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FACE-OFF

Relax open offer rules for Satyam?

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Rule may deter serious bidders for Satyam

EXCEPTIONS should be made in extraordinary and rare cases, such as the recent Satyam episode. In this situation, all the stakeholders are suffering because of a single promoter who indulged in fraudulent practices. But does that mean we should punish all other gullible investors? I feel, absolutely not. In my opinion, we should not allow a company to rot away simply because of regulatory framework. In these rare cases, we must focus on the intent of the regulation rather than its wording, and in fact, Sebi has given itself a window for such exceptions. In the current situation, it must exercise that option.

This regulation was enacted to ensure fair deals for the minority shareholders of the target company when transferring becomes possible. In other words, the regulation intends to provide equality, transparency, and protection for minority shareholders. To do justice to the existing shareholders, Sebi has prescribed price logic. However, since the assets shown on the balance sheet are dubious, how do we arrive at a fair valuation? Clearly, historic prices cannot reflect the company's true valuation. Therefore, applying this regulation in this case would deter many serious bidders.

This company certainly needs a good promoter. Despite its strong business trends, when its financial and operational leverages are considered, no professional board would want to take responsibility for running this company. Hence, for the survival of the company and in the interest of all shareholders, a strong promoter should be found that is capable of taking on the challenges of this deteriorating company. Such a promoter would waste no time in manoeuvring the company back on track to salvage its good business relationships for the benefit of the stakeholders. But here, the clock is ticking. Swift action and a holistic approach are required from all regulators to clear the way for a much-needed mentor with a strong financial capacity, preferably from the same business stream. Essentially, we must adhere to the intent of the regulations in this case, which ultimately requires relaxing them to address the interests of the company's minority shareholders. After all, that is the primary objective of this regulation.

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It may set a precedent for future deals

L&T'S bid to take over Satyam Computer Services competing with several private equity and strategic investors clearly exhibits reaffirmation of faith in Satyam and the Indian IT Industry as a whole. However, since Satyam is a listed company, acquisition of shares aggregating to more than 15% will mandate the acquirer to make an open offer for acquisition of at least 20% shares of Satyam at the six-monthly average price of Satyam. This sixmonthly average computes to about Rs 270-275 per share as against the current share price of Rs 54, which will clearly be a turnoff for any potential acquirer. In the light of the above issue, a waiver from the sixmonthly average price for determining the offer price has been requested from Sebi.

Some of questions which one may have could be — does Sebi have the power to grant such exemption? Should Sebi wait to get a clear picture of the financial position of Satyam before granting the exemption? What will be the implications of granting the exemption?

To answer the first question, if Sebi does have the power to entirely exempt an acquirer from making an open offer, it can relax the pricing norms for an open offer as well. Sebi should grant such an exemption to ensure revival of Satyam which is in the interest of a larger population than just Satyam stakeholders. However, on the flip side, it may set a bad precedent as the existing shareholders who are entitled to exit at a much higher valuation will only be provided an opportunity to exit at a far lower valuation. Further, it may also set a precedent for Sebi to grant such exemptions for future transactions.

The government has undoubtedly played an exemplary role by taking every possible step to revive Satyam and it will be imprudent to hold back the revival on the minor ground of pricing relaxation. While lack of precedents has indeed made the subject open to debate, relaxing the pricing norms will clearly be a step forward to save Satyam, to save thousands of jobs, to reaffirm investor faith, to redeem the face of the Indian IT industry and more importantly the battered image of India Inc.