SEBI board clears proposal to ease delisting norms in boost to M&A activity

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The Securities and Exchange Board of India (Sebi) on Tuesday eased the delisting framework — a move seen as boosting merger and acquisition (M&A) activity in the country. It also cleared the framework to roll out social stock exchanges and gold spot exchanges.

The Sebi board also tightened the norms on related-party transactions (RPTs) to prevent their abuse. Besides, rules on the issuance of shares with superior voting rights were relaxed to allow the founders of unlisted technology companies more leeway to retain the control of their firms by raising capital.

Acceding to the long-pending industry demand, the market regulator allowed an acquirer to launch both the open offer and delisting bid simultaneously. Experts said the change in delisting rules removed the lacunae in the existing framework.

Currently, an entity acquiring control in a listed company has to make a mandatory open offer to buy a 26 per cent stake from public shareholders. Following the open offer, if the promoter shareholding increases beyond 75 per cent, the acquirer has to bring it down to below the 75 per cent threshold before attempting a delisting bid, which again requires the acquirer to hike its stake to 90 per cent.

“The delisting reform proposed by Sebi takes away a big hurdle in public M&As which until now disallowed acquirers to delist a target company seamlessly. For the first time, an acquirer can now attempt a delisting by offering what they believe is a commercially reasonable price without having to worry about an exorbitant price thrown up by the reverse book building method,” said Vikram Raghani, partner at J Sagar Associates.

The framework permitting the simultaneous open offer and delisting bid has several checks and balances to ensure the rights of public shareholders are protected. For instance, the acquirer will have to disclose the intent to delist upfront at the time of making an open offer. Also, acquirers will have to disclose two separate offer prices —one for open offer and one for delisting.

“If the response to the open offer leads to the delisting threshold of 90 per cent being met, all shareholders who tender their shares shall be paid the same delisting price and if the response to the offer leads to the delisting threshold of 90 per cent not being met, all shareholders who tender their shares shall be paid the same takeover price,” said Sebi in a release.

RPT norms get tougher

Sebi tightened the definition of what would qualify as RPTs and also extended it to transactions with shareholders holding 10 per cent or more in the company.

“RPTs are misused by many entities in various ways, including siphoning of funds. Hence, there was a need to tighten the framework and safeguard the minority shareholders,” Sebi Chairman Ajay Tyagi said while addressing the media following the board meeting.

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"The move to amend the definition of related parties is to ensure higher corporate governance standards for RPTs in listed companies, especially with entities which are related or connected to the promoter group. Such RPTs will undergo a greater scrutiny as they will require audit committee approval," said Manendra Singh, associate partner, Economic Laws Practice.

KEY CHANGES

Promoters with net worth of over Rs 1,000 crore can now have superior voting rights in their companies

More checks and balances on related-party transactions

Framework for 'gold spot' and 'social stock' exchanges approved

Mutual funds allowed to launch silver ETFs

Charter with rights and responsibilities of investors cleared for launch

Superior voting rights

In 2019, Sebi had issued a framework for the issuance of superior voting rights shares. However, not many companies were able to take its advantage as it was considered too restrictive. Earlier, such shares could be issued only by individuals who were part of a promoter group with net worth of less than Rs 500 crore. The threshold has now been increased to Rs 1,000 crore. Further, the minimum gap between the issuance of such shares and the filing of IPO documents reduced to three months from the earlier requirement of six months.

Framework for gold spot and social stock exchanges

The regulator paved the way for setting up 'gold spot' and 'social stock' exchanges in the country. Gold traded on the proposed exchanges will be called an 'electronic gold receipt'. Sebi has said the trading, clearing, and settlement will be similar to other securities currently traded on exchanges.

A social stock exchange will be a separate segment of existing exchanges. Both for-profit and not-for-profit entities will be allowed to raise capital for social causes on this platform. Also, silver becomes the second commodity after gold that investors will be able to buy through the mutual fund route as exchange traded funds.

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