Sebi to tighten open offer norms, proposes 10% interest in case of delay

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The market regulator said for share acquisition, bulk deals more transparent than off-market route.

The Securities and Exchange Board of India (Sebi) has proposed that in case of delay of an open offer, the revised offer price may be calculated after addition of ten per cent interest rate.

According to market participants, the regulator has made the proposal in light of minority shareholders, along with Sebi, moving Supreme Court seeking implementation of open offer by IHH for Fortis Healthcare's takeover.

In its discussion paper, the regulator observed that there are instances where an open offer can get delayed on account of valuation disputes, inter-party disputes, investor complaints, delay in making payment by acquirer upon tendering of shares in open offer.

However, market watchdog acknowledged that existing takeover regulations do not envisage delay in open offers other than on account of statutory approvals.

While in some cases, the acquirer voluntarily agrees to compensate shareholders by paying interest for delay, minority shareholders are not likely to get compensated for all delays as interest rate is not explicitly stated in regulations.

The regulator also proposed tightening of regulations as currently there is no explicit requirement to deposit 100 per cent of the open offer consideration in an escrow account for indirect acquisition.

With the view of have no difference between direct and indirect acquisition, the regulator has proposed making the escrow deposit mandatory.

Sebi also proposed making relevant amendments in regulations to clarify that bulk and block deals can be used to complete acquisition of shares in the target company.

The regulator observed that the bulk and block deal route can be used as it is well-regulated and more transparent than the off-market transactions.

Using this route will help the acquirer directly take significant stake in the target company through stock exchanges instead of negotiating through off-market route. Also, instead of placing small orders for a longer period of time, the acquirer will be able to complete the takeover at a faster pace.

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