

SEBI mulls easing 'open offer' pricing formula for PSU disinvestment

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The Securities and Exchange Board of India (Sebi) has proposed to ease the pricing formula used for determining the 'open offer' price in the case of public sector undertaking (PSU) disinvestments. The move will potentially benefit the acquirers and could give a fillip to the disinvestment activity.

Under the takeover norms, an acquirer has to launch the so-called open offer to buy a 26 per cent stake from the public on acquisition of a 25 per cent or more stake in a listed company. The rationale behind this is to provide an exit opportunity to shareholders in the event of a takeover or change in control.

The open offer price is determined by various parameters laid down by the market regulator which include the actual price paid by the acquirer to existing promoters. This price, however, has to be higher than the volume-weighted average price for the past 52 weeks or 26 weeks or 60 days before the decision to acquire the stake is announced in the public domain or when the acquisition is actually signed – earlier date of the two.

Sebi, in a discussion paper, has said the 60-day rule for discovering the open offer price could be dispensed with in the case of PSU disinvestment. The relaxation will also be given in the case of open offers that get triggered indirectly on account of PSU disinvestments.

Typically, shares of PSUs rally after the government announces plans to divest its stake in it. This makes it unattractive for the acquirer to carry out the acquisition as the Sebi formulae takes into account recent price spikes. The proposed relaxation could help tackle this problem, say experts.

“Given that in case of PSU disinvestment, acquirer shall be identified only after the shortlisting of bidders, which may be month(s) or year(s) late since the date when the information was first in public domain, the prospective acquirer shall be chasing a moving open offer price as the market price tends to rise pursuant to announcement of the divestment and various stages thereafter and thus its liability for open offer obligations may constantly increase till the execution of agreement of the PSU with the acquirer,” Sebi said in the discussion paper.

The regulator said in the case of private transactions, the announcement is typically made after the execution of binding agreements. As a result, the traded price of the target company isn't impacted much. However, in the case of PSU strategic disinvestment, information comes in public domain at the time of Cabinet approval and subsequent announcements are also made at different stages and thus the market price of the PSU concerned gets highly susceptible to such developments, Sebi said.

A final decision on easing the open offer formula will be taken by Sebi once it gathers public feedback on the issue.