

Bill No. 110 of 2013

THE SECURITIES AND EXCHANGE BOARD OF INDIA
(AMENDMENT) BILL, 2013

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further to amend the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Securities and Exchange Board of India (Amendment) Act, 2013. Short title and commencement.

(2) It shall be deemed to have come into force on the 21st day of January, 2013.

15 of 1992. 5 2. In section 15M of the Securities and Exchange Board of India Act, 1992, for sub-section (1), the following sub-sections shall be substituted, namely:— Amendment of section 15M.

“(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he —

10 (a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”.

Repeal and
saving.

3. (1) The Securities and Exchange Board of India (Amendment) Second Ordinance, 2013 is hereby repealed.

5 Ord. 5 of 2013.

(2) Notwithstanding such repeal, anything done or any action taken under the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of that Act, as amended by this Act.

15 of 1992.

STATEMENT OF OBJECTS AND REASONS

The Securities and Exchange Board of India Act, 1992 (SEBI Act) was enacted to provide for the establishment of the Securities and Exchange Board of India to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market.

2. The Securities Appellate Tribunal (SAT) was established under section 15 K of the SEBI Act to adjudicate upon appeals against the decisions of the Securities and Exchange Board of India. Section 15M of the said Act, relating to qualifications for appointment as the Presiding Officer of the SAT, provides that a person shall not be qualified for appointment as the Presiding Officer of SAT unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court.

3. The post of Presiding Officer of the SAT fell vacant on 29th November, 2011. Efforts to identify a suitable candidate to take up the assignment under the existing eligibility criteria have not met with success, and, therefore, the post remained vacant for one and a half year. The constitution of the Tribunal in accordance with statutory provisions is important for smooth functioning of the capital markets.

4. In view of the above difficulties being faced in finding a suitable person for the post of Presiding Officer, SAT, there was a need to enlarge the field of selection for the post of Presiding Officer of SAT by including sitting or retired Judges of a High Court who has completed not less than seven years of service as a Judge of a High Court as one of the qualifications for the post of Presiding Officer of SAT by amending section 15M of the SEBI Act.

5. As there was an urgent need to fill the post of Presiding Officer of SAT and Parliament was not in session, it became necessary to amend section 15M of the SEBI Act by way of promulgation of an Ordinance so as to include the sitting or retired Judges of a High Court who has completed not less than seven years of service as a Judge of a High Court as one of the qualifications for the post of Presiding Officer of the SAT. Accordingly, the Securities and Exchange Board of India (Amendment) Ordinance, 2013 (1 of 2013) was promulgated on the 21st January, 2013. A Bill to replace the said Ordinance was introduced in Rajya Sabha and was passed by it on 11.3.2013. However, before the Lok Sabha could consider the Bill, the House was adjourned. Therefore, the Ordinance promulgated on 21st January, 2013 lapsed on 4.4.2013, as the Bill could not be enacted within six weeks of re-assembly of Parliament as required under article 123 of the Constitution. This necessitated promulgation of the Securities and Exchange Board of India (Amendment) Second Ordinance, 2013 (5 of 2013) on 29th May, 2013 so that the recruitment process for filling up the post of Presiding Officer, Securities Appellate Tribunal, is not affected.

6. The Bill seeks to replace the Securities and Exchange Board of India (Amendment) Second Ordinance, 2013.

P. CHIDAMBARAM

NEW DELHI;
The 5th August, 2013.

ANNEXURE

EXTRACT FROM THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(15 OF 1992)

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Qualification
for
appointment
as Presiding
Officer or
Member of
Securities
Appellate
Tribunal.

15M. (1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court:

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

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further to amend the Securities and Exchange Board of India Act, 1992.

(Shri P. Chidambaram, Minister of Finance)