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AN ANALYSIS OF THE SECURITIES CONTRACTS (REGULATION) ACT, 1956: REGULATORY FRAMEWORK, JUDICIAL INTERPRETATION AND EMERGING CHALLENGES

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ABSTRACT

The Securities Contracts (Regulation) Act, 1956 is one of the oldest surviving pillars of Indian capital market law, predating even the Securities and Exchange Board of India by more than three decades. This paper examines the structure of the Act, tracing its definitions, its scheme for recognising and regulating stock exchanges, and its treatment of forward and derivative contracts. It then considers how courts have interpreted the Act's central term, “securities”, through three judgments that together map the outer limits of the definition. The paper argues that while the Act has been repeatedly amended to absorb derivatives, demutualised exchanges and, eventually, commodity markets, its co-existence with the Securities and Exchange Board of India Act, 1992 continues to generate interpretive friction that neither statute resolves on its own terms.

Keywords: Securities Contracts (Regulation) Act, 1956; securities; stock exchanges; SEBI; derivatives; spot delivery.

1. INTRODUCTION

Long before SEBI existed as a statutory regulator, Parliament had already enacted a law to keep speculative excess out of the Indian stock market. The Securities Contracts (Regulation) Act, 1956 was passed with the declared object of preventing undesirable transactions in securities by regulating the business of dealing in them and by providing for allied matters.[1] It followed years

[1]Securities Contracts (Regulation) Act, 1956, No. 42, Acts of Parliament, 1956 (India) [hereinafter SCRA], Preamble.

of deliberation over the chaotic, loosely supervised exchanges that had grown up in Bombay, Calcutta and Ahmedabad in the decades after independence, and it drew on the earlier Bombay Securities Contracts Control Act as a model for a nationwide scheme.[2]

What makes the Act worth revisiting today is not nostalgia but persistence. Nearly seventy years after its enactment, the Act still supplies the statutory definition of "securities" that every other financial law in the country borrows, including the Companies Act, 2013 and the SEBI Act, 1992. It still governs how an exchange is recognised, how a derivative contract becomes lawful, and how a company may exit the public markets through delisting. This paper sets out to examine that framework section by section, to read it against the judgments that have tested its boundaries, and to ask whether the Act, as it now stands, still does the job Parliament designed it for.

2. RESEARCH OBJECTIVES AND METHODOLOGY

This paper proceeds by doctrinal legal research. It relies on the bare text of the Act as amended, the Rules and Regulations framed under it, the allied Securities and Exchange Board of India Act, 1992, and reported judgments of the Supreme Court of India interpreting these provisions. The specific objectives are threefold: first, to map the statutory architecture governing stock exchanges, contracts and listing under the Act; second, to analyse how the judiciary has construed the definition of "securities" and the restrictions on forward trading; and third, to identify points of overlap or tension between the Act and the SEBI Act, 1992 that have practical consequences for market participants. No empirical or field data is used; the analysis is confined to primary legal sources and secondary academic commentary.

3. HISTORICAL EVOLUTION AND LEGISLATIVE INTENT

The Act was conceived against a specific historical backdrop. Provincial laws regulating stock exchanges existed before independence, but they were inconsistent across States and did little to prevent badla and other forward trading practices that periodically destabilised the market. The Gorwala Committee and subsequent official reviews recommended a central statute that would recognise only a limited number of stock exchanges, require them to frame rules subject to government approval, and restrict speculative contracts to forms the government considered

[2]L.C. Gupta, Report of the Committee on Development of the Securities Market in India (1997); see also Dep't of Econ. Affairs, Ministry of Fin., Statement of Objects and Reasons, Securities Contracts (Regulation) Bill, 1956 (India).

safe.[3] The resulting Act of 1956 gave the Central Government, and later SEBI, the power to recognise exchanges, approve their bye-laws, and prohibit contracts in notified areas where speculation threatened to outrun genuine investment demand.

It is worth noting that the Act was drafted at a time when there was no independent securities regulator; that role was performed directly by the Ministry of Finance until 1992. The SEBI Act did not repeal the SCRA but was layered on top of it, which explains why, even today, a number of core regulatory functions, including recognition of stock exchanges and regulation of listing, formally continue to derive their authority from the 1956 Act, administered now by SEBI rather than the Central Government.

4. CONCEPTUAL FRAMEWORK: DEFINITIONS UNDER THE ACT

4.1 "SECURITIES" UNDER SECTION 2(H)

Section 2(h) defines "securities" to include shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or body corporate, government securities, derivatives, units of collective investment schemes, security receipts, and rights or interests in securities.[4] The definition is inclusive rather than exhaustive, and the phrase "marketable securities of a like nature" has become the single most litigated fragment of the entire Act, since it determines whether a novel financial instrument falls within the regulatory net at all.

4.2 DERIVATIVES AND STOCK EXCHANGES

The 1999 amendment inserted "derivative" as a defined and separately regulated category, bringing futures and options formally within the statutory scheme rather than leaving them to be litigated as wagering contracts.[5] "Stock exchange", defined in Section 2(j), covers both a body corporate or association constituting an exchange and, separately, a recognised stock exchange under the Act, a distinction that matters once demutualisation separated ownership of an exchange from the right to trade on it.[6]

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[3]SCRA § 2(h).

[4]SCRA § 2(ac) (inserted by the Securities Laws (Amendment) Act, 1999, and renumbered by the Securities Laws (Amendment) Act, 2004).

[5]SCRA § 2(j).

[6]SCRA §§ 3-4.

5. REGULATORY ARCHITECTURE OF STOCK EXCHANGES

Sections 3 and 4 of the Act set out the recognition mechanism: an association of persons seeking to function as a stock exchange must apply for recognition, and the Central Government, now SEBI, may grant it subject to conditions relating to membership, bye-laws and the constitution of the governing body.[7] Recognition can be withdrawn where the exchange no longer satisfies the conditions attached to it, which gives the regulator continuing supervisory leverage rather than a one-time gatekeeping power.

A significant structural change came with the 2004 insertion of Sections 4A and 4B, which mandated corporatisation and demutualisation of stock exchanges, separating ownership and management from the right to trade.[8] Before this amendment, exchanges were typically owned and run by their own trading members, creating an obvious conflict of interest between regulatory self-discipline and the commercial interest of the member-owners. Corporatisation converted exchanges into companies with independent shareholding, and the subsequent Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 consolidated the governance, net worth and ownership conditions applicable to exchanges and clearing corporations under a single regulatory instrument.[9]

6. REGULATION OF CONTRACTS: SPOT DELIVERY, FORWARD TRADING AND DERIVATIVES

The heart of the Act's original anti-speculation design lies in Sections 13 to 19. Section 13 empowers the Central Government to declare contracts in notified areas illegal except in the manner permitted by the recognised stock exchange's rules, and Section 15 excludes spot delivery contracts, that is, contracts for actual delivery and payment within a very short period, from these restrictions.[10] The scheme therefore drew a line between genuine delivery-based transactions, which the Act left largely untouched, and forward or carry-forward transactions, which it subjected to close control.

Section 16 gives the Central Government, and through delegation SEBI, the power to prohibit contracts of a specified kind in any notified area, a power that has repeatedly been exercised

[7]SCRA §§ 4A, 4B (inserted by the Securities Laws (Amendment) Act, 2004).

[8]SCRA § 13; SCRA § 15.

[9]SCRA § 16.

[10]SCRA § 18A (inserted by the Securities Laws (Amendment) Act, 1999).

through circulars requiring every contract note to specify whether the transaction was a spot delivery contract.[11] The Supreme Court tested the reach of this power in *Naresh K. Aggarwala & Co. v. Canbank Financial Services Ltd.*, discussed in Part 10 below, holding that a transaction not shown as a spot delivery contract on the contract note falls foul of a Section 16 circular regardless of whether the securities involved were listed or unlisted.[12]

The treatment of derivatives illustrates how the Act evolved rather than simply persisted. Section 18A, inserted in 1999, declares that contracts in derivatives are legal and valid if traded on a recognised stock exchange and settled through its clearing house, effectively lifting derivative trading out of the uncertain territory of wagering contracts under the Indian Contract Act, 1872.[13] Section 19, which once prohibited options in securities outright, was correspondingly narrowed by the 1995 amendment to permit options falling within the derivatives framework while continuing to bar unregulated option contracts outside it.[14]

7. LISTING, DELISTING AND INVESTOR PROTECTION

Section 21 requires a company whose securities are listed on a recognised stock exchange to comply with the conditions of the listing agreement, failing which the exchange may, with SEBI's approval, delist the securities.[15] Delisting cuts both ways: it can be a punitive consequence of non-compliance, or it can be a voluntary corporate decision, typically taken by a promoter seeking to take a company private. Section 21A, read with the SEBI (Delisting of Equity Shares) Regulations, 2021, now prescribes a reverse book-building mechanism and minimum public shareholding thresholds designed to ensure that minority shareholders receive a fair exit price rather than being squeezed out on terms dictated solely by the promoter.[16]

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[11]SCRA § 19, as amended by the Securities Laws (Amendment) Act, 1995.

[12]SCRA § 21.

[13]SCRA § 21A; Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021 (India).

[14]SCRA §§ 23 to 23J; Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992, No. 27, Acts of Parliament, 1992 (India).

[15]Securities and Exchange Board of India Act, 1992, No. 15, Acts of Parliament, 1992 (India), §§ 11, 11A, 11B.

[16]Finance Act, 2015, No. 20, Acts of Parliament, 2015 (India) (amending SCRA § 2(h) to include commodity derivatives upon merger of the Forward Markets Commission with SEBI).

The listing framework is also where the Act's definition of “securities” does its most visible public-facing work, since only an instrument that satisfies Section 2(h) can be listed, traded or delisted under this chapter at all. This is precisely the question that produced the bulk of the litigation discussed later in this paper.

8. ENFORCEMENT MECHANISM AND ADJUDICATION

Contravention of the Act or of rules and regulations framed under it attracts penalties under Sections 23 to 23J, ranging from monetary penalties to imprisonment for the most serious offences, such as organising or assisting in an illegal contract or acting as a dealer in securities without recognition.[17] Historically, securities scam cases of a systemic nature, such as those arising out of the 1992 securities scandal, were routed to a dedicated Special Court constituted under a separate statute specifically to try offences relating to transactions in securities, reflecting Parliament's recognition that ordinary criminal courts were ill-suited to the volume and complexity of such disputes.[18]

9. INTERFACE BETWEEN THE SCRA AND THE SEBI ACT, 1992

The SEBI Act, 1992 created an independent regulator and armed it with investigative, quasi-judicial and regulation-making powers, but it did not consolidate securities law into a single code. Sections 11, 11A and 11B of the SEBI Act give the Board broad powers to protect investors and regulate the securities market, powers that frequently operate on instruments whose character as “securities” is drawn straight from Section 2(h) of the SCRA.[19] The result is a dual-statute structure in which SEBI administers the SCRA's provisions on exchanges, contracts and listing while exercising its own, separately sourced powers under the 1992 Act, and the two must be read together rather than in isolation to determine the actual scope of SEBI's jurisdiction over any given transaction.

This interface became considerably more complicated after the 2015 merger of the erstwhile Forward Markets Commission into SEBI, which required Section 2(h) to be amended to bring commodity derivatives within the statutory definition of securities, extending the SCRA's reach from the equity and debt markets into a domain it was never originally drafted to cover.[20] The

[17] *Naresh K. Aggarwala & Co. v. Canbank Fin. Servs. Ltd.*, (2010) 6 SCC 178 (India).

[18] *Id.* ¶¶ 18-22.

[19] *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603 (India).

[20] *Id.* ¶¶ 90-100.

practical effect is that a single definitional clause, drafted in 1956 for shares and debentures, now has to carry the conceptual weight of futures contracts in metals, energy and agricultural commodities as well.

10. JUDICIAL INTERPRETATION OF THE ACT

10.1 NARESH K. AGGARWALA & CO. V. CANBANK FINANCIAL SERVICES LTD. (2010)

This appeal arose out of a dispute over the sale of Coal India bonds where the contract note did not record the transaction as a spot delivery contract. The Supreme Court held that a circular issued under Section 16 applies uniformly to listed and unlisted securities, and that in the absence of any pleading or evidence bringing the transaction within the spot delivery exception, the contract was illegal and therefore incapable of being enforced.[21] The judgment is significant for confirming that Section 16's reach is not limited to transactions on a recognised stock exchange's own trading floor; private, off-market transactions in the same class of securities are equally caught if they fail to meet the delivery conditions.

10.2 SAHARA INDIA REAL ESTATE CORPORATION LTD. V. SEBI (2012)

Two Sahara group companies raised over twenty thousand crore rupees from millions of investors through optionally fully convertible debentures, describing the issue as a private placement exempt from public-issue disclosure norms. SEBI took the view that the instruments were, in substance, securities offered to the public and ordered a refund with interest. The Supreme Court agreed, holding that the definition of “securities” in Section 2(h) of the SCRA is wide enough to include hybrid instruments such as these debentures, and that an unlisted public company intending to access the public markets cannot escape SEBI's jurisdiction merely by labelling an issue a private placement.[2223] The decision remains the leading authority for the proposition that substance, not label, determines whether an instrument is a security, and it was

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[21]*Bhagwati Developers (P) Ltd. v. Peerless Gen. Fin. & Inv. Co. Ltd.*, [2013] 5 S.C.R. 708 (India).

[22]V. Niranjan, *'Marketable Securities' and 'Spot Delivery Contracts': The Supreme Court's Analysis of the SCRA*, INDIACORPLAW (July 30, 2013), https://indiacorplaw.in/2013/07/30/marketable-securities-and-spot-delivery/.

[23]Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018 (India).

followed by contempt proceedings against the company's principal promoter when the refund order was not honoured.

10.3 BHAGWATI DEVELOPERS (P) LTD. V. PEERLESS GENERAL FINANCE & INVESTMENT CO. LTD. (2013)

This dispute concerned shares of an unlisted public company transferred in satisfaction of a compromise decree. The question was whether the SCRA, and in particular its restrictions on spot delivery and forward contracts, applied to a company whose shares were not listed on any stock exchange at all. The Supreme Court held that the Act is not confined to listed securities; shares of a public limited company remain “marketable securities of a like nature” within Section 2(h) regardless of listing status, so long as they are capable of being transferred in the market, and the Act's restrictions on the mode of contract therefore extend to unlisted public company shares as well.[24] Commentators have pointed out that the Court's treatment of “marketable” leaned heavily on the legislative history of the predecessor Bombay statute rather than on a textual test, which leaves some uncertainty about how narrowly or widely a private company's shares, by contrast, might be treated in a future case.[25][26]

11. LEGISLATIVE AMENDMENTS: A CHRONOLOGICAL ASSESSMENT

Reading the amendments in sequence tells its own story about how the Act has been pulled in different directions. The 1995 amendment responded to the opening of the Indian market to foreign portfolio investment by relaxing the blanket prohibition on options. The 1999 amendment, following the L.C. Gupta Committee's recommendations, inserted the definitions and provisions needed to legalise exchange-traded derivatives, which until then operated in a legal grey zone.[27] The 2004 amendment introduced corporatisation and demutualisation, addressing a governance problem that had existed since the Act's inception but had never previously been thought serious enough to warrant intervention.[28] The 2007 amendment to Section 2(h) refined the treatment of government securities, and the 2015 amendment, following the Finance Act of that year, absorbed commodity derivatives after the regulatory

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[24] SCRA § 2(h), as amended; Dep't of Econ. Affairs, Ministry of Fin., Arthapedia, Securities, https://ies.gov.in/arthapedia/concept/securities (last visited Sept. 28, 2026).

[25] *Bhagwati Developers*, *supra* note 21, ¶¶ 25-30.

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merger with the Forward Markets Commission.[29] Each amendment responded to a specific market development rather than to any comprehensive re-examination of the Act as a whole, which is part of why the statute today reads as a layered text rather than a unified code.

12. CRITICAL ANALYSIS AND EMERGING CHALLENGES

Three difficulties stand out from this survey. First, the definition of "securities" in Section 2(h), despite repeated amendment, remains an open-ended list rather than a principled test, which pushes genuinely novel instruments, from structured notes to tokenised assets, into litigation before their regulatory status can be settled. *Sahara* and *Bhagwati Developers* both arose precisely because the statutory text gave no clear answer, and the resolution in each case came only after years of litigation up to the Supreme Court.

Second, the SCRA and the SEBI Act continue to operate as two statutes doing adjacent, overlapping work rather than as a single coherent code, which creates avoidable interpretive cost for regulators, courts and market participants alike who must constantly cross-reference both statutes to determine the source and limit of SEBI's power in a given situation. Third, the spot delivery framework under Sections 13 to 16, designed in an era of paper contract notes and physical settlement, sits uneasily alongside a market that has moved to electronic, dematerialised, same-day settlement; the doctrinal distinction the Act draws between spot delivery and forward contracts has lost much of its original practical significance, even though the statutory language has not been correspondingly simplified.

A consolidation exercise, bringing the SCRA, the SEBI Act and the Depositories Act, 1996 under a single securities code, has been discussed in policy circles for over a decade but has not materialised. Until it does, the Act will continue to function as the quiet foundational layer beneath SEBI's more visible regulatory activity, doing essential work that is easy to overlook precisely because it so rarely makes headlines on its own.

13. CONCLUSION AND RECOMMENDATIONS

The Securities Contracts (Regulation) Act, 1956 has proved remarkably adaptable for a statute of its age, absorbing derivatives, demutualised exchanges and commodity markets through successive amendments without ever being fully rewritten. Its core definitional and regulatory architecture, however, still bears the marks of a law drafted for a very different market, and the recurring litigation over what counts as a "security" suggests that incremental amendment has

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reached the limits of what it can usefully do. A more principled, purpose-based definition of "securities", closer coordination between the SCRA and the SEBI Act on the face of the statutes themselves rather than through administrative practice, and a long-deferred move toward a consolidated securities code would each reduce the interpretive burden that currently falls, case by case, on the courts. Until such reform is undertaken, the Act will remain what it has been for nearly seven decades: indispensable, heavily amended, and still slightly out of step with the market it governs.