SEBI - Securities and Exchange Board of India

[UPSC Notes]

What is SEBI?

SEBI stands for the Securities and Exchange Board of India. It is the biggest securities regulatory body in India. SEBI is an autonomous body that the Ministry of Finance controls. SEBI is a very important and strong body that has got the power to regulate, investigate, and enforce its powers and can also impose fines on the violators of the rules of SEBI. SEBI is often criticized for the fact that there is a lack of transparency and zero accountability to the public by the institution.

- The purpose behind the formation of SEBI was to check the malpractices and illegal operation of stocks.
- The major and important role of this regulatory body is to monitor the security market to safeguard the interests of investors.
- Apart from that, SEBI also ensures that it provides a healthy investment environment for investors by imposing several rules and regulations backed by the guidelines.

History and Formation of SEBI

Before SEBI existed, the regulatory authority for capital issues was the 'Controller of Capital Issues. It was created under the "Capital Issues Control Act 1947."

- Later, in 1988, Securities and Exchange Board of India was constituted as a non-statutory body whose main task was to regulate the capital market.
- Once SEBI came into action and established itself later in 1992, it was provided with statutory powers, and SEBI became an autonomous body.
- The Security and Exchange Board of India's headquarters is in Mumbai, with main regional offices in New Delhi, Chennai, Kolkata, and Ahmedabad.
- From 2013 to 2014, it opened many other headquarters in different regions of the country, like Jaipur, Guwahati, Banglore, Patna, Kochi, and Chandigarh.

Structure of SEBI

The structure of Securities and Exchange Board of India is similar to that of a corporation in nature. It is an autonomous body that the Ministry of Finance monitors. It comprises the Chairman, Senior Department, Department Heads, Permanent Members, and Temporary Members. There are 20 departments in SEBI, which are headed by different authorities and arranged hierarchically.

The following is the hierarchical structure of the 9 designated officers.

- The government of India nominates the chairman or chairperson.
- Two members belong to the Union Ministry of Finance.
- One member belongs to the Reserve Bank of India.
- The government of India nominates the 5 other members.

The following is a list of some of the important departments of the Security and Exchange Board of India:

- The Information and Technology Department
- The custodians and portfolio investors
- Office of international affairs
- NISM, or the National Institute of Security, is a market.
- The department of investment management
- Human Resource Department
- Department of commodity and derivative market revelation

Apart from all these departments, there are several other crucial departments that are responsible for handling the legal, financial, and enforcement-related affairs of SEBI.

The current chairperson of SEBI is Ajay Tyagi, who took charge in 2017 by replacing U.K. Sinha. The term of office of Ajay Tyagi was extended in February 2020 for a further 6 months.

SEBI Functions

There are many important functions of SEBI, like-

- Protecting the interests of investors in the security market.
- Promote the smooth and hustle-free functioning of the security market.
- Regulating the business operations of the security market.
- SEBI is a platform for many important finance-related personalities like bankers, merchant bankers, registrars, portfolio managers, stock brokers, investment advisors, agents, etc.
- Governing the activities of depositors, securities custodians, foreign portfolio investors, and other participants.
- Provide investors with guidelines for the security market, intermediaries, and investments.
- Restricting fraud and illegal activities in the security market.
- Following the stock market and corporate takeovers.
- Performing proper research and development to keep the market updated and efficient.

- SEBI has the authority to regulate money work worth a hundred crores or more and attach assets in the event of noncompliance.
- To fulfill the requirements of the-
  - issuers, by giving them the platform for increasing their finances.
  - investors, by providing them with the correct and authentic information about the stocks and ensuring the safety of their money.
  - Intermediaries, by providing them with a healthy competitive environment.

Powers of SEBI

Being the most important regulatory body in India, SEBI enjoys various powers to maintain the smooth functioning of the body. The SEBI Act of 1992 provides a list of powers that are vested in the regulatory body. Following are some of the important Qasi-Powers of SEBI-

- **Quasi-Executive Powers**
  SEBI has got the power to pass judgments in cases related to unfair and illegal practices in security markets.
- **Quasi-Legislative Powers**
  SEBI is empowered to check the books and look into the accounts and other related documents to gather evidence against the cases violating SEBI regulations. The regulatory body has the right to impose the laws and pass judgments if found guilty.
- **Quasi-Judicial Powers**
  SEBI is also responsible for protecting the interests of its customers and investors. To protect their finances and interests, SEBI has created a set of rules and regulations that are mandatory to be followed. These rules and regulations help eradicate malpractices like the illegal operation of stocks in the market.

It should not be considered that SEBI is the sole responsible authority. The Supreme Court of India and the Securities Appellate Tribunal are the two bodies that keep a strong hand over SEBI and its powers and functions. Every decision made by SEBI has to be passed by these two bodies.

SEBI Act 1992

SEBI was founded in 1988 as a non-statutory body that was and is still responsible for maintaining the safety and security of stock market activities. After the passing of the SEBI Act in 1992, it became an autonomous statutory body with independent jurisdiction. This act gave powers to SEBI to enforce the regulations that govern the market. Apart from this, many other provisions were covered in the SEBI Act. They are-

- The composition and actions of the board members, their functions, and powers.
- They decide the powers and functions of the body.
- Rules for Legal Pathways and Penalties.
- SEBI's funding sources include the union government.
- The judicial authorities of SEBI.

The following are some guidelines issued by SEBI with respect to certain criteria:

- Stock Option Schemes
- Investor Protection Rules
- Legal Proceeding
- Rules for Anti-Money Laundering
- Marking and Demarking of Securities
- Providing the gateway for trading terminals overseas

Issues with SEBI

- The capital markets regulator, SEBI, is at a crossroads as its role has become more complex in recent years.
- Market conduct regulations are over-emphasized, and prudential regulations are under-emphasized.
- Since SEBI has more power to inflict serious economic injury than the US and UK, it has greater statutory enforcement powers than them.
- It acts like preventive detention, which imposes serious restrictions on economic activity that are based on suspicions that are disproven by those who are affected.
- Wide discretion is granted to it by the SEBI Act in making subordinate legislation, which gives it near absolute legislative powers.
- The market does not review regulations to determine if they have achieved the articulated purpose and prior consultation with the market is not present.
- Despite ongoing efforts to regulate, there are some flaws in both the rules and enforcement in specific areas such as inside trading.
- It has become increasingly difficult to comply with the security offering documents promptly, and the result has been a reduction of the material into the state of former compliance rather than substantive disclosures.

Recent Government Proposals for SEBI

- According to the government's proposal to amend the SEBI Act, the SEBI would serve as a reserve fund that has a 25% surplus of the general annual fund going to the reserve fund.
- Furthermore, it is prohibited to reserve funds that exceed the total annual expenditures of the two previous financial years.
- Moreover, under the finance bill 2019, the access general budget should be allocated to the CFI after all the SEBI expenses have been deducted.

- The proposed revision is being implemented through money will rather than the existing provisions that were repeatedly debated in parliament.