

Sebi eases rules for delisting of listed subsidiaries

Synopsis

Companies have been exempted from doing a reverse book building—a process followed to decide on a price that has to be paid to put shareholders to buy back shares before delisting- for listed units.



The regulator said to avail of this delisting route, the listed holding company and the listed subsidiary should be in the same line of business.

Mumbai: The **capital markets regulator** has eased rules for delisting of listed subsidiaries and asked companies to disclose details of forensic audit initiated by them. These decision along with a few others were taken in the Securities and Exchange Board of India's board meeting on Tuesday.

Companies have been exempted from doing a reverse book building—a process followed to decide on a price that has to be paid to **public shareholders** to buy back shares before delisting- for listed units. The regulator said to avail of this delisting route, the listed holding company and the listed subsidiary should be in the same line of **business**.

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Cos asked to disclose to stock exchanges initiation of forensic audits without any application of materiality

Proposal of strengthening the role of Debenture Trustees approved

Votes cast by public shareholders of listed arm in favour of delisting will have to be at least 2 times those against



“The exemption from reverse book building would provide an opportunity for eligible companies to streamline their corporate structure and consolidate the relevant businesses into one listed entity,” said Mehul Savla, partner, RippleWave Equity Advisors.

“The requirement of both listed entities to be in the same line of business appears to be driven by the logic that minority shareholders of the listed subsidiary are not faced with a situation where they end up holding shares of the listed promoter which may be engaged in a completely different and unrelated line of business,” Savla said.

Sebi said votes cast by public shareholders of the listed subsidiary in favour of the proposal will have to be at least 2 times those against. Besides, the shares of the parent listed company and the listed subsidiary entity should be listed for at least three years.

Sebi also directed listed companies to disclose to stock exchanges initiation of forensic audits without any application of materiality.

Companies must disclose the name of the entity initiating the forensic audit and the reason for the same. Also, the final report other than for forensic audit initiated by regulatory or enforcement agencies, once received by the listed company should be disclosed along with comment of the management.

"There are cases where SEBI has ordered forensic audit by way of a public order under the SEBI Act while in many cases SEBI has issued non-public letters to companies with the instruction to keep it confidential," said Sumit Agrawal, Partner, Regstreet Law Advisers & former SEBI Officer. "So far, there were varied interpretations of disclosure rules and this proposal by SEBI clarifies that materiality standard will not apply."

The disclosure rules are however silent on forensic audits directed by courts, SAT, stock exchanges and SFIO. "It is unclear if forensic audit of anything other than financial records requires disclosure," said Agrawal.

Some lawyers said banks and Non Banking Finance Companies (NBFCs) might need to be exempted from the forensic audit disclosure requirement.

"SEBI has surprised by introducing such an important change without any consultative process. Moreover, the regulator has said - Forensic audit - 'by whatever name called' leaving space for ambiguity," said Makarand Joshi, partner MMJC and Associates LLP – a corporate compliance firm

"In businesses like Banks or **NBFC**, there are internal enquiries undertaken whenever there is any concern about irregularity or conflict of interest."

The Sebi board also approved the proposal of strengthening the role of Debenture Trustees (DTs) to ensure protection of debenture holders.

The regulator said DTs should exercise independence due diligence of the assets on which charge is being created.

"DTs should also carry out continuous monitoring of the asset cover including obtaining mandatory certificate from the statutory auditor on half yearly basis," said Sebi. "Besides, the issuer company should create recovery expense fund at the

time of issuance of debt securities so that DTs can use it in the event of default, for taking appropriate legal action to enforce the security.”

The regulator has also approved the introduction of a code of conduct for fund managers including chief investment officers and dealers of asset management companies (AMC). The chief executive officer of a fund house will be responsible for ensuring that the code of conduct is followed by all such officers, it said.

The Sebi board has cleared the proposal to set up a limited purpose repo clearing corporation.

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