

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Securities Law
Semester- VIII (Batch: 2018-23)

End Semester Online Examination: May 2022

Date: 13th May, 2022

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 600-700 words.

Marks

- Q.1 "The regulatory function of stock exchanges was in the past mostly limited to issuing rules and clarifying aspects of existing frameworks. The standard-setting role of stock exchanges was essentially exercised through the issuance of listing, ongoing disclosure, maintenance and de-listing requirements. On the enforcement side, stock exchanges have shared their regulatory function with capital market supervisory agencies. In addition to overseeing their own rules, stock exchanges were assigned the role of monitoring the compliance with legislation and subsidiary securities regulation. Since the promulgation of the OECD Principles of Corporate Governance, stock exchanges have often enlarged their regulatory role to embrace a wider palette of corporate governance concerns. They have contributed to the development of corporate governance recommendations and encouraged their application to listed companies." (*The Role of the Stock Exchanges in Corporate Governance, OECD 2008*) (10)

The problem gets aggravated when questions are raised on the stock exchanges themselves with regard to their own corporate governance. Such a situation, though unfortunate, cannot be ruled out altogether. When regulators of securities market face such multifaceted challenges of complex nature, the efficacy of the relevant regulatory framework gets tested.

In the light of the above-mentioned observation, analyse the approach adopted by Securities and Exchange Board of India (SEBI) *vis-a-vis* National Stock Exchange.

- Q.2 Ms Exponential was working as a Professor of Corporate Law in one of the leading universities in the country. Due to her recognised expertise in the field of Corporate Law, she was acting as an independent director on the Board of Directors (BoD) of ABC Ltd (a public company listed on a leading Stock Exchange). Due to Covid 19 restrictions, the meeting of the BoD of ABC Ltd was convened online. Ms Exponential attended the meeting from her home. In the said meeting, Managing Director of ABC Ltd. discussed about the viability of declaring dividend which was appreciated by every participant of the meeting and it was decided to declare the dividend. At that time, Ms Graph (her six year old daughter) was also at home since her school was running on online mode due to (10)

Covid 19 restrictions. Ms Graph was quietly studying in the same room at her home from where Ms Exponential was attending the BOD meeting. Thereafter, Ms Exponential left for the University to take classes. Shortly thereafter, Ms Ashanty (her maid) came to clean the house. She heard Ms Graph murmuring about declaration of dividend while playing with her toys. After returning home in the afternoon, Ms Ashanty shared this with Mr Passion (her husband). He arranged money from his friends on urgent basis and purchased 50,000 shares of ABC Ltd and sold them after dividend was actually declared by ABC Ltd earning huge amount of profit through the transaction. SEBI imposed penalty on Ms Exponential, Ms Ashanty and Mr Passion under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015. They have filed appeal before SAT. Decide the appeal.

- Q.3 “We have found that the contemnors have maintained an unreasonable stand throughout the proceedings before SEBI, SAT, High Court and even before this Court. Reports/analysis filed by SEBI on 18.2.2014 make detailed reference to the submissions, documents, etc. furnished by the contemnors, which indicates that they are filing and making unacceptable statements and affidavits all through and even in the contempt proceedings. Documents and affidavits produced by the contemnors themselves would apparently falsify their refund theory and cast serious doubts about the existence of the so-called investors. All the fact finding authorities have opined that majority of investors do not exist. Preservation of market integrity is extremely important for economic growth of this country and for national interest. Maintaining investors’ confidence requires market integrity and control of market abuse. Market abuse is a serious financial crime which undermines the very financial structure of this country and will make imbalance in wealth between haves and have nots.” (*Subrata Roy Sahara v Union of India and others*, May 6, 2014) (10)

Refund of money to the actual investors still seems to be embroiled in claims and counter-claims of the parties involved. Analyse the challenges faced by the Supreme Court of India in the Sahara dispute.

- Q.4 “Over the past several years, a series of very high-profile financial scandals involving large publicly-traded companies appeared to create doubts in the minds of investors throughout the world about the integrity of global capital markets. While, at first, the largest of these scandals seemed limited to the United States, more recent events — including the December 2003 discovery of financial improprieties at Parmalat S.p.A. in Italy followed by other scandals in various jurisdictions — demonstrated that this phenomenon was not peculiar to any one market and the concerns raised by these financial scandals were truly global in nature.” (*‘Strengthening Capital Markets against Financial Fraud’, Technical Committee of the International Organization of Securities Commissions, 2005*) (10)

Above statement continues to be equally applicable even in the contemporary times and India is no exception. Analyse the judicial approach in India towards such frauds in the light of the above observations.

- Q.5 Regulation of Collective Investment Schemes (CIS) has remained a concern for Indian legislature. This concern is reflected in the evolution of the regulatory framework. Judiciary too has played a vital role in the protection of investors of such scheme. However, vulnerability continue to exist. (10)

Critically evaluate the above-mentioned observation.
