Simplify norms, FIIs urge Sebi

Rajesh Bhayani / Mumbai October 18, 2007

Stung by Sebi's proposals on the participatory note issue, foreign institutional investors say the regulator need to simplify the registration procedures.

They are currently cumbersome and create roadblocks for many genuine and long-term investors.

"We know of many cases where the registration was taking much longer than anticipated. As a result, the investors either went to other markets or have been investing through the PN route," said an advisor to FIIs, on condition of anonymity.

Consider the case of an FII, he noted, which was an investment arm floated by the government. It wanted to come and invest in the Indian stock market, and even filed for FII registration.

Sebi first objected saying it should have a three-year track record but the investment arm was set up just a year ago by the government. Sebi, he further pointed out, then demanded that the FII should have at least 20 investors. How can a government investment arm have investors? "Consequently, the frustrated FII decided not to register," he added.

This is not a lone case. Many FIIs have been complaining about the procedures which are time consuming and ask for irrelevant details. As another advisor pointed out that "registration procedure is just one thing.

There are other issues. The tax authorities, for instance, can open books even after five years and questions by them can worry foreign investors."

If they come through the PN route, such issues do not arise as in many cases, such notes are issued abroad, he reasoned.

In May 2004, before the UPA government assume office, the market had touched the lower circuit. After that, some FIIs were asked to clarify if they had intentionally sold shares to bring down the market.

Apart from this, foreign investors who are global investors do not prefer cumbersome compliance norms for want of time and cost issues. They also want stability in policies.

"Foreign investors need stability in regulatory practices. Today the market has fallen because of fear rather than the transactions as there were some uncertainties in the minds of foreign investors," said Pradeep Shah, chairman, IndAsia venture capital advisors.

Regulating PNs are important when the country has some restrictions on foreign investments. Countries having full capital account convertibility do not need FIIs to even register.

Whenever there are restrictions, investors prefer other routes and the use of offshore derivative instruments like PNs become the order of the day.

A representative from a leading FII said on the condition of anonymity noted that in recent weeks, many US based first-time investors and hedge funds were investing through the P Note route as they were impatient to wait till they get the registration.

The momentum in the market, according to him, was such that many were thinking that they might miss the bus if they don't invest in India.

But Sebi was more worried by PNs issued for investment in derivatives. FIIs sub accounts were issuing PNs and also PNs for derivatives. This was being leveraged by hedge funds.

Indians sending their money out too — or those who already have money out — were bringing it back through PNs. It is called Round-tripping. Sebi's surveillance department is investigating if promoters are involved in this kind of activities.

But all don't agree. Round-tripping is not easy. Siddharth Shah of Nishith Desai and associates said: "FIIs are required to provide an undertaking to the market regulator confirming that in case of P-Notes, the beneficial ownership of the underlying investments is not in favour of Indian resident/PIO/NRIs."

WHAT FIIS WANT

- Simplified registration procedure
- Get rid of interference from tax authorities

WHY PNs MATTER

- Controls on capital account transactions and regulations on foreign investments tempt them to come through the P-note route