

Sebi directs Religare's board, Saluja to seek approvals for Burman open offer

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The markets regulator has signalled its unhappiness over the Religare board's attempt to stall the Burman family's open offer for the company. It has directed the Religare board to seek RBI approval within a week



Rashmi Saluja, executive chairperson of Religare Enterprise.

Mumbai: The stock market regulator stepped in to break a nine-month impasse over the billionaire Burman family's open offer for Religare Enterprises Ltd on Thursday, directing the **Rashmi Saluja**-led company to seek approvals for the high-profile transaction it has stonewalled so far. The Securities and Exchange Board of India (Sebi) dismissed the financial conglomerate's claim that it was overstepping its jurisdiction, stating the Religare board has breached securities laws, and must follow its orders within a week.

After initially welcoming the Burmans' 25 September open offer, the Religare board had pushed back stating the offer was undervalued and that the acquirer does not meet

take the Burmans' proposal to regulators, even as the dispute deteriorated into charges and counter-charges.

Under Sebi regulations, the takeover target needs to approach regulators for approvals. Since Religare has non-banking, insurance, and broking units, approvals are needed from banking regulator Reserve Bank of India (RBI), Sebi, and insurance regulator Irdai -- something it has not done so far.

"Target company has violated provisions of Regulation 26 of SAST Regulations, 2011 and has failed to adhere to the underlying principles governing the SAST Regulations," Sebi said. Target company here refers to Religare, and SAST is short for Sebi's Substantial Acquisition of Shares and Takeovers (SAST) regulations. Religare incorrectly concluded that Sebi has no jurisdiction over the matter, despite its previous instructions to seek regulatory approvals, the notice said, asking the board to apply to the RBI for necessary approvals within a week.

"As per Sebi's advisory, the company shall be making applications to the concerned regulators including RBI for deciding the fit and proper status of the acquirers to the open offer," **Religare** said in a statement to the stock exchanges. The company's shares rose as much as 5% during the day following the Sebi directive, before closing 3.87% higher on the BSE.

Ravi Prakash, associate partner at law firm Corporate Professionals said the Sebi order is an attempt to speed up the takeover procedure which has been delayed in this case. "Usually, a takeover should get completed in 120-180 days if it strictly follows the regime of SAST Regulations. But in this case, 270 days have passed and the takeover has not materialized. The shareholders' exit is delayed by 6 months. They are losing not only a timely exit but also value of money which acquirer is supposed to pay on conclusion of the takeover open offer. Another crucial aspect is whether shareholders will be entitled for interest on account of this delay. Who will pay the interest? It will be interesting to see if the aspect of interest liability will also unfold here", Prakash said.

Sebi had earlier advised the Religare board to comply with its Substantial Acquisition of Shares and Takeovers (SAST) regulations; however, the company said Sebi was exceeding its brief in doing so, the regulator's Thursday order said. "The Target Company cannot be allowed to impinge on the rights of the shareholders and their fate cannot be left hanging in balance," Sebi said. "However, since the Target Company, even after explicit advice from Sebi, has refused to take appropriate step for making

applications to regulators for statutory approvals, Sebi is left with no other option but to issue urgent directions to the noticees to take appropriate steps in this regard," it added.

"The case is a peculiar one since it seems a hostile situation where the management is at loggerheads with the acquirers and involves multiple regulators. This matter has definitely opened a Pandora's Box and will surely give wings to target companies to look for excuses where they don't want a takeover if various regulators are involved," said Manendra Singh, a partner at Economic Laws Practice.

Singh explained that the Takeover Code imposes a clear obligation on the acquirer to procure statutory approvals, requiring listed entities to act as facilitators. If the approvals don't come through, the offer will fail. Singh said Sebi appears justified in its stance, arguing that without this approach, takeovers of such regulated entities would be impossible. "However, other regulators also need to now take cognizance of this lacuna in law, to clarify their positions on such takeovers. Primacy of sectoral regulators versus Sebi will be decided in this case," he said.

On Religare's claim that Sebi had exceeded its brief by asking the board to comply with SAST, Sebi clarified that its role was merely advisory, asking REL to submit applications to relevant authorities, which would independently assess and process them. "How the said application would be processed by the RBI, Sebi and Irdai falls entirely within the jurisdiction of RBI, Sebi and Irdai. It goes without saying that Sebi has no role in processing of the said application by RBI and Irdai. The said authorities are free to examine the fit and proper status of the applicant or any other criteria within their regulatory ambit," the Sebi order said.

Parina Muchhala, associate at Nishith Desai Associates said the Sebi order sheds light on the critical aspect of absence of cooperation of the target to procure target-led regulatory approvals for an open offer. While Sebi's stance may likely provide some immediate respite to the acquirers in this case, the lawyer suggested regulatory amendments by the sectoral regulators to remedy such roadblock.

The Burman family, which owns consumer goods company Dabur Ltd, made an entry into Religare in April 2018 by purchasing a 9.9% stake. They increased their stake to 14% in June 2021 and then acquired an additional 7.5% in August 2023, crossing the 25%-mark. On 25 September, the Burmans announced an open offer for Religare through five companies - MB Finmart, Puran Associates, VIC Enterprises, and Milky Investment and Trading Co.

Vidhan Vyas, founder of Vyas Legal said the Sebi order was consistent with the established corporate law of primacy; however, the same was likely to be appealed by Religare. "This order will bolster the confidence of private equity players in India who look to invest through the FDI route as this would satiate their worry of management interference vis-à-vis shareholder's interest", he said.

Chirag Shah, a lawyer practising in securities law said it was incumbent upon Sebi to provide all assistance to the acquirers so that the mandate of SAST is not breached by the acquirer due to the stubborn behaviour of the target company's management. "This is clearly not any infringement on the rights of the Target Company. The Ministry of Corporate Affairs may have to get involved to supersede the current Board of Directors under section 226 of Companies Act and SEBI may also proceed under section 27 of the SEBI Act if this order is not complied with", he added.

A lawyer, speaking on the condition of anonymity, noted that while both sides can argue extensively about the necessary approvals, the primary concern is the shareholders' stakes. "There are stakes of shareholders and investors involved in this and those cannot be robbed like that. So Sebi's order is moving in the right direction. The directions are given towards going forward on the open offer. But both sides will have a lot to say in appeal. This order will be challenged", the lawyer added.

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