

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Securities and Investment Law
Semester-VII (Batch: 2015-20)

End Semester Examination: Oct-Nov. 2018

Date: 28th October, 2018

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- Bare Act not allowed.
- **Answers should be legible.**

Answer any five questions

Marks

- Q.1 Insider trading is extremely grave. It violates the basic principles of Corporate Governance. Further, if not attended adequately, it has the tendency to seriously damage the reputation of the securities market. It defeats the very objective of investor protection. Regulator's crackdown on high profile cases of insider trading is nothing new in the United States of America (USA). The trial of Rajat Gupta has proved an eye-opener in this regard. It was a test for the regulatory framework for insider trading in the USA. (10)
- Analyse the above-mentioned observation, highlighting the key aspects of the trial.
- Q.2 If one dispute that has presented unprecedented challenges for the Securities and Exchange Board of India (SEBI), it is the Sahara dispute. Frustrations are evident – be it for the regulator or for the apex court. Recovery of money is still on, so is its return to the genuine investors. What is at stake is the loss of confidence on the part of the investor and reputation of the highest court of the country. (10)
- Analyse the experience so far in the light of the above-mentioned observation.
- Q.3 Bilateral Investment Treaties (BITs) have contributed significantly in the development of International Investment Law. This is largely due to the fact that a multilateral attempt to develop a regulatory framework for regulating foreign investment at the international level has failed to give the desired result. In this backdrop, countries have resorted to develop bilateral mechanism to regulate foreign investment. Model Bilateral Investment Treaty (BIT) developed by India is like a wish list which is prepared while sitting in ivory towers. It is entirely disconnected with the realities of our contemporary world. Instead of protecting foreign investors, it ignores them. Therefore, negotiations thereon are proving difficult. (10)
- How far do you agree with the above-mentioned observation? Justify your answer.

- Q.4 In a world integrated into global financial system, capital moves towards the most rewarding destination. In the course of such seamless flow of capital, competition is fierce as one has to fight with the best in the field. There is no option but to play to one's own advantage. Else, our competitors will grow at our expense. Since everyone has its own existential context, one needs to think according to one's own priorities. Blind replication of what others are doing may not take one too far. (10)

Analyse the above-mentioned observation in the light of the development of the International Financial Services Centre (IFSC) in Gujarat International Finance Tec-City (GIFT) and the challenges that lie ahead.

- Q.5 Frauds in securities market have a recurring nature. Every fraud points towards certain lacunas in the regulatory framework. As a consequence, amendments are effected in the regulatory framework in the hope that there is no more scope for any further wrongdoing to take place. However, an ingenious mind again finds loopholes in the regulatory framework to commit another fraud. Regulatory framework continues to develop in this manner but one never knows what next! (10)

In view of the afore-stated observation, analyse, through various provisions, the legislative approach adopted in Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. Critically evaluate the judicial approach in supplementing the legislative approach.

- Q.6 The Regulatory framework for Collective Investment Scheme (CIS) has been developed after undertaking elaborate consultative process. Experts point out that SEBI has not been very consistent with regard to taking action against the culprits. However, message from judicial verdicts has been categorically firm. (10)

Analyse the legislative approach and consequential judicial approach towards effective regulation of CIS in India.
