



**Press Information Bureau  
Government of India  
Ministry of Finance**

18-July-2013 21:19 IST

**An Ordinance to Amend the Securities Laws Promulgated; SEBI would have now Powers to Regulate any Pooling of Funds Under An Investment Contract Involving A Corpus Of Rs.100 Crore Or More, Attach Assets In Case Of Non-Compliance And Chairman SEBI would have Powers to Authorize The Carrying out of Search and Seizure Operations, As Part of Efforts to Crack Down on Ponzi Schemes**

The President was pleased to promulgate an Ordinance to amend the Securities Laws today. This was consequent to the approval of the Cabinet, which met on July 17, 2013, to amend Securities and Exchange Board of India (SEBI) Act and related Acts for providing more powers to the capital markets regulator for enforcement against illegal Collective Investment Schemes and to curb insider trading.

Owing to new and innovative methods of raising funds from investors, such as art funds, time-share funds, emu /goat farming schemes, there has been regulatory gap /overlap regarding types of instruments / fund raising. At the same time, SEBI receives complaints against unapproved fund raising activities of certain companies that claim that they do not come under the purview of SEBI Collective Investment Scheme regulations. With the amendments in force now, SEBI would have powers to regulate any pooling of funds under an investment contract involving a corpus of Rs.100 Crore or more, attach assets in case of non-compliance and Chairman SEBI would have powers to authorize the carrying out of search and seizure operations, as part of efforts to crack down on ponzi schemes.

Besides, SEBI would have powers to seek information, such as telephone call data records, from any persons or entities in respect to any securities transaction being investigated by it. Establishment of Special Courts enabled by this Ordinance would fast-track the resolution of pending SEBI related cases.

These amendments to the SEBI Act, SCR Act and the Depositories Act were finalized after detailed consultations with SEBI and other Ministries and Departments including MHA, DoT, MCA, DFS etc. Government believes that these amendments would give SEBI the legal backing to clamp down on unscrupulous entities that are using newer methods to take gullible investors for a ride. The promulgation of the Ordinance demonstrates the firm commitment and resolve of the Government to act with speed and alacrity to curb irregularities and frauds in securities market.

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# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)  
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)*

### THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the  
Republic of India.

An Ordinance further to amend the Securities and Exchange  
Board of India Act, 1992, the Securities Contracts (Regulation)  
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is  
satisfied that the circumstances exist which render it necessary for  
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by  
clause (1) of article 123 of the Constitution, the President is  
pleased to promulgate the following Ordinance:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws  
(Amendment) Ordinance, 2013.

Short title and  
commencement.

(2) Save as otherwise provided in this Ordinance, the  
provisions of this Ordinance shall come into force at once.

CHAPTER II  
AMENDMENTS TO THE SECURITIES AND EXCHANGE  
BOARD OF INDIA ACT, 1992

15 of 1992. 2. In section 11 of the Securities and Exchange Board of India Act, 1992 (hereafter in this Chapter referred to as the principal Act),— Amendment of section 11.

(i) in sub-section (2),

(a) for clause (ia), the following clause shall be substituted, namely:—

“(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;”;

(b) after clause (ia), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6<sup>th</sup> day of March, 1998, namely:—

“(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996, as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act.”.

42 of 1956.

22 of 1996.

3. In section 11AA of the principal Act,—

Amendment of section 11AA.

(i) in sub-section (1) —

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

(b) the following proviso shall be inserted, namely:—

"Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.";

(ii) in sub-section (2), in the opening portion, for the word "company", the word "person" shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.";

(iv) in sub-section (3),—

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

(b) after clause (viii), the following clause shall be inserted, namely:—

"(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,".

4. In section 11B of the principal Act, the following *Explanation* shall be inserted, namely:—

Amendment of section 11B.

*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention."

5. In section 11C of the principal Act,—

Amendment of section 11C.

(i) for sub-section (8), the following sub-section shall be substituted, namely:—

'(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under sub-section (3) has been issued or might be issued,—

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

then, the Chairman may, after being satisfied that it is necessary to do so, authorise the Investigating Authority or any other officer of the Board (the officer so authorised in all cases being hereinafter referred to as the authorised officer), to—

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

*Explanation.*— For the purposes of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

21 of 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).”;

(ii) for sub-section (9), the following sub-section shall be

substituted, namely,—

“(9) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer—

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(b) for ensuring safe custody of any books of account or other documents or assets seized.”;

(iii) in sub-section (10), the words “and inform the Magistrate of such return” shall be omitted.

6. After section 15JA of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20<sup>th</sup> day of April, 2007, namely:—

Insertion of  
new section  
15JB.

“15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

Settlement of  
administrative  
and civil  
proceedings.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.”

7. In section 15T of the principal Act, sub-section (2) shall be omitted.

Amendment  
of section  
15T.

8. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amendment  
of section  
26.

9. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
26A, 26B,  
26C, 26D  
and 26E.

"26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment  
of Special  
Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

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

2 of 1974.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Offences triable  
by Special  
Courts.

2 of 1974.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Appeal and  
revision.

2 of 1974.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

Application of  
Code to  
proceedings  
before Special  
Court.

(2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

2 of 1974.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Transitional  
provisions.

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this section."

10. After section 28 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
28A.

'28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

Recovery of  
amounts.

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

43 of 1961.

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

*Explanation 1.*—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of



majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

*Explanation 2.*—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

*Explanation 3.*—Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.'

11. In section 30 of the principal Act, in sub-section (2),—

Amendment of  
section 30.

(i) after clause (c), the following clauses shall be inserted, namely:—

"(ca) the utilisation of the amount credited under sub-section (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorised officer for search or seizure under sub-section (9) of section 11C;";

(ii) after clause (d), the following clauses shall be inserted, namely:—

"(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”

### CHAPTER III

#### AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

- 42 of 1956. 12. In section 12A of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as ‘the principal Act’), the following *Explanation* shall be inserted, namely:-
- “*Explanation.*—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”
- 15 of 1992. 13. After section 23J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20<sup>th</sup> day of April, 2007, namely:—
- “23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.
- (2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.
- (3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.
- (4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.”
- 15 of 1992. 14. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:—
- “23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up

Amendment of section 12A.

Insertion of new section 23JA.

Settlement of administrative and civil proceedings.

Insertion of new section 23JB.

Recovery of amounts.

under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

43 of 1961.

*Explanation 1.*— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

*Explanation 2.*— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

*Explanation 3.*— Any reference to appeal in Chapter

43 of 1961.

XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-section (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.

15. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amendment to section 26.

16. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 26A, 26B, 26C, 26D and 26E.

"26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment of Special Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

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

20 of 1974.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Offences triable by Special Courts.

- 2 of 1974. 26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. Appeal and Revision.
- 2 of 1974. 26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973. Application of Code to proceedings before Special Court.
- (2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.
- 2 of 1974. 26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Transitional provisions.
- Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section."
- CHAPTER IV  
AMENDMENTS TO THE DEPOSITORIES ACT, 1996
- 22 of 1996. 17. In section 19 of the Depositories Act, 1996 (hereafter in this chapter referred to as the principal Act in this chapter), the following Explanation shall be inserted, namely:- Amendment of section 19.
- Explanation.*—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention."
18. After section 19-1 of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20<sup>th</sup> day of April, 2007, namely:- Insertion of new section 19-1A.

"19- IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

Settlement of  
Administrative  
Civil  
Proceedings.

15 of 1992.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer under this section."

19. After section 19-IA of the principal Act as so inserted, the following shall be inserted, namely:—

Insertion of  
new section 19-  
IB.

'19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely: —

Recovery of  
amounts.

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

43 of 1961.

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the

said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

*Explanation 1.*— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

*Explanation 2.*— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

*Explanation 3.*— Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

20. In section 22 of the principal Act, sub-section (2) shall be omitted.

Amendment  
section 22.

21. After section 22B of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 22C, 22D, 22E, 22F and 22G.

"22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment of Special Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

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

2 of 1974.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Offences triable by Special Courts.

2 of 1974.

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Appeal and Revision.

2 of 1974.

22F.(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

Application of Code to proceedings before Special Court.

(2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is

Transitional provisions.



2 of 1974.

established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”

22. In section 23A of the principal Act, sub-section (2) shall be omitted. Amendment of section 23A.

PRANAB MUKHERJEE,  
*President*

P.K. MALHOTRA,  
*Secy. to the Govt. of India*