

HISTORICAL PERSPECTIVE OF SECURITIES LAWS

M S SAHOO*

The two exclusive legislations that governed the securities market till early 1992 were the Capital Issues (Control) Act, 1947 (CICA) and the Securities Contracts (Regulation) Act, 1956 (SCRA). The CICA had its origin during the war in 1943 when the objective was to channel resources to support the war effort. Control of capital issues was introduced through the Defence of India Rules in May 1943 under the Defence of India Act, 1939. The control was retained after the war with some modifications as means of controlling the raising of capital by companies and to ensure that national resources were channelled into proper lines, i.e., for desirable purposes to serve goals and priorities of the government, and to protect the interests of investors. The relevant provisions in the Defence of India Rules were replaced by the Capital Issues (Continuance of Control) Act in April 1947. This Act was made permanent in 1956 and enacted as the Capital Issues (Control) Act, 1947. Under the Act, the Controller of Capital Issues was set up which granted approval for issue of securities and also determined the amount, type and price of the issue. This Act was, however, repealed in 1992 as a part of liberalization process to allow the companies to approach the market directly provided they issue securities in compliance with prescribed guidelines relating to disclosure and investor protection.

Though the stock exchanges were in operation, there was no legislation for their regulation till the Bombay Securities Contracts Control Act was enacted in 1925. This was, however, deficient in many respects. Under the constitution which came into force on January 26, 1950, stock exchanges and forward markets came under the exclusive authority of the Central Government. The Government appointed the A. D. Gorwala Committee in 1951 to formulate a legislation for the regulation of the stock exchanges and of contracts in securities. Following the recommendations of the Committee, the SCRA was enacted in 1956 to provide for direct and indirect control of virtually all aspects of securities trading and the running of stock exchanges and to prevent undesirable transactions in securities. It has undergone several modifications since its enactment and even today an amendment is awaiting approval of the Parliament. It gives Central Government regulatory jurisdiction over (a) stock exchanges through a process of recognition and continued supervision, (b) contracts in securities, and (c) listing of securities on stock exchanges. As a condition of recognition, a stock exchange complies with conditions prescribed by Central Government. Organised trading activity in securities is permitted on recognised stock exchanges.

The authorities have been quite sensitive to requirements of the development of securities market, so much so that the last decade (1992-2003) witnessed nine special legislative interventions, including two new enactments, namely the Securities and Exchange Board of India (SEBI) Act, 1992 and the Depositories Act, 1996. The SCRA, the SEBI Act and the Depositories Act were amended six, five and three times respectively during the same period. The developmental need was so urgent at times, that the last decade witnessed five ordinances relating to securities laws. Besides, a number of other legislations (the Income Tax Act, the Companies Act, the Indian Stamps Act, the Bankers' Book Evidence Act, the Benami Transactions (Prohibition) Act etc.) having bearing on securities markets have been amended in the recent past to complement amendments in securities laws.

The legal reforms began with the enactment of the SEBI Act, 1992, which established SEBI with statutory responsibilities to (i) protect the interest of investors in securities, (ii) promote the development of the securities market, and (iii) regulate the securities market. This was followed by repeal of the Capital Issues (Control) Act, 1947 in 1992 which paved way for market determined allocation of resources. Then followed the Securities Laws (Amendment) Act in 1995, which extended SEBI's jurisdiction over corporates in the issuance of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market. It empowered SEBI to appoint adjudicating officers to adjudicate wide range of violations and impose monetary penalties

Securities Law In Perspective

Harold S. Bloomenthal



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Securities Law in Perspective Harold S. Bloomenthal, 1977-01-01 *Perspectives in Company Law and Financial Regulation* Michel Tison, Hans De Wulf, Christoph Van der Elst, Reinhard Steennot, 2009-06-18 This collection of essays has been compiled in honour of Professor Eddy Wymeersch on the occasion of his retirement as professor at Ghent University His main international academic peers explore developments on the crossroads of company law and financial regulation in Europe and the United States providing a unique view on the dynamics of regulatory competition in an era of economic globalisation whether in the fields of rulemaking organising the mobility of capital or the enforcement of rules The deepening of European financial integration and the transatlantic regulatory dialogue has generated new paradigms of rule setting in a multinational framework and reinforced the need to develop adequate instruments for co operation between regulators Regulators increasingly use concepts such as equivalence or mutual recognition to regulate cross border relations

Commercial Law in a Global Context: Some Perspectives in Anglo-Japanese Law Yutaka Tajima, Fiona Macmillan, 1998-07-20 This unique work consists of a selection of key papers presented at the first Anglo Japanese Comparative Law Conference held at Jesus College Cambridge in September 1996 The conference was organised under the auspices of the Institute of Advanced Legal Studies University of London the University of Tsukuba Japan and Murdoch University in Australia The conference brought together a number of leading business lawyers from around the world who discussed the impact of globalisation on commercial law If the internalisation of trade and business has produced problems for lawyers the impact of globalisation particularly in such areas as the capital markets has proved to be even more problematic The implications for all those who operate in the commercial and financial sectors and for those who advise them of developments in the nature and character of the markets are increasingly significant The publication will be of particular interest to academics those involved in trans national business and legal practitioners *British and Canadian Perspectives on International Law* Christopher P.M. Waters, 2006-09-29 *British and Canadian Perspectives on International Law* examines the impact of public international law on the United Kingdom's and Canada's domestic legal systems It also analyses the contributions of British and Canadian practice to the development of international norms Topics addressed include international criminal law international humanitarian law human rights and human security asylum trade jurisdiction reception law and media portrayals of international law Whereas international law scholarship usually takes a global regional or national approach this book's chapters are written by leading scholars and practitioners from both countries and provide unique comparative views While there remains much in common between the two states understandings of international law recent developments have shown significant points of departure **Jurisdiction in International Law** Cedric Ryngaert, 2008-10-02 Introduction Public international law approaches to jurisdiction The territoriality principle The principles of extraterritorial criminal jurisdiction A reasonable exercise of jurisdiction A new theory of jurisdiction in

international law United States Securities Law James M. Bartos, Jim Bartos, 2006-01-01 Capital raising mergers and acquisitions and securities trading around the world often involve some connection with the United States and implicate the US securities laws United States Securities Law A Practical Guide offers a concise overview of US securities laws from the perspective of a non US participant It is written not only for lawyers but for managers bankers and others with an interest in the topic This new edition has been significantly updated and expanded including for the SEC's recent offering reforms and corporate governance developments Praise for the Second Edition This book has been a valuable resource in effectively counselling my company in the intricacies of SEC regulation Jim with his many years of counselling foreign issuers out of his firm's London office writes with a perspective that is particularly relevant to the needs of foreign companies listed on US exchanges George Miller Executive Vice President and General Counsel Novartis Corporation A well written and useful primer for those looking for quick practical answers to real life questions or who wish to understand better the background and rationale to US securities law and regulation Leland Goss Managing Director Credit Suisse This book really is a practical guide to the US securities laws It does a great job of explaining the rules and regulations in a way that can be understood by readers that are not themselves US securities lawyers Peter Castellon Director andamp Counsel Citigroup Corporate andamp Investment Banking Digital Tokens: A Legal Perspective José Garrido, Mr. José M. Garrido, 2023-07-28 Tokens are units digitally represented in a distributed ledger or blockchain The various uses of this technology have the potential to transform a wide array of economic activities from traditional commercial transactions to sophisticated financial undertakings This paper explores the similarities and differences of tokens with traditional legal instruments in commercial law and how tokens could offer superior solutions provided that proper legal foundations are established for their operation including aspects of the law of securities and consumer protection law Swedish Perspectives on Private Law Europeanisation Annina H Persson, Eleonor Kristoffersson, 2017-01-12 As part of the European integration an ambitious programme of harmonisation of European private law is taking place This new edition in the Swedish Studies in European Law series the work of both legal scholars and politicians aims to create a modern codification in the tradition of the great continental codifications such as the BGB and the Code Civil A significant step towards this development was taken in 2009 with the creation of the Draft Common Frame of Reference which contains model rules for a large part of central private law The process raises a number of questions What are the advantages and disadvantages of such an intensive process of harmonisation Are there lessons to be learnt from the Europeanisation of private law through history Are there any further steps which have been taken in order to create a European private law What is the future of European private law These crucial questions were discussed at a conference in Stockholm sponsored by the Swedish Network of European Legal Studies This important volume includes the answers offered by leading scholars in the field **Regulating Capitalism?** J. Zimmermann, J. Werner, 2013-09-26 By exploring how financial legal and wider socio economic systems can accelerate or decelerate the harmonization in financial

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