

Cabinet set to consider put-call options in M&As

In a fresh move to usher in financial sector reforms, a Sebi proposal to allow put and call options in mergers and acquisitions (M&As), which got the law ministry's nod last month, is soon set to be placed before the cabinet for its approval. However, if the law ministry has its way, it would be applicable only on a prospective basis after it becomes a law.

This effectively means that if the cabinet agrees to the law ministry's condition, call and put options will not be allowed in earlier transactions, such as the Sterlite Industries' bid to buy the remaining government stake in Balco and Hindustan Zinc. Similarly, it would also not allow the Tatas bid to buy the remaining government stake in VSNL through this route. The three companies were disinvested during the NDA regime.

The proposed law would amend the Securities Contracts Regulation Act, 1956 and allow such deals to have clauses relating to 'right of first refusal, tag-along and drag-along,' said a government note on the issue reviewed by TOI.

The current proposal by the government, in its present form, also clearly defines the areas of responsibility between Sebi and RBI regarding derivatives contracts. Besides, it also proposes that the selling party should hold the shares, for which there are put and call options, for more than a year after they conclude the first tranche of the M&A or buyout deal. In addition, the final settlement for such options should be through delivery of shares, the proposals noted.

On May 16, law minister Kapil Sibal had given a green signal for allowing call and put options for these stake sales, a move which was pushed by Sebi through the finance ministry. The rationale behind the move is that such provisions exist in every investment friendly country and once it becomes a law, it could help build a positive investment climate for India. At present, the law permits put and call options, which are classified as derivatives contracts, through stock exchanges.

In recent times, Cairn Plc's agreement for the sale of a majority stake in Cairn India to Vedanta Group was blocked by Sebi after it was seen that the two companies had entered into a transaction which had built-in put and call options.

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