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

