

## SEBI's Consent Mechanism

### Why in news?

SEBI has decided to review and propose refinements to the regulation of consent mechanism in order to tighten the process.

### What is the Consent Mechanism of SEBI?

- SEBI introduced a settlement mechanism for violation of securities laws in India in the year 2007.
- Later the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 (Settlement Regulations 2014) were notified to bring in certainty of legal enforceability in the system.

### What changes have been proposed to the procedural aspects of settlement?

- **Shortening the timeline** allowed for market participants served with show-cause notices to apply for settlement.
  - Present regulations allow participants an additional 120 days after receiving show-cause notice on top of a 60-day initial period to apply for a settlement.
  - The proposal fixes the deadline at 60 days and the time given to pay up settlement proceeds is being cut short to 30 days instead of 90.
- **Reduction of settlement amount** - Based on the timing of filing for settlements, the amount will be reduced.
- **Settlement amounts** - The settlement amounts are presently based on the status of the violators.
- For the same instance of fraud, an individual may be allowed to settle for Rs.15 lakh while a company may need Rs.1 crore.
- The paper argues that settlement amounts should be based on culpability instead of identity.

### Does the proposed changes look optimistic?

- Shortening the timeline to apply for settlement prevent violators from delaying settlements.
- Reduction of settlement amount based on the timing of filing of

settlements will nudge market participants to file for settlement at the early stages of proceedings and reduces SEBI's caseload.

- Settlement amounts based on culpability will help in filtering the actual perpetrators from other entities such as dummy directors, mule accounts and individuals with inactive bank accounts.
- But, discretionary powers enjoyed by SEBI to accept or reject offers for settlement remain a grey area because it is subjective to varying interpretations.
- To render the consent mechanism more credible, SEBI needs to **transparently** disclose its criteria for accepting or rejecting settlement offers and strive to better codify these into law.

**Source: Business Line**

