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Sebi tightens norms for private equity deals in listed firms

Sebi says compensation agreements without shareholders' nod unfair; allows direct trading by FPIs in corporate bonds, eases norms for InvITs, REITs

Sebi has proposed to amend listing regulations to add provisions that will require such deals to be disclosed and get prior approval of shareholders. Photo: Aniruddha Chowdhury/Mint

Mumbai: The Securities and Exchange Board of India (Sebi) has proposed tighter norms for compensation agreements between private equity (PE) firms and promoters or key management of listed firms in which they invest.
Sebi has also allowed foreign portfolio investors (FPIs) to trade directly in corporate bonds and eased norms for investment vehicles such as Infrastructure Investment Trusts (InvITs) and Real Estate Investment Trusts (REITs) among key decisions announced after its board met on Friday.

Sebi said performance-based compensation agreements between PE funds and management, when executed without prior approval of shareholders, are potentially unfair. It has proposed to amend its listing regulations to add provisions that will require such deals to be disclosed and get prior approval of shareholders.

The regulator also wants that any such existing deals be disclosed to stock exchanges and approvals be obtained from the boards and shareholders. All these proposals will be part of a discussion paper that Sebi will unveil soon.

These "will certainly increase transparency and strengthen governance in listed companies," said Tejesh Chitlangi, partner at law firm IC Legal.

The Sebi board also decided to allow the so-called Category I and Category II FPIs to directly access the corporate bond market without brokers, in line with permissions for domestic institutions such as banks and insurance companies.

Category-I FPIs include sovereign wealth funds and central banks and Category-II FPIs include mutual funds and banks. This move will help deepen the corporate bond market in India.

This "would enable FPIs to execute their proprietary strategies with greater efficiency", said Richie Sancheti, head of investment at law firm Nishith Desai Associates. "However, whether this route is utilized would depend on the compliance burden."

Thirdly, the board has relaxed the control and holding structure for InvITs and REITs which have failed to take off despite being cleared two years ago. They can now invest in a two-level structure—i.e. invest in a holding company which has investments in other special purpose vehicles (SPVs), which subsequently hold real estate or infrastructure assets. This is subject to safeguards such as the right to appoint majority directors in the SPVs and control over cashflows. The mandatory sponsor holding in InvIT has been reduced from 25% to 15% and the limit on the number of sponsors removed. REITs can now invest up to 20% in under-construction projects.

The regulator has also proposed tighter norms for investment advisers. It said it will revisit the exemption provided to brokers and mutual fund distributors for whom investment advice is incidental to their main activity. It has suggested an advertisement code for investment advisers, restrictions on trading tips via bulk SMS and e-mail, and a ban on soliciting investors through games or leagues related to securities markets.

Even for offering online investment advisory services, entities will be required to get a Sebi registration. Besides, Sebi has said it will grant permanent registration to intermediaries such as merchant bankers, credit rating agencies and so on, instead of the two-step process it currently follows.