013 so AS given by National Advisory Committee under Companies Act, 1956 are still in force
1) Maintained at Registered Office for every FY 2) Give true & fair view of state of affairs of Co. including Branch 3) Maintained on accrual basis in double entry system of accounting 4) Books of Accounts can be kept at any other place in India as BOD may decide, notice in writing in Form AOC-5 & should be filed with ROC giving full address of that place within 7 days of Boards' decision	Books maintained in Electronic mode shall be- 1) Accessible in India, usable for subsequent reference 2) Retained in format originally generated, sent or received 3) Branch Office Information not be altered 4) Information displayed in legible form 5) Proper system for storage, retrieval, display or printout, not be disposed of unless permitted by law 6) Periodical Back-up of books in servers physically located in India 7) Annually intimate ROC, name, IP address, location, if maintained on cloud, its address	1) Proper books of transactions at branch office in or outside India be kept at that branch office 2) Summarised Returns periodically must be sent by branch office to Co at its registered office or other place decided by BOD	1) Books open for inspection by any director during business hours, at RO/other place 2) Conditions in Rules* for Financial information outside country - a) Summarised returns to registered office quarterly, kept open to directors for inspection b) Director furnish request with full details, period of information sought c) Co produce information to director within 15 days from receipt of written request d) Sought by director himself, not through power of attorney holder/agent/ representative 3) Inspection of Subsidiary co. by authorised person only 4) Officers & other employees give assistance	1) Books of account with relevant vouchers be kept for minimum period of 8 FY immediately preceding FY 2) Co in existence less than 8 years, shall maintain books of all such preceding years 3) If Investigation has been ordered, CG may direct longer period as it may deem fit	1) MD, 2) WTD, 3) CFO, 4) Any other person charged by Board, contravenes provisions, they will be punishable with a) Imprisonment upto 1 year or b) Fine Rs.50,000/- to Rs.5,00,000/- or c) Both	1) FS shall - a) give true & fair view of state of affairs of Co b) comply with AS notified u/s 133 c) shall be in form as may be provided for different classes of Co in Schedule III 2) Provisions relating to nature & content of FS not apply to - a) Insurance Co b) Banking Co c) Co engaged in generation/ supply of electricity d) Other class of co for which form of FS has been specified under Act governing	At every AGM, BOD shall lay before Co, FS for FY		If FS do not comply with AS, Co shall disclose following in FS: 1) deviation from AS 2) reasons for such deviation & 3) financial effects, if any, arising out of such deviation		
							Section 129(3),(4) - CFS				
							a) Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a CFS of company & of all subsidiaries & associate companies. b) The company should prepare it in same form & manner as that of its own & in accordance with applicable AS, which shall also be laid before AGM of the company along with laying of its financial statement under sub-section (2): • Provided that the company shall also attach along with its financial statement, a separate statement containing salient features of financial statement of its subsidiary or subsidiaries & associate company or companies in such form as may be prescribed: • Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed 5) CFS shall be made in accordance with Schedule III & AS 6) If Co not required to prepare CFS under AS, compliance with Schedule III will be sufficient 7) Provisions applicable to preparation, adoption & audit of FS of Holding Co shall apply to CFS 8) Provided that nothing in this rule shall apply in respect of preparation of consolidated FS by a co. if it meets following conditions:- i) it is a wholly-owned subsidiary, or is a partially-owned subsidiary of another co. & all its other members, having been intimated in writing & for which proof of delivery of such intimation is available with co. do not object to co. not presenting consolidated FS; ii) it is a co. whose securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India; & iii) its ultimate or any intermediate holding company files consolidated financial statements with Registrar which are in compliance with applicable AS				
							Section 129(6) - Exemptions CG may on its own or on application by Co, grant exemption from complying with requirements of this section in public interest				
							Section 129(7) - Contravention Same as Section 128(6) Explanation FS shall include any notes annexed to or forming part of such FS, giving information required to be given & allowed to be given in form of such notes under this Act Sec 129 -Notapplicable to Govt Co. engaged in defence production to the extent of application of AS 17				

* Companies (Accounts) Rules, 2014

Accounts of Companies (Chart 2.2)



Section 132 - Constitution of National Financial Reporting Authority.

<p>1) CG may, by notification, constitute a NFRA to provide for matters relating to accounting & auditing standards under this Act.</p>	<p>3) The NFRA shall consist of a chairperson, who shall be a person of eminence & having expertise in accountancy, auditing, finance or law to be appointed by the CG & such other members not exceeding 15 consisting of part-time & full-time members as may be prescribed:</p> <ul style="list-style-type: none"> • Provided that terms & conditions & manner of appointment of chairperson & members shall be such as may be prescribed: • Provided further that chairperson & members shall make a declaration to CG in prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment: • Provided also that chairperson and members, who are in full-time employment with NFRA shall not be associated with any audit firm (including related consultancy firms) during course of their appointment & 2 years after ceasing to hold such appointment. 	<p>4) Notwithstanding anything contained in any other law for the time being in force, the NFRA shall</p> <p>a) have power to investigate, either suo moto or on a reference made to it by CG, for such class of bodies corporate or persons, in such manner as may be prescribed into matters of professional or other misconduct committed by any member or firm of CA.</p> <p>Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the NFRA has initiated an investigation under this section;</p>	<p>c) Where professional or other misconduct is proved, have the power to make order for-</p> <p>A) imposing penalty of-</p> <p>I) not less than 1 lakh rupees, but which may extend to 5 times of the fees received, in case of individuals; &</p> <p>II) not less than 5 lakh rupees, but which may extend to 10 times of fees received, in case of firms;</p> <p>B) debarring member or firm from engaging himself or itself from practice as member of Institute of Chartered Accountant of India referred to in clause (e) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 for a minimum period of 6 months or for such higher period not exceeding 10 years as may be decided by the NFRA</p>	<p>5) Any person aggrieved by any order of the NFRA issued under clause (c) of sub-section (4), may prefer an appeal before the Appellate Tribunal</p>	<p>13) The NFRA shall cause to be maintained such books of account & other books in relation to its accounts in such form & in such manner as the CG may, in consultation with the C&AG of India prescribe.</p>
<p>2) Notwithstanding anything contained in any other law for time being in force, NFRA shall—</p> <p>a) make recommendations to CG on formulation & laying down of accounting & auditing policies & standards for adoption by companies or class of companies or their auditors, as case may be;</p> <p>b) monitor & enforce compliance with AS & auditing standards in such manner as may be prescribed;</p> <p>c) oversee quality of service of professions associated with ensuring compliance with such standards, & suggest measures required for improvement in quality of service & such other related matters as may be prescribed; &</p> <p>(d) perform such other functions relating to clauses (a), (b) and (c) as may be prescribed.</p>		<p>b) have same powers as are vested in a civil court under Code of Civil Procedure, 1908, while trying a suit, in respect of following matters, namely:—</p> <p>i) discovery & production of books of account & other documents, at such place & at such time as may be specified by the NFRA;</p> <p>ii) summoning & enforcing attendance of persons & examining them on oath;</p> <p>iii) inspection of any books, registers & other documents of any person referred to in clause (b) at any place;</p> <p>iv) issuing commissions for examination of witnesses or documents;</p>		<p>10) The NFRA shall meet at such times & places & shall observe such rules of procedure in regard to transaction of business at its meetings in such manner as may be prescribed</p>	<p>14) The accounts of the NFRA shall be audited by the C&AG of India at such intervals as may be specified by him & such accounts as certified by the C&AG of India together with audit report thereon shall be forwarded annually to the CG by the NFRA</p>
				<p>11) The CG may appoint a secretary & such other employees as it may consider necessary for efficient performance of functions by the NFRA under this Act & terms & conditions of service of secretary & employees shall be such as may be prescribed</p>	<p>15) NFRA shall prepare in such form & at such time for each FY as may be prescribed its annual report giving a full account of its activities during the FY & forward a copy thereof to the CG & the CG shall cause the annual report and the audit report given by the C&AG of India to be laid before each House of Parliament.</p>

Accounts of Companies (Chart 2.3)

Section 134 - Financial Statement, Board's report, etc				Section 136 - Right of member to copies of Audited Financial Statement			Section 137 - Copy of financial statement to be filed with Registrar				
Section 134(1) - Authentication of FS	Board's report			Section 134(8) Contravention	Section 136(1) - Who are entitled?	Manner of circulation	Subsidiary Companies	Section 137(1) - Filing of FS	Section 137(1) - Filing by OPC	Section 137(2) - AGM not held	
<p>The financial statement, including CFS, if any, shall be approved by BOD before they are signed on behalf of the Board at least by the following:</p> <p>i) The Chairperson of company where he is authorized by the Board; or</p> <p>ii) By 2 Directors out of which one shall be MD, if any; and</p> <p>iii) The CEO, wherever he is appointed</p> <p>iv) The CFO, wherever he is appointed &</p> <p>v) The CS of company, wherever he is appointed, or</p> <p>vi) In case of OPC, only by 1 director, for submission to auditor for his report thereon</p>	<p>Section 134(3) - Contents of Board Report</p> <p>Board's Report shall be prepared based on stand alone FS of co. & shall report on highlights of performance of subsidiaries, associates & joint venture companies & their contribution to overall performance of co. during period under report</p> <p>1) Extract of annual return</p> <p>2) No. of Board meetings</p> <p>3) Directors' Responsibility Statement</p> <p>4) Details in respect of frauds reported by auditors under section 143(12) other than those which are reportable to CG</p> <p>5) Declaration by Independent Director</p> <p>6) Directors' Appointment & Remuneration Policy</p> <p><i>Not applicable to Government Company</i></p> <p>7) Explanations/ Comments by Board on every qualification, reservation or adverse remark/ disclaimer made by -</p> <p>a) Auditor & b) CS</p> <p>8) Particulars of Loans, guarantees or investments u/s 186</p> <p>9) Particulars of contracts/ arrangements with related parties</p> <p>10) State of company's affairs</p> <p>11) Amounts c/f to Reserves, Dividend</p> <p>12) Material changes & commitments, if any, affecting financial position</p> <p>13) Conservation of Energy, Technology Absorption, Foreign Exchange Earnings & Outgo</p> <p><i>Not applicable to Government Co engaged in producing Defence equipment</i></p> <p>14) Risk Management</p> <p>15) Policy on CSR</p> <p>16) Listed Co & Public Co having PSC Rs. 25 Cr or more at end of preceding FY, shall include manner in which formal annual evaluation of performance of the Board, its Committees & of individual directors has been made. <i>Provided that where disclosures referred to in this sub-section have been included in the financial statements, such disclosures shall be referred to instead of being repeated in Board's report. Provided further that where the policy referred to in clause (c) or clause (a) is made available on company's website, if any, it shall be sufficient compliance of requirements under such clauses if salient features of policy & any change therein are specified in brief in Board's report & web-address is indicated therein at which complete policy is available</i></p>			<p>Section 134(4) - Board's Report in case of OPC</p> <p>Report containing explanations or comments by Board on every qualification, reservation or adverse remark or disclaimer made by auditor in his report shall be attached to FS</p> <p>Section 134(6) - Signing</p> <p>Board's Report & any annexures thereto shall be signed by its</p> <p>a) Chairperson if he is authorised by Board &</p> <p>b) where he is not so authorised, shall be signed by at least 2 directors, 1 of whom shall be MD, or by director where there is 1 director</p>	<p>Section 134(5) - Directors' Responsibility Statement</p> <p>DRS shall state that-</p> <p>a) in preparation of annual accounts, applicable AS had been followed along with explanation to material departures</p> <p>b) directors had selected such accounting policies & applied them consistently & made judgments & estimates that are reasonable & prudent so as to give true & fair view of state of affairs of Co at end of FY & of profit & loss of Co for that period</p> <p>c) directors had taken proper & sufficient care for maintenance of adequate accounting records for safeguarding assets of Co & for preventing & detecting fraud & other irregularities</p> <p>d) directors had prepared annual accounts on going concern basis &</p> <p>e) directors, in case of listed co, had laid down internal financial controls to be followed, are adequate & were operating effectively</p> <p>f) directors had devised proper systems to ensure compliance with provisions of all applicable laws & that systems were adequate & operating effectively</p>	<p>1) Company - Fine - Rs.50,000 to Rs.25 Lacs</p> <p>2) Every officer in default - a) Imprisonment upto 3 years or b) Fine - Rs. 50,000 to Rs. 5 Lacs or c) Both</p>	<p>1) CFS, Auditor's Report & Other document required by law shall be annexed with FS which are laid in its GM</p> <p>2) It shall be sent to -</p> <p>a) member (b) trustee for debenture-holder of any debentures issued by Co &</p> <p>c) persons entitled, other than member/ trustee</p> <p><i>If copies of documents are sent less than 21 days before date of meeting, they shall be deemed to have been duly sent if it is so agreed by members-</i></p> <p>a) Company has share capital: Holding majority in number entitled to vote & who represent not less than 95% of such part of paid-up share capital of company as gives right to vote at meeting; or</p> <p>b) Company has no share capital: Having not less than 95% of total voting power exercisable at meeting</p> <p>3) In case of Listed Co- above provisions shall be deemed to be complied with</p> <p>a) If copies of documents are made available for inspection at its registered office during working hours for 21 days before meeting</p> <p>b) Statement of Salient Features in Form AOC-3 or copies of documents, as Co may deem fit is sent to every member & trustee for holders of any debentures issued by Co at least 21 days before meeting unless shareholders ask for full FS</p> <p>4) Co allow member or trustee of debenture holder to inspect audited FS at its registered office during business hrs</p> <p><i>Every company having subsidiary or subsidiaries shall provide copy of separate audited or unaudited financial statements prepared in respect of each of its subsidiary to any member who asks for it</i></p> <p><i>For Section 8 Companies, "21 days" be substituted by "14 days"</i></p>	<p>1) In case of Listed Co & Public Co having net worth of more than Rs. 1 Crore & turnover of more than Rs. 10 crore, FS may be sent-</p> <p>a) by electronic mode to</p> <p>i) members whose shareholding is in demat format</p> <p>ii) members Shareholding is held otherwise than by demat format but positively consented in writing for receiving by electronic mode</p> <p>b) by dispatch of physical copies in all other cases</p> <p>2) Listed Co shall also place its FS including CFS, if any, & other documents on its website</p>	<p><i>Every listed company having subsidiary or subsidiaries shall place separate audited accounts in respect of each of subsidiary on its website, if any:</i></p> <p>Listed Co. which has subsidiary incorporated outside India (foreign subsidiary)</p> <p>a) where such foreign subsidiary is statutorily required to prepare CFS under any law of country of its incorporation, requirement of this proviso shall be met if CFS of such foreign subsidiary is placed on website of listed company;</p> <p>b) where such foreign subsidiary is not required to get its financial statement audited under any law of the country of its incorporation & which does not get such financial statement audited, holding Indian listed company may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website</p> <p>Section 136(3) - Contravention</p> <p>1) Co liable to penalty of Rs. 25,000/-</p> <p>2) Officer in default liable to penalty of Rs. 5,000/-</p>	<p>Copy of FS, including CFS, if any, along with all documents which are required to be or attached to such FS under this Act, duly adopted at AGM of co, shall be filed with Registrar within 30 days of AGM in such manner, with fees or additional fees within time specified u/s 403</p> <p>Section 137(1) - If FS are not adopted</p> <p>1) Unadopted FS along with required documents be filed with Registrar within 30 days of AGM</p> <p>2) Registrar shall take them as provisional till FS filed with him after their adoption in adjourned AGM</p> <p>3) FS adopted in adjourned AGM shall be filed with Registrar within 30 days of adjourned AGM with fees or additional fees <i>Provided also that in case of a subsidiary which has been incorporated outside India, which is not required to get its financial statement audited under any law of country of its incorporation & which does not get such financial statement audited, the requirements of the fourth proviso shall be met if holding Indian company files such unaudited financial statement along with a declaration to this effect & where such financial statement is in a language other than English, along with a translated copy of the financial statement in English.</i></p> <p><i>Following companies shall file their FS & other documents u/s 137(1) with registrar in e-form "AOC-4 XBRL" for FY commencing on or after 1st April, 2014 using XBRL taxonomy-</i></p> <p>1) Co. listed with any stock exchanges in India & their Indian subsidiaries or</p> <p>2) Co. having PSC of Rs. 5 Cr or above or 3) Co. having turnover of Rs. 100 Cr or above or</p> <p>4) Companies which were covered under Companies (Filing of Documents & Forms in Extensible Business Reporting Language) Rules, 2011</p> <p><i>Companies in Banking, Insurance, Power Sector & Non-Banking Financial commercial Companies & housing finance co. need not file financial statements under this rule</i></p>	<p>OPC shall file copy of FS duly adopted by its member, along with all documents which are required to be attached to such FS, within 180 days from closure of FY</p> <p>Section 137(1) - Co having subsidiaries</p> <p>Co shall, along with its FS to be filed with Registrar, attach accounts of its subsidiaries which have been incorporated outside India & which have not established their place of business in India</p> <p>Section 137(2) - AGM not held</p> <p>Where AGM has not been held for any FY, FS along with documents required to be attached, duly signed, with Statement of Facts & reasons for not holding AGM shall be filed with Registrar within 30 days of last date before which AGM should have been held & with fees or additional fees within time specified u/s 403</p> <p>Section 137(3) - Penalty</p> <p>1) Co punishable with Fine - Rs. 1,000/- for every day during which failure continues but upto Rs. 10,00,000/-</p> <p>2) MD & CFO, in absence, director charged by Board punishable with -</p> <p>a) Imprisonment - Upto 6 mths</p> <p>b) Fine - Rs. 1,00,000/- or Rs. 5,00,000/- or both</p>

Accounts of Companies (Chart 2.4)

Section 135 - Corporate Social Responsibility

Definition as per Rules*	CSR Committee		As per Rules* - Contents of CSR Policy	Section 135(4) - Duties of Board in relation to CSR	Section 135(5) - Amount of contribution towards CSR	CORPORATE SOCIAL RESPONSIBILITY POLICY	Exceptions to CSR Activities As Per Rules*	Calculation of Average Net profit	CSR Reporting	Activities specified under Schedule VII
<p>1) CSR means & includes but is not limited to:</p> <p>a) Projects/ programs specified in Sch VII to Act or</p> <p>b) Projects/ programs undertaken by BOD in pursuance of recommendations of CSR Committee</p> <p>Section 135(1) - Applicability of CSR</p> <p>1) Co including its Holding/ Subsidiary, & Foreign Co. having its Branch Office or project office in India, having</p> <p>a) net worth of Rs. 500 Crore or more, or</p> <p>b) turnover of Rs. 1,000 Crore or more or</p> <p>c) net profit of Rs. 5 Crore or more</p> <p>during any FY shall constitute CSR Committee of Board</p> <p>2) Co which ceases to be covered u/s 135(1) for 3 consecutive FY is not required to constitute CSR Committee, & comply with this Section</p>	<p>Composition Section 135(1)</p> <p>3 or more directors, out of which at least 1 shall be independent director (ID), [®] Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors</p> <p>As per Rules*</p> <p>1) Unlisted public Co/ Private Co, not required to appoint ID shall have its Committee without such director</p> <p>2) Private Co having only 2 directors shall have CSR Committee with 2 such directors</p> <p>3) CSR Committee of Foreign Co shall comprise of at least 2 persons of which 1 shall be as specified u/s 380(1)(d) & another person be nominated by Foreign Co</p> <p>Section 135(2)</p> <p>Board's report disclose composition of Committee</p>	<p>Section 135(3) - Duties</p> <p>1) Formulate & recommend to Board, CSR Policy which shall indicate activities to be undertaken by Co as specified in Sch VII</p> <p>2) Recommend amount of expenditure to be incurred</p> <p>3) Monitor CSR Policy of Co from time to time</p>	<p>1) List of CSR projects/ programs which Co plans to undertake within purview of Sch VII &</p> <p>2) Monitoring process</p> <p>3) CSR activities do not include activities undertaken in pursuance of normal course of business of Co</p> <p>4) BOD shall ensure that activities included by Co in its CSR Policy are related to activities included in Sch VII</p> <p>5) CSR Policy shall specify that surplus arising out of CSR projects/ programs/ activities shall not form part of business profit of Co</p>	<p>Board shall,</p> <p>1) after taking into account recommendations made by Committee, approve CSR Policy for Co & disclose contents of Policy in its report & also place it on Co's website, if any,</p> <p>2) ensure that activities as are included in Policy are undertaken</p>	<p>1) Board shall ensure that co spends, in every FY, at least 2% of average net profits made during 3 immediately preceding FY, in pursuance of its CSR Policy</p> <p>2) Co shall give preference to local area & areas around it where it operates, for spending amount</p> <p>3) If Co fails to spend amount, Board shall, in its report, specify reasons for not spending</p> <p>4) Co may build CSR capacities of own personnel & of their implementing agencies through Institutions with established track records of at least 3 FY</p> <p>5) Expenditure including exp on administrative overheads not exceed 5 % of total CSR expenditure of Co in 1 FY</p>	<p>The Board of a co. may decide to undertake its CSR activities approved by CSR Committee, through-</p> <p>i) a co. established under sec 8 of Act or a registered trust or a registered society, established by co, either singly or along with any other co., or</p> <p>ii) a co. established under sec 8 of Act or a registered trust or a registered society, established by CG or State Govt or any entity established under an Act of Parliament or a State legislature</p> <p>If, Board of a co. decides to undertake its CSR activities through a co. established under sec 8 of Act or a registered trust or a registered society, other than those specified in this sub-rule, such co. or trust or society shall have an established track record of 3 yrs in undertaking similar programs or projects; & co. has specified projects or programs to be undertaken, modalities of utilisation of funds of such projects & programs & monitoring & reporting mechanism</p>	<p>Activities not considered as CSR activities:</p> <p>1) CSR projects or programs or activities undertaken outside India</p> <p>2) CSR projects or programs or activities that benefit only employees of Co & their families</p> <p>3) Contribution of any amount directly or indirectly to any political party u/s 182</p>	<p>1) For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.</p> <p>2) Net profit shall not include-</p> <p>a) Profit arising from overseas branch, whether operated as separate Co or otherwise &</p> <p>b) Dividend received from other Co in India, which are covered under & complying with Section 135</p> <p>c) Net profits of FY for which relevant FS were prepared as per provisions of Companies Act, 1956, shall not be required to be re-calculated</p>	<p>1) Board's Report of Co covered under these rules pertaining to FY commencing on or after 01/04/2014 shall include an annual report on CSR</p> <p>2) In case of Foreign Co, Balance Sheet filed u/s 381(1)(b) shall contain Annexure regarding report CSR</p>	<p>a) eradicating hunger, poverty & malnutrition, promoting health care & making available safe drinking water including contribution to Swach Bharat Kosh</p> <p>b) promoting education & employment enhancing vocation skills among children, women, elderly, & differently abled</p> <p>c) promoting gender equality, empowering women, setting up homes & hostels for women & orphans, setting up old age homes, day care centres</p> <p>d) ensuring environmental sustainability, ecological balance, protection of flora & fauna, conservation of natural resources & maintaining quality of soil, air & water including contribution to Clean Ganga Fund</p> <p>e) protection of national heritage, art & culture including restoration of buildings & sites of historical importance & works of art, setting up public libraries</p> <p>f) measures for benefit of armed forces veterans, war widows, their dependents</p> <p>g) training to promote rural sports, nationally recognised sports, paralympic sports & Olympic sports</p> <p>h) contribution to Prime Minister's National Relief Fund/ fund set up by CG</p> <p>i) contributions or funds provided to technology incubators located within academic institutions approved by CG</p> <p>j) rural development projects</p> <p>k) slum area development</p>

* Companies (CSR Policy) Rules, 2014

Accounts of Companies (Chart 2.5)

Section 131- VOLUNTARY REVISION OF FINANCIAL STATEMENTS OR BOARD'S REPORT

- | | |
|--|--|
| <p>1) If it appears to directors of a co that</p> <p>i) Financial Statement of co; or ii) report of Board, do not comply with provisions of sec 129 or sec 134, they may prepare revised FS or a revised report in respect of any of 3 preceding FY after obtaining approval of Tribunal on an application made by co in such form and manner as may be prescribed & a copy of order passed by Tribunal shall be filed with Registrar</p> <p>2) Tribunal shall give notice to CG & IT authorities & shall take into consideration representations, if any, made by that Govt or authorities before passing any order under this section</p> <p>3) Such revised FS or report shall not be prepared or filed more than once in a FY</p> <p>4) Detailed reasons for revision of such FS or report shall also be disclosed in Board's report in relevant FY in which such revision is being made</p> | <p>5) Where copies of the previous FS or report have been sent out to members or delivered to Registrar or laid before co. in general meeting, revisions must be confined to-</p> <p>a) correction in respect of which previous FS or report do not comply with the provisions of sec 129 or sec 134; &</p> <p>b) making of any necessary consequential alternation</p> <p>6) Framing of rules by the CG in relation to revised financial statement or director's report</p> <p>7) CG may make rules as to application of provisions of this Act in relation to revised FS or revised director's report & such rules may, in particular</p> <p>a) make different provisions according to which previous FS or report are replaced or are supplemented by a document indicating the corrections to be made;</p> <p>b) make provisions with respect to functions of the company's auditor in relation to revised FS or report;</p> <p>c) require directors to take such steps as may be prescribed</p> |
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Section 132 - CONSTITUTION OF NATIONAL FINANCIAL REPORTING AUTHORITY

Subsections (3) & (11) notified on 21st March, 2018 by Commencement Notification:

Section 132(3) -

1) National Financial Reporting Authority shall consist of chairperson, who shall be person of eminence & having expertise in accountancy, auditing, finance or law to be appointed by CG & such other members not exceeding 15 consisting of part-time & full-time members

2) Terms & conditions & manner of appointment of chairperson & members shall be prescribed

3) Chairperson & members shall make declaration to CG in prescribed form regarding no conflict of interest or lack of independence in respect of his or their appointment

4) Chairperson & members, who are in full-time employment with NNFR shall not be associated with any audit firm (including related consultancy firms) during course of their appointment & 2 years after ceasing to hold such appointment

Section 132(11) -

CG may appoint secretary & such other employees as it may consider necessary for efficient performance of functions by NFRA

Section 138 - Internal Audit

Companies required to appoint Internal Auditor

- 1) Co required to appoint Internal Auditor which may be either an individual or a partnership firm or a body corporate
- a) Listed Co
- b) Unlisted Public Co having-
- i) PSC Rs.50 Crore or more during preceding FY or
- ii) Turnover Rs.200 Crore or more during preceding FY or
- iii) Outstanding loans or borrowings from banks or public financial institutions exceeding Rs. 100 Crore or more at any time during preceding FY or
- iv) Outstanding Deposits Rs. 25 Crore or more at any time during preceding FY &
- c) Private Co having-
- i) Turnover Rs.200 crore or more during preceding FY or
- ii) Outstanding Loans or borrowings from banks or public financial institutions exceeding Rs.100 crore or more at any time during preceding FY
- 2) Audit Committee/ Board, in consultation with Internal Auditor, formulate scope, functioning, periodicity & methodology for conducting internal audit

Who is Internal Auditor?

- 1) Internal Auditor shall either be CA or Cost Accountant, or other professional decided by Board to conduct internal audit of functions & activities of Co
- Here, term "Chartered Accountant" or "Cost Accountant" shall mean CA or cost accountant whether engaged in practice or not
- 2) Internal Auditor may or may not be employee of Co
- | Transition Period |
|---|
| Existing Co covered under any of above criteria comply with requirements of Section 138 & Co (Accounts) Rules, 2014 within 6 months of commencement of such section |

Audit and Auditors (Chart 3.1)

Section 139 - Appointment of Auditors

Section 139(1) - Appointment of	Manner and procedure of selection and appointment of auditors As per	Section 139(2) - Term of Auditor	Section 139(3) & (4) - Rotation of auditor	Section 139(6) - First auditors	Section 139(5) - Auditor of Govt Co	Section 139(8) - Filling up casual vacancy
<p>1) Every Co, at 1st AGM, appoint individual/ firm as auditor of Co.</p> <p>2) Auditor shall hold office from conclusion of 1st AGM till conclusion of 6th AGM & thereafter till conclusion of every 6th AGM</p> <p>4) Before appointment, written consent & certificate that he satisfies criteria u/s 141</p> <p>5) Co shall inform auditor of his appointment & file notice in Form "ADT-1" with Registrar within 15 days of meeting in which auditor is appointed</p> <p>6) Explanation- Appointment includes Re-appointment</p>	<p>1) BOD/Audit Committee (If Section 177 applicable) shall-</p> <p>a) Consider qualifications & experience of individual/ firm proposed to be auditor</p> <p>b) Have regard to order/ pending proceeding relating to professional matters of conduct against proposed auditor</p> <p>c) Call for other information as it may deem fit</p> <p>2) In case Co is not required to constitute Audit Committee (AC) u/s 177, Board shall recommend Name of Individual/ Firm as Auditor to members</p> <p>3) In case Co is required to constitute AC-</p> <p>a) AC recommend to Board</p> <p>b) Board agrees, recommend to Members</p> <p>c) Board disagrees, refer back to AC for reconsideration with reasons</p> <p>d) AC decides, not to reconsider, Board shall record reasons & send its own recommendation to Members</p>	<p>1) Following Co-</p> <p>a) Every Listed Co.</p> <p>b) Unlisted Public Co having PSC of Rs.10 crore or more</p> <p>c) Private limited Co having PSC of Rs.50 crore or more</p> <p>d) All Co having PSC below limit mentioned above, having borrowings from FI/ banks/ public deposits of Rs.50 Cr or more</p> <p>a) individual as auditor for more than 1 term of 5 consecutive years &</p> <p>b) firm as auditor for more than 2 terms of 5 consecutive years</p> <p>2) Individual/Firm who has completed his term shall not be eligible for re-appointment for 5 years from completion of his term</p> <p>3) Audit firm having common partner to other firm, whose tenure has expired shall not be appointed for 5Y</p> <p>4) Transition Period to existing co for compliance - 3 yrs</p> <p>Every co, existing on or before commencement of this Act which is required to comply with provisions of this sub-sec, shall comply with requirements of this sub-sec within a period which shall not be later than date of 1st annual general meeting of co held, within period specified under sub-sec (1) of sec 96, after 3 yrs from date of commencement of this Act</p>	<p>1) Members may resolve to provide that-</p> <p>a) in audit firm, auditing partner & team shall be rotated at intervals or</p> <p>b) audit shall be conducted by more than 1 auditor</p> <p>2) As per Rules*-</p> <p>a) Period for which individual/ firm has held office prior to commencement be considered for calculating 5/ 10 consecutive years</p> <p>b) Incoming auditor not be eligible if he is associated with outgoing auditor under same network (firms operating or functioning under same brand name, trade name or common control)</p> <p>c) Break in term for 5 continuous yrs be considered as fulfilling requirement of rotation</p>	<p>1st auditor of Other than Government Co, shall be appointed by BOD within 30 days of date of registration of Co. & auditor so appointed shall hold office until conclusion of 1st AGM</p> <p>If Board fails to appoint, it shall inform members who shall within 90 days at EGM appoint 1st Auditor & such auditor shall hold office till conclusion of 1st AGM</p>	<p>1) C&AG shall appoint auditor in case of-</p> <p>a) Government Co or</p> <p>b) Government Controlled Co</p> <p>2) The auditor shall be appointed within 180 days from commencement of FY</p> <p>3) Auditor shall hold office till conclusion of AGM</p> <p>Section 139(7) - 1st Auditor of Govt Co</p> <p>1) 1st auditor be appointed by C&AG within 60 days from date of registration</p> <p>2) If C&AG does not appoint Board shall appoint within next 30 days</p> <p>3) If failure by Board, it shall inform members who shall appoint within 60 days at EGM who shall hold office till conclusion of 1st AGM</p> <p>Section 139(8) - Casual Vacancy</p> <p>1) Filled by C&AG within 30 days</p> <p>2) If C&AG fails, Board shall fill within next 30 days</p>	<p>1) Board may fill casual vacancy in office of auditor within 30 days</p> <p>2) If vacancy caused by resignation, appointment shall be approved by company at GM convened within 3 months of recommendation of Board</p> <p>3) Auditor appointed in casual vacancy shall hold office until conclusion of next AGM</p> <p>Section 139(9),(10) - Re-appointment of Retiring Auditor</p> <p>1) Retiring auditor may be re-appointed at AGM if-</p> <p>a) he is not disqualified</p> <p>b) he has not given notice in writing of unwillingness to be reappointed</p> <p>c) SR has not been passed appointing some other auditor or providing expressly that he shall not be re-appointed</p> <p>2) Where at AGM, no auditor is appointed/ re-appointed, existing auditor shall continue to be auditor</p>

* Companies (Audit and Auditors) Rules, 2014



Designed By: **Swapnil Patni**

- CA, CS, LLB, B.Com., CISA
- Expertise knowledge in ISCA, IT, SM, LAW
- Presence all over India at the age of 29
- Also known as the "Motivational Guru"

Charts can also be downloaded from :

www.swapnilpatni.com
Contact No.: (020)-24466748
9011851796/9011854340

Prepared By:
- Swarangee Sudhir Deolekar

Audit and Auditors (Chart 3.2)

Section 140 - Removal, resignation of auditor and giving of special notice				Section 141 - Eligibility, qualifications and disqualifications of auditors		Section 142 - Remuneration of auditors
Section 140(1) - Removal of auditor before expiry of his term	Section 140(2) & (3) - Resignation by Auditor	Section 140(4) - Appointing Auditor other than the Retiring Auditor	Section 140(5) - Auditor acts in a fraudulent manner or abetted or colluded in any fraud	Section 141(1) & (2) - Qualifications of an auditor	Section 141(3) - Disqualifications of auditors	1) Remuneration of auditor shall be fixed by Co in GM or in manner decided therein 2) Remuneration of 1st Auditor may be fixed by Board 3) Remuneration include expenses, incurred by auditor in connection with audit & any facility extended to him but excludes any remuneration paid for other service rendered at request of Co
1) Requires Special Resolution 2) Previous approval of CG must be obtained by making application in Form ADT - 2 within 30 days of resolution passed by Board 3) Co shall hold GM within 60 days of receipt of approval of CG for passing SR 4) Before removal of auditor before expiry of his term, auditor concerned shall be given reasonable opportunity of being heard	1) When auditor resigns, he is required to file within 30 days, statement in Form ADT - 3 with - a) Company b) Registrar c) C & AG (in case of Govt Co) 2) Auditor shall indicate reasons & other facts with regard to resignation, in statement 3) If auditor does not comply he shall be punishable with Fine - Rs. 50,000/- or remuneration of auditor, whichever is less to Rs. 5,00,000/-	1) At AGM, special notice shall be required for a) appointing as auditor person other than retiring auditor or b) providing expressly that retiring auditor shall not be reappointed 2) Special Notice shall not be required if retiring auditor has completed consecutive tenure of 5/ 10 yrs as provided u/s 139(2) 3) Co shall send copy of notice to retiring auditor 4) Retiring auditor makes representation in writing to company, requests its notification to members 5) Co. shall, unless representation is received by it too late- a) State fact of representation having been made & b) send copy of representation to every member 6) If copy is not sent because it was received too late or because of company's default, auditor may require to be read out at meeting 7) Copy of representation shall be filed with Registrar On satisfaction of Tribunal that right deliberated to auditor are being abused if Tribunal is satisfied on application either of co or of any other aggrieved person that rights conferred by this sub-section are being abused by auditor, then copy of representation may not be sent & representation need not be read out at meeting	i) Tribunal either suomotu or on an application made to it by CG or by any person concerned, if it is satisfied that auditor of a co. has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, co. or its directors or officers, it may, by order, direct co to change its auditors ii) If application is made by CG & Tribunal is satisfied that any change of auditor is required, it shall within 15 days of receipt of such application, make order that he shall not function as auditor & CG may appoint another auditor in his place iii) Auditor, whether individual or firm, against whom final order has been passed by Tribunal under this sec shall not be eligible to be appointed as an auditor of any co for a period of 5 yrs from date of passing of order and the auditor shall also be liable for action under section 447	1) Person shall be eligible to be appointed as auditor only if he is CA 2) Firm whereof majority of partners practising in India are qualified for appointment as aforesaid may be appointed by its firm name to be auditor of Co. 3) Where firm including LLP is appointed as auditor of Co, only partners who are CAs shall be authorised to act & sign on behalf of firm Section 141(4) - Vacation of office by an auditor If auditor incurs any disqualifications u/s 141(3), he shall be deemed to have vacated his office, which shall be deemed to be casual vacancy	1) Body Corporate, other than LLP 2) Officer or employee of Co 3) Person who is partner, or who is in employment, of officer/ employee of Co 4) Person who, or his relative or his partner- a) is holding any security of or interest in Co or Subsidiary/ Holding/ Associate (S/H/A)/ Subsidiary of Holding Provided that relative may hold security/ interest in Co of face value not exceeding Rs. 1,00,000/- b) is indebted to Co/S/H/A/ Subsidiary of Holding, in excess of Rs. 5 Lacs c) has given guarantee/ provided any security in connection with indebtedness of 3rd person to Co/ S/H/A/ Subsidiary of Holding, in excess of Rs.1 Lac 5) Person/ Firm who, whether directly or indirectly, has business relationship with Co/ S/H/A/ Subsidiary of Holding or Associate 6) Person whose relative is director or is in employment as director or KMP 7) Person who is in full time employment elsewhere or Person/ partner holding appointment as its auditor, if he is holding appointment of more than 20 Co Other than one person companies, small companies and private companies having paid-up share capital less than Rs. 100 Crores 8) Person who has been convicted by court of offence involving fraud & 10 yrs have not elapsed from date of conviction 9) Person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company. Explanation — For the purposes of this clause, the term "directly or indirectly" shall have the meaning assigned to it in the Explanation to section 144	

Audit and Auditors (Chart 3.3)

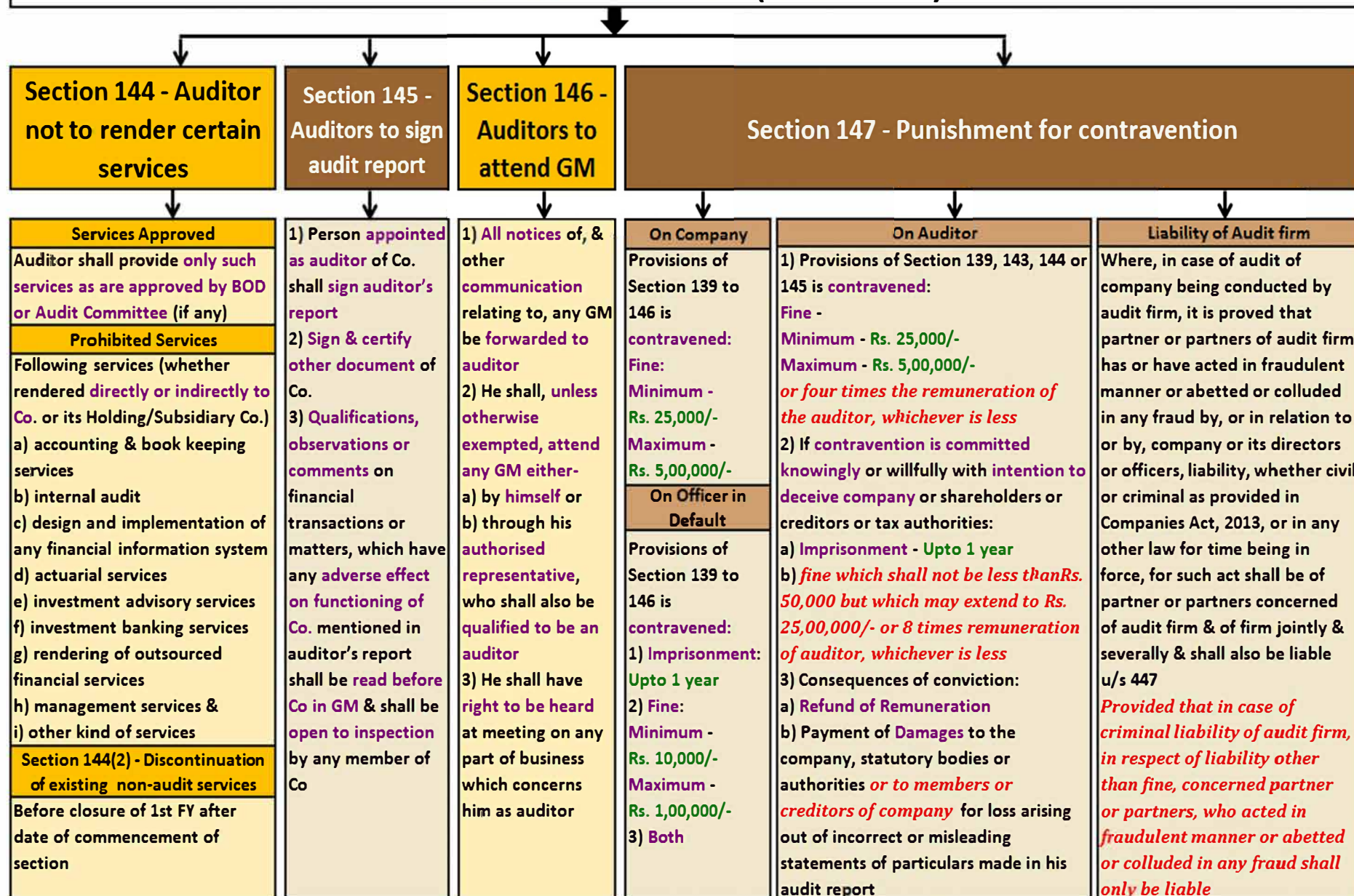
Section 143 - Powers & Duties of Auditors & Auditing Standards

Section 143(1) - Powers of Auditors	Section 143(2) - Duty to make Report	Section 143(3) - Matters included Auditors' Report	Other Matters in Auditors' Report (Rules*)	Section 143(5), (6), (7) - Audit of Government Companies	Section 143(8) - Audit of accounts of branch office	Section 143(12) -Reporting of Frauds by Auditor		Section 143(9), (10), (11) -Compliance with Auditing Standards
1) Auditor has right to access books of accounts & vouchers kept at RO or other place 2) He shall be entitled to information & explanations as he may consider necessary for performance of his duties as auditor 3) Matters of inquiry - a) Whether loans & advances made on basis of security have been properly secured & whether its terms are prejudicial to interests of Co or its members b) Whether transactions represented by book entries are prejudicial to interests of Co c) Where Co not being Investment or Banking Co, whether so much of assets of Co as consist of shares, debentures & other securities have been sold at price less than that at which they were purchased by Co d) Whether loans & advances made by Co have been shown as deposits e) Whether personal expenses have been charged to Revenue A/c f) Where it is stated in Books & documents that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, & if no cash has actually been so received, whether position as stated in account books & Balance Sheet is correct, regular & not misleading 4) Auditor of Holding Co shall have right to access records of all its subsidiaries & associate companies in so far as it relates to CFS with that of its subsidiaries & associate companies	1) Auditor shall make report to members of Co on following: a) Accounts examined by him & b) Every FS which are required under this Act to be laid before Co in GM 2) He while making report shall take into account : a) provisions of Act b) accounting & auditing standards & c) matters which are required to be included under provisions of this Act or any rules made thereunder 3) He shall express his opinion on accounts & FS examined by him that to the best of his information & knowledge, said accounts, FS give true & fair view of state of company's affairs as at end of its FY & Profit or Loss & Cash Flow for year	a) whether he obtained all necessary information & explanations b) whether, proper books of account as required by law have been kept c) whether report on Branch Accounts audited by another person has been sent to him d) whether Company's B/s & P&L A/c dealt with in report are in agreement with books of account & returns e) whether, FS comply with AS f) observations/ comments on financial transactions or matters which have adverse effect on functioning of Co g) whether any director is disqualified from being appointed u/s 164(2) h) any qualification/ adverse remark relating to maintenance of accounts i) Whether Co has adequate internal financial controls with reference to financial statements in place & operating effectiveness of such controls <i>This clause shall not apply to private company- i) which is one person company or small company; or ii) which has turnover less than Rs. 50 Cr as per latest audited FS & which has aggregate borrowings from banks or financial institutions or anybody corporate at any point of time during F.Y. less than Rs. 25 Crore</i> <i>Exception shall be applicable to Private Co. which has not committed default in filing of its FS u/s 137 or annual return u/s 92 of said Act with Registrar</i> Report of Auditor shall state about existence of adequate internal financial controls system & its operating effectiveness <i>Exemption shall be applicable for those audit reports in respect of FS pertaining to F.Y. commencing on or after 1st April, 2016, which are made on or after date of said notification</i> j) such other matters	As per Rules*, Auditor's Report shall also include views & comments on following matters a) whether Co has disclosed impact, of pending litigations on its financial position in its FS b) whether Co has made provision, as required under any law or AS, for material foreseeable losses, on long term contracts including derivative contracts c) whether there has been any delay in transferring amounts to IEPF Section 143(4) - Reasons to be given Where any of the matters are answered in negative or with qualification, Auditor's Report shall state reason for answer	1) Auditor of Government Co is appointed by C&AG of India u/s 139(5)/ 139(7) & direct manner in which accounts are required to be audited 2) Auditor so appointed shall submit copy of Audit Report to C&AG 3) Audit Report shall include following: a) directions issued by C&AG b) action taken thereon & c) its impact on accounts & FS 4) C&AG shall within 60 days from date of receipt of audit report have right to- a) conduct supplementary audit by authorised person & b) comment upon or supplement such audit report 5) Comments given by C&AG upon, or supplement to, Audit Report shall be sent by Co to every person entitled to copies of audited FS u/s 136(1) & also be placed before AGM at same time & manner as audit report 6) For Government Co or Co controlled by SG/ CG, C&AG may, by order, if he considers necessary, cause test audit, without prejudice to	1) Accounts of Branch office shall be audited either by: a) Company's Auditor or b) by other person qualified for appointment as auditor 2) If Branch Office is situated outside India, accounts shall be audited either by: a) Company's auditor or b) by an accountant or c) by any other person duly qualified to act as an auditor in accordance with laws of that country 3) Duties & powers of Company's auditor with reference to audit of Branch & Branch Auditor shall be as contained in Section 143(1) to (4) 4) Branch auditor shall prepare report on accounts of branch examined by him & send it to Company Auditor who shall deal with it in his report in such manner as he considers necessary 5) Provisions regarding reporting of fraud by auditor shall also extend to Branch Auditor to extent it relates to concerned	performance of his duties, has reason to believe that offence of fraud involving such amt as may be prescribed, is being or has been committed in co. by its officers or employees, he shall report matter to CG Rule 13(1)*: Statutory auditor, has reason to believe that offence of fraud, which involves or is expected to involve individually amount of Rs. 1 cr or above, is being or has been committed against co. by its officers or employees, auditor shall report matter to CG Rule 13(2)*: Report matter to CG as under:- a) Report to Board or Audit Committee, immediately but not later than 2 days seeking their reply or observations within 45 days b) Auditor shall forward his report & reply or observations of Board to CG within 15 days of receipt of reply from Board c) If Auditor fails to get reply, he shall forward his report to CG with note containing details that report was sent to AC/BOD for which reply not received d) Report shall be sent to Secretary, MCA, in sealed cover by Registered Post or by Speed Post followed by e-mail in confirmation e) On letter-head containing postal address, email address & contact no & signed seal & Membership No. f) In form of statement specified in Form ADT- 4	1st Proviso- In case of fraud involving lesser than specified amount, auditor shall report matter to audit committee constituted u/s 177 or to Board in other cases Rule 13(3)* Auditor shall report matter to AC/BOD immediately but not later than 2 days shall report following matters: a) Nature of Fraud with description b) Approximate amount involved c) Parties involved 2nd Proviso- Co's whose auditors have reported frauds under this sub-section to AC/BOD but not reported to CG, shall disclose details about such frauds in Board's Report Rule 13(4) Following details of each fraud reported to AC/ BOD during year shall be disclosed in Board's Report:- a) Nature of Fraud with description b) Approximate Amount involved c) Parties involved, if remedial action not taken d) Remedial actions taken	1) Auditor shall comply with Auditing Standards 2) CG may prescribe standards of auditing or any addendum thereto, as recommended by ICAI, in consultation with & after examination of recommendations made by NFRA 3) Until any Auditing Standards are notified, standards of auditing specified by ICAI shall be deemed to be auditing standards 4) CG in consultation with NFRA, may direct by General or Special Order, in respect of such class or description of companies, that Auditor's Report shall also include statement on matters as may be specified therein

Section 143(14) - Provisions of this section shall mutatis mutandis apply to - (a) **Cost Accountant** conducting cost audit u/s 148 or (b) **CS** in practice conducting secretarial audit u/s 204

* Companies (Audit and Auditors) Rules,

Audit and Auditors (Chart 3.4)

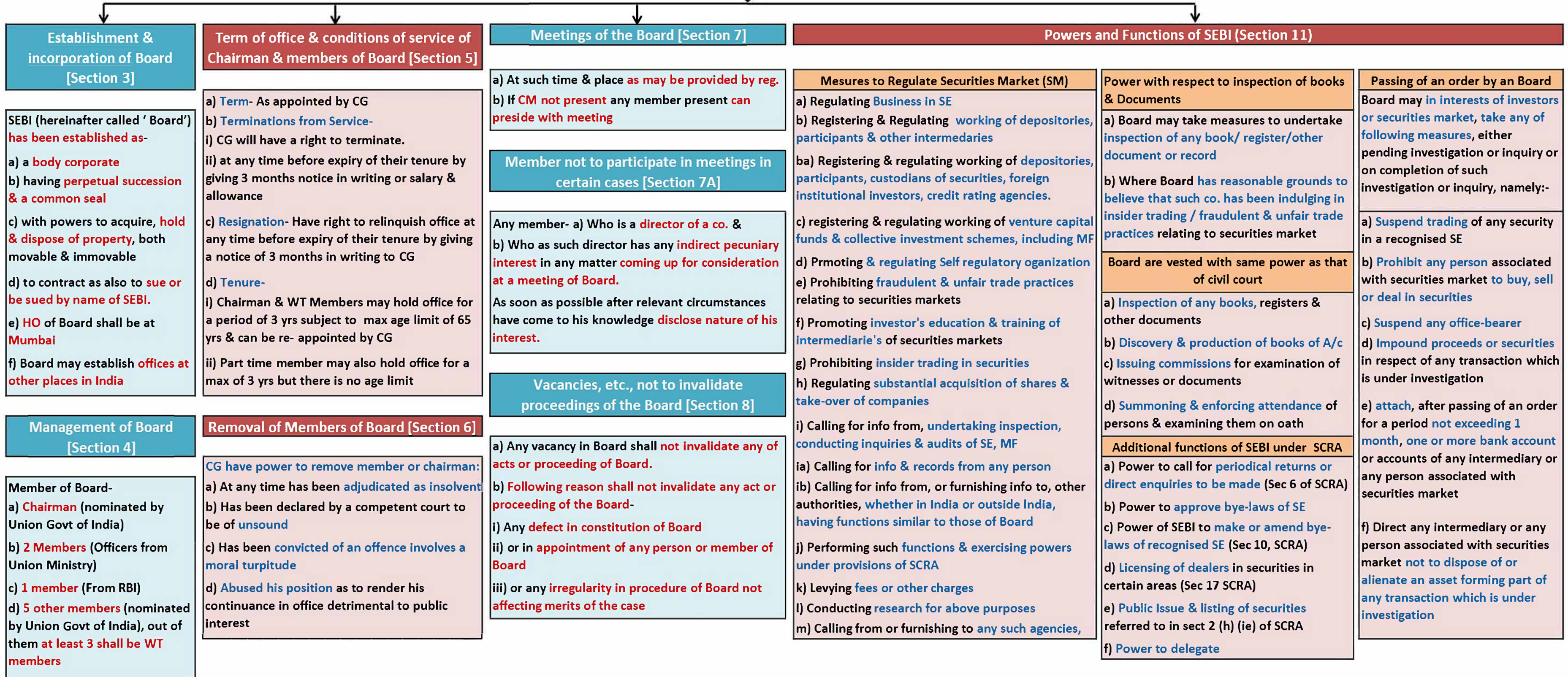


Audit and Auditors (Chart 3.5)

Section 148 - CG to specify audit of items of cost in respect of certain companies

Section 148(1) - Order by CG for maintenance of Cost Records	Section 148(2) - Order by CG for conduct of Cost Audit	Section 148(3) - Appointment of Cost Auditor by Board & Cost auditor to comply with cost auditing standards	Section 148(4) Audit conducted u/s 148 shall be in addition to audit conducted u/s 143 Section 148(5)	Section 148(6),(7) - Cost Audit Report	Section 148(8) - Contravention
CG may, by order, in respect of companies engaged in production of goods or providing services, direct that particulars relating to utilisation of material or labour or other items of cost as may be prescribed shall also be included in books of accounts kept u/s 128 2) Before issuing such order in respect of companies regulated under special Act, CG shall consult regulatory body established under such Special Act	If CG is of opinion, that it is necessary to do so, it may, by order, direct audit of cost records of companies, which are covered aforesaid & which has prescribed net worth or prescribed turnover, shall be conducted in manner specified in order	1) Cost audit shall be conducted by Cost Accountant appointed by Board on remuneration determined by members 2) Companies (Audit and Auditors) Rules, 2014 provides that- a) In case of Co required to constitute Audit Committee- i) Board shall appoint an individual, who is Cost Accountant or Firm of Cost Accountants on recommendations of Audit committee, which shall also recommend remuneration for cost auditor ii) Remuneration shall be considered & approved by BOD & ratified subsequently by shareholders b) In case of Co not required to constitute Audit Committee, Board shall appoint Cost Accountant or Firm of Cost Accountants & remuneration be ratified by shareholders subsequently 3) Person appointed u/s 139 as Company auditor shall not be appointed for conducting Cost Audit 4) Auditor conducting cost audit shall comply with Cost Auditing Standards issued by Institute of Cost Accountants of India , with approval of CG	1) Qualifications, disqualifications, rights, duties & obligations applicable to Company Auditor shall apply to Cost Auditor appointed u/s 148 & it shall be duty of Co to give all assistance & facilities to Cost Auditor for auditing cost records of Co 2) Report on Cost Audit shall be submitted by Cost Accountant to BOD of Co	1) Co shall within 30 days from date of receipt Cost Audit Report furnish it to CG along with full information & explanation on every reservation or qualification contained therein 2) If, after considering Cost Audit Report & information & explanation furnished by, CG is of opinion that any further information or explanation is necessary, it may call for further information & explanation & Co shall furnish the same within time specified by CG	1) Co & every officer in default shall be punishable in manner provided in Section 147(1) 2) Cost Auditor in default shall be punishable in manner as provided in Section 147(2) to (4)

The Securities & Exchange Board of India Act, 1992 (Chart 4.1)



The Securities & Exchange Board of India Act, 1992 (Chart 4.2)

Board to Regulate or Prohibit Issue of Prospectus, Offer Document or Advertisement Soliciting Money for Issue of Securities (Section 11A)

- a) Specify, by regulations Matters relating to **issue of capital, transfer of securities** & other matters incidental there to
- b) by general or special orders
- i) Prohibit any co. **from issuing prospectus, any offer document, or advertisement soliciting money from public for issue of securities**
- ii) **Specify conditions** subject to which prospectus, such offer document or advertisement, if not prohibited, may be issued

Power to Issue Directions (Section 11B)

- a) In **interest of investors**, or orderly development of securities market
- b) To **prevent affairs of any intermediary** in a manner **detrimental to interest of investors** or securities market; or
- c) To **secure proper management** of any such intermediary or persons

Collective Investment Scheme (11AA)

I) Requisite conditions:-

- a) Contributions or payments made by investors, **are pooled & utilized for purposes of scheme or arrangement**
- b) Such contributions or payments are made with a **view to receive profits, income, produce or property**
- c) **Property, contribution or investment** forming part of scheme or arrangement, **whether identifiable or not, is managed**
- d) Investors **do not have day-to-day control** over mgt & operation of scheme

II) Exceptions:-

- a) **Co-operative society** registered or a society being registered or deemed to be registered
- b) Deposits are accepted by **NBFC**
- c) **Contract of insurance** to which Insurance Act applies
- d) Providing for any Scheme, **Pension Scheme or Insurance Scheme**
- e) Deposits accepted u/s 58A of the Co Act, 1956 & deposits accepted by **Co. declared as Nidhi or a mutual benefit society**
- f) Falling within meaning of **Chit business**
- g) Contributions made in **MF**

Investigation (section 11C)

I) Grounds for issue of an order of investigation

- a) Transactions in securities are being dealt with in a manner **detrimental to investors or securities market**
- b) Any intermediary or person associated with securities market **has violated any provisions of this Act**

II) Furnishing of relevant documents to investigating authority

- a) **Every manager, managing director, officer & other employee** of co.
- b) Every person **associated with securities market to preserve &**
- c) **To produce to Investigating Authority** or any person authorised by it in this behalf

III) Period of custody

- a) Investigating Authority(IA) may keep in its custody any books, registers, produced **for 6 months & thereafter shall return same to any intermediary or any person associated with securities market**
- b) **IA may call for any book, register, other document & record if they are needed again**

IV) Examination on oath

Any person, **directed to make an investigation, may examine on oath**, any manager, managing director, officer & other employee associated with securities market

V) On failure

- If any person **fails without reasonable cause or refuses**
- a) To **produce books**
 - b) To **furnish any information**
 - c) To **appear before IA personally or to answer any question which is put to him**
 - d) To **sign notes of any examination**
- Person shall be punishable with-**
- a) **Imprisonment-** which may extend to **1 yr** or
 - b) **fine-** which may extend to **1 Cr Rs.** Or
 - c) **With both** and
 - d) Also with a **further fine which may extend to 5 lakh Rs. for every day** after first during which failure or refusal continues

VI) Notes of examination to be used as examination

Notes of any examination shall be taken down in writing & shall be read over to, or by, & signed by, person examined, & may thereafter be used in evidence against him

VII) Impounding of documents

IA has reasonable ground to believe that books may be destroyed, mutilated, altered, falsified or secreted IA may make an application to Magistrate or Judge of such designated court in Mumbai, as may be notified by CG for an order for seizure of such books, registers, other documents & record

VIII) Demand of services of other officers

Authorized officer **may requisition services of any police officer or any officer of CG, or of both**, to assist him for all with respect to **impounding of documents**

IX) Order of court

- a) To **enter, with such assistance**, as may be required, **where such books are kept**
- b) To **search that place** or those places in manner specified in order;
- c) To **seize books**, it considers necessary for purposes of investigation

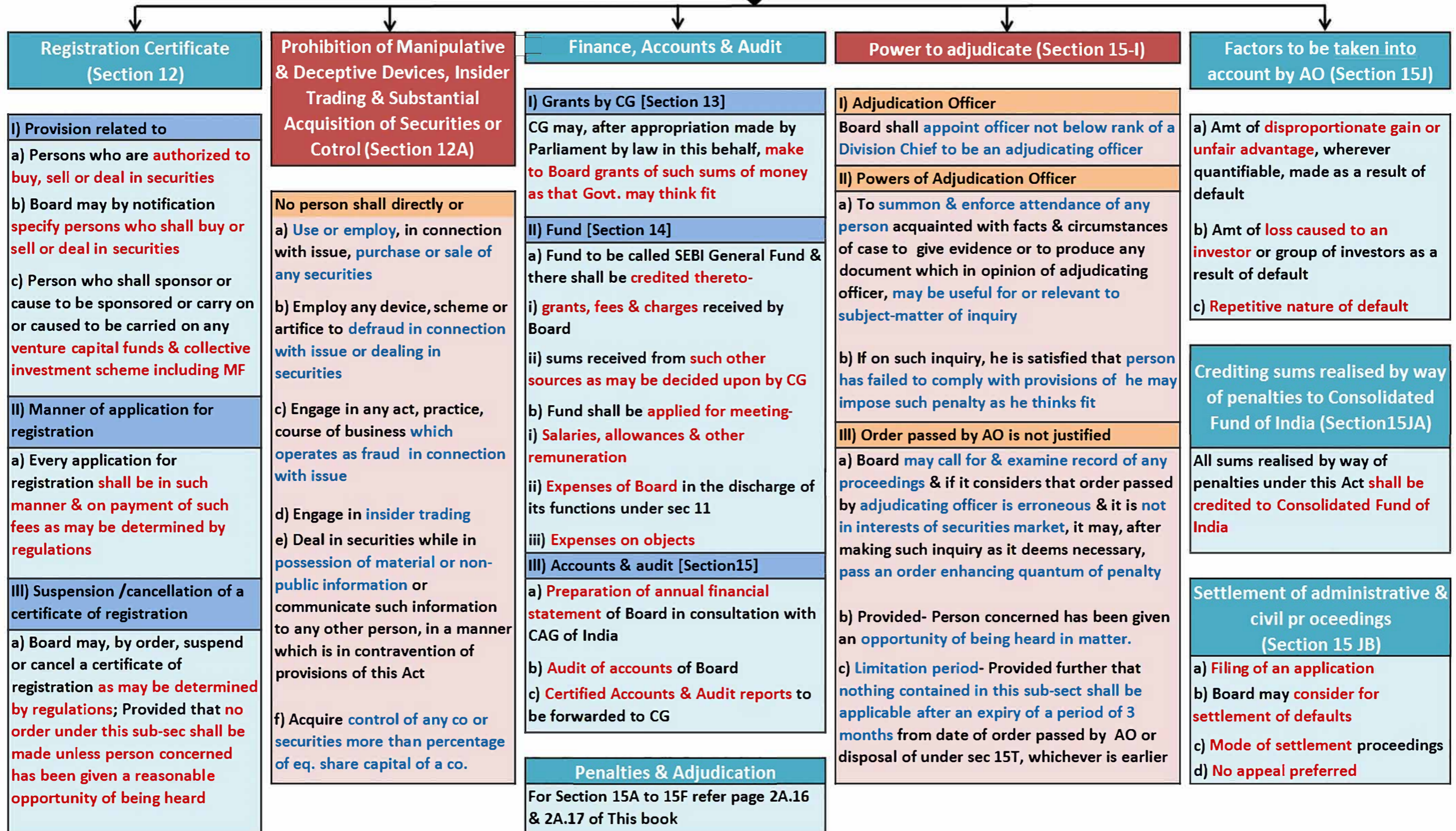
X) Impounded documents will remain in custody of IA

IA shall keep in its custody books, seized under this sec **for such period not later than conclusion of investigation** as it considers necessary & thereafter **shall return same to co & inform Magistrate or Judge of Designated Court of such return**

Ceased & Desist Proceedings (Section 11D)

- a) If Board finds, after causing an inquiry to be made, that **any person has violated**, or is likely to violate, any provisions of this Act, **it may pass an order requiring such person to cease & desist from committing or causing such violation**
- b) Provided that **Board shall not pass such order, unless Board has reasonable grounds to believe that such co. has indulged in insider trading or market manipulation**

The Securities & Exchange Board of India Act, 1992 (Chart 4.3)



The Securities & Exchange Board of India Act, 1992 (Chart 4.4)

Establishment, Jurisdiction, Authority & Procedure of Securities Appellate Tribunal (SAT)

Establishment of Securities Appellate Tribunals (Section 15K)

a) CG shall establish a Tribunal to be known as SAT to exercise jurisdiction, powers & authority conferred on it by or under this Act

Composition of SAT (Section 15L)

SAT shall consist of a Presiding Officer & such no. of Judicial Members & Technical Members as CG may determine

Qualification for appointment as Presiding Officer or Member of SAT (Section 15M)

- a) Is, or has been, a Judge of Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least 7 years, in case of Presiding Officer; &
- b) Is, or has been, a Judge of High Court for at least 5 years, in case of a Judicial Member
- c) In case of a Technical Member-
- i) Is, or has been, a Secretary or an Additional Secretary in Ministry or Department of CG or SG
- b) Is a person of proven ability, integrity & standing having special knowledge & professional experience, of not less than 15, in financial sector including securities market or pension funds or commodity derivatives or insurance

Appointment of judicial member (Section 15MA)

Presiding Officer & Judicial Members of SAT shall be appointed by CG in consultation with Chief Justice of India or his nominee

Appointment of technical member (Section 15MB)

Technical Members of SAT shall be appointed by CG on recommendation of a Search-cum-Selection Committee

Validity of appointment of Presiding officer & members of SAT (Section 15MC)

- a) No appointment of Presiding Officer, a Judicial Member or a Technical Member of SAT shall be invalid merely by reason of any vacancy or any defect in constitution of Search cum- Selection Committee.
- b) Disqualification of members- A member or part time member shall not be appointed as Presiding Officer or Member of SAT, during his service or tenure as such with Board or with such Authorities, as case may be, or within 2 years from date on which he ceases to hold office as such in Board.
- c) Effect of holding of office by officer or members on commencement of Finance Act, 2017.

Tenure of office of Presiding Officer & other Members of SAT (Section 15N)

- a) Presiding Officer or other Member of SAT shall hold office for a term of 5 yrs from date & shall be eligible for reappointment for another term of max 5 years
- b) Provided that no Presiding Officer or other Member shall hold office after he has attained age of 70 years

Salary & allowances & other terms & conditions of service of Presiding Officers (Section 15-O)

a) Salary & allowances payable to Presiding Officer and other Members of a SAT shall be such as may be prescribed

Filling up of vacancies (Section 15P)

- a) CG shall appoint another person to fill vacancy
- b) Proceedings may be continued before SAT from stage at which vacancy is filled

Resignation & removal (section 15Q)

- a) Resignation by notice in writing- Presiding Officer shall, unless he is permitted by CG to relinquish his office sooner, continue to hold office-
- i) Until expiry of 3 months from date of receipt of such notice or
- ii) Until a person duly appointed as his successor enters upon his office or
- iii) Until expiry of his term of office
- Whichever is the earliest
- b) Removal of Presiding officer/ Judicial member/ Technical member
- i) Is, or at any time has been adjudged as an insolvent
- ii) Has become physically or mentally incapable
- iii) Has been convicted of any offence which involves moral turpitude
- iv) Abused his position as to render his continuation in office detrimental to public interest

CG authorized to regulate procedure of investigation

Orders constituting Appellate Tribunal to be final & not to invalidate its proceedings (Section 15R)

No order of CG appointing any person as Presiding Officer or a Member of a SAT shall be called in question in any manner on ground merely of any defect in constitution of a SAT

Staff of SAT (Section 15S)

- a) CG shall provide SAT with such officers & employees as that Govt. may think fit.
- b) Officers & employees of SAT shall discharge their functions under general superintendence of Presiding Officer
- c) Salaries & allowances of officers of SAT shall be such as may be prescribed

Appeal to SAT (Section 15T)

- a) Appeal shall be filed within a period of 45 days from date on which a copy of order made by Board/ AO/ IRDA as case may be, & it shall be in such form & be accompanied by such fee as may be prescribed
- b) On receipt of an appeal SAT may, after giving an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside order appealed against
- c) SAT shall send a copy of every order made by it to Board as case may be the parties to the appeal & to concerned AO
- d) Appeal filed before SAT shall be dealt with within 6 months from date of receipt of appeal

Procedure & powers of SAT (Section 15U)

I) Powers-

- a) Summoning & enforcing attendance of any person & examining him on oath
- b) Requiring discovery & production of documents
- c) Receiving evidence on affidavits
- d) Issuing commissions for 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
- II) On application of any of parties & after notice to parties, & after hearing such of them, or on his own motion without such notice, Presiding Officer of SAT may transfer any case pending before one Bench, for disposal, to any other Bench

III) If a Bench of SAT consisting of 2 members differ in opinion, they shall state point or points on which they differ, to Presiding Officer of SAT & such point or points shall be decided according to opinion of majority of members of SAT who have heard case, including those who first heard it

Right to legal representation (Section 15V)

Appellant may either appear in person or authorise one or more CA or CS or CMA or or case before SAT

Limitation (Section 15W)

Provisions of Limitation Act, 1963 shall, apply to an appeal made to a SAT

Presiding Officer, Members & staff of SAT to be public servants (Section 15X)

Civil Court not to have jurisdiction (Section 15Y)

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter to determine & no injunction shall be granted by any court in respect of any action taken in pursuance of any power conferred by or under this Act

Appeal to Supreme Court (Section 15Z)

- a) Any person aggrieved by any decision of SAT may,
- b) File an appeal to Supreme Court within 60 days from date of communication of decision or order of SAT to him

The Securities & Exchange Board of India Act, 1992 (Chart 4.5)

Power of CG to issue directions [Section 16]

a) Board shall, in exercise of its powers or performance of its functions, **be bound by such directions as CG** may give in writing to it from time to time

Power of CG to supersede Board (Section 17)

I) CG may supersede Board-

a) **On account of grave emergency**, Board is unable to discharge functions & duties

b) Board has persistently made **default in complying with any direction issued by CG**

c) **Default in discharge of functions & duties imposed**

d) Circumstances exist which render it **necessary in public interest so to do**

II) Effect of publication of notification of superseding Board

a) All members shall, as from date of supersession, **vacate their offices as such**

b) All powers, functions & duties exercised or discharged by or on behalf of Board, **shall be exercised by such person as CG may direct;**

c) All **property owned or controlled by Board shall, until Board is reconstituted vest in CG**

Returns & reports (Section 18)

a) Furnishing of **returns & reports by Board to CG**

b) **Report of previous FY** by Board

c) Report to be **presented before Parliament**

Appeals (Section 19)

a) Appeal **to CG**

b) No appeal **after expiry of limitation**

c) Appeal shall be made **in prescribed form with a copy of an order**

Bar of jurisdiction (Section 20A)

a) **No order passed by Board or AO under this Act shall be applicable** except as provided in section 15T or section 20, and

b) **No civil court shall have jurisdiction** in respect of any matter which Board or AO is empowered by, or under, this Act to pass any order, &

c) **No injunction shall be granted by any court or other authority in respect of any action taken in pursuance of any order passed by Board or AO by, or under, this Act**

Members, officers & employees of Board to be public servants (Section 22)

All members of Board **shall be deemed, to be public servants** within meaning of sec 21 of the IPC

Protection of action taken in good faith (Section 23)

No suit, prosecution or other legal proceedings **shall lie against-**

a) **Central Government** or

b) **Board** or

c) Any **officer of CG** or

d) Any **member, officer or other employee of Board**

Offences [Section 24]

a) Without prejudice to any award of penalty by AO, if any person contravenes or attempts to contravene, he shall be **punishable with imprisonment for a term which may extend to 10 years, or with fine, which may extend to 25 Cr Rs. or with both**

b) If any person fails to pay penalty or fails to comply with any of his directions or orders, punishable with **imprisonment for a term which shall not be less than 1 month but which may extend to 10 yrs, or with fine, which may extend to 25 Cr. Rs or with both**

Composition of certain offences (Section 24A)

Any offence punishable under this Act, not being an offence **punishable with imprisonment only, or with imprisonment & also with fine, be compounded by a SAT or a court before which such proceedings are pending**

Power to grant immunity (Section 24B)

a) Full & True Disclosure:-

CG is satisfied, that any person, who is alleged to have **violated any of provisions** of this Act made thereunder, **has made a full & true disclosure in respect of alleged violation**

b) No Prosecution / Penalty:-

Immunity can be granted-

i) from **prosecution** or

ii) from **imposition of any penalty under this Act with respect to alleged violation**

c) Pending Proceeding:-

No such immunity shall be granted by CG in cases where proceedings for prosecution for any such offence **have been instituted before date of receipt of application for grant of such immunity**

d) Withdrawal of Immunity:-

Immunity granted can be withdrawn by CG, if it is satisfied that such person had, **not complied with condition on which immunity was granted or had given false evidence**

Cognizance of offences by courts (Section 26)

No court shall take cognizance of any offence punishable under this Act

The Securities & Exchange Board of India Act, 1992 (Chart 4.6)

Special Courts (Section 26A)

I) Establishment of Special Court-

CG may, for purpose of providing **speedy trial of offences** under this Act, by notification, **establish or designate as many Special Courts as may be necessary**

II) Composition:-

It shall consist of a **single judge who shall be appointed by CG with concurrence of Chief Justice of High Court** within whose jurisdiction judge to be appointed is working

III) Qualification for appointment:-

A person shall not be qualified for appointment as a judge of a Special Court unless he is, **immediately before such appointment, holding office of a Sessions Judge or an Additional Sessions Judge, as case may be**

Offences by companies (Section 27)

I) Where an offence under this Act has been committed by a Co.

a) Every person **who at time offence was committed was in charge of**, & was responsible to, Co. for conduct of business of Co, as well as

b) **Co, shall be deemed to be guilty of offence** & shall be liable to be proceeded against & punished accordingly.

II) Exemption:-

a) If he **proves that offence was committed without his knowledge** or that he had exercised all due diligence to prevent commission of such offence

Recovery of amounts (Section 28A)

Recovery Officer shall proceed to recover from following modes-

- Attachment & **sale of person's movable property**
- attachment of **person's bank accounts**
- Attachment & **sale of person's immovable property**
- Arrest of person** & his detention in prison
- Appointing a receiver** for management of person's movable & immovable properties

Power to make rules (Section 29)

I) CG may, by notification, make rules for purposes of this Act

II) Such rules may provide for all or any of following matters, namely-

- Term of office** & other conditions of service of Chairman & members
- Additional functions** that may be performed by Board
- Accounts** of the Board
- Salaries & allowances** & other terms & conditions of service
- procedure for the **investigation of misbehaviour or incapacity**
- Form in which an **appeal may be filed before SAT** under sec 15T & fees payable
- Form & manner in which **returns & report to be made to CG**

Rules & regulations to be laid before Parliament (Section 31)

Every rule & regulation made shall be laid, **before each House of Parliament**, while it is in session, **for a total period of 30 days** which may be comprised in **1 session or in two or more successive sessions**, and if, before expiry of session immediately following session or successive sessions aforesaid, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be

Application of other laws not barred (Section 32)

Provisions of this Act shall be in addition to, & **not in derogation of, provisions of any other law for time being in force**

Power to remove difficulties (Section 34)

- Power-** CG may, by order, **published in Official Gazette**
- No order shall be made under this sec **after expiry of 5 years** from commencement of this Act

Validation of certain acts (Section 34A)

Any act or thing done or purporting to have been done under the principal Act, in respect of calling for info from, or furnishing info to, other authorities, **whether in India or outside India**, having functions similar to those of Board & in respect of **settlement of administrative & civil proceedings**, shall, for all purposes, **be deemed to be valid**

Appeal & revision (Section 26C)

High Court may exercise, all powers as if a Special Court **within local limits of jurisdiction of High Court**

Transitional provisions (Section 26E)

a) Any offence committed under this Act, which is triable by a Special Court shall, **until a Special Court is established, be taken cognizance of & tried by a Court of Session**

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 5.1)

Definitions	Applicability & Minimum Subscription for regulation	General Conditions (Regulation 4)		Fast track issue (FTI)
<p>Application Supported by Blocked Amount (ASBA)</p> <p>Application for subscribing to a public issue or rights issue, along with an authorisation to Self Certified Syndicate Bank to block the application money in a bank account</p> <p>Further Public Offer</p> <p>Offer of specified securities by listed issuer to public for subscription & includes offer for sale of specified securities to public by any existing holders of securities in listed issuer</p> <p>Initial Public Offer</p> <p>Offer of specified securities by an unlisted issuer to public for subscription & includes an offer for sale of specified securities to public by any existing holders of such securities in an unlisted issuer</p> <p>Retail individual investor</p> <p>Investor who applies or bids for specified securities for value of not more than Rs. 2 lakhs</p> <p>Issue Size & offer through offer document</p> <p>a)Issue Size” includes offer through offer document (OTOD) & promoters’ contribution.(PC)</p> <p>b)offer through offer document means net offer to public & reservations.</p> <p>Issue Size = OTOD + PC</p> <p>OTOD= NOTP + Reservations as per Reg 42</p> <p>Therefore ,</p> <p>Issue Size = NOTP + Reservations + PC</p> <p>Wilful Defaulter A</p> <p>Issuer who is categorized as wilful defaulter by any bank or financial institution or consortium thereof, in accordance with the guidelines on wilful defaulters issued by RBI & includes issuer whose director or promoter is categorized as such</p>	<p>Applicability</p> <p>(a)public issue(PI)</p> <p>(b)rights issue(RI), where the aggregate value of specified securities offered is 50 lakh rupees or more;</p> <p>(c)preferential issue</p> <p>(d)issue of bonus shares by a listed issuer;</p> <p>(e)QIP by a listed issuer;</p> <p>(f)issue of IDR</p> <p>Provided regulations not apply to issue of securities under SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011.</p> <p>Minimum Subscription (MS)</p> <p>a)Issue shall not be less than 90% of OTOD</p> <p>b)Non-receipt of MS,all application moneys received shall be refunded , but not later than:</p> <p>i) 15 days of the closure of the issue, in case of non-underwritten issue &</p> <p>ii) 70 days of the closure of the issue, in the case of an underwritten issue</p> <p>where minimum subscription including devolvement obligations paid by the underwriters is not received within 60 days of the closure of the issue,else interest @15% shall be payable.</p>	<p>1) Issuer offering specified securities through public issue or rights issue shall satisfy conditions of this Chapter at time of filing draft offer document with Board & at time of registering or filing final offer document with ROC or designated SE</p> <p>2) No issuer shall make public issue or rights issue of specified securities:</p> <p>a) if issuer, promoters,or directors or persons in control of issuer are debarred from accessing capital market by Board;</p> <p>b) if promoters, directors or persons in control of issuer was or also is promoter, director or person in control of other company which is debarred from accessing capital market under order or directions made by Board; (c) omitted</p> <p>d) unless it has made application to RSE for listing of specified securities & has chosen one of them as designated stock exchange:</p> <p>In case of initial public offer, issuer make application for listing of securities in at least one RSE having nationwide trading terminals;</p> <p>e) unless it has entered into agreement with depository for dematerialization of specified securities issued or proposed to be issued;</p> <p>(f) unless all existing partly paid-up equity shares of issuer have either been fully paid up or forfeited;</p> <p>(g) unless firm arrangements of finance through verifiable means towards 75% of stated means of finance</p> <p>(3) Warrants may be issued along with public issue or rights issue subject to following:</p> <p>(a) tenure not exceed 18 months from date of allotment in public/rights issue;</p> <p>(b) not more than one warrant be attached to one specified security;</p> <p>(c) price or conversion formula of warrants shall be determined upfront & at least 25% of consideration amount be received upfront;</p> <p>(d) in case warrant holder does not exercise option to take equity shares against warrants held by him, consideration paid in respect of such warrant shall be forfeited by issuer</p>	<p>4) Amount for general corporate purposes, as mentioned in objects of issue in draft offer document filed with Board, shall not exceed 25% of amount raised by issuer by issuance of securities</p> <p>5) No issuer shall make,</p> <p>i) Public issue of equity securities, if issuer or promoters or directors is wilful defaulter; or</p> <p>ii) public issue of convertible debt instruments if,</p> <p>▪ issuer or promoters or directors is wilful defaulter/</p> <p>▪ it is in default of payment of interest or repayment of principal amount in respect of debt instruments issued by it to public, if any, for period of more than 6 mths</p> <p>6) Issuer making rights issue of specified securities, make disclosures specified in Part G of Schedule VIII, in offer document & abridged letter of offer, if issuer or promoters or directors is wilful defaulter</p> <p>7) Promoters or promoter group of issuer, shall not renounce their rights except to extent of renunciation within promoter group</p>	<p>Purpose behind FTI</p> <p>a) FTI introduced in order to enable well established & compliant Listed Cos satisfying certain specific entry norms/conditions to access Indian Primary Market in time</p> <p>b) Such COs not required to file Draft Offer Document for SEBI’s comments & to SE</p> <p>Norms under FTI</p> <p>a)Issuer doesn’t have to comply with Regulations 6,7,8 related to filing of so many documents with SEBI & Stock Exchange</p> <p>b)There are lot of FORMS to be submitted under ICDR Regulations 6,7 and 8 & then amend prospectus based on observations made by SEBI</p> <p>Norms Not Applicable</p> <p>a) Shares listed on any RSE having nationwide trading terminals for period of at least 3 yrs immediately preceding date of filing of offer document with ROC/SE</p> <p>b) Average Market Capitalization of public shareholding of Co is at least Rs.1000 crore in case of public issue & Rs.250 Cr in case of rights issue</p> <p>c) Annualised turnover of shares of company during 6 calendar mths immediately preceding mth of reference date has been at least 2% of weighted avg no of ES listed during such 6 mths’ period</p> <p>d) Co has redressed at least 95% of total shareholder/ investor grievances or compaints till end of quarter immediately preceding mth of date of filing offer document with ROC/SE</p> <p>e) issuer complied with listing agreement for at least 3 yrs immediately preceding reference date</p> <p>f) Auditors’ qualifications for which such accounts are disclosed in offer document does not exceed 5% of net profit or loss after tax</p> <p>g) No show cause notices are pending against Co or its promoters or WTD on reference date</p> <p>(ga) issuer or promoter or promoter group or director of issuer has not settled alleged violation of securities laws through consent or settlement mechanism with Board during 3 years immediately preceding reference date</p> <p>h) Entire shareholding of A promoter group is held in dematerialised form on date of filing of offer</p> <p>(i) in case of rights issue, promoters & promoter group shall mandatorily subscribe to their rights entitlement & shall not renounce their rights, except to extent of renunciation within promote A group or for the purpose of complying with minimum public shareholding norms prescribed under Rule 19A of Securities Contracts (Regulation) Rules, 1957;</p> <p>(j) equity shares of issuer have not been suspended from trading as disciplinary measure during last 3 years immediately preceding reference date;</p> <p>(k) annualized delivery-based trading turnover of equity shares during 6 calendar months immediately preceding month of reference date has been at least 10% of weighted average number of equity shares listed during such 6 months’ period;</p> <p>(l) there shall be no conflict of interest between the lead merchant banker(s) & issuer or its group or associate company in accordance with applicable regulations</p>

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 5.2)

Conditions for further public offer (Regulation 27)	PRICING IN PUBLIC ISSUE	PROMOTERS' CONTRIBUTION (PC)	Minimum Offer to Public, Reservations, etc
<p>Issuer may make further public offer if it satisfies conditions specified in clauses (d) & (e) of Regulation 26(1) & if it does not satisfy those conditions, it may make further public offer if it satisfies conditions specified in Regulation 26(2)</p>	<p>Pricing</p> <p>Determination of price of SS in consultation with LMB or through book building process</p> <p>Differential Pricing</p> <p>a) RII or RIS or employees applying for SS of value not more than Rs. 2 lakhs rupees, may be offered SS at a price lower than the price at which net offer is made to other categories of applicants:</p> <p>i) Difference shall not be more than 10% of price at which SS are offered to other applicants</p> <p>ii) If book built issue, price offered to AI shall not be lower than the price offered to other applicants</p> <p>iii) If composite issue, price offered may be different from price offered in RI & justification for such price difference shall be given</p>	<p>Minimum Requirement(MR)</p> <p>a) IPO by Unlisted companies - ≥ 20% of Post Issue Capital</p> <p>b) FPO by Listed companies - ≥ 20% of Post issue or ensure shareholding of ≥ 20% of Post Issue Capital</p> <p>if post issue shareholding of promoters <20%, AIF may contribute for the purpose of meeting shortfall in MC as specified, subject to max. of 10% of post issue capital</p>	<p>MAX.RESERVATION ON COMPETITIVE BASIS (Reg 42)</p> <p>a) Issue through BB-</p> <p>i) Employees excluding promoters- 5% of post issue capital.</p> <p>ii) shareholders (other than promoters) of: listed promoting companies, in case of new issuer & listed group companies, in case of existing issuer- 10% of Issue Size</p> <p>iii) Persons who have business association with issuer as depositors or bondholders making IPO-5% of issue Size</p> <p>b) Issue made otherwise than BB:</p> <p>i) Employees excluding promoters-5% of post issue capital</p> <p>ii) SH (other than promoters) of: listed promoting companies, in case of new issuer, listed group companies in case of existing issuer- 10% of Issue Size</p> <p><i>Provided that in event of under-subscription in employee reservation portion, unsubscribed portion be allotted on proportionate basis, for value in excess of Rs. 2 lakhs, subject to total allotment to employee not exceeding Rs. 5 lakhs</i></p>
<p>Qualified Institutional Buyer</p> <p>(a) PFI as in section 4A of Co Act, 2013. These include IFCI, IDBI, LIC, UTI, IDFC, ARCIL</p> <p>(b) Scheduled commercial banks includes commercial banks in 2nd Sch. to RBI Act</p> <p>(c) mutual fund</p> <p>(d) FIs registered with SEBI</p> <p>(e) VCF registered with SEBI</p> <p>(f) FVC investor registered with Board;</p> <p>(g) Insurance Co registered with IRDA</p> <p>(h) PF with minimum corpus of Rs.25 crore</p> <p>(i) Pension Fund with minimum corpus of Rs.25 crore</p>	<p>Price and Price Band</p> <p>a) Price in draft prospectus (in case of FPI) & floor price or price band in red herring prospectus (in case of BB) & determine the price at later date before registering the prospectus with ROC</p> <p>i) But prospectus registered with ROC shall contain only one price or the specific coupon rate, as case may be</p> <p>1. The cap on price band ≤ 120% of FP</p> <p>2. FP or final price shall not be less than face value of SS</p>	<p>ALTERNATIVE INVESTMENT FUNDS</p> <p>a) Any fund established or incorporated in India in the form of trust or Co or LLP or a body corporate which –</p> <p>1) Is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign</p> <p>2. Is not covered under SEBI (MF) Regulations, 1996 & SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of the Board to regulate fund management activities:</p>	<p>ALLOCATION IN NET OFFER TO PUBLIC</p> <p>a) BB under Reg 26(1)- RII ≥ 35%, NII ≥ 15%, QIB ≤ 50% out of which 5% shall be to MF.</p> <p>b) BB under Reg 26(2)- RII ≤ 10%, NII ≤ 15%, QIB ≥ 75% out of which 5% shall be to MF.</p> <p>c) Otherwise than BB- RII ≥ 50%, Bal 50% to other than RII</p>
	<p>Face Value (FV)</p> <p>a) FV of shares determined by Co e.g.; 10, 5, 2, 1, etc. b) It cannot be in decimal.</p> <p>c) If IPO foll. additional conditions apply:</p> <p>i) IP ≥ 500 then Co may fix FV below Rs.10 per share but not lower than Rs.1 per share;</p> <p>ii) IP < 500 then Co must have FV of 10 per share</p>	<p>LOCK-IN PERIOD</p> <p>a) Min.PC- 3 yrs from date of allotment in PI or commencement of commercial production whichever is later.</p> <p>b) Excess PC- 1 yr from date of allotment</p> <p>c) Pre-IPO capital of Unlisted Co - 1yr from date of allotment in PI</p>	
		<p>Transferability of locked-in SS</p> <p>Comply with SEBI Takeover Regulations & that bal lock-in continues in hands of transferees for unexpired lock-in period</p>	

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS)

REGULATIONS, 2009 (Chart 5.3)

PREFERENTIAL ISSUE

Green Shoe Option (GSO)

REGULATION NOT APPLICABLE IF PI IS MADE

- (a) Conversion of loan or option attached to **convertible debt instruments** by CG
- (b) Scheme **approved by HC** u/s 391 to 394 of the Co Act, 1956 or **Tribunal u/s 230 to 234 of Companies Act, 2013, whichever applicable**
- (c) **Rehabilitation scheme** approved by BIFR or **Tribunal under Insolvency & Bankruptcy Code, 2016, whichever applicable**

CONDITIONS

- (1) (a) **SR** passed by its SH;
- (b) ES held are in **dematerialized form**;
- (c) Compliance with conditions for continuous listing of ES
- (d) Obtained **PAN** of the proposed allottees.
- (2) No **PI** who has sold any ES during **6 mths** preceding the relevant date: "Relevant date" means – date 30 days prior to the date on which the meeting of Shareholder is held to consider the proposed preferential issue.
- (3) **Allotment** pursuant to SR shall be completed **within** period of **15 days**, else pass a **fresh resolution** shall have to be passed again.

Payment of consideration

Full consideration of SS other than **warrants** issued under this Chapter shall be **paid** by the allottees at the time of allotment of such SS.

PRICING OF ES

- 1) ES listed on RSE for **6 mths/ more** on relev date, **price not less than higher of:**
 - (a) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **6 mths** preceding relevant date;
 - (b) **Avg of weekly high & low** of closing prices of related ES quoted on RSE during **2 weeks** preceding relev date
- 2) ES listed on RSE for period of **less than 6 mths** on relevant date, price not less than **higher** of following:
 - (a) **Price** at which ES issued in its **initial public offer**
 - (b) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **period shares** have been listed preceding relevant date; or
 - (c) **Avg of weekly high & low of closing prices** of related ES quoted on RSE during **2 weeks** preceding relev date

LOCK-IN OF SPECIFIED SECURITIES

- 3 yrs** from the date of allotment of the SS or ES allotted pursuant to exercise of option attached to warrant, provided
 - i) If **not more than 20% of total capital** shall be locked-in for **3 yrs** from the date of allotment
 - ii) And if **in excess of 20%** shall be locked-in for **1 yr** from the date of their allotment.

Meaning

- a) An option of **allocating shares in excess of shares** included in **PI** & operating post-listing price stabilizing mechanism for **period not exceeding 30 days** by Stabilizing Agent (SA).
- b) Issue would be over allotted to the extent of **max. of 15% of the issue size**.
- c) GSO provides **more probability** of getting shares & also that post listing price may show relatively more stability as compared to market.
- d) GSO gives underwriter the **right to sell investors more shares than originally planned**.
- e) Provide **additional price stability** because underwriter has the ability to increase supply & smooth out price fluctuations if demand surges.

Price Stabilization through GSO

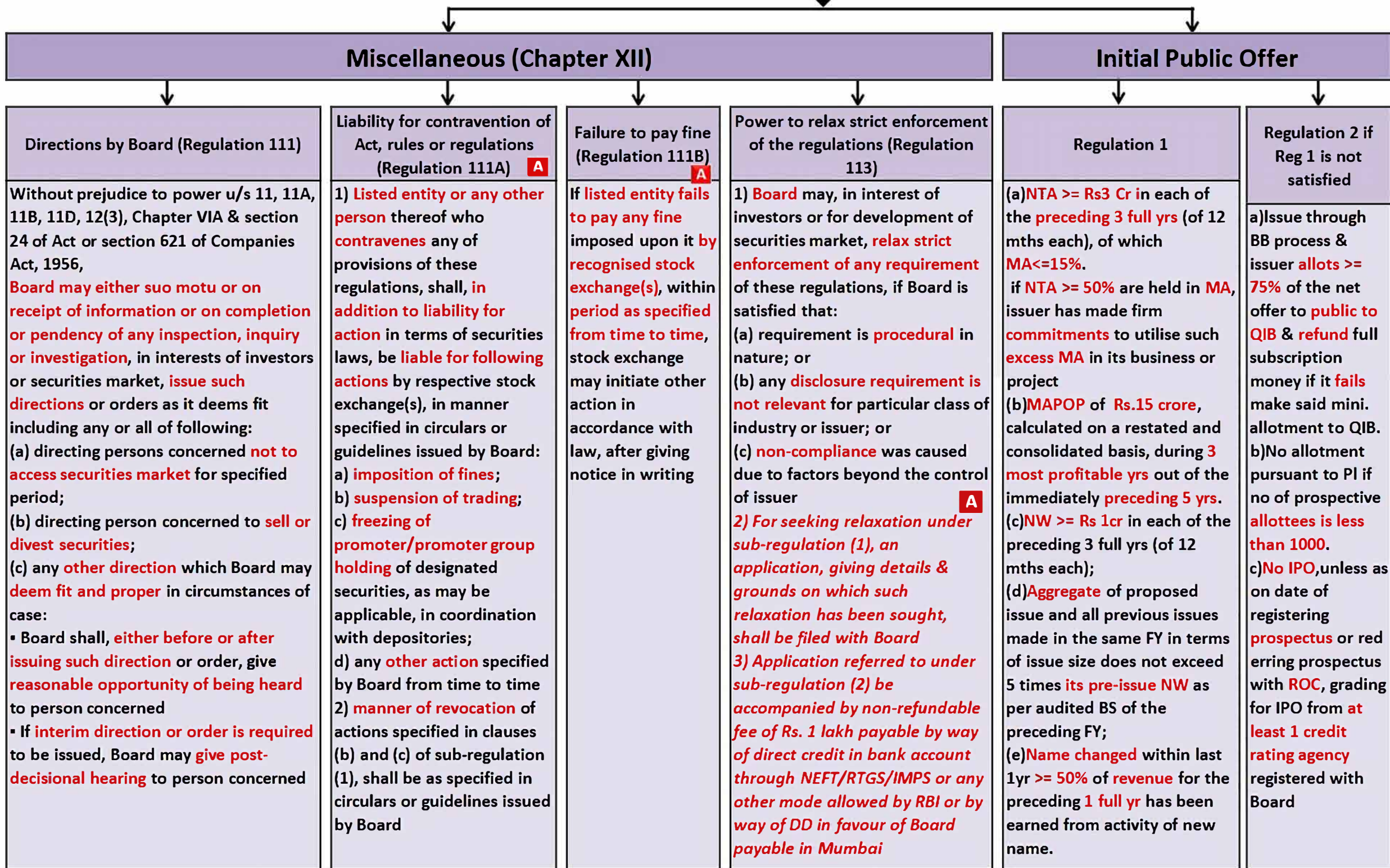
- a) Stabilising **post listing price** of its Specified Securities(SS)
- b) **Resolution passed** in GM approving PI to allot SS to SA, on the expiry of SP
- c) **Appoints MB or BR** from amongst MBs appointed by issuer as SA
- d) Issuer & SA enters into **agreement** stating terms & conditions including fees & expenses to be incurred
- e) **Agreement** with promoters or pre-issue SH or both for borrowing SS, specifying **max. no of SS** may be borrowed which shall **not be in excess of 15%** of issue size
- f) **LMB or LBR in consultation with SA**, determine amount of SS over allotted
- g) **Draft & final offer documents** shall contain all material disclosures
- h) In IPO pre-issue SH and promoters holding **more than 5% specified securities** may lend SS
- h) SA determines **timing of buying** such securities, quantity to be bought & **price** at which to be bought
- i) Maximum SP **not exceeding 30 days** from date on which **trading permission** given
- j) **Separate Bank and DP Account**: For crediting monies received from the applicants against over- allotment and DP for crediting SS to be bought from market during SP
- k) **Return** of Shares to promoters or pre-issue but **not later than 2 working days** after end of SP
- l) SA unable to buy SS On expiry of SP, issuer shall allot SS at issue price in **dematerialised form** to extent of shortfall **within 5 days** of closure of SP
- n) **Listing Application** in respect of further SS allotted under sub-regulation(6) & provisions of Chapter VII shall not be applicable to such allotment
- m) SA shall **remit** monies of SS allotted from **special bank account**
- n) Any **Surplus in Bank Account** after remittance & deduction of expenses shall be **transferred to IPEF**
- o) **Report**: SA shall submit report to SE on **daily basis** during SP & FR to Board in format specified in **Schedule XII**
- p) Maintenance of Register for **at least 3yrs** from date of end of SP & register contains
 - i) Names of promoters or pre-issue SH
 - ii) Price, date & time of each transaction and
 - iii) details of allotment made

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS)

REGULATIONS, 2009 (Chart 5.4)

INDIAN DEPOSITORY RECEIPTS	BONUS ISSUE	BOOK BUILDING		ANCHOR INVESTORS (AI)
<p style="text-align: center;">↓</p> <p style="text-align: center;">REGULATION 97 – ELIGIBILITY FOR IDR</p> <p>(a) Issuing company (IO) is listed in its home country; (b) IO is not prohibited to issue securities by any regulatory body; (c) IO has track record of compliance with securities market regulations in its home country “Home country” means country where issuing company is incorporated & listed.</p> <p style="text-align: center;">REGULATION 98 – CONDITIONS FOR ISSUE OF IDR</p> <p>a) issue size >= 50 crore rupees; b) Procedure to be followed by each class of applicant which shall be mentioned in the prospectus c) minimum application amount - Rs. 20,000 d) at least 50% of the IDR to be allotted to QIB e) Bal 50% may be allocated among NII & RII including employees & allocation to be disclosed in prospectus. Provided IDRs in public issue for RII >= 30% & in case of under subscription in RII, spillover to other categories to the extent permitted. f) only 1 denomination of IDR of the issuing company.</p>	<p style="text-align: center;">↓</p> <p style="text-align: center;">CONDITIONS</p> <p>a) Authorised by its AOA Provided if no such provision, pass a resolution at its general body meeting making provisions in AOA for capitalisation of reserve; b) Not defaulted in payment of interest or principal in respect of FD or debt securities issued by it c) Not defaulted in payment of statutory dues of the employees d) the partly paid shares, outstanding on the date of allotment, are made fully paid up. e) Reservation of ES of same class in favour of the holders of outstanding compulsorily convertible debt instruments, if any, in proportion to the convertible part thereof.</p> <p style="text-align: center;">BS only against reserves, etc. if capitalised in cash</p> <p>Out of FS built out of genuine profits or SP collected in cash only & reserves created by revaluation of FA shall not be capitalised for BI. Note: CR & CRR are prevalently used for BS. Only RR, which in unrealized is not permitted.</p> <p style="text-align: center;">Completion of bonus issue</p> <p>a) BI after approval of its BOD for capitalisation of profits or reserves, shall implement BI within 15 days from date of approval Provided that where SH's approval, BI shall be implemented within 2 mths from date of the meeting of its BOD wherein the decision was taken subject to SH's approval. b) Once the decision to make BI is announced, it can not be withdrawn.</p>	<p style="text-align: center;">↓</p> <p style="text-align: center;">CONCEPT</p> <p>a) Public issue is made as opposed to a fixed price offer method. b) Demand for the proposed issue is elicited & built up & price is assessed. c) Price discovered by investors as opposed to Co fixing the price.</p> <p style="text-align: center;">PRICING</p> <p>a) Prospectus (red herring prospectus) should mention Floor Price (i.e., min. price below which bids would not be accepted) or price band consisting of ceiling/cap & a floor. b) In case of band, cap cannot exceed 20% of floor. c) Actual pricing depends on bids received.</p> <p style="text-align: center;">Revision of price band (PB)</p> <p>Max. revision on either side <= 20% i.e. floor of PB can move up or down to the extent of 20% of floor of PB disclosed in red herring prospectus & the cap of the revised PB will be fixed accordingly.</p> <p style="text-align: center;">Build up of the books and revision of bids</p> <p>a) Electronically transmitted to NSE OR BSE on an online basis. b) Book gets built up at various price levels. Info available with BRLMs on regular basis. c) Bidder who registered his interest in ES is free to revise his bid within PB. d) Revision can be made in both desired nos of ES & bid price & no of times during bidding period</p>	<p style="text-align: center;">↓</p> <p style="text-align: center;">STEPS</p> <p>A) File the herring prospectus with ROC at least 3 days before the bid/issue opening date. b) Co & BLM must declare bid/issue opening date, bid/issue closing date & price band. c) Bidding period shall be open for at least 3 WD not more than 7 WD. d) PB is revised, it will be published in two widely circulated newspaper & the bidding period extends for a further period of three period of three days, subject to total bidding period not exceeding 10 WD. e) The bidder can revise the bid through revision form. f) Bid at any price within the price band & for desired no of ES at a specific price. g) Retail individual bidder applying for max. bid not exceeding Rs. 2lac may bid at “cut-off”. “cut-off” is prohibited for QIB or non institutional bidders.</p>	<p style="text-align: center;">↓</p> <p style="text-align: center;">CONCEPT</p> <p>a) Application of a value at least Rs.10 crore in the public issue. b) Upto 30% of available for allocation to QIB shall be available to AI c) 1/3rd shall be reserved for domestic MF. d) Bidding shall open 1 day before issue opening date e) Pay at least 25% margin which is payable by other categories of investors bal, to be paid within 2 days of date of closure of issue f) Allocation to be completed on day of bidding g) Price fixed as result of BB is higher than price at which the allocation is made, then it shall be an additional amount. If lower than price at which allocation is made shall be allotment at price at which allocation was made to it h) No of share allocated & price at which allocation is made, shall be made available in public domain by merchant banker i) Lock-in of 30 days on shares from date of allotment public issue j) Neither merchant bankers nor any person related to promoter/promoter group/merchant bankers in the concerned public issue can apply under AI category</p>

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009 (Chart 5.5)



Securities Contract (Regulation) Act, 1956 (Chart 6.1)

Definition (Sec 2)

Recognition of Stock Exchanges

CORPORATISATION

Succession of a recognised stock exchange(RSE) being a body of individuals or a **society registered** under the Societies Registration Act, 1860, by another stock exchange, being CO incorporated for the purpose of assisting, regulating or controlling business of **buying, selling or dealing in securities** carried on by such individuals or society.

DEMUTUALISATION

Segregation of ownership & management from the trading rights of the members of a RSE in accordance with a scheme approved by SEBI.

Scheme under Corptn & Demutn

- i) **Issue of shares** for a lawful consideration & provision of **trading rights** in lieu of membership cards.
- ii) Restrictions on **voting rights**.
- iii) **Transfer** of property, business, assets, rights, liabilities, recognitions, contracts of RSE from **1 RSE to another**.
- iv) Transfer of **employees** of RSE to another RSE
- v) Any other matter

DERIVATIVE

- i) **Debt instrument, share, loan**, whether secured or unsecured, risk instrument or contract for differences
- ii) contract, which derives **its value from prices, or index of prices**, of underlying securities
- iii) **commodity derivatives**
- iv) **other instruments** declared by CG to be derivatives

SECURITIES

- (i) Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities.
- (ii) **Derivative**;
- (iii) Units or any other instruments issued by any **collective investment scheme** to investors
- (iv) Security receipt as defined in (**SARFAESI**)
- (v) **Units** or any other such instrument issued to the investors under any **mutual fund scheme**;
- (vi) Government securities;
- (vii) Such other instruments as may be declared by CG
- (viii) **Rights or interests** in securities.

SPOT DELIVERY CONTRACT

- a) **Actual delivery** or securities & payment of a price either on **same day** as the date of contract or on **next day**, actual period taken for the despatch of the securities or
- b) **Remittance of money** therefor through post being excluded from computation of period if parties do not reside in same town or locality

Application

Application to the CG (Power delegated by CG to SEBI)

Form of Application

- i) Form A with a fee of Rs. 500
- ii) 4 copies of Articles / Bye laws & Rules & Regulation relating to Stock Exchange

Attachement to Application

Bye-Laws, Rules, Regulations containing details on:

- i) Governing body of SE, its constitution & powers of management & manner of its business
- ii) **Powers and duties** of office bearers of the SE.
- iii) Various **classes of members, qualification for membership** & exclusion, suspension, expulsion & re-admission of members
- iv) **Procedure** for registration of Partnerships as members to SE in cases where rules provide for such membership, & **nomination & appointment** of authorised representatives & clerks

Granting of Recognition by SEBI (Sec 4)

Grant recognition to SE subject to the conditions:

- i) **Rules and Bye-Laws are in conformity** with the conditions prescribed.
- ii) Fair **dealing** & investors **protection**
- iii) Interest of trade & also in **public interest**
- iv) Qualification for membership
- v) Manner in which contracts shall be entered & enforced as betwn members
- vi) **Representation of CG** on Board of Exchanges (Not exceeding 3)
- vii) Maintenance of accounts of members & their audit by CA

Publication in Gazette

Grant of recognition shall be **published in Gazette** of India & also in Official Gazette of State in which SE is located

Refusal

- i) opportunity of being heard
- ii) **Reason for refusal** will be communicated in **writing**

Corporatisation and demutualisation(CAD) of stock exchanges (Section 4A & 4B)

- i) Within such time as may be specified by the **SEBI**, submit a scheme for CAD for its **approval**.
- ii) In interest of the **trade** & also in **public interest**, approve the scheme with or without modification
- iii) If approved,scheme shall be **published** immediately by (a) SEBI in the **Official Gazette**;
- (b)RSE in such **2 daily newspapers** circulating in India, as may be specified by SEBI.
- iv) **Restriction / Condition:** (a) **Voting rights** of SH who are also stock brokers of RSE
- (b)Right of SH or stock broker of RSE to **appoint representatives** on governing board of SE
- (c) max. no of representatives of stock brokers of the RSE to be appointed on governing board of RSE, which shall **not exceed 1/4th of the total strength** of the governing board
- d) Every RSE either by **fresh issue of ES** to public or in any other manner as may be specified, ensure that **atleast 51%** of its ESC is held, **within 12 mths** from date of publication of the order, by public other than shareholders having trading rights

Withdrawal of Recognition (Sec 5)

- i) CG can withdraw in the **interest of the trade** or in **public interest** after serving due notice on governing body of Exchange
- ii) If RSE has not been corporatised or demutualised or it **fails** to submit the **scheme** or the scheme has been **rejected** by SEBI, the recognition shall stand withdrawn & CG shall publish, by notification in Official Gazette, such withdrawal
- iii) Withdrawal shall **not affect the validity** of any **contract** entered into or made before date of notification

Securities Contract (Regulation) Act, 1956 (Chart 6.2)

Powers of Various Authorities

Power of Central Government to call for Information (Section 6)	Power of CG to direct rules to be made or to make rules. (Sec 8)	Power to RSE to Make Bye-Laws (Section 9)	Power of SEBI to make or amend bye-laws of RSE (Sec 10)	Power of CG to supersede governing body of a RSE.(Sec 11)
<p>i.)RSE should furnish periodical returns to SEBI in the prescribed format relating to its current affairs.</p> <p>ii.)RSE & member thereof has to maintain and preserve books of accounts for a period not exceeding 5 yrs & these books may be inspected by SEBI at any point of time.</p> <p>iii.)Order in writing call for information or explanation relating to affairs of an Exchange or its member & appoint one or more inquiry officers who submits report to SEBI.</p> <p>iv)Every member is bound to provide information to Enquiry officer or SEBI representative who are looking into the affairs of the Exchange.</p>	<p>i.)After consultation with the governing bodies of SE,CG by order in writing, together with a statement of the reasons direct RSE to make any rules or amend any rules within a period of 2 months from the date of the order.</p> <p>ii.)RSE fails or neglects to comply with any order CG may make the rules for or amend the rules.</p> <p>iii.)Penalty for Non-Compliance of Sec 8 shall attract Rs. 25 Crore u/s 23G.</p>	<p>i.)RSE may subject to the previous approval of the SEBI, make bye-laws for the regulation & control of contracts.</p> <p>ii.)Such bye- laws may provide for:(a)Opening & closing of markets & regulation of the hrs of trade</p> <p>b.)CH for periodical settlement of contracts & differences, delivery & payment of securities,passing on of delivery orders & the regulation & maintenance of such CH.</p> <p>c.)Regulation or prohibition of blank transfers.</p> <p>d)number & classes of contracts for settlements or differences paid through CH.</p> <p>e.)Regulation, or prohibition of badlas or carry-over facilities</p> <p>f.)Fixing, altering or postponing of days for settlements</p> <p>(g)Regulation of taravani business including the placing of limitation.</p> <p>(h)Fixing of scale of brokerage & other charges</p> <p>(i)Listing of securities on SE including any security for the purpose of dealings & the suspension or withdrawal and the suspension or prohibition of trading in any specified securities.</p>	<p>i) SEBI in writing received by it in this behalf from RSE after consultation with the governing body of SE & after recording its reasons make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws.</p> <p>ii.)RSE objects to any bye-laws made or amended under this section by SEBI it may, within 2 months, apply to the SEBI for revision & giving an opportunity to be heard,revise the bye-laws so made or amended,shall be published and shall become effective. iii.)Penalty for Non-Compliance of Sec 8 shall attract penalty of Rs. 25 Crore u/s 23G</p>	<p>i.)CG may serve a written notice that CG is considering the supersession for the reasons specified in the notice & after giving an opportunity to be heard.</p> <p>ii.)Notification in the Official Gazette, declare supersession & may appoint any person exercise and perform all powers & duties & where more persons than one are appointed, may appoint one of such persons to be chairman & another to be the vice-chairman .</p> <p>iii.)Effect of Supersession:Notification in OG & ensure foll.</p> <p>a.)From the date of the notification , cease to hold office as such members.</p> <p>b)Persons appointed may exercise & perform all powers & duties of the governing body which has been superseded.</p>
Power of RSE to make rules restricting voting rights, etc(Sec 7A)	Clearing corporation (CC) (Sec 8A)		Power to suspend business of RSE.(Sec 12)	Power of SEBI to issue directions (Section 12A)
<p>i.)Restriction on Voting Rights.</p> <p>ii.)Each member one vote only, irrespective of his share of the PSC.</p> <p>iii.)Restriction on the right of a member to appoint another person as his proxy to attend & vote at a meeting.</p> <p>iv.)such incidental, consequential and supplementary matters.</p> <p>v.)No rules made or amended referred to in (i) to (v) shall have effect until they have been approved by CG</p> <p>vi.)CG may make such modifications as it thinks fit& rules as approved be deemed to have validly .</p>	<p>i.)Prior approval of the SEBI for transfer of duties & functions of a clearing house(CH) to a clearing corporation(CC) , being a CO incorporated under the Co Act, 2013 for:</p> <p>(a)Periodical settlement of contracts & differences</p> <p>(b)Delivery of & payment for, securities;</p> <p>(c) Any other matter incidental to, or connected with, such transfer.</p> <p>ii.)CC for the purpose of transfer of the duties and functions make bye-laws & submit the same to the SEBI for its approval.</p> <p>iii.)SEBI in the interest of trade & also in the public interest, grant approval to the bye-laws submitted.</p>		<p>i.)Emergency has arisen CG suspend such of RSE business for such period not exceeding 7 days & in interest of trade or the public interest extend suspension by like notification, from time to time</p> <p>ii.)No notification extending the period of suspension shall be issued unless governing body has given an opportunity of being heard in the matter.</p>	<p>i)In the interest of investors, or orderly development of securities market or</p> <p>ii.)To prevent the affairs of any RSE or CC providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market or</p> <p>iii.)To secure the proper management , it may issue such directions,</p> <p>a) To any stock exchange or clearing corporation or agency.</p> <p>b)To any company whose securities are listed or proposed to be listed</p>

Securities Contract (Regulation) Act, 1956 (Chart 6.3)

CONTRACTS AND OPTION IN SECURITIES

Contracts in notified areas illegal in certain circumstances (Section 13)

i.)CG having regard to the nature or the **volume of transactions** may by notification in OG,such **State or States or area** or with member of such area & every contract in such State or States or area, which is entered into after the date of the notification shall be **illegal**.
ii.)Provided that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall be **legal** with such terms & conditions & with **prior approval of SEBI**

Additional trading floor (Section 13A)

i.)establish additional trading floor with the prior approval of the SEBI in accordance with the terms and conditions.
ii.)**trading ring or trading facility** offered by a RSE outside its area of operation to enable the investors to **buy & sell securities** through such trading floor

Power to prohibit contracts in certain cases (Sec 16)

CG to **prevent undesirable speculation** in specified securities in any State or area may, declare that no person in the State or area specified in the notification shall with **permission of CG**, enter into any contract for the sale or purchase of any security specified in notification except manner specified in notification

Members may not act as principals in certain circumstances (Sec 15)

i.)**No member** shall in respect of any securities enter into any contract as a **principal** with any person other than a member of RSE, unless he has **secured the consent** or authority of such person and **discloses** in the note, memorandum or agreement of sale or purchase that he is acting as a principal
ii.)Consent or authority otherwise than in writing shall secure **written confirmation within 3 days** from the date of the contract.
iii.)No such written consent shall be necessary for closing out any outstanding contract entered , if the member discloses in the note, memorandum or agreement of such closing out that he is acting as a principal.

Licensing of dealers in securities in certain areas. (Sec 17)

i.)No person shall carry on the business of dealing in securities except under the authority of a **licence granted by the SEBI** in this behalf.
ii.)**Restrictions imposed** in relation to **dealings in securities** shall not apply to doing of anything by or on behalf of a **member** of any RSE.

LISTING OF SECURITIES

Section 21 ,21A,22A,22F

i.)**Comply** with the **conditions** of the listing agreement with that stock exchange.
ii.)a.)May **delist** the securities, after recording the reasons.
b)Cannot be delisted unless Co concerned has been given a reasonable opportunity of being heard.
c)Listed company or an aggrieved investor may **file an appeal** before **SAT within 15 days** from the date of the decision of RSE & provisions of sections 22B to 22E of this Act, shall apply.
d)Allow appeal to be filed for an **extended** period of **1 mth** only if there's sufficient cause.
iii.)After giving an opportunity of being heard,
(a)**vary or set aside** the decision or
(b)SAT sets aside the decision of RSE or grants the permission,SE shall act in conformity with the orders of the SAT.
iv.)Appeal shall be **dispose within 6 months** from the date of receipt of the appeal.
v.)Aggrieved by decision of SAT shall **appeal to SC within 60days** and it may be **extended** for further period **not exceeding 60days** on sufficient cause.

Miscellaneous

Title to dividends (Section 27)

i.)holder of any security **retain any dividend** irrespective of that the said security has been transferred,**unless** the transferee who claims the dividend from the **transferor** has **lodged** the security and all other **documents** relating to the transfer with Co for being registered in his name **within 15 days** of the date on which the dividend became **due**.
ii.)Period shall be **extended**—
a) In case of **death** of the transferee
b) In case of **loss** of the transfer deed by theft or any other cause beyond the control of the transferee and
c) In case of **delay** in the lodging of any security and other documents relating to the transfer due to causes connected with the post

Act not to apply in certain cases (Sec 28)

(i)**Gvt, RBI, any local authority** or any corporation set up by a special law.
(ii) any convertible bond or share warrant or any option or right [Convertible Debentures, Preference shares, ESOP, etc.],entitles the person in whose favour any of the foregoing has been issued on the **basis** of the **price agreed** upon when the same was issued.

Penalties

Section 23A,23B,23C

i.)Failure to furnish **information, return, etc & maintain books of accounts** and records requiredby Listing Agreement ,fails to enter into **agreement with clients** as required by law,stock broker or sub- broker fails to redress the grievances-**1 lakh Rs.** for each day during which such failure continues or **1 crore** whichever is **less**.

Section 23D

Stock broker or sub-broker who **fails to segregate securities or moneys** of the client(s) or uses the securities or moneys of a client(s) for self or for any other client-**not exceeding 1 cr**

Section 23E,23F,23G

Penalty **not exceeding 25 crore Rs-**
i)fails to comply with the **listing or delisting conditions**
ii)**dematerialises securities** more than the issued securities or securities which are not listed where **no trading permission** has been given
iii)Fails to furnish the **periodical returns** to SEBI or fails to amend bye laws as directed by SEBI or fails to comply with the directions of Board

Section 23H

Fails to **comply with any provision** ,rules or articles or bye-laws or regulations of RSE or directions issued by the SEBI for which **no separate penalty** has been provided-Penalty which may **extend to 1 crore Rs.**

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.1)

Definitions

1) Person

"Person" includes-

- a) An **individual (I)**,
- b) A Hindu undivided family (**HUF**),
- c) A company (**Co**),
- d) A **firm (F)**,
- e) An association of persons (**AOP**) or a body of individuals (**BOI**), whether incorporated or not,
- f) every **artificial juridical person (AJP)**, not falling within any of
- g) any agency, **office or branch owned or controlled by such person**;

2) Authorised Person

It means an **authorised dealer, money changer, off-shore banking unit** or any other person for time being authorised to **deal in foreign exchange or foreign securities**

3) Repatriate To India

It means **bringing into India realised foreign exchange** and

- a) **Selling of such FE to an authorised person in India in exchange for rupees**, or
 - b) the **holding of realised amount** in an account with an authorised person in India to extent notified by RBI.
- It includes **use of realised amount for discharge of a debt or liability**

4) Person Resident In India (PRI)

A) a person residing in India for more than 182 days during course of preceding FY but does not include-

- i) a person who has **gone out of India or who stays outside India**, in either case-
 - a) for or on **taking up employment** outside India, or
 - b) for carrying on outside India a **business or vocation outside India**, or
 - c) for any other purpose, in such circumstances as would **indicate his intention to stay outside India for an uncertain period**;
 - ii) a person who has **come to or stays in India**, in either case, **otherwise than-**
 - a) for or on taking up **employment in India**, or
 - b) for carrying on in India a **business or vocation in India**, or
 - c) for any other purpose, in such circumstances as would **indicate his intention to stay in India for an uncertain period**;
- B) any person or body corporate registered or incorporated in India,**
- c) an office, **branch or agency in India owned or controlled by a PROI**,
 - d) an office, **branch or agency outside India owned or controlled by a PRI**

5) Person Resident Outside India (PROI)

"Person Resident Outside India" means a **person who is not resident in India**

6) Capital Account Transaction

It means a transaction which alters-

- a) **Assets or liabilities**, including contingent liabilities, **outside India of persons resident in India** or
- b) **assets or liabilities** in India of **persons resident outside India**, &
- c) includes transactions referred to in sub-section (3) of section 6

7) Current Account Transaction

It means a **transaction other than a capital account transaction** & without prejudice to generality of foregoing such transaction includes-

- a) **Payments due in connection with foreign trade**, other current business, services, & short- term banking & credit facilities in ordinary course of business.
- b) **Payments due as interest on loans** & as net income from investments.
- c) **Remittances for living expenses of parents, spouse & children residing abroad**, and
- d) **Expenses in connection with foreign travel, education & medical care of parents, spouse & children**

Dealing in foreign exchange, etc. (sec 3)

With general or special permission of RBI no person shall

- a) deal in or **transfer any foreign exchange** or foreign security to any person **not being an authorised person**;
- b) Payment to or for **credit of any PROI**
- c) **receive through an authorised person**, any payment by order or on behalf of any PROI
- d) **Financial transaction in India** as consideration for or in association with **acquisition or creation or transfer of a right to acquire any asset outside India**

Holding of foreign exchange (Section 4)

Except as provided in this Act, **No PRI shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India**

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.2)

Current Account Transactions (Section 5)

As per rules, drawal of foreign exchange for certain current account transactions is prohibited, a few need permission of appropriate Govt. of India authority. The three categories are:-

Schedule I (See Rule 3)	Schedule II (See Rule 4)		SCHEDULE III (See rule 5)		
Transactions for which drawal of foreign exchange is prohibited :-	SR NO	Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required	1) Facilities for individuals	2) Facilities for persons other than individual -
a) Remittance out of lottery winnings	1	Cultural Tours	Ministry of HR Development (HRD) (Department of Education & Culture)	Individuals can avail of foreign exchange facility for following purposes within limit of USD 2,50,000 only.	Donations by corporate for i) creation of Chairs in reputed educational institutes; ii) to funds (not being an investment fund)
b) Remittance of income from racing/riding, etc., or any other hobby				For additional Remittance prior approval of RBI require.	i) 1 % of their foreign exchange earnings during previous 3 FY or ii) US\$ 5,000,000, whichever is less
c) Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweep stakes etc.	2	Advertisement in foreign print media for purposes other than a) Promotion of tourism , b) foreign investments and c) international bidding (exceeding US\$ 10,000) by a SG & its Public Sector Undertakings.	Ministry of Finance, Department of Economic Affairs	a) Private visits to any country (except Nepal and Bhutan)	a) promoted by educational institutes; & iii) to a technical institution or body or association in the field of activity of the donor co.
d) Payment of commission on exports made towards eq. investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies	3	Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport (Chartering Wing)	b) Gift or donation.	
e) Remittance of dividend by any co. to which requirement of dividend balancing is applicable.	4	Payment of import through ocean transport by a Govt. Department or a PSU on c.i.f. basis (i.e., other than f.o.b. and f.a.s. basis)	Ministry of Surface Transport (Chartering Wing)	c) Going abroad for employment	Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India
f) Payment of commission on exports under Rupee State Credit Route , except commission up to 10% of invoice value of exports of tea & tobacco	5	Multi-modal transport operators making remittance to their agents abroad	Registration Certificate from Director General of Shipping	d) Emigration	a) US \$ 25,000 or b) 5% of inward remittance Whichever is more
g) Payment related to "Call Back Services" of telephones	6	Remittance of hiring charges of transponders by (a) TV Channels (b) Internet service providers	Ministry of Information and Broadcasting Ministry of Communication & Information Technology	e) Maintenance of close relatives abroad	c) Consultancy services in respect of infrastructure project India.
h) Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c	7	Remittance of container detention charges exceeding rate prescribed by Director General of Shipping	Ministry of Surface Transport (Director General of Shipping)	f) Travel for business , or attending a conference or specialised training or for meeting exp. for meeting medical expenses , or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up	d) Other consultancy services procured from outside
	8	Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/ State Level sports bodies, if amt involved exceeds US \$ 100,000	Ministry of Human Resource Development (HRD) (Department of Youth Affairs & Sports)	g) Expenses in connection with medical treatment abroad	e) Reimbursement of pre - incorporation expenses.
	9	Remittance for membership of P & I Club	Ministry of Finance (Insurance Division)	h) Studies abroad	a) Remittances exceeding 5% of investment brought into India or b) US\$ 1,00,000 whichever is higher
				i) Any other current account transaction for purposes mentioned at item numbers (d), (f) & (h), may avail of exchange facility for an amt in excess of limit prescribed under Liberalised Remittance Scheme	

a) Procedure for **drawal or remit of any foreign exchange** under this schedule shall be same as applicable for remitting any amt under said **Liberalised Remittance Scheme**

b) Authorised Dealer banks may now allow remittances by a resident individual up to USD 250,000 per FY for any permitted current or capital account transaction or a combination of both

c) If individual has already remitted any amt under LRS, then applicable limit for such an individual would be reduced from present limit of USD 250,000

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.3)

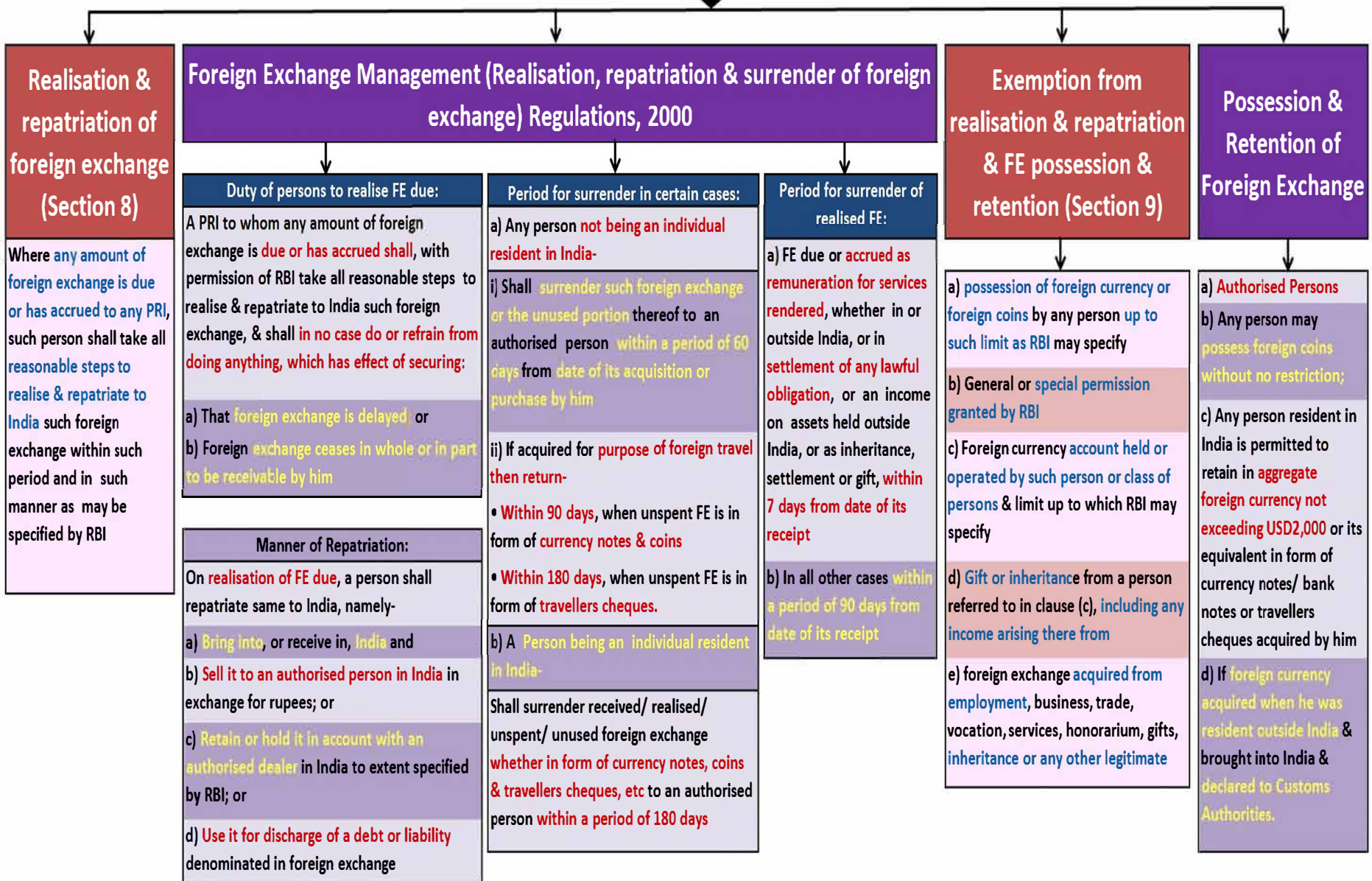
Capital Account Transaction (Section 6)

Section 6(1) Any person may sell or draw FE to or from an authorised person for a CAT	Section 6(3) RB may, by regulations, prohibit, restrict or regulate following: a) trf or issue of any FS by a person resident in India b) trf or issue of any security by a person resident outside India c) trf or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India d) any borrowing or lending in FE e) any borrowing or lending in Rs. f) deposits between PRI & PROI g) export, import or holding of currency or currency notes h) trf of immovable property outside India, other than a lease not exceeding 5 years, by PRI i) acquisition or trf of immovable property in India, other than a lease not exceeding 5 years, by a PROI j) Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred: i) by a PRI & owed to a PROI ; or ii) by a PROI	Section 6(4) A PRI may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a PROI It covers following transactions: a) Foreign currency accounts opened & maintained by PROI b) Income earned through employment or business or vocation outside India taken up or commenced which such PROI c) FE including any income arising therefrom, & conversion or replacement or accrual to same d) A PRI may freely utilize all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments	Section 6(5) A PROI may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by a such person when he was resident in India or inherited from a person who was resident in India.	Section 6(5) RBI may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a PROI, for carrying on any activity relating to such branch, office or other place of business	Capital account transaction is basically split into the following categories: <div> Permissible Transactions made by PRI a) Investment by a PROI in foreign securities. b) Foreign currency loans raised in India & abroad by a PRI c) Transfer of immovable property outside India by a PRI d) Guarantees issued by a PRI in favour of a PROI e) Export, import & holding of currency/ currency notes. f) Loans & overdrafts (borrowings) by a PRI from a PROI g) Maintenance of foreign currency accounts in India & outside India by a PRI h) Taking out of insurance policy by a PRI from an insurance company outside India i) Loans & overdrafts by a PRI to a PROI j) Remittance outside India of capital assets of a PRI k) Sale & purchase of foreign exchange derivatives in India & abroad & commodity derivatives abroad by a PRI </div>	Permissible Transactions made by PROI a) Investment in India by a PROI, that is to say, i) Issue of security by a body corporate or an entity in India & investment therein by a PRI; ii) Investment by way of contribution by a PROI to capital of a firm or a proprietorship concern or an AOP in India. b) Acquisition & transfer of immovable property in India by a PROI c) Guarantee by a PROI in favour of, or on behalf of, a PRI d) Import & export of currency/ currency notes into/ from India by a PROI e) Deposits between a PRI & a PROI f) Foreign currency accounts in India of a PROI g) Remittance outside India of capital assets in India of a PROI	Prohibited Transactions On certain transactions, RBI imposes prohibition. a) no person shall undertake or sell or draw FE to or from an authorised person for any CAT provided that- He may draw from an authorized person FE not exceeding USD 250,000 per FY or such amt as decided by RBI b) PROI is prohibited from making investments in India in any form, in any co, or partnership firm or proprietary concern or any entity whether incorporated or not which is engaged or proposes to engage: i) In business of chit fund; ii) As Nidhi company; iii) In agricultural or plantation activities; iv) In real estate business v) In trading in Transferable Development Rights (TDRs)	Transaction with no Restriction a) For amortisation of loan and b) For depreciation of direct investments in ordinary course of business.
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THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.4)

Export of goods & services (Section 7)	Foreign Exchange Management (Export of Goods & services) Regulation 2015						
<p>a) Every exporter of goods shall-</p> <p>i) furnish to RBI or to such other authority a declaration, containing true & correct material particulars, including amount representing full export value or, if full export value of goods is not ascertainable at time of export, value which exporter, having regard to prevailing market conditions, expects to receive on sale of goods in a market outside India;</p> <p>ii) furnish to RBI such other information as may be required by RBI</p> <p>b) RBI may, direct any exporter to comply with such requirements as it deems fit</p> <p>c) Every exporter of services shall furnish to RBI or to such other authorities a declaration, containing true & correct material particulars in relation to payment for such services</p>	<p>Declaration of exports:-</p> <p>In case exports taking place through Customs manual ports, every exporter, shall furnish, a declaration in one of forms set out in Schedule & supported by such evidence as may be specified, including amount representing –</p> <p>a) Full export value of goods or software</p> <p>b) If full export value is not ascertainable at time of export, value which exporter, having regard to prevailing market conditions expects to receive on sale of goods or software</p>	<p>Exemptions:-</p> <p>a) Trade samples of goods & publicity material supplied free of payment</p> <p>b) Personal effects of travellers, whether accompanied or unaccompanied</p> <p>c) Ship's stores, trans-shipment cargo & goods supplied under orders of CG</p> <p>d) By way of gift of goods accompanied by a declaration by exporter that they are not more than 5 lakh Rs. in value</p> <p>e) Aircrafts or aircraft engines & spare parts for overhauling and/or repairs abroad subject to their reimport into India, within a period of 6 months from date of their export</p> <p>f) Goods imported free of cost on re-export basis;</p> <p>g) Goods which are permitted by Development Commissioner of SEZ</p> <p>h) Replacement goods exported free of charge</p> <p>i) Goods sent outside India for testing subject to re-import into India;</p> <p>j) Defective goods sent outside India for repair</p>	<p>Authority to whom declaration is to be furnished & manner of dealing with declaration:-</p> <p>a) Declaration in Form EDF</p> <p>b) Declaration in Form SOFTEX</p> <p>c) Duplicate Declaration Forms to be retained with Authorised Dealers</p> <p>Evidence in support of declaration:-</p> <p>Evidence in support of declaration as may establish that-</p> <p>a) Exporter is a PRI & has a place of business in India;</p> <p>b) Destination stated on declaration is final place</p> <p>c) value stated in declaration represents –</p> <p>i) full export value of goods or software</p> <p>ii) If value is not ascertainable value which the exporter, having regard to prevailing market conditions expects to receive on sale of goods in overseas market.</p>	<p>Manner of payment of export value of goods:-</p> <p>Unless authorised by RBI, amt representing full export value of goods exported shall be paid through an authorised dealer</p> <p>Period within which export value of goods/software/ services to be realised:-</p> <p>a) Amt representing full export value of goods / software/ services exported shall be realised & repatriated to India within 9 months from date of export,</p> <p>b) Where export of goods / software / services has been made by Units in SEZ, amount representing full export value of goods or software shall be realised & repatriated to India within 9 months from date of export.</p> <p>c) RBI may for reasonable & sufficient cause direct that said exporter/s shall cease- after giving reasonable opportunity to make a representation</p>	<p>Submission of export documents:-</p> <p>Documents pertaining to export shall be submitted to authorised dealer, within 21 days from date of export, or from the date of certification of SOFTEX form</p> <p>Transfer of documents:-</p> <p>a) Authorised dealer may accept, for negotiation or collection, shipping documents including invoice & bill of exchange covering exports</p> <p>b) Before accepting documents for negotiation or collection, authorised dealer shall –</p> <p>i) where value declared in declaration does not differ from value shown in documents being negotiated or sent for collection</p> <p>ii) where value declared in declaration is less than value shown in documents</p>	<p>Certain Exports requiring prior approval:-</p> <p>a) Export of goods under special arrangement between CG & Govt of a foreign state, or under rupee credits extended by CG to Govt. of a foreign state shall be governed by terms & conditions set out in relative public notices issued by Trade Control Authority in India & instructions issued from time to time by RBI</p> <p>b) An export under line of credit extended to a bank or a financial institution operating in a foreign state by Exim Bank for financing exports from India, shall be governed by terms & conditions advised by RBI to authorised dealers from time to time</p>	<p>Advance payment against exports:-</p> <p>Where an exporter receives advance payment he shall be under an obligation to ensure that-</p> <p>a) Shipment of goods is made within 1 year from date of receipt of advance payment;</p> <p>b) Rate of interest, if any, payable on advance payment does not exceed rate of interest LIBOR + 100 basis points</p> <p>c) Documents covering shipment are routed through authorised dealer through whom advance payment is received</p>

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.5)



THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.6)

Chapter III- Authorised Person

Authorised person (Section 10)

a) RBI may, on an application made authorize any person to be known as authorized person to deal in foreign exchange or in foreign securities

b) RBI may revoke it if-

- i) it is in public interest so to do; or
- ii) Authorized person has failed to comply with condition

Reserve Bank's powers to issue directions to authorised person (Section 11)

a) In regard to making of pay-ment or doing or desist from doing any act relating to foreign exchange or foreign security

b) To furnish such information, in such manner, as it deems fit.

c) penalty for contravenes any direction- Amt extend to 10,000 Rs & in case of continuing contravention with an additional penalty which may extend to 2,000 Rs for every day

Power of Reserve Bank to inspect authorised person (Section 12)

a) Verifying correctness of any statement, information or particulars furnished to RBI

b) Obtaining any information or particulars which such authorised person has failed to furnish on being called upon to do so;

c) Securing compliance with provisions of this Act or of any rules, regulations, directions or orders made there under.

d) It shall be duty of every authorised person to produce to any officer making an inspection such books, accounts & other documents in his custody or power & to furnish any statement or information relating to affairs of such person & in such manner

Chapter IV - Contravention & Penalties

Sec No.	Contravention	Quantum of Penalty
11	Authorised person contravenes any direction by RBI or failure to file any return as directed by RBI	Upto Rs. 10,000. If continuing offence additional penalty upto Rs. 2,000 per
13	Of any provision of Act, or any rule, regulation, notification, direction or order or of any condition subject to which an authorisation issued	Upto 3 times, sum involved, if it is quantifiable If not quantifiable upto Rs. 2 lacs. If continuing, further penalty upto Rs. 5,000 per day after first
14	Failure to pay penalty as above where demand is of an amount exceeding Rs. 1 crore. in any other case	Civil imprisonment. Upto 3 years Upto 6 Months

Adjudication & Appeal

Sec No.	Obligation	Time Limit
14	Full penalty to be paid	Within 90 days from date on which notice for payment of penalty is served.
15	Compounding of Contravention under section 13	Within 180 days of receipt application by Directorate education
16	Complaint under sec 16(1) to be dealt by Adjudicated Authority	Within 1 year of receipt of complaint.
17	Appeal to Special Director (Appeals)	Within 45 days from receipt of order.
19	Appeal to Appellate Tribunal	Within 45 days from receipt of order.
19(5)	Appeal to be dealt with by Appellate Tribunal	Will try to dispose off appeal within 180 days from receipt of appeal.
35	Appeal to High Court	Within 60 days of communication of order or decision.

Appointment of Adjudicating Authority (Section 16)

a) CG may, by an order published in Official Gazette, appoint as many officers of CG as it may think fit

b) Where Adjudicating Authority is of opinion that said person is likely to abscond or is likely to evade in any manner, payment of penalty, if levied, it may direct said person to furnish a bond or guarantee for such amount & subject to such conditions as it may deem fit.

Directorate of Enforcement

(Section 36)

a) CG shall establish a Directorate of Enforcement

b) CG may authorise Director of Enforcement to appoint officers of Enforcement below rank of an Assistant Director of Enforcement

c) Power of search & seizure: Director of Enforcement & other officers of Enforcement, not below rank of an Assistant Director, shall take up for investigation contravention referred to in sec 13

Empowering other officers (Section 38)

CG may, by order authorise any officer of customs or any central excise officer or any police officer or any other officer of CG or a SG to exercise such of powers & discharge such of duties of Director of Enforcement

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.7)

Appeals

Miscellaneous

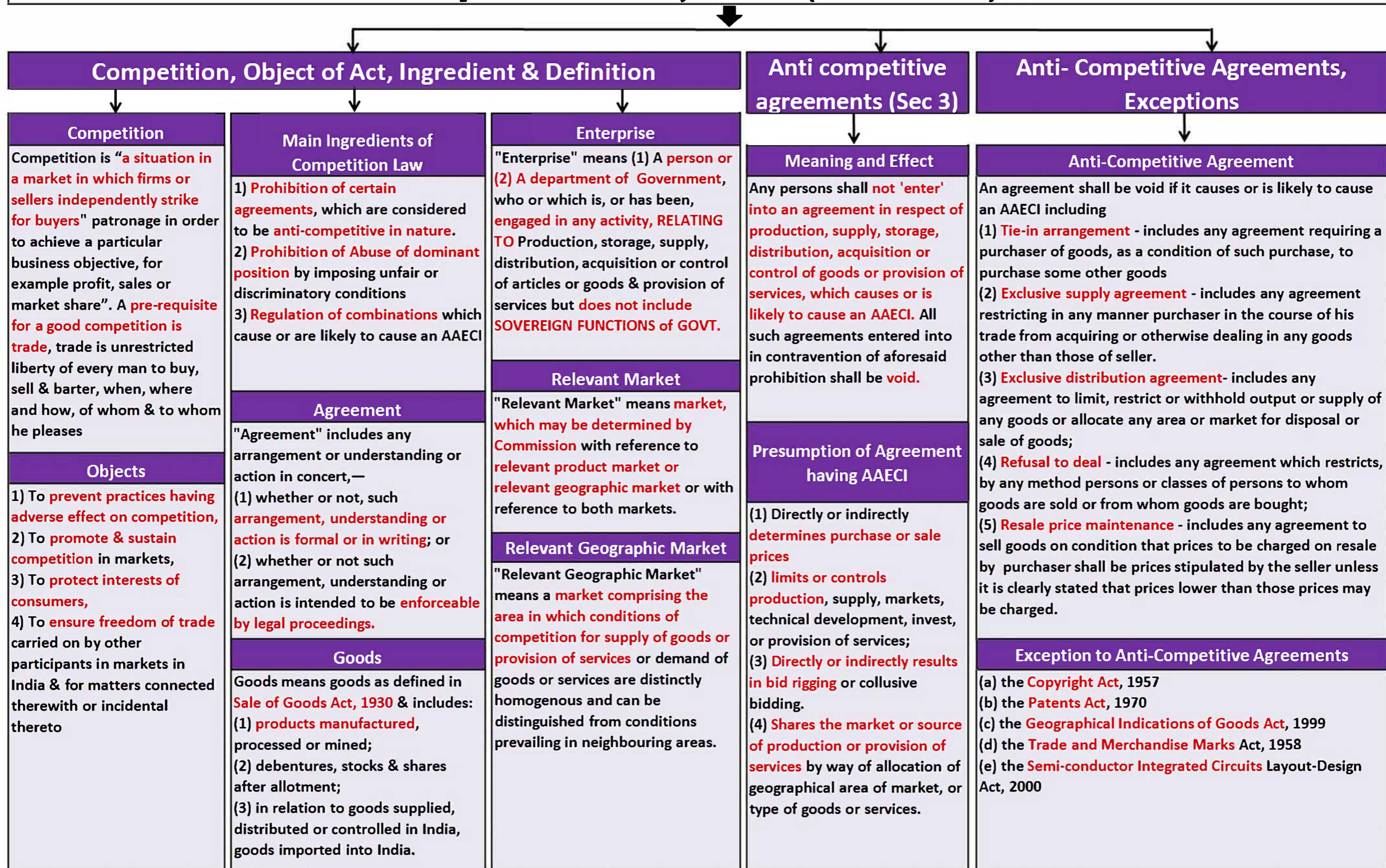
Appeal to Special Director (Appeals) (Section 17)		Appeal to Appellate Tribunal (Section 19)		Appeal to Appellate Tribunal (Section 18)	1) Presentation as to documents in certain cases (Section 39)	2) Suspension of operation of this Act (Section 40)	3) Power of CG to give directions (Section 41)	6) Bar Legal proceedings (Sec 44)
Appeal to Whom?	Special Director (Appeal)	Appeal to Whom?	Appellate Tribunal (AT)	CG shall, by notification, establish an Appellate Tribunal hear appeals against orders of Adjudicating Authorities, Competent Authorities & Special Director (Appeals) under this Act	Where any document: a) Is produced or furnished by any person or has been seized from custody or control of any person b) Has been received from any place outside India in course of investigation of any contravention under this Act alleged to have been committed by any person, Such document is tendered in any proceeding under this Act in evidence against him, or against him & any other person who is proceeded against jointly with him, court or Adjudicating Authority, as case may be	1) If CG is satisfied that any permission restriction imposed by this Act should cease to be granted or imposed CG should suspend or relax to such extent either indefinitely or for such period as may be notified.	CG may, from time to time, give to RBI such general or special directions as it thinks fit,	No suit, prosecution or other legal proceeding shall lie against CG or RBI or any officer of that Govt exercising any power or discharging any functions, for anything in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.
Appeal against whom?	Any person aggrieved by an order made by the Adjudicating Authority, being an Assistant Director or Enforcement or a Deputy Director of Enforcement	Appeal against whom?	Any person aggrieved by an order made by an Adjudicating Authority being the Director of Enforcement or above or Special Director (Appeal)			2) Such suspension or relaxation may, at any time while this Act remains in force, be removed by CG by notification.	4) Contravention by companies (Section 42) Every person who, at time contravention was committed, was in charge of, & was responsible to, company shall be deemed to be guilty of contravention & shall be liable to be proceeded against & punished accordingly	
Time limit of filing Appeal	a) 45 days from the date on which the copy of the order made by the Adjudicating Authority is received by the aggrieved person. b) Special Director (Appeals) may entertain an appeal after the expiry of the said period of 45 days, if he is satisfied that there was sufficient cause for not filing it within that period.	Condition	The person filing the appeal shall while filing the appeal, Deposit the amount of such penalty with such authority as may be notified by the Central Government: Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate Tribunal (AT) may dispense with such deposit.	Appeal to High Court (Section 35) Any person aggrieved by any decision or order of Appellate Tribunal may file an appeal to High Court within 60 days from date of communication of decision or order		3) Every notification issued under this section shall be laid, as soon as may be after it issued, before each House of Parliament, while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive sessions	5) Death or insolvency in certain cases (Section 43) In case of death or insolvency such rights & obligations shall devolve on legal representative of such person or official receiver or official assignee	7) Repeal & saving (Section 49) No court shall take cognizance of an offence under the repealed Act after expiry of a period of 2 years from date of commencement of this Act
Power of Authority to whom the appeal has been made	Special Director (Appeals) may after giving the parties to the appeal an opportunity of being heard, pass such order thereon as he thinks fit, confirming, modifying or setting aside the order appealed against.	Time limit of filing Appeal	Same as time limit of making appeals to Special Director (Appeal)					
		Power of Authority	Same powers as being available with Special Director (Appeal)					
		Time limit of Disposing off the case	The appeal filed shall be dealt expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within 180 days from the date of receipt of the appeal:					
Special Director (Appeals) shall send a copy of every order made by him to the parties to appeal and to the concerned Adjudicating Authority.								

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 7.8)

Foreign Exchange Management (Acquisition & Transfer of Immovable property outside India) Regulation, 2018

<p>A) Acquisition & Transfer of Property in India by a Non-Resident Indian or an Overseas Citizen of India</p> <p>An NRI or an OCI may-</p> <p>a) acquire immovable property in India other than agricultural land/ farm house/ plantation property</p> <p>Consideration, shall be made out of:-</p> <p>i) funds received in India through banking channels by way of inward remittance from any place outside India or</p> <p>ii) funds held in any non-resident account maintained in accordance with the provisions of the Act</p> <p>b) acquire any immovable property in India other than agricultural land/ farm house/ plantation property by way of gift from a PRI or from an NRI or from an OCI, who in any case is a relative as defined in section 2(77)</p> <p>c) acquire any immovable property in India by way of inheritance from a PROI who had acquired such property</p> <p>d) transfer any immovable property in India to a PRI</p> <p>e) transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI</p>	<p>B) Acquisition of Immovable Property for carrying on a permitted activity</p> <p>a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity</p> <p>b) transfer by way of mortgage to an authorised dealer as a security for any borrowing, immovable property acquired in pursuance of clause (a)</p> <p>Provided no person of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Hong Kong or Macau or Nepal or Bhutan or Democratic People's Republic of Korea shall acquire immovable property, other than on lease not exceeding 5 years, without prior approval of Reserve Bank.</p> <p>C) Purchase/ sale of Immovable Property by Foreign Embassies/ Diplomats/ Consulate Generals</p> <p>A Foreign Embassy/ Diplomat/ Consulate General may purchase/ sell immovable property in India other than agricultural land/ plantation property/ farm house provided</p> <p>a) clearance from Govt of India, Ministry of External Affairs is obtained for such purchase/ sale, &</p> <p>b) consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channels.</p>	<p>D) Joint acquisition by spouse of an NRI or an OCI</p> <p>A PROI, not being a NRI or an Overseas Citizen of India, who is a spouse of a NRI or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse</p> <p>a) consideration for transfer, shall be made out of:-</p> <p>i) funds received in India through banking channels by way of inward remittance from any place outside India or</p> <p>ii) funds held in any non-resident account maintained in accordance with provisions of the Act & regulations made by Reserve Bank</p> <p>b) No payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes</p> <p>c) Provided that marriage has been registered & subsisted for a continuous period of not less than 2 years immediately preceding acquisition of such property</p> <p>d) Provided further that non-resident spouse is not otherwise prohibited from such acquisition</p>	<p>E) Acquisition by a Long-term Visa holder</p> <p>A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis & Christians who is residing in India & has been granted a Long Term Visa (LTV) by CG may purchase only one residential immovable property in India as dwelling unit for self-occupation & only one immovable property for carrying out self-employment subject to following conditions</p> <p>i) property should not be located in & around restricted/ protected areas so notified by CG & cantonment areas</p> <p>ii) Registration documents of property should mention nationality & fact that such person is on LTV</p> <p>iii) property of such person may be attached/ confiscated in event of his/ her indulgence in anti-India activities</p> <p>iv) copy of documents of purchased property shall be submitted to DCP, FRO, FRRO & Ministry of Home Affairs</p> <p>v) such person shall be eligible to sell property only after acquiring Indian citizenship</p>	<p>F) Repatriation of sale proceeds</p> <p>a) A person referred to in sub-sec(5) of Sec 6 of the Act, or his successor shall not, except with general or specific permission of Reserve Bank, repatriate outside India sale proceeds of any immovable property</p> <p>b) In event of sale of immovable property other than agricultural land/ farm house/ plantation property in India by an NRI or an OCI, authorised dealer may allow repatriation of sale proceeds outside India</p> <p>c) In event of failure in repayment of external commercial borrowing availed by a PRI under prov. of FEMA, a bank which is an authorised dealer may permit overseas lender or security trustee to sell immovable property on which said loan has been secured only to a PRI & to repatriate sale proceeds towards outstanding dues in respect of said loan & not any other loan.</p> <p>G) Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries</p> <p>No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong or Macau or Democratic People's Republic of Korea without prior permission of Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding 5 years. This prohibition shall not apply to an OCI</p>	<p>H) Prohibition on transfer of immovable property in India</p> <p>No PROI shall transfer any immovable property in India-</p> <p>Provided that</p> <p>i) Reserve Bank may, for sufficient reasons, permit transfer, subject to such conditions as may be considered necessary</p> <p>ii) A bank which is an authorised dealer</p> <p>iii) An Authorized Dealer in India being Indian correspondent of an overseas lender</p> <p>I) Miscellaneous</p> <p>Any transaction involving acquisition or transfer of immovable property under these regulations shall be undertaken</p> <p>i) through banking channels in India</p> <p>ii) subject to payment of applicable taxes & other duties/ levies in India</p> <p>J) Saving</p> <p>Any existing holding of immovable property in India by a PROI made in accordance with policy in existence at time of such acquisition would not require any modifications to confirm to these regulations</p>
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Competition Act, 2002 (Chart 8.1)



Competition Act, 2002 (Chart 8.2)

DOMINANT POSITION

Abuse (Section 4)

if an enterprise or a group, (a) Directly or indirectly, imposes **unfair or discriminatory**—

- (i) condition in purchase or sale of goods or services; or
- (ii) price in purchase or sale (including predatory price) of goods or service, or
- (b) limits or restricts—
 - (i) production of goods or provision of services or market therefore; or
 - (ii) technical or scientific development relating to goods or services to the prejudice of consumers; or
- (c) Indulges in practice or practices resulting in **denial of market access** in any manner; or
- (d) Makes **conclusion of contracts** subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have **no connection with the subject of such contracts**; or
- (e) Uses its dominant position in one relevant market to enter into, or protect, other relevant market. Dominant position means a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to—
 - (i) **operate independently** of competitive forces prevailing in the relevant market; or
 - (ii) **affect its competitors or consumers** or the relevant market in its favour.

Factors Determining Dominant Position

- (i) **Market share** of enterprise
- (ii) **Size & importance** of competitors
- (iii) **Economic power** of enterprise
- (iv) **Sale or service** network
- (v) **Dependence** of consumers
- (vi) **Entry barriers**
- (vii) **Financial risk** & high capital cost
- (viii) **High cost of substitutable goods** or service for consumers; or any other factor which commission may consider relevant for inquiry
- (ix) **Countervailing buying power**;
- (x) **Vertical integration** of enterprises or sale or service network of such enterprises
- (xi) **Dependence of consumers** on enterprise;
- (xii) **Market structure** & size of market;
- (xiii) **Social obligations** & social costs;
- (xiv) Any **other factor** which Commission may consider relevant for inquiry

Combination

The term 'combination' include any **acquisition of one or more enterprises** by one or more persons, merger or amalgamation of enterprises, where the parties to the acquisition, merger or amalgamation satisfy prescribed monetary thresholds and involves

- (a) Any **acquisition of control, shares, voting rights or assets** of any enterprise
- (b) Any **merger or amalgamation** of enterprises
- (c) Any **acquisition of control by a person over an enterprise**, where such person has already direct or indirect control over another enterprise in similar or identical or substitutable business

Revised limit for purpose of combinations under section 5 of the Competition Act, 2002

Threshold for combined size of acquiring and acquired enterprises

Particulars		Assets [CRORE]	OR	Turnover [CRORE]
Enterprise Level	India	> 2000 INR		> 6000 INR Crore
	Worldwide with India leg	> USD 1Bn with at least > 1000 INR Crore in India		> USD 3 Bn with at least >3000 INR Crore in India
		OR		
Group level	India	>8000 INR Crore		>24000 INR Crore
	Worldwide with India leg	> USD 4 Bn with at least > 1000INR Crore in India	OR	>USD 12 Bn with at least > 3000 INR Crore in India

THRESHOLDS FOR AVAILING OF DE MINIMIS EXEMTION FOR ACQUISITIONS

		Assets	Turnover
Target Enterprise	In India	≤ 350 INR Crore	Or ≤ 1000 INR Crore

Competition Act, 2002 (Chart 8.3)

Combination (Regulation & Inquiry)

Meaning

Combination: The term 'combination' include any acquisition of **one or more enterprises** by one or more persons, **merger or amalgamation** of enterprises, where the parties to the acquisition, merger or amalgamation satisfy the prescribed **monetary thresholds and involves**

1) Any acquisition of control, shares, voting rights or assets of any enterprise.

2) Any merger or amalgamation of enterprises

3) Any acquisition of control by a person over an enterprise, where such person has **already direct or indirect control** over another enterprise in similar or identical or substitutable business.

Regulation

No person or enterprise shall enter into a combination a combination which **causes or is likely to cause an appreciable adverse effect on competition** within the relevant market in India and such a combination shall be **void**.

Any person or enterprise, who or which proposes to enter into a combination shall give notice to the Commission, in the form as may be specified, and the fee which may be determined, by regulations, disclosing the details of the proposed combination **WITHIN 30 DAYS** of (a) Approval of the proposal or (b) Execution of any agreement or other document

Inquiry into Combination

The Commission shall, **on receipt of a notice**, inquire whether a combination referred to in that notice or reference has caused or is likely to cause an appreciable adverse effect on competition in India.

(Commission shall not initiate any inquiry under this subsection after the expiry of 1 year from the date on which such combination has taken effect).

COMPETITION COMMISSION OF INDIA

COMPOSITION

1. The Commission shall consist of:

(a) The **Chairperson** and

(b) **2 ≤ other members ≤ 6**

To be appointed by the Central Government

The Chairperson and every other Member shall be a person of ability, integrity and standing and who has **special knowledge** of, and such **professional experience of not less than 15 years**

TERMS of Office

The Chairperson and every other Member shall hold office for a **term of 5 years** from the date on which he enters upon his office and shall be eligible for re-appointment. Maximum age 65 years.

In the event of the occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the **senior-most Member shall act as the Chairperson**

Restriction on employment

The Chairperson and other Members shall not, for a **period of 2 years** from the date on which they cease to hold office, accept any employment in, any enterprise which has **been a party to a proceeding** before the Commission. **(Except)**

The CG or a SG or IA or in any statutory authority

Any corporation under any Central Act A Government CO

Resignation

The Chairperson or any other Member may, by **notice in writing** under his hand addressed to the Central Government, resign his office.

PROVIDED THAT the Chairperson or a Member shall, **unless he is permitted** by the Central Government to relinquish his office

Removal

Central Government may, remove the Chairperson or any other Member from his office if such Chairperson or Mem.

(a) is, or at any time has been, adjudged as an **insolvent**; or

(b) has engaged at any time, during his term of office, in any **paid employment**,

(c) has been **convicted** of an offence

(d) has acquired such **financial or other interest** as is likely to **affect prejudicially his functions** as a Member

(e) has so **abused his position** as to render his continuance in office prejudicial to the **public interest**

Competition Act, 2002 (Chart 8.4)

Accounts & Audit & Return

Accounts and Audit
1) Commission shall maintain proper accounts and other relevant records
2) Commission shall prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the C & AG.
3) The accounts of the CCI shall be audited by the C & AG. However, the orders of the CCI, being matters appealable to AT or the Supreme Court, shall not be subject to audit.
4) The accounts of the Commission as certified by the C & AG of India together with the audit report shall be forwarded annually to the CG and it shall cause the same to be laid before each House of Parliament.
Return
The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the CG.

Appellate Tribunal

Object
a) To hear and dispose of appeals against any direction issued or decision made or order passed by the Commission
b) To adjudicate on claim for compensation that may arise from the findings of the CCI or AT in an appeal and pass orders for recovery of compensation.
Composition
The Appellate Tribunal shall consist of a Chairperson and not more than two other members to be appointed by the Central Government.
Qualifications
1) Chairperson- is, or has been a Judge of the Supreme Court or the Chief Justice of a High Court.
2) Not more than 2 Members - Person of ability, integrity and standing having special knowledge of, and professional experience of not less than 25 five years
TERM- 5 Years and Maximum 65 Years
Recommended by Selection Committee

CCI orders and Enquiry

Orders by CCI after inquiry into agreements or abuse of dominant position (Sec 27)	Order for Division of enterprise enjoying dominant position (Sec28)
1) Direct to a) discontinue and not to re-enter such agreement or b) discontinue such abuse of dominant position, as the case may be;	It Includes (a) The transfer or vesting of property, rights, liabilities or obligations; (b) The adjustment of contracts either by discharge or reduction of any liability or obligation or (c) The creation, allotment, surrender or cancellation of any shares, stocks or securities; (d) Formation or winding up of an enterprise or the amendment of the MOA or AOA or any other instruments regulating the business of any (e) any other matter which may be necessary to give effect to the division of the enterprise.
2) Impose such penalty (for Non Cartel) a) Not more than 10% of the average of the turnover for the last 3 preceding financial years , upon each of such person or enterprises which are parties to such agreements or abuse.	Inquiry into agreements and dominant position of enterprise (19)
(3) Direct that the agreements shall stand modified to the extent and in the manner as may be specified in the order by the Commission;	The Commission is empowered to inquire into any alleged contravention on its own motion or on: 1) receipt of any information OR 2) reference made to it by the CG or SG or Statutory Authority
4) Impose such penalty (for Cartel) (HIGHER Of) a) Penalty of up to 3 times of its profit for each year of the continuance of such agreement or b) 10% of its turnover for each year of the continuance of such agreement.	
Execution of orders of CCI imposing monetary penalty (Sec 39)	
If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty, in such manner as may be specified by the regulations.	
Commission may make a reference to this effect to the concerned income-tax authority under that Act for recovery.	

The Banking Regulation Act, 1949 (Chart 9.1)

Basic Concepts

- 1) Owing to safeguard **interest** of depositors, control abuse of powers by some bank personnel controlling banks in particular & to interest of **Indian economy** in general
- 2) Management of Bigger banks
- 3) The banks were also **prohibited** from making any **loans or advances**, secured or unsecured to their directors or to any Co in which they have **substantial interest**

Activities can be engaged by BC

- 1) **Agent** for any government or local authority or persons but not as a managing agent or secretary & treasure of Co.
- 2) May **insure/guarantee/underwrite**, participate in managing or carrying out of any **issue of loans or any other securities** made by state, local body, company, corporation, association and may also lend for the purpose
- 3) May carry on or transact every **kind of guarantee or indemnity business**
- 4) May manage, sell & **realize any property**
- 5) **Acquire , hold and deal with any property or any right, title or interest** which forms the security for any loans or advances sanctioned
- 6) May undertake & **execute trusts**
- 7) May undertake **administration of estates as executor**, trustee or otherwise
- 8) May **establish & support or aid in the establishment of associations, institutions, funds , trusts** and may grant or guarantee moneys for **charitable purposes**
- 9) May acquire, construct, maintain & **alter any building or works**
- 10) May sell, improve, manage, develop, exchange, lease, mortgage dispose off or otherwise deal with **any of its properties and rights**
- 11) Incidental or conducive to **promotion or advancement** of its business;
- 12) May engage in any other form of business which the **CG specifies to be lawful.**

Reserve Fund (Section 17)

- 1) Every **Banking Company incorporated in India** must create Reserve Fund & transfer sum equal to **not less than 20 %** of its net profits. However, CG is empowered to exempt from this requirement on recommendation of RBI
- 2) Such **exemption will be allowed** only:-
 - a) When **amounts in reserve fund & share premium account are not less than paid-up capital** of banking company
 - b) When **CG feel that its paid-up capital & reserves are adequate** to safe guard interest of depositors
- 3) If **banking company appropriates any sum** from Reseve fund or share premium account, it must be **reported to RBI within 21 days** explaining circumstances leading to such appropriation

Restrictions on Loans & Advances (Section 20)

No BC shall :

- 1) **Grant any loans or advances** on security of its own shares, or
- 2) **Enter into any commitment for granting any loan or advance** to or on behalf of (a) any of its **Directors**, or (b) **any firm** in which any of its Directors is interested as **Partner, Manager, Employee or Guarantor**, or (c) any **company (not being subsidiary of BC)** (d) **any individual** in respect of whom any of its Directors is partner or guarantor
- 3) **Waive or reduce any part of loan without previous approval of RBI**, & any remission without such approval shall be **void & of no effect**
 - Any **loan or advance payable by any person**, has **not been repaid to BC within period specified**, then, such person shall, if he is a Director of such BC on date of **expiry of period**, be **deemed to have vacated his office** as such on said date
 - RBI is **empowered to issue directives to BC** to determine policy in relation to loans & advances
 - **Section 21A:- Rate of interest charged by BC** on the basis of loan contract between bank & debtor is **not to be subject to scrutiny by court** on ground that rate of interest charged in respect to such transaction is excessive

Accounts & Balance Sheet (Section 29)

- 1) Every Banking Company incorporated in India, in respect of all **business transacted by it & through its branches in India**, shall **prepare Balance sheet & Profit & loss account** as on last working day of Accounting year
- 2) **Amalgamated Balance Sheet & Profit Loss** should be **signed by the CMD & at least 3 Directors** where there are more than 3 directors or where there are not more than 3 directors, by all directors
- 3) In case of **banking companies incorporated outside India** by principal officer of company in India 4) Provisions of **Companies Act, 1956, relating to balance sheet & profit & loss account of company shall also be applicable** to profit & loss account & balance sheet of banking company, in so far as they are not inconsistent with provision of Act

Audit (Section 30)

- 1) Subject to **audit by person duly qualified** under any law for time being in force to be auditor
- 2) Further **RBI** can by order, direct for **Special Audit** of Banking Company, if it is of opinion that it is in **public interest** or in **interest of depositors**
- 3) Auditors shall **comply with directions given by RBI** & shall submit report of audit to RBI & also to bank
- 4) Auditor is required to **State following in his report:**
 - a) Whether or not **information & explanation** required by him have been **found to be satisfactory**;
 - b) **Transactions of bank** which have come to his notice have been **within powers of bank or not**;
 - c) **Return received from branch** offices have been found **adequate** for purpose of his audit;
 - d) Whether **profit & loss account** shows **true balance of profit or loss** for period covered by such account
 - e) Any **other matter** which should be brought to notice of the share holders

Submission of Balance Sheet & P & L to RBI & ROC (Section 31 & 32)

Section 31:-
Accounts & Balance sheet along with auditors report shall be published in prescribed manner & **3 copies** thereof shall be **furnished as returns to RBI within 3 months** from end of period to which they refer. RBI may **extend** period by **further period of not exceeding 3 months**

Section 32:-
3 copies of such accounts and Balance sheet along with auditor's report shall be **sent** by banking company to **Registrar of Companies (ROC)**, at same time while sending same to RBI

The Banking Regulation Act, 1949 (Chart 23A.2)

Power of RBI to inspect Banks (Section 35)	Power of RBI to give directions (Section 35A)	Additional Powers and Functions of RBI (Section 36)		
<p>1) RBI is empowered to conduct inspection of any bank & to give them direction as it deems fit</p> <p>2) All banks are bound to comply with such directions</p> <p>3) Every director or other officer of the bank shall produce all such books, documents as required by inspector</p> <p>4) Inspector may examine on oath any director or other officers</p> <p>5) RBI shall cause inspection to be made, & report to CG on any inspection & on scrutiny, if is of opinion that affairs of bank are being conducted detrimental to interest of its depositors, it may, after giving opportunity of being heard, writing prohibiting bank from receiving fresh deposits</p>	<p>1) In public interest or in interest of banking policy or to prevent affairs of any bank being conducted in manner detrimental to interest of depositors or in manner prejudicial to interest of bank or to secure proper management of bank – Necessary to issue directions & banks shall be bound to comply with such directions</p> <p>2) RBI, on representation made to it or on its own motion Modify or cancel any direction (Subject to condition)</p>	<p>Further powers and functions of RBI (Section 36):</p> <p>i) Caution or prohibit banks generally or any bank(s) in particular against entering into any particular transaction or class of transactions and generally give advice to any bank</p> <p>ii) May assist on written request of a bank, in proposal for amalgamation of such bank</p> <p>iii) Give assistance to any bank by means of grant of loan or advances known as Refinance/ rediscounting of bills</p> <p>iv) Affairs of BC, being conducted in a manner detrimental to the interest of the bank or its depositors, it is necessary to do so, by order in writing require the BC:-</p> <p>a) To call meeting of directors for purpose of considering matter</p> <p>b) To require an officer to discuss any matter with an officer of RBI</p> <p>c) To depute one or more of its officers to watch proceedings of any meeting of BOD or of any committee or of any other body constituted by it</p> <p>d) To depute officer to observe affairs of even the branches & make report thereon</p> <p>e) To require bank to make such changes in management & within time as RBI deem fit</p> <p>Removal of Managerial Person by RBI (Section 36AA):</p> <p>RBI can terminate any chairman, Director, Chief Executive, other officials or any employee when RBI is of the opinion that conduct of such person is detrimental to interest of the depositors or for securing proper management of BC</p> <p>a) Before such termination concerned person should be given opportunity to be heard of</p> <p>b) Such terminated officials can make appeal to the CG within 30 days from the date of communication of such termination order</p> <p>c) Decision of the (CG) on such appeal can not be called into question in any court</p> <p>d) In case an order is issued pursuant to this section, the concerned person shall cease to hold his office and shall not in any way be concerned with or take part in the management of any bank for a period of not exceeding 5 years as may be specified in the order. Contravention of the above provision shall be punishable with a fine, which may extend to Rs 250 per day.</p>		
	<p>Section 35AA.</p> <p>Power of CG to authorise Reserve Bank for issuing directions to banking companies to initiate insolvency resolution process: The CG may, by order, authorise the Reserve Bank to issue directions to any banking company or banking co's to initiate insolvency resolution process in respect of a default, under provisions of the IBC, 2016.</p> <p>Explanation.—For purposes of this sec, “default” has same meaning assigned to it in clause (12) of sec 3 of the IBC, 2016.</p>	<p>Appointment of Additional Directors by RBI (Section 36 AB):</p> <p>i.) RBI is empowered to appoint additional Directors with effect from the date to be specified in order, in interest of bank or that of depositors</p> <p>ii.) Such additional directors hold office for period not exceeding 3 years or further periods not exceeding 3 years at time</p> <p>Power of Central Govt. to acquire the undertaking of Banking Companies in certain cases (Section 36 AE):</p> <p>i.) If CG is of opinion that BC has failed to comply with direction given to it by RBI relating to policy matters u/s 21 & 35A &/ or</p> <p>ii.) Bank is being managed in manner detrimental to interest of depositors or that of banking policy, or</p> <p>iii.) For better provision of credit generally or of credit to any particular section of community or in any particular area then after considering the above matters acquire undertaking of BC ,CG may after consultation with RBI</p> <p>Power of CG to make a scheme for the acquired bank in consultation with RBI (Section 36 AF):</p> <p>Scheme may provide for transfer of assets & liabilities of acquired bank, constitution of first Board of Management & incidental matters, service condition of employees, compensation payable to shareholders of acquired bank & such other incidental, consequential & supplemental matters as may be necessary to complete transfer</p> <p>Compensation to shareholders of the acquired bank (Section 36 AG):</p> <p>i.) Compensation to be paid to registered shareholders in accordance with principle provided in 5th Schedule of Act</p> <p>ii.) Any SH aggrieved with amount of compensation may request CG to refer matter to Tribunal to be constituted under section 36 AH</p> <p>iii.) CG may constitute tribunal for same purpose if No. of representation received is</p> <p>a) not less than 1/4th of no of shareholders and</p> <p>b) holding not less than 1/4th of paid-up share capital of acquired bank</p>		
	<p>Section 35AB</p> <p>Power of Reserve Bank to issue directions in respect of stressed assets: Without prejudice to the provisions of section 35A, the Reserve Bank may, from time to time, issue directions to any banking company or banking companies for resolution of stressed assets.</p>	<p>Constitution of Tribunal (Section 36 AH):</p> <p>i.) Tribunal shall consist of chairman & 2 other members</p> <p>ii.) Chairman shall be a person who is or has been judge of HC or SC</p> <p>iii.) Other 2 members :One shall be who in opinion of CG has had commercial banking experience & other shall be CA Tribunal to have power of civil court (Section 36 AI):</p> <p>i.) Tribunal shall enjoy the power of civil court, while trying suit in respect of the following matters:-</p> <p>a) Summoning and enforcing attendance of any person and examining him on oath</p> <p>b) discovery & production of documents</p> <p>c) receiving evidence on affidavits,</p> <p>d) issuing commission for examination of witnesses or documents</p> <p>ii.) However, Tribunal can not compel CG or RBI to produce any books or documents which the latter(s) consider confidential, to make any such documents part of the records of the proceedings, to give inspection of any such books to any party before it or to any other person</p> <p>Procedure of the Tribunal (Section AJ) :- Tribunal enjoys power to regulate its own procedure, may hold whole or any part of its inquiry in camera. Any mistake arising out of accidental slip or omission may, at any time, be corrected by Tribunal either of its own motion or at request of any other parties</p>		

INSURANCE ACT, 1938 as amended by Insurance Laws (Amendment) Act, 2015 (Chart 10.1)

Definition (Sec 2)			Prohibitions to Insurance Co.	Registration
Actuary 2(1) & Agent 2(10)	"Indian insurance company" 2(7A)	Insurance Meaning	Sec 2C. Prohibition of Insurance business by certain persons	Sec 3 (1), 3(2), 3(2A), 3(2B), 3A
<p>"Actuary" means an actuary possessing such qualifications as may be specified by the regulations made by the authority.</p> <p>"Insurance agent" who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including continuance, renewal or revival of policies of insurance.</p>	<p>Any insurer being a Co.</p> <p>a) Formed & registered under the Co Act as a public company or converted</p> <p>b) In which aggregate holdings of ES by a foreign Co, either by itself or through its subsidiary companies or its nominees, do not exceed 49% of PSC of such Indian insurance CO, which is indian owned & controlled</p> <p>c) Sole purpose is to carry on life insurance business (LIB) or general insurance business (GIB) or re-insurance business (RIB)</p>	<p>1) Life Insurance Business:</p> <p>a) Insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life & contract subject to payment of premiums for a term dependent on human life & includes—</p> <p>(a) Granting of disability & double or triple indemnity accident benefits, if provided in the contract.</p> <p>(b) Annuities upon human life &</p> <p>(c) Superannuation allowances & benefits.</p> <p>2) Re-insurance: Means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium.</p> <p>3) Fire insurance business: Means the business of effecting contract of insurance against loss by or incidental to fire or Other occurrence customarily included among risks insured against in fire insurance</p>	<p>No business unless he is-</p> <p>a) public company, or</p> <p>b) Society registered under the Co-operative Societies Act, 1912, or under any other law in any State relating to co-operative societies, or</p> <p>(c) Body corporate incorporated under the law of any country outside India not being of nature of a private Co</p>	<p>Sec 3(1): Certificate of registration for the particular class of insurance business is required</p> <p>Sec 3(2): Documents specified by regulations for regn.</p> <p>3(2A): Grant of certificate of registration:</p> <p>1) Financial condition & general character of management of the applicant are sound</p> <p>2) volume of business, capital structure & earning prospects will be adequate</p> <p>3) Interest of the general public will be served.</p> <p>Sec 3 (2B) Refusal of Registration:</p> <p>a) Record the reasons for refusal</p> <p>b) Aggrieved by authorities refusal decision can appeal to SAT within 30 days from refusal.</p> <p>Sec 3A Renewal of registration:</p> <p>a) Registration can renewed annually for each year after that ending on the [31st day of March]</p> <p>b) Application for the renewal shall be made before the 31st day of December of the preceding year</p>
Policy Holder 2(2)	Insurance co-operative society 2(8A)		Sec 2CB. Properties in India not to be insured with foreign insurers except with the permission of Authority:-	Section 6 (Requirements as to capital)
Includes a person to whom the whole of the interest of policy holder in the policy is assigned	1) Registered as a co-operative society under the Co- operative Societies Act, 1912.		1) Shall not take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority	<p>i) Life insurance or general insurance: Min 100Cr PSC</p> <p>ii) Health insurance: Min 100Cr.</p> <p>iii) Re-insurer: Min 200 crore.</p> <p>(No insurer/re-insurer shall be registered unless has owned funds of not less than 5,000 crore & PSC excludes preliminary expenses incurred during formatn & Regn.</p>
But does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition.	2) Having a minimum PSC of 100 Crore in case of Life insurance, general insurance or health insurance.		2) Contravenes provision of sub-sec (1), he shall be liable to penalty which may extend to 5 crore Rs.	Sec 6A Requirements of capital structure & voting rights & maintenance of registers of beneficial owners of shares
Controller of Insurance 2(5B)	3) No body corporate , whether incorporated or not, formed or registered outside India, either by itself or through its subsidiaries or nominees, holds more than 26% of the capital of such Co-operative Soc			No public company limited by shares carry no life insurance business unless
Officer appointed by CG under sec 2B to exercise all the powers, discharge the functions & perform the duties of	4) Sole purpose is to carry on life insurance business or general insurance or health insurance business in India.			<p>i) Only ordinary shares having single face value.</p> <p>ii) The paid-up amount is the same for all shares, whether existing or new except period not exceeding 1yr.</p> <p>iii) Voting rights restricted to equity share</p>
1) IRDA or				
2) Life Insurance Corporation Act, 1956 or				
3) General Insurance Business (Nationalisation) Act 1972 or				
4) IRDA Act 1999.				

INSURANCE ACT, 1938 as amended by Insurance Laws (Amendment) Act, 2015 (Chart 10.2)

Audit of accounts (Sec 12) & Submission of returns (Sec 15)

- 1) **Audited annually** by an auditor.
- 2) **Exercise powers & functions** & discharge duties & be subject to liabilities & penalties imposed on auditors by sec 147 of Co. Act, 2013.
- 3) Audited accounts & statements shall be **printed & 4 copies** shall be furnished as **returns within 6 months** from end of period to which they refer.
- 4) Out of 4 copies, 1 be **signed** in case of a Co by **chairman & 2 directors** & by **principal officer** of CO & if CO has MD by that MD & 1 shall be signed by **auditor or actuary**

Actuarial Valuation/Report (section 13)

- 1) **At least once a year**, every **life insurer** shall cause an investigation including a valuation of his liabilities & shall cause an **abstract of the report** of such actuary.
- 2) Regard to circumstances of any particular insurer, shall have the investigation made as at a date **not later than 2 yrs** from date as at which previous investigation was made.
- 3) If investigation is **annually**, statement need not be appended every yr but shall be **appended at least once in every 3 yrs.**

Record of Policies & claims (Sec 14)

- 1) Maintain record of policies issued & **name & address of PH**, date when policy was effected & record of any transfer, assignment or nomination of which insurer has notice
- 2) **record of claims** together with date of claim, name & address of claimant & date on which claim was discharged, or, in case of a claim which is rejected, date of rejection

Investment of Assets (Section 27)

- A) Life Insurer :Not less** than the sum of:
- 1) Amount of his **liabilities** to holders on account of **matured claims**.
 - 2) Amount required to meet liability on policies **maturing for payment**.
 - a) Amount of **premiums** which have fallen due &
 - b) Amount due for **loans granted** on & within the surrender values of policies maturing for payment in India issued by him or by **insurer** whose business he has **acquired** & in respect of which he has assumed liability in following manner namely:-
 - i) 25% of the said sum in Govt securities, a further **sum equal to not less than 25 % of the said sum in Govt securities or other approved securities &**
 - ii) Balance in any of **approved investments**.
- B) General Insurer:** 25% of assets in Govt Securities, a further sum equal to not less than 10% of assets in Govt Securities or other approved securities & balance in any other investment.
- C) Insurer may invest not more than 5%** in aggregate of his controlled fund or assets in COs belonging to promoters.

Liability of directors (Sec 30)

Contravention of any of provisions of sec 27 or sec 29, any **loss is sustained by insurer or policyholders**, every director, manager or officer shall be liable, be **jointly & severally liable** to make good amt of such loss.

Prohibition of loans (Section 29)

- 1) No insurer shall grant loans or temporary advances either on **hypothecation of property or on personal security** or otherwise, **except loans on life insurance** policies issued by him within their surrender value to any director, manager, actuary, auditor or officer of the insurer, not applicable to loans made to banking co.
- 2) **Not applicable** to a **subsidiary co** or to any other co of which company granting loan is a **subsidiary co without previous approval of Authority**.
- 3) **Not apply to loan** granted to a director on security of a policy & loan is within the **surrender value** of policy.

Obligations for third party risks of MV (Sec 32D)

- Insurer carrying on general insu. Business after commencement of
- 1) Insurance Law (Amendment) Act 2015 underwrite such **min % of insurance business in third party risks of MV** as may be specified
 - 2) Exempt for insurer **carrying business of health, reinsurance, agriculture & export credit guarantee**

Power of investigation & inspection (Sec 33)

- 1) Order in **writing** for investigation.
- 2) **Employ** any auditor or actuary or both for the purpose of **assisting** in any investigation.
- 3) IO may on being directed, cause an **inspection** & supply **copy of report** to insurer of such Inspection.
- 4) Duty of every officer of Co to **produce** before the IO all such books of account, registers & other documents.
- 5) After opportunity of being heard make **representation**.
- 6) **All expenses** incidental to any **investigation** shall have **priority over the debts due be receivable as an arrear of land revenue**.

Prohibition of payment by way of commission or otherwise for procuring business (Sec 40)

No person shall, pay or **contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in India** to any person except an insurance agent or an intermediary or insurance intermediary and that also in accordance with regulations

Appointment of insurance agents (IA) (Sec 42)

- 1) Insurer may appoint any person as IA.
- 2) **Cannot be more than 1 life insurer, 1 general insurer, 1 health insurer & 1 of each** of other mono-line insurers.
- 3) Ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers.

Prohibition of insurance business

- 1) After **commencement of ILA 2015**, no appoint any principal agent, chief agent, & special agent & transact any insurance business in India.
- 2) **Cannot take out or renew or continue** an insurance policy through **multilevel marketing scheme**.
- 3) Make a **complaint** to the appropriate police authorities against the entity or persons **involved** in the multilevel marketing scheme. ("Multilevel marketing scheme" means any scheme for the purpose of soliciting and procuring insurance business through persons not authorised")

Agent/intermediary not to be a director (Sec 48A)

- 1) **Not Eligible** to be **director**.
- 2) Director holding office at commen. Of ILA 2015 not ineligible until expiry of 6mths from date of commencement of act
- 3) **Permit to be on board** subject to conditions to **protect interest of policyholders** or to avoid conflict of interest

Prohibition of business on dividing business (Sec 52)

- 1) On principle that **benefit secured** by a policy is not fixed but depends either wholly or partly on distribution of **certain sums or premiums payable by PH** depend wholly or partly on the number of policies becoming claims within **certain time-limits**.
- 2) It does **not deemed to prevent** from **allocating bonuses** of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to sums insured or as immediate cash bonuses

Surveyors or loss assessors (Section 64UM)

- No person** shall act as a surveyor or loss assessor in respect of GIB **after the expiry 1 yr** from commencement of the ILA 2015, unless:
- 1) academic qualifications as **specified**.
 - 2) **Member** of Indian Institute of Insurance Surveyors and Loss Assessors.
 - 3) **Comply with the code of conduct** as may be specified.

Assets & liabilities how to be valued (Sec 64V)

- 1) Valued at **value not exceeding their market or realisable value** and certain assets may be **excluded**.
- 2) Furnish along with the **returns** required to be filed, a statement certified by an Auditor, in respect of GIB or an actuary approved by the Authority in respect of LIB, as on the **31st March as specified** by regulations.

Sufficiency of assets (Section 64V)

- 1) maintain an excess of value of assets over amt of liabilities of, not less than 50% of amt of minimum capital.
- 2) Does not comply with shall be deemed to be insolvent and may be wound-up by the court.
- 3) specify a level of solvency margin known as control level of solvency on the breach.

Policy not to be called in question after 3 years (Sec 45)

- i) Can be called in question **within 3yrs** only on ground of **fraud** and insurer has communicated in writing the grounds & materials on which such decision is based
- ii.) **After 3yrs** nly if communicated in **writing** the grounds & materials on which such **decision to repudiate** the policy of life insurance is based.
- iii) Repudiation not on ground of fraud, **premiums collected** till date of repudiation be **paid within 90 days** from date of repudiation

THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999 (Chart 1 1.1)

Objectives	Tenure of Office of Chairperson and other Members (Sec 5)	Duties(Sec 14)	Establishment of Insurance Advisory Committee (Section 25)
<p>(i)To promote the interest and rights of policy holders.</p> <p>(ii)To promote and ensure the growth of Insurance Industry.</p> <p>(iii)To ensure speedy settlement of genuine claims and to prevent frauds & malpractices.</p> <p>(iv)To bring transparency and orderly conduct of in financial markets dealing with insurance.</p>	<p>(i)Chairman tenure for 5 yrs & eligible for reappointment till he attains the age of 65 yrs.</p> <p>(ii)Appointment of members will be for 5 yrs & eligible for reappointment but not exceeding age 62 yrs.</p> <p>(iii)Part-time member shall hold office for a term not exceeding 5 Yrs from the date on which he enters upon his office.</p> <p>iv.)Relinquish his membership by giving 3 mth prior notice to CG or he can be removed from office under provision of section.</p> <p>v.)Public servants under section 21 of IPC while discharging their official duties.</p> <p>And their actions while performing their official duties are insulated from any legal proceedings, provided they act in good faith.</p>	<p>(a)General : Regulate, promote & ensure orderly growth of the Insurance business & reinsurance business .</p> <p>(b) Furnishing of Returns [Sec 20] : Furnish to CG the prescribed Return, Statements and other particulars, in regard to any proposed or existing prog for the promotion & development of the Insurance Industry as the CG may require.</p> <p>(c) Report on Activities: i.)Within 9 Mths after the close of each FY,submit to the CG a report giving a true& full account of its activities including the activities for promotion & development of the Insurance business during the previous FY.</p> <p>ii.)Copies of the reports shall be laid before each House of Parliament.</p>	<p>(1) Establishment :By notification, establish a Committee to be known as the Insurance Advisory Committee(IAC).</p> <p>(2) Constitution : (a) The Chairperson &members of the Authority shall be ex-officio Chairperson & ex officio members of the IAC. (b)IAC shall consist of not more than 25 members excluding ex-officio members to represent the interests of commerce, industry, transport, agriculture, consumer form, surveyors, agents, intermediaries, organisations engaged in safety & loss prevention, research bodies & employees' association in the insurance sector.</p> <p>(3) Advisory to IRDA :objects of IAC shall be to advise the Authority on matters related to insurance.</p>
Establishment and Incorporation (Sec 3)	Constitution of Funds (Section 16)	Powers & Functions	Power to Supersede IRDA [Section 19]
<p>i.)CG by notification appoint such 'Authority' be called IRDA in the nature of Body corporate enjoying all the characteristics of such entity along with contractual powers.</p> <p>ii.)It will have perpetual succession & common seal with power subject to the provision of this Act & contract and shall, by the name, sue or be sued.</p>			
Bar on Future Employment of Members (Section 8)	<p>(1)Fund to be called "IRDA Fund" and there shall be credited to:—</p> <p>(i)All Govt grants, fees & charges received by the Authority;</p> <p>(ii)All sums received by the Authority from such other source as may be decided by the CG</p> <p>(iii)Percentage of prescribed premium income received from the insurer.</p> <p>(2) The Fund shall be applied for meeting:—</p> <p>(i)Salaries, allowances &other remuneration of the members, officers & other employees</p> <p>(ii) Other expenses of the Authority in connection with the discharge of its functions</p>	(i) Issue, modify, cancel , etc, of Registration certificate. (ii) Safeguarding the interests of the policyholders like insurable interests, settlement of claim, surrender value of the policy, etc. (iii) Code of conduct of the Surveyors & Loss Assessors. (iv)Determining qualifications & training aspect of agents & intermediary. (v) Levying fees & charges for their work. (vi) Conducting investigations & enquiries relating to issues concerning insurance business. (vii) Regulating & controlling business not)controlled by Tariff Advisory committee(TAC) (viii) Regulatory investment funds by the Insurance Companies. (ix) Regulating maintenance of margin of solvency . (x) Adjudicating & settling disputes between intermediaries & insurers. (xi) Supervising the functioning of TAC .	(a) Circumstances :CG if situation warrants like (i) Authority persistently defaulting directions of them or (ii) in public interest (iii) on account of circumstances beyond the control of IRDA . (b) Period :CG may by notification superde for not more than 6 month duration , through notification & appointing a person as controller of Insurance (c) Consequences of Supersession :From the date of publication of the notification (i)Chairperson & other members cease to hold office . (ii) All powers, functions & duties vests on the Controller if Insurance. (iii) And also all properties shall vest on CG. (d) Reconstitution of IRDA : i.)CG may then appoint fresh chairperson & other members before the expiration of the term of the super session . ii.)Notification and the action taken report has to be placed before the Parliament
Composition of Authority (Section 4)	Removal of IRDA Member (Section 6)		
<p>a.)Authority consist of foll members namely: (i) Chairman. (ii)5 Whole Time members (max) (iii)4 Part – Time members (max)</p> <p>b.)These persons shall be appointed by the CG from amongst persons of ability, integrity & standing who have knowledge or experience in life Insurance, general Insurance, actuarial science, finance, economics, law accountancy, administration or other discipline which would in the opinion of the CG be useful to the Authority.</p> <p>c.)1 of these members should have knowledge in Life Insurance, General Insurance and Actuarial Science.</p>	<p>CG can remove any member of the Authority if he: (i)Adjudged as an insolvent (ii)Physically or mentally incapable of acting as a member (iii)Awarded punishment for Involving moral turpitude. (iv)Acquired financial or other interest which affect his function as a member. (v)Abused his position as to render his continuation in office detrimental to public interest.</p> <p>vi.)But no member can be removed from the office unless & until the reasonable opportunity of being heard is given to such member in the matter.</p>		
Transfer of Assets, liabilities, etc. of (IIRA) to (IRDA) (Sec 13)	Meetings of IRDA (Section 10)	Accounts and Audit (Section 17)	Miscellaneous Provisions
<p>i.) On appointed day, all assets and liabilities shall stand transferred from IIRA to IRDA.</p> <p>ii.)Assets may be movable or immovable.</p> <p>iii.)Along with it also includes attached rights & powers.</p> <p>iv.)Contractual obligations entered by IIRA with third parties till before the appointed day shall trf to IRDA.</p> <p>v.)All debts owed to IIRA also stands transferred to IRDA.</p> <p>vi.)Legal proceedings including suits whether instituted by or against IIRA shall stand trf to IRDA.</p>	<p>(i) Time and Place : IRDA shall meet at such time and places and shall observe the Rules and procedure in regard to transaction of business at its Meetings as may be determined by the Regulations.</p> <p>(ii) Presiding Officer : In case, chairperson unable to attend any meeting, then members attending may appoint chairperson among themselves and shall preside at the Meeting.</p> <p>(iii) Protection : Any act of the 'Authority' cannot be invalidated simply because of any defect in appointing a member or procedural irregularity.</p>	<p>(1)Books :Maintain proper accounts &other relevant records & prepare an annual statement of accounts in such form as may be prescribed by the CG in consultation CAG.</p> <p>(2)Audit :Accounts shall be audited by CAG of India at such intervals as may be specified & any exp incurred shall be payable to theCAG.</p> <p>(3)Powers of Auditors :CAG & any other person appointed by him shall have the same rights, privileges & authority of such audit.</p> <p>(4)Reporting :Certified by CAG or any other person appointed together with the audit-report thereon shall be forwarded annually to the CG & that Govt shall cause the same before each House of Parliament.</p>	<p>i.)CG can issue the direction on policy matters not on administrative & technical matters and the Authority is bound to follow such direction.</p> <p>ii.)CG can supersede any act of the Authority.</p> <p>iii.)Chairperson, Members & employees of Authority shall be deemed to be public servant while performing the duties.</p> <p>iv.)Delegate its powers to Chairperson or members or officers & employees of the Authority as per regulation made under this act.</p> <p>v.)Power to make rules related to salary & allowances & other terms & conditions to be applicable to its Chairperson, members, employees or officers.</p>

SARFAESI ACT, 2002 (Chart 12.1)



SARFAESI ACT, 2002 (Chart 12.2)

Enforcement of security interest (Section 13)

1) Where borrower makes a default payment of debt:-

Then, secured creditor may require borrower **by notice in writing to discharge in full his liabilities to secured creditor within 60 days**

2) Notice prescribing details of debts:-

a) Notice shall **give details of amount payable** by borrower & secured assets in event of non-payment of secured debts

b) If borrower **makes any representation or raises any objection**, secured creditor shall consider such representation or objection

c) & if **rejection is not acceptable** then he shall **communicate within 15 days** of receipt of such representation or objection reasons for non- acceptance

3) Borrower fails to discharge his liability:-

Following measures to recover his secured debt-

a) Take possession of secured assets **including right to transfer** by way of lease, assignment or sale for realising secured asset

b) **Take over management of business**, including right to transfer by way of lease, assignment or sale for realising secured asset

c) Appoint any person to **manage secured assets** possession of which has been taken over by secured creditor

d) Any **money is due or may become due to borrower**, to pay secured creditor, so much of money as is sufficient to pay secured debt

4) Discharge from payment:-

Any payment made by any person to secured creditor shall give such person a **valid discharge as if he has made payment to borrower**

5) Right with respect to immovable property:-

a) Where sale of an immovable property, for which a reserve price has been specified, **has been postponed for want of a bid of an amount not less than such reserve price**, it shall be lawful for any officer of secured creditor, if so authorised by secured creditor in this behalf, **to bid for immovable property on behalf of secured creditor at any subsequent sale.**

b) If secured creditor, **declared to be purchaser of immovable property at any subsequent sale**, amt of purchase price shall be **adjusted towards amount of claim**

6) Right related to transfer of secured assets by secured creditor:-

Any **transfer of secured asset after taking possession** thereof by secured creditor shall vest in transferee all rights in, or in relation to, secured asset transferred as **if transfer had been made by owner of such secured asset**

7) Recovery of expenses from borrower:-

All **costs, charges & expenses** shall be recoverable from borrower

8) Payment of dues of secured creditors:

a) **Secured assets shall not be transferred** by way of lease assignment or sale by secured creditor; &

b) In case, any step has been taken by secured creditor for transfer by way of lease or assignment or sale of assets before tendering of **such amount no further step shall be taken by such secured creditor for transfer by way of lease or assignment**

9) Role of liquidator with respect to workmen dues:-

liquidator shall **intimate secured creditor workmen's dues** in accordance with provisions & in case such workmen's dues cannot be ascertained, **liquidator shall intimate estimated amount of workmen's dues**

10) In case of deposits of amount of workmen dues by secured creditor:

In case secured creditor deposits estimated amount of workmen's dues, such **creditor shall be liable to pay balance of workmen's dues or entitled to receive excess amount**, if any, deposited by secured creditor with liquidator

11) Furnishing of undertaking by secured creditor:

secured creditor shall **furnish an undertaking to liquidator to pay balance of workmen's dues**

12) Filing of an application by secured creditor:

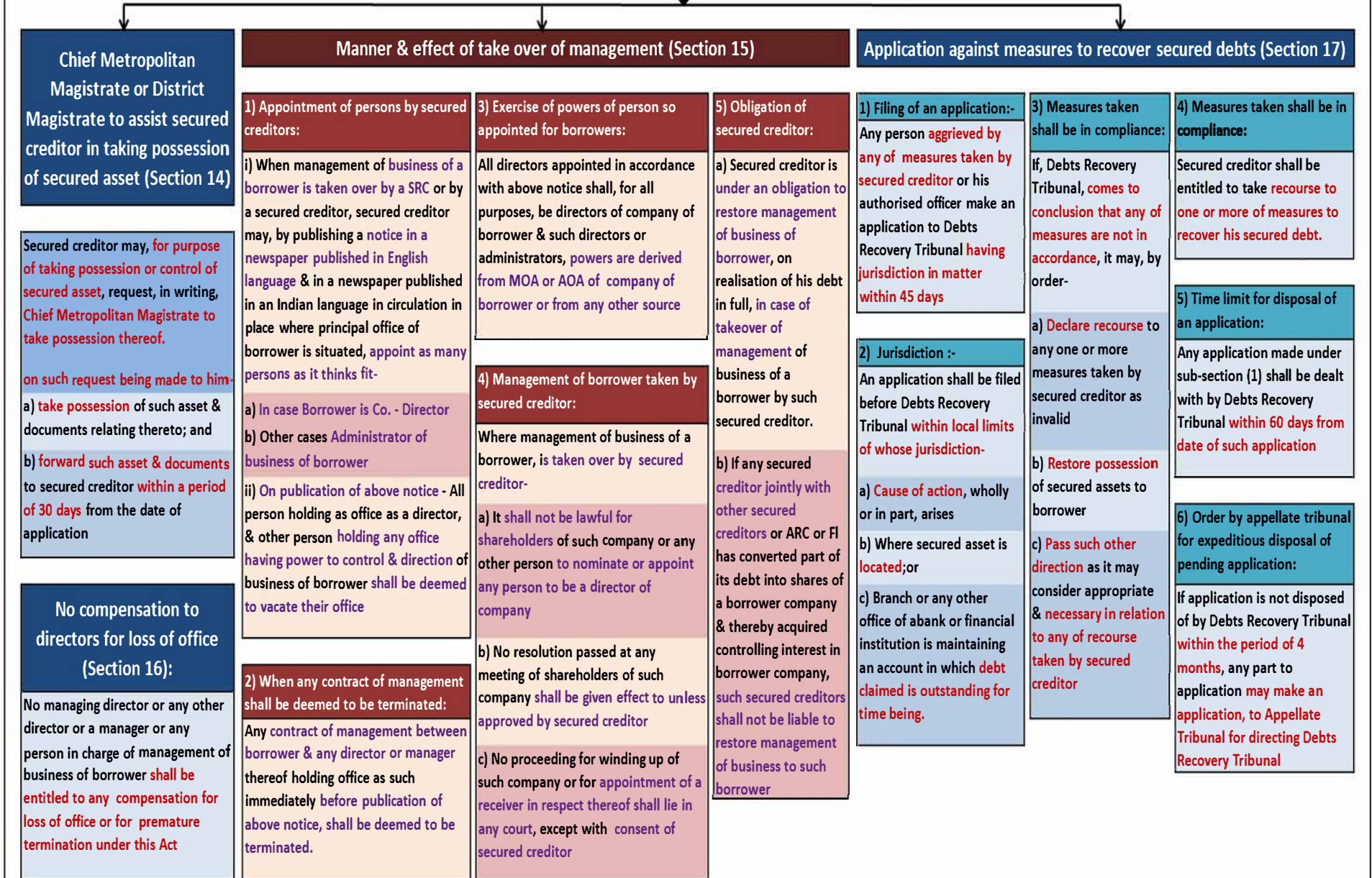
Where dues of secured creditor are not fully satisfied with sale proceeds, **he may file an application in form & manner as may be prescribed to Debts Recovery Tribunal**

13) Rights of secured creditors in relation to secured assets:

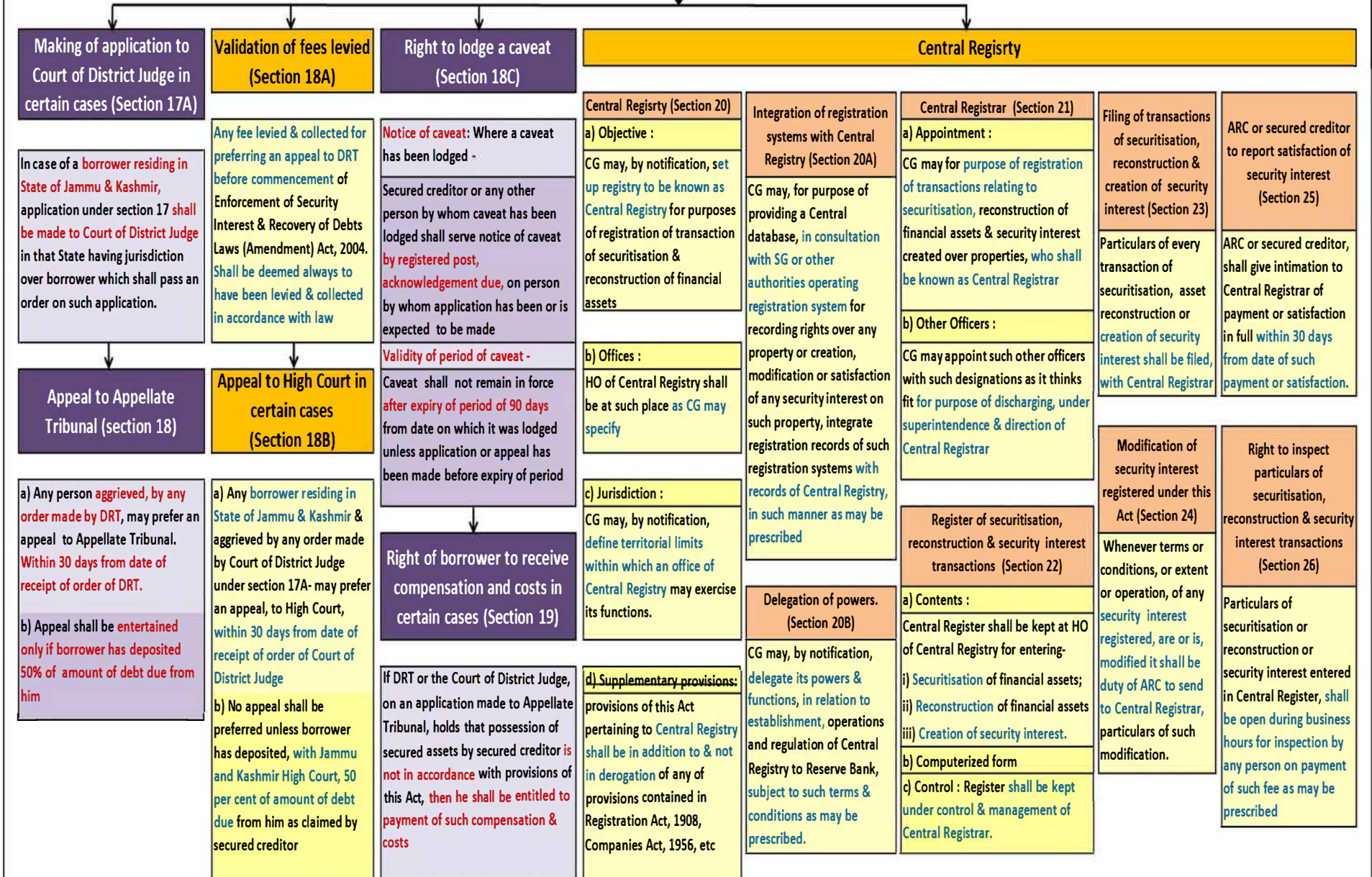
a) Rights of a secured creditor under this Act **may be exercised by one or more of his officers authorised** in this behalf in such manner as may be prescribed

b) **No borrower shall, after receipt of notice, transfer** by way of sale, lease or otherwise any of **his secured assets**

SARFAESI ACT, 2002 (Chart 12.3)



SARFAESI ACT, 2002 (Chart 12.4)



SARFAESI ACT, 2002 (Chart 12.5)

Registration by Secured Creditors & other creditors (Chapter IV A)

I) Registration of Secured creditors & other creditors (Section 26B)	II) Effect of registration of transactions, etc. (Section 26C)
a) CG may by notification to all creditors for creation, modification or satisfaction of any security interest over any property of borrower for purpose of securing due repayment of any financial assistance granted by such creditor to borrower	Any registration of transactions shall be deemed to constitute a public notice from date & time of filing of particulars of such transaction with Central Registry for creation, modification or satisfaction of such security interest or attachment order
b) From date of notification creditor may file particulars of transactions with Central Registry	III) Right of enforcement of securities. (Section 26D)
c) If any person, having any claim against any borrower, obtains orders for attachment of property to issue attachment order, such person may file particulars of such attachment orders with Central Registry	From date of commencement of provisions of this Chapter, no secured creditor shall be entitled to exercise rights of enforcement of securities unless security interest created in its favour by borrower has been registered with Central Registry.
	IV) Priority to secured creditors. (Section 26E)
	Debts due to any secured creditor shall be paid in priority over all other debts & all revenues, taxes, cesses & other rates payable to CG or SG or local authority

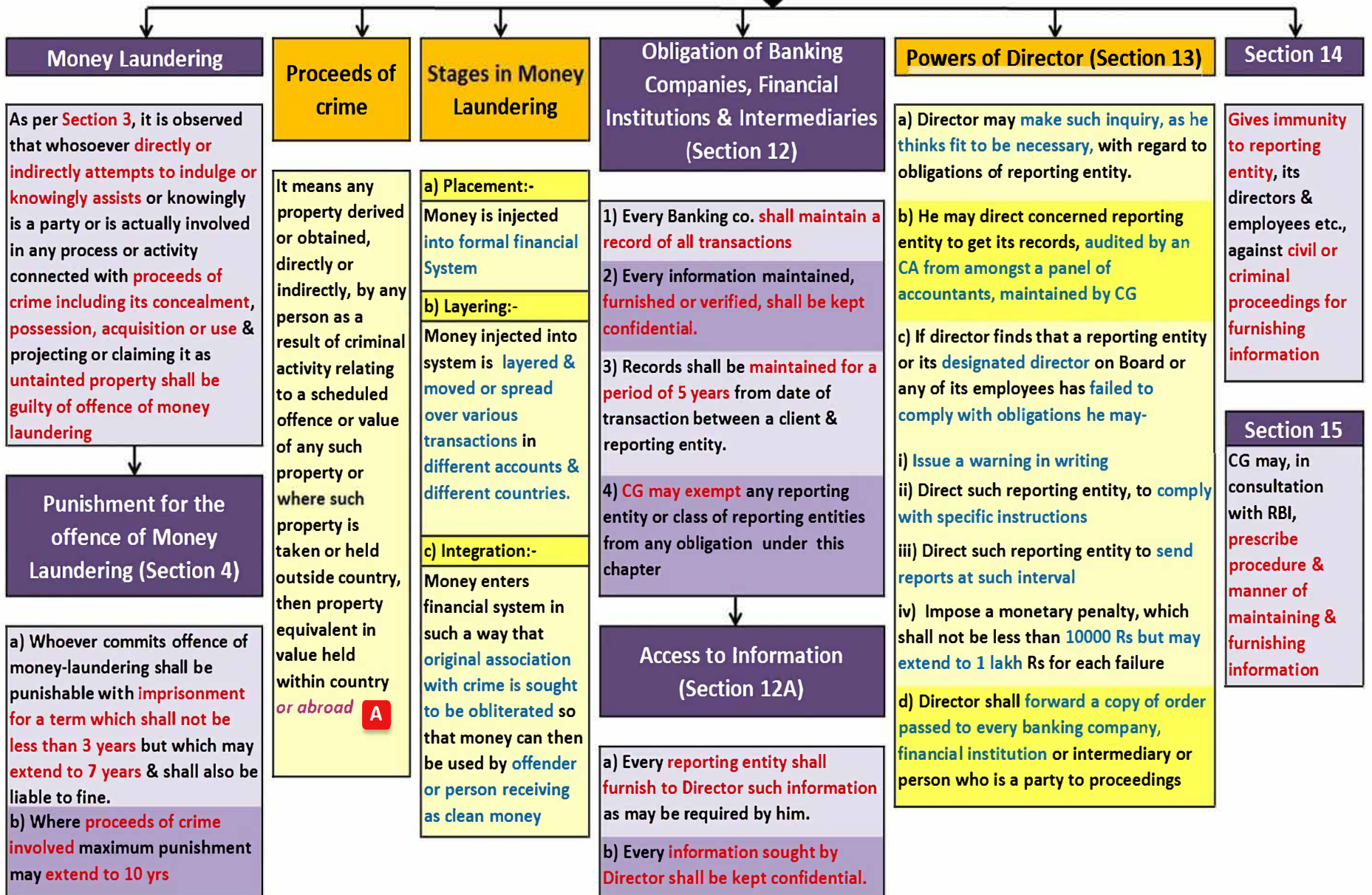
Offences & Penalties

Section 27	Cognizance of Offence (Section 30)	Appeal against penalties (section 30B)
a) Default in filing under section 23, particulars of every transaction of any securitisation or asset reconstruction or security interest or	No court shall take cognizance of any offence punishable under section 27 in relation to non-compliance, except upon a complaint in writing made by an officer of Central Registry or an officer of Reserve Bank	A person in default, aggrieved by an order passed, may within a period of 30 days from date on which such order is passed, prefer an appeal to Appellate Authority
b) Default in sending under section 24, or		Appellate Authority (Section 30C)
c) Default in giving intimation under sec 25	Power of adjudicating authority to impose penalty (Section 30A)	a) Central Board of Reserve Bank may designate such officer as it deems fit to exercise power of Appellate Authority.
Fine upto Rs. 5000 per day of Default	Where any ARC or any person fails to comply with any direction issued by Reserve Bank, adjudicating authority may, impose on such company or person in default, a penalty not exceeding 1 cr Rs or twice amount involved, whichever is more, & where such failure is a continuing one, a further penalty which may extend to 1 lakh Rs for every day	b) Appellate Authority shall have power to pass such order as it deems fit after providing a reasonable opportunity of being heard
Section 29		Recovery of penalties (Section 30D)
Contravenes or attempts to contravene or abets contravention of provisions of this Act or of any rules		Any penalty imposed under sec 30A shall be recovered as a "recoverable sum" & shall be payable within a period of 30 days
Imprisonment upto 1 Year and / or Fine.		

Miscellaneous

Non- Applicability of Act (Section 31)	Provisions of the Act not to apply in some cases (Section 31A)	Offences by companies (Section 33)	Limitation (Section 36)
a) A lien on any goods, money or	1) CG may, by notification in public interest, direct that any of provisions of this act	Where an offence under this Act has been committed by a company, every person who at time offence was committed was in charge of, shall be deemed to be guilty of offence & shall be liable to be proceeded against & punished	No secured creditor shall be entitled to take all or any of measures unless his claim in respect of financial asset is made within period of limitation prescribed under Limitation Act, 1963.
b) A pledge of movables	a) Shall not apply to such class or classes of banks or FI		Application of other laws not barred (Section 37)
c) Creation of any security in any aircraft	b) Shall apply to the class or classes of banks or FI		The provisions of this Act or the rules made thereunder shall be in addition to, & not in derogation of, the Companies Act, 2013, SEBI Act, 1992, Recovery of Debts Due to Banks & Financial Institutions Act, 1993
d) Creation of security interest in any vessel	2) A copy of every notification proposed, shall be laid in draft before each House of Parliament, while it is in session, for a total period of 30 days	Civil Court not to have jurisdiction (Section 34)	
e) Any properties not liable to attachment or sale	3) No account shall be taken of any period during which House's prorogued or adjourned for more than 4 consecutive days.	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 power conferred by or under this Act	Power of CG to make rules (Section 38)
f) Any security interest for securing repayment of any financial asset not exceeding 1lakh Rs.			CG may, by notification in Electronic Gazette, make rules for carrying out provisions of this Act.
g) Any rights of unpaid seller	Protection of action taken in good faith (Section 32)	The provisions of this Act to override other laws (Section 35)	
	No suit, prosecution or other legal proceedings shall lie against Reserve Bank or Central Registry or any secured creditor or any of its officers for anything done or omitted to be done in good faith		

The Prevention of Money Laundering Act, 2002 (Chart 13.1)



The Prevention of Money Laundering Act, 2002 (Chart 13.2)

Attachment, Adjudication & Confiscation

Attachment of property involved in money-laundering (Section 5)

- 1) Where Director has **reason to believe on basis of material in his possession**, that-
 - a) any person is in **possession of any proceeds of crime**
 - b) proceeds of crime are likely to be **concealed, transferred** which may **result in frustrating any proceedings relating to confiscation of such proceeds**

He may, by order in writing, provisionally attach such property for a period **not exceeding 180 days** from date of order

A For purposes of computing period of 180 days, period during which proceedings under this section is stayed by the HC, shall be excluded & a further period not exceeding 30 days from date of order of vacation of such stay order shall be counted.

- 2) Director shall **forward a copy of order**, along with material in his possession to **Adjudicating Authority**, in a sealed envelope

- 3) Every order of attachment shall **cease to have effect after expiry of period or on date of an order made** whichever is **earlier**.

- 4) Director shall, **within a period of 30 days** from such attachment, **file a complaint before Adjudicating Authority**

Adjudicating Authorities, composition, powers, etc. (Section 6)

- 1) CG shall **ppoint an Adjudicating Authority** to exercise jurisdiction & powers

- 2) An Adjudicating Authority shall **consist of a Chairperson & 2 other Members**. 1 Member each shall be a person having experience in field of law, administration, finance or accountancy.

Vesting of property in CG (Section 9)

Where an order of confiscation has been made in respect of any property of a person, **all rights and title in such property shall vest absolutely in CG free from all encumbrances**.

Adjudication [Section 8]

- 1) On receipt of a complaint it may **serve a notice of not less than 30 days** on such person calling upon him to **indicate sources of his income, earning or assets**, out of which or by means of which **he has acquired property attached**

- 2) Adjudicating Authority shall, after-

- a) **Considering reply,**
- b) **Hearing aggrieved person**
- c) Taking into account **all relevant materials placed on record before him,**

by an order, record a **finding whether all or any of properties are involved in money laundering**

- 3) Where Adjudicating Authority decides that any property is involved in money-laundering, he shall, by an order in writing, **confirm attachment of property & record a finding to that effect**, whereupon such attachment or retention or freezing of seized or frozen property or record shall—

- i) continue during **investigation for a period not exceeding 90 days or** the pendency of proceedings relating to any offence under this Act before a court or under corresponding law of any other country, before competent court of criminal jurisdiction outside India, as case may be; &]
- ii) become final after an order of confiscation is passed by Special Court

- 4) Where provisional order of attachment has been confirmed Director shall forthwith **take possession of property attached under sec 5**

- 5) If Special Court finds that offence of money-laundering has been committed it shall **stand confiscated to CG**

- 6) If Special Court finds that offence of money laundering has not taken place, he shall order **release of such property**

- 7) Where **trial under this Act cannot be conducted by reason of death**, Special Court shall pass appropriate orders regarding **confiscation or release of property**, as the case may be fter having regard to the material before it.

- 8) Where a property stands **confiscated to CG**, restore such confiscated property or part thereof of a claimant with a legitimate interest in property.

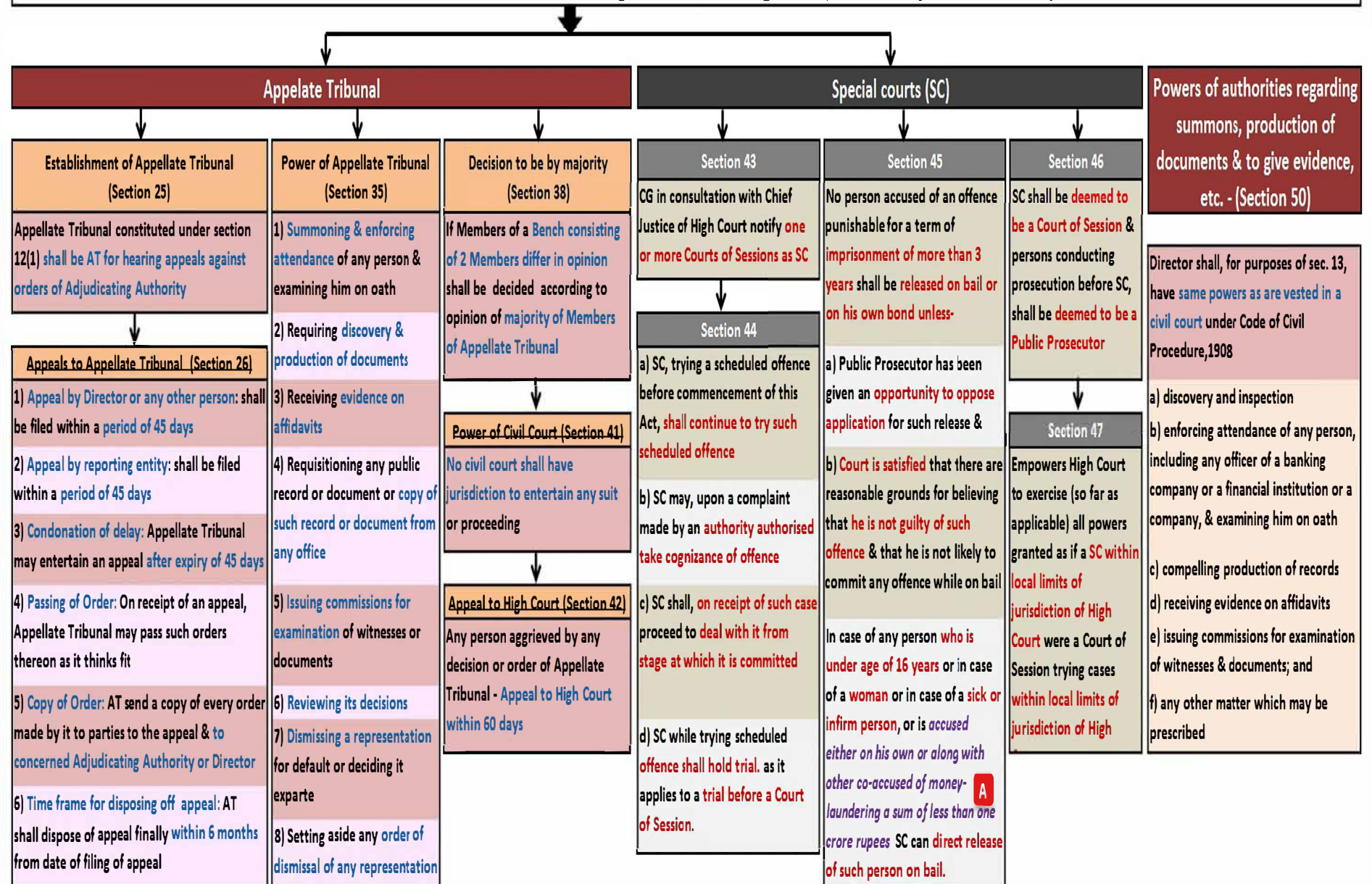
Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed

Power to arrest (Section 19)

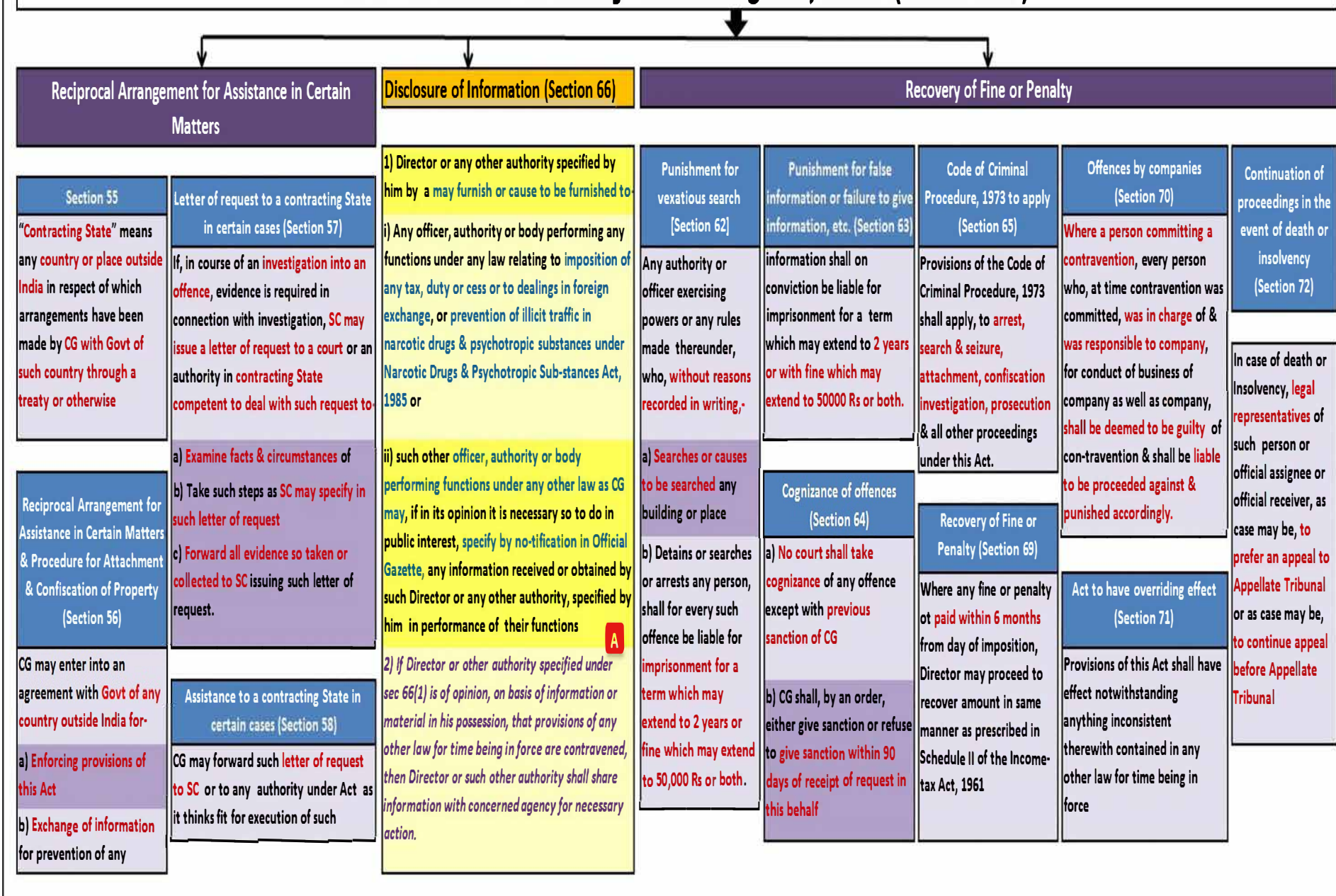
- 1) If **Director, Deputy Director, Assistant Director, or any other officer authorised** in this behalf by CG by **general or special order**, has on basis of material in his possession reason to believe that **any person has been guilty of an offence punishable under this Act**, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest

- 2) Every person arrested under sub-sec. (1) shall **within 24 hrs, be taken Special court or to a Judicial Magistrate or a Metropolitan Magistrate**, as case may be, having jurisdiction: **Provided that period of 24 hours shall exclude time necessary for journey from place of arrest to Special court or Magistrate's Court.**

The Prevention of Money Laundering Act, 2002 (Chart 13.3)



The Prevention of Money Laundering Act, 2002 (Chart 13.4)



Interpretation of Statutes, Deeds and Documents (Chart 14.1)

DEFINITIONS

- A) Statute:** i) **Written Will** of legislature
 ii) **Necessary to constitute** it the law of State
- B) Instrument :** Document by which any **right or liability** is or purports to be created, transferred, extended, extinguished or recorded
- C) Document :** i) **Proof or evidence** of anything
 ii) Include **any matter** written, expressed or described upon any substance by means of letters, figures or marks which is **intended to be used**
- D) Deed :** **Instrument** in writing (or other legible representation or words on parchment or paper) purporting to **effect** some **legal disposition**
- E) Interpretation:**
 i) real **meaning** of an Act (or a document) and **intention** of the **legislature** in enacting it is ascertained
 ii) **Signifies** the meaning of **abstruse words, writings**, etc.
- F) Interpretation & Construction :** Process by which the Courts seek to **ascertain the meaning of Legislature** in which it is **expressed**. Generally interpretation & construction are **used as synonymous terms**.

Rules of Interpretation / Construction

PRIMARY RULES

- 1) Rules of Literal Construction:**
 i) **Word, phrases & sentences** of a statute are ordinarily to be understood in their **natural, ordinary or popular & grammatical meaning**
 ii) **Cardinal** rule of construction-Ordinary, natural & grammatical meaning
 iii) Provision is **unambiguous** & legislative intent is **clear**, other rules of construction of statutes need **not** be called into **aid**
 iv) Words & phrases of **technical nature** are 'prima facie' used in their technical meaning, otherwise in their ordinary popular meaning
 v) **Narrower** interpretation **fails** to achieve the manifest **purpose** of the legislation, then adopt the **wider** one
 vi) **Non applicability:**
 a) If Language is **Ambiguous**
 b) If the Literal interpretation gives **absurd or unreasonable** result
 c) If literal interpretation **defeats intention** of legislation
- 2) Rule of Reasonable Construction:**
 i) **Sensible meaning**
 ii) **Applicability:**
 a) If the Language is ambiguous.
 b) If the Literal interpretation gives **absurd or unreasonable result**.
 c) It **defeats intention** of legislation.
 iii) **Non Applicability : Ordinary meaning is Clear**
 iv) **Narrower** interpretation would **fail** to achieve the **main purpose** of legislation, then such construction, should be **avoided**

- 3) Rule of Harmonious Construction:**
 i) **Doubt** about **meaning** of words of a statute then **harmonise** with the subject of the **enactment & object** which legislature had in view.
 ii) two or more provisions **cannot be reconciled** with each other then **interpret** as to give **effect** to all of them.
 iii) **Non Applicability** Applicable only when there is a real & not merely apparent conflict between provisions of an Act & One Provision has been made subject to other.
- 4) Rule of Beneficial Construction or the Heydon's Rule or Mischief Rule:**
 i) **Applicability :** Language used in a statute is **capable of more than one interpretation** and the Rule of Literal Interpretation fails.
 ii) **Background & Essence:** Consider **Historical set up of statue**.
 a) **What** was the law before the making of the Act;
 b) What was the **mischief** or defect for which the law did not provide;
 c) What is the **remedy** that the Act has provided; &
 d) what is the **reason** for the remedy.
 iii) **Adopt** that construction which 'shall **suppress mischief & advance remedy**'.
 iv) Applicable only when words used are ambiguous & are reasonably capable of **more than one meaning**. eg "Untrue statement in Prospectus".

- 5) Rule of Exceptional Construction:**
 i) **No sensible meaning** can be fixed to a word or phrase, or **defeats the real object** of the enactment, it should be **eliminated** then should a give a **sensible meaning**.
 ii) 'or' is normally **disjunctive** and 'and' is **conjunctive**.
 iii) They are **read as vice versa** only if **literal** reading of the **words** produces an **unintelligible or absurd result**.
 iv) Distinction between 'mandatory' & directory' is that when it is **mandatory**, it must be **strictly observed**; when it is 'directory' it would be **sufficient** that it is **substantially complied** with.
 v) **Factors** to be considered by Court
 a) The **nature** of the thing empowered,
 b) The **object** for which it is done, &
 c) The **person** for whose benefit the **power** is to be exercised
- 6) Rule of Ejusdem Generis:**
 i) 'Ejusdem generis' means 'of **same kind or species**'.
 This rule means **specific words are used** and **after** those specific words, some general words are used, the **general words** would take their **colour** from the specific words used **earlier**.
 ii) **Non applicability:** If **general words** following those specific words remains **unaffected**-those general words then would **not take colour** from the **earlier** specific words.
 Eg. a) Keeping of dogs, cats, cows, buffaloes and other animals, the expression 'other animals' would not include wild animals like lions and tigers, but would mean only domesticated animals like horses, etc.
 iii) Courts have a discretion whether to apply this rule or not.

SECONDARY RULES

- 1) '**Optima Legum interpretest consuetudo**' -the custom is best interpreter of the law.
 2) '**Contempranea expositoest optima et fortissima in lege**' - the best way to interpret a document is to read it as it would have been read when made.
 3) **Old statutes & documents** should be **interpreted** as they would have been at time when they were **enacted/ written**.
 4) **NOSCITUR A SOCIIS**- Associated Words to be Understood in **Common Sense** Manner.
 5) **Two or more words** which are **capable of analogous** (similar or parallel) meaning are coupled together, then to be understood in their **cognate sense** (i.e. akin in origin, nature or quality). They take their **colour** from **each other**, i.e, the more general is **restricted** to a sense **analogous** to the less general.
 6) For example, term 'entertainment' would have a different meaning when used in expression 'houses for public refreshment, resort & entertainment' than its generally understood meaning of theatrical, musical or similar performance.

Distinction between directory & mandatory provision :

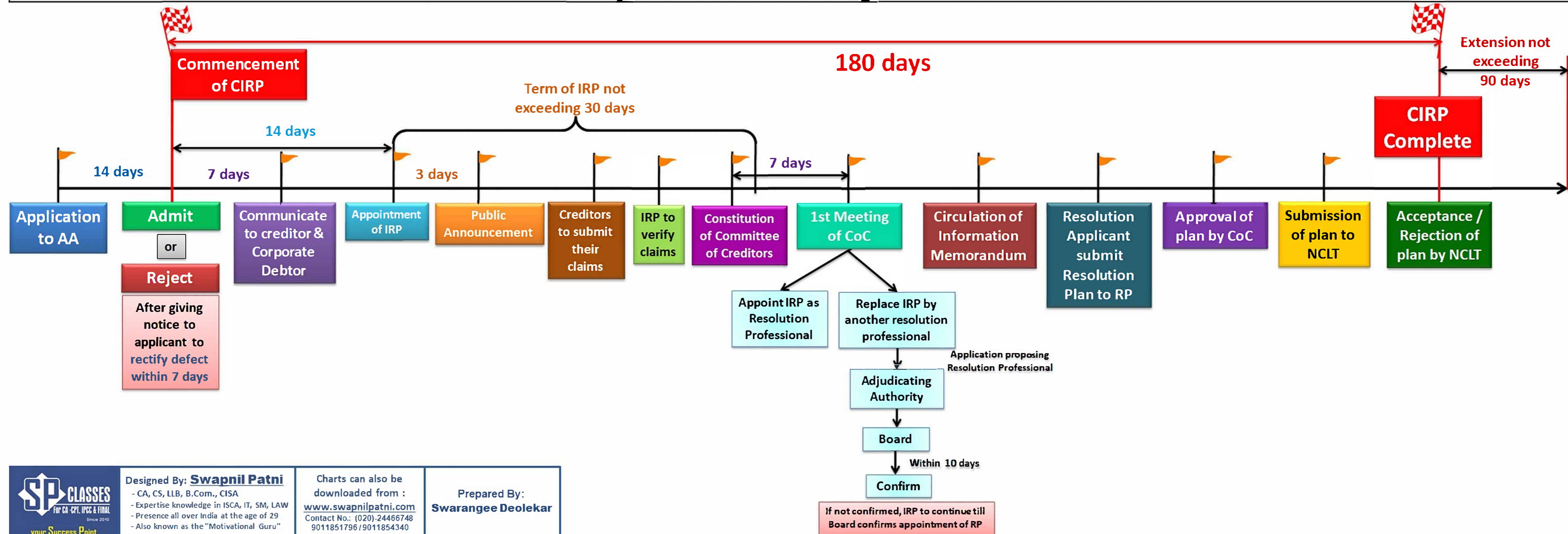
- A) Mandatory:**
 a) Provision is mandatory.
 b) **Non-compliance** results in **penalty**.
 c) If a provision gives a **power coupled with a duty**.
 d) Provisions enacted to **prevent fraud & mischief**.
- B) Directory:**
 a) **No public policy** is involved.
 b) If the **non-compliance** of a provision does **not results in penalty**

Interpretation of Statutes, Deeds and Documents (Chart 14.2)

Internal Aids to Interpretation/Construction :		External Aids to Interpretation/Construction :		Rules of Interpretation /Construction of Deeds and Documents	Interpretation of word without prejudice
Title, Preamble, Heading, Marginal Notes, Definitional Sections/ Clauses, Illustrations etc helps in interpreting/construing enactment or any of its		Society does not function in a void. Everything done has its reasons, its background, the particular circumstances prevailing at the time. These factors are of great help in interpreting/construing an Act and have been given the convenient nomenclature of 'External Aids to Interpretation'			
<p>a) Long Title: i) Short Title merely identifies enactment & is chosen merely for convenience, 'Long Title' describes enactment & does not merely identify it</p> <p>ii) Long Title of an Act is a part of Act</p> <p>iii) To ascertain the object, scope and purpose of the Act</p> <p>b) Preamble: i) Expresses scope, object & purpose of the Act more comprehensively than Long Title.</p> <p>ii) It does not over-ride plain provision of Act</p> <p>iii) Recite ground & cause of making a statute & evil which is sought to be remedied by it.</p> <p>c) Heading & Title of a Chapter:</p> <p>i) Prefixed to sections or groups of sections can legitimately be referred to for the purpose of construing enactment or its parts</p> <p>ii) Regarded as giving key to interpretation of clauses</p> <p>iii) Treated as 'preambles to the provisions following it</p> <p>d) Marginal Notes:</p> <p>i) MN appended to a Section cannot be used for construing the Section</p> <p>ii) Part of Constitution as passed by the Constituent Assembly</p> <p>e) Illustrations:</p> <p>i) Illustrations follow text of Sections & do not form a part of the Sections</p> <p>ii) Relevance & value in construing the text of the sections</p> <p>iii) Can not have effect of modifying language of sec & can neither curtail nor expand ambit of section</p>	<p>f) Proviso:</p> <p>i) Qualify preceding enactment</p> <p>ii) Qualify or create an exception.</p> <p>iii) Ordinarily a proviso is not interpreted as stating a general rule.</p> <p>g) Explanation:</p> <p>i) Explain meaning of the text of sec.</p> <p>ii) Added to include something within sec or to exclude something from it.</p> <p>h) Schedules: i) Forms part of an Act.</p> <p>ii) Read together with the Act.</p> <p>iii) Cannot control or prevail over expression in the enactment.</p> <p>iv) Enactment shall always prevail if it conflicts with explanation.</p> <p>I) Definitional Sections/Clauses:</p> <p>i) Purpose of a definition clause is two-fold:</p> <p>a) key to the proper interpretation of the enactment.</p> <p>b) Shorten the language of the enacting part by avoiding repetition of the same words .</p> <p>Inclusive definition: Definition is 'prima facie' extensive . Word defined is not restricted to the meaning assigned to it but has extensive meaning.</p> <p>Exhaustive definition: Definition is 'prima facie' restrictive and exhaustive we must restrict the meaning of the word to that given in the definition section.</p>	<p>a) Historical Setting:</p> <p>i) History of external circumstances which led to enactment.</p> <p>ii) External or historical facts which are necessary in understanding & comprehension & scope & object of enactment.</p> <p>iii) History in general & Parliamentary History in particular, ancient statutes, contemporary or other authentic works & writings all are relevant in interpreting & construing an Act.</p> <p>We have also to consider whether statute in question was intended to alter law or leave it where it stood before.</p> <p>b) Consolidating Statutes & Previous Law:</p> <p>i) Presumption that it is not intended to alter law.</p> <p>ii) They may solve doubtful points in statute with aid of such presumption in intention, rejecting literal construction.</p> <p>c) Analogous Acts:</p> <p>i) Exposition of One Act by Language of Another.</p> <p>ii) Different statutes in 'pari materia' (i.e. in an analogous case), though made at different times, or even expired and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other.</p> <p>d) Use of Foreign Decisions:</p> <p>i) Foreign decisions of countries following the same system of jurisprudence as ours.</p> <p>ii) Prime importance is always to be given to the language of the Indian statute.</p> <p>e) Reference to Repealed Act :</p> <p>i) Part of an Act has been repealed, it loses its operative force</p>	<p>f) Usage:</p> <p>i) Sometimes taken into consideration in construing Act.</p> <p>ii) where meaning of language in a statute is doubtful, usage how that language has been interpreted and acted upon over a long period & may determine its true meaning.</p> <p>g) Dictionary Definitions:</p> <p>i) Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood.</p> <p>ii) Take into consideration the context in which it is used in the Act.</p> <p>iii) Judicial decisions laying down meaning of words in construing statutes in 'pari materia' will have greater weight.</p> <p>h) Earlier Act Explained by the Later Act: Where the earlier statute contained a negative provision but the later one merely omits that negative provision ,necessary to see how the law would have stood without the original provision & terms in which repealed sections are re-enacted</p>	<p>a) To find out of its scope & intendments, would understand by words used in that deed or document.</p> <p>b) It is inexpedient to construe terms of one deed by reference to terms of another.</p> <p>c) Same word cannot have two different meanings in same document, unless context compels adoption of such a rule.</p> <p>d) Status & training of parties using words have also to be taken into account as same words may be used by an ordinary person in one sense & by a trained person or a specialist in quite another special sense.</p> <p>e) Words with double meaning : Word should be understood in the former and not latter sense.</p> <p>f) Conflict between two clauses</p> <p>i) Effort must be made to resolve conflict by interpreting clauses so that all the clauses are given effect to.</p> <p>ii) it is not possible to give effect to all of them, then it is earlier clause that will over-ride the latter one.</p>	<p>a) without prejudice to generality of provision : Indicates that anything containing in 'provision following such words is not intended to cut down generality of meaning of preceding provision.</p> <p>b) without prejudice to provisions of sec: Means that expression shall not affect anything done in pursuance of sec which follows such words.</p> <p>c) Subject to:</p> <p>i) It gives an overriding effect to the other provision, it means other shall prevail over other provision in case of any inconsistency.</p> <p>ii) effect of a provision containing word 'notwithstanding' is opposite to a provision containing words 'subject to'</p> <p>d) notwithstanding.i.e 'non obstante clause:</p> <p>i) Notwithstanding anything contained in this ACT- Override entire Act.</p> <p>ii) Notwithstanding anything contained in any forgoing Provision -Override only the forgoing provision.</p> <p>iii) Notwithstanding anything contained in any other Law for te time being -Override entire Law</p>

Insolvency & Bankruptcy Code, 2016 (Chart 15.1)

Timeline - Corporate Insolvency Resolution Process



Overview of Insolvency and Bankruptcy Code 2016 (Chart 15.2)

Fast Track Insolvency Resolution for Corporate Persons

I) Who may apply?

a) A corporate debtor with assets & income below a level as may be notified by CG

b) A corporate debtor with such class of creditors or such amount of debt as may be notified by CG

c) Such other category of corporate persons as may be notified by CG

II) Time period for completion

Fast track corporate insolvency resolution process shall be completed within a period of 90 days from insolvency commencement date.

III) Extension

a) AA may extend time period for fast track corporate insolvency resolution process- for further period which shall not be exceeding 45 days.

b) Extension of fast track corporate insolvency resolution process under this section shall not be granted more than once.

Voluntary Liquidation of Corporate Persons (Section 59)

I) Person who may initiate voluntary liquidation proceeding

A corporate person who intends to liquidate itself voluntarily and has not committed any default may initiate voluntary liquidation proceedings

II) Voluntary liquidation of a corporate person shall meet such conditions & procedural requirements as may be specified by Board

III) Conditions of initiation of voluntary liquidation proceedings:

a) A declaration from majority of directors of company verified by an affidavit stating that-

i) They have made a full inquiry into & they have formed an opinion that either company has no debt or that it will be able to pay its debts in full from proceeds of assets to be sold in voluntary liquidation

ii) Company is not being liquidated to defraud any person

b) Declaration given above shall be accompanied with audited financial statements & record of business operations of company for previous 2 years or for period since its incorporation, whichever is later & a report of valuation of assets of company, if any prepared by a registered valuer

c) within 4 weeks of a declaration, there shall be-

i) SR of members of company in a GM requiring company to be liquidated voluntarily & appointing an IPI to act as liquidator

ii) A resolution of members of company in a GM requiring company to be liquidated voluntarily as a result of expiry the period of its duration, if any, fixed by its articles

iii) on occurrence of any event in respect of which articles provide that company shall be dissolved, as case may be & appointing an insolvency professional to act as liquidator

IV) Notification to Registrar of company and the Board

V) Commencement of liquidation proceeding

VI) Application of provisions of this Code

VII) Application to adjudicating authority on complete wound up of corporate person

VIII) Passing of an order of dissolution

IX) Forward of copy of order Within 14 days