SEBI's new initiatives : Listing of start-ups and introduction of IFSC

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Introduction

1. The market watchdog, SEBI, in its recent board meeting held on March 22, 2015 introduced dynamic proposals and vibrant changes in the securities market. Some of the proposals were in relation to the Finance Minister's announcements in the Union Budget 2015-2016, while some were due for 'formal announcement' for a longtime. The article is an analysis of the SEBI's key decisions and summarizes the impact of the decision on the overall economy and on the securities market.

2. Easing of investing process & start-up of listing

2.1 ***Summary of decision*:** SEBI Board approved of the integrated use of technology for facilitating and further easing the process of investing in the securities market. SEBI Board also decided to meet the young entrepreneurs' aspirations by catering to the financing and listing needs of start-ups with measures like Institutional Trading Platform, crowd funding, etc., or amending the SEBI (ICDR) Regulations and creating an exception for them. For increasing the investor's education and awareness, SEBI, in collaboration with other agencies, proposed to empanel more resource persons and tap the increasing stature of social media.

2.2 ***Impact & Analysis*****:** This is an innovative and technology-friendly step taken by the SEBI for understanding and coming close to investors' nerves. It will be interesting to see how SEBI implements the integrated use of technology for easing the process of investing in securities market. Probably the bigger challenge is monitoring such innovative initiative. With reference to catering to the need of financing and listing of start-ups, most crucial aspect is how SEBI defines 'start-up' and then carves out an exception in ICDR Regulations. Whether the definition of 'start-up' will be based on number of employees or present capital structure or turnover or existence of product etc? But, this point approved by the SEBI Board is worth appreciating as: (*i*) It would help young entrepreneurs to access securities market, & (*ii*) would improve retail participation by integrated use of technology, etc.

3. International financial service centres

3.1 ***Summary of the decision*****:** Pursuant to announcement on Gujarat International Finance Tec-City ('GIFT') during Budget 2015, SEBI Board has approved of SEBI (International Financial Services Centres) Guidelines, 2015 for facilitating and regulating financial services relating to securities market through an International Financial Services Centre ('IFSC') to be set-up under SEZ Act. Board has also approved that Indian and foreign stock exchanges, clearing corporations and depositories would be permitted to set-up subsidiaries for undertaking same business in IFSC, subject to certain relaxed norms on shareholding and net worth, etc. Subject to Foreign Currency Depository Receipts Scheme, 2014 and the related SEBI ICDR Regulations, IFSC Guidelines permit domestic and foreign companies in IFSC to issue depository receipts and debt securities. IFSC guidelines provide for listing and trading of equity shares issued by companies incorporated outside India, depository receipts, debt securities etc. Under the guidelines and in accordance with FEMA, SEBI permits NRIs/foreign investors/institutional investors/resident Indians to participate in IFSC.

3.2 ***Impact & Analysis*****:** GIFT City is expected to be the first financial hub (similar to Dubai, Singapore) in India which will attract enormous foreign capital. The IFSC guidelines will help in setting-up the capital market infrastructure leading to greater activities. The guidelines also provide that the stock exchanges, clearing corporations and depositories can undertake business with relatively low levels of capital. (Presently, a stock exchange can be set-up with capital of Rs. 100 crore & clearing corporation with capital of Rs. 300 crores; in both cases, capital requirement can be achieved in 3 years). SEBI has also relaxed the norms relating to shareholding in stock exchanges and permitted foreign stock exchanges to set-up subsidiaries and undertake same business in IFSC. By visualizing the tentative investor-base, infrastructure and cost advantage, GIFT City will bring in enormous financial services along with financial wizards to India, which currently go to financial hubs outside India.

Considering the proposed rampant change in financial services and huge Forex inflow in India, it is necessary to have clarity on taxation of proposed entities and whether there will be any exemption/extra-compliance under FEMA? For ensuring all round success of GIFT City, it will be necessary that there is close coordination between the Govt. agencies - RBI & SEBI.

4. Revival of listed companies

4.1 ***Summary of decision*****:** With an intent to revive listed companies in distress and provide more flexibility to restructuring process, SEBI Board approved of the proposal (prepared in consultation with RBI) for relaxing ICDR Regulations and Takeover Regulations, and permitting lending institutions to convert debt into equity of listed borrower companies. Such relaxation in terms of pricing will be subject to allotment price being as per prescribed fair price formula being not less than the face value.

4.2 ***Impact & Analysis*****:** This is one of the most appreciated items for financing companies which provides loans to listed companies and over a period of time, the companies undergo debt restructuring process and are then distressed.

In case of bad loans of distressed listed companies, there are some regulatory and procedural (relating to 'pricing') hurdles for banks in converting debt into equity. Under extant regulations, coversion of such debt/ loan into equity is computed on minimum price of 26-week average or 2-week average price of the share price (as on date of CDR approval, considered as 'reference date').

The lender instead of opting for the existing market pricing formula, SEBI Board has approved of the proposal of 'fair price mechanism' for converting debt into loan, with an inconsequential rider that the price shall not be less than the face value. Such ease in the regulations for converting loan/debt into equity will benefit lenders and will result in increase in corporate debt restructuring. It will provide more flexibility to lenders in acquiring control over the company in the restructuring process.

5. Overhauling disclosure regime

5.1 ***Summary of the decision:*** With an intent that shareholders should take informed investment decisions, SEBI has reviewed and overhauled 'continuous disclosure requirements' for listed entities. SEBI Board approved of the suggested changes in proposed Regulations relating to Listing Obligations and Disclosure Requirements, e.g., Listed co. shall make disclosure of all events/information, first to stock exchange(s), as soon as reasonably practicable and not later than 24 hours of occurrence of event/information, board meetings outcome shall be disclosed within 30 minutes of closure of Board meeting, disclosing on listed co.'s website all events/ information which is 'material' and hosting such information for minimum 5 years. SEBI also proposes that listed company's Board of directors shall frame policy for determining 'materiality', and such policy shall be disclosed on company's website.

5.2 ***Impact & Analysis*****:** Under the proposed regime of "Regulations relating to Listing Obligations and Disclosure Requirements", the listed companies will be required to disclose all events/information to the stock exchange(s), "as soon as reasonably practicable and not later than 24 hours of occurrence of event/information".

The responsibility of listed companies will be made more onerous, as they will have to keep making the disclosures on material developments on regular basis till such time the event/information is resolved/closed with explanations wherever necessary (this is in addition to current requirement of making disclosure at the time of occurrence and after the cessation of the event).

With an innovative disclosure mechanism, which ensures that investors are aware of all 'material information', SEBI has proposed that listed companies shall disclose on their website all material events/information for minimum period of 5 years. For determining 'materiality' SEBI has prescribed the two criteria – one of the criteria being, 'opinion of the board of directors'.

In addition to CSR policy, Corporate Governance policy, Insider Trading policy, etc., the listed companies are now required to frame policy for determining 'materiality'. Such policy shall be disclosed on company's website. Legal Officer or Company Secretary of the company, after discussing with the Board of directors of the listed company will be under an obligation to draft materiality policy, ensuring compliance by reporting events/information accordingly.

6. Issue & listing of municipalities bonds

6.1 ***Summary of decision*:** SEBI has also approved of Issue & Listing of Debt Securities by Municipality Regulations, 2015 which provide regulatory framework for governing the issuance and listing of Municipalities Bonds, disclosure requirements, conditions for public issuance and listing of privately placed municipal bonds, etc. SEBI has prescribed contribution for each project, credit rating, tenure, conditions relating to networth and no default in repayment, etc.

6.2 ***Impact & Analysis*:** This is also one of the most appreciated proposals approved by SEBI in its recent Board Meeting. Through this mechanism, the municipal corporations will provide additional avenue to fund projects. On quarterly/yearly basis, the new norms will improve disclosures. Also, the listing of such bonds will lead to price-discovery post-listing. SEBI may consider providing safeguards for protecting investors' interest, like issuer should not have negative networth, should have an investment grade rating, etc.

Conclusion

7. SEBI has approved of many reforms in the recent Board meeting which would have a wider and positive impact on all the constituents of the securities market – start-ups, investors, India Inc., distressed companies, lenders lending to distressed company, municipal corporations, foreign investors, foreign stock exchanges, etc.

Also, the implementation of International Financial Services Centres has already commenced as SEBI has issued Guidelines which are effective from April 1, 2015. RBI has issued Foreign Exchange Management (International Financial Services Centre) Regulations, 2015. The corresponding amendment to the SEBI regulations will be notified and would come into effect.