

FinMin panel proposes Bharat Depository Receipts with simple tax structure

To revive the attractiveness of Indian Depository Receipts, a government panel has called for expanding the scope of the instrument through proposed Bharat Depository Receipts that would give a level playing field to Indian and foreign investors and firms.

In its report on IDR, a panel led by MS Sahoo, secretary, Institute of Company Secretaries, has called for reforms in the framework of domestic depository receipts, within the overall capital control regime through the introduction of BhDRs that can be issued on instruments including equity and debt. “A complete suite of BhDRs should be allowed to be issued and traded in India to make the Indian financial system more competitive, and to provide greater choice to Indian investors...,” said the report, adding that trading of DRs issued or listed elsewhere should also be permitted in the Indian market.

It has also mooted a simple tax regime for these instruments to make them more attractive to investors, by bringing them on par with similar domestic securities. “IDRs will be a sub-set within the BhDRs. They will go much beyond what the IDRs provide at the moment but within the current framework of capital controls,” said Sahoo.

The report, which follows an earlier report of a committee led by Sahoo on ADR and GDR last month, is also expected to find a reflection in the Budget.

BhDRs, which must be issued only on those underlying foreign securities which are listed on a global exchange should be listed in India as well and regulated by Sebi, the panel said, adding that they can be of different categories suiting different investors.

“Sebi should create a minimum two levels of BhDRs — Level I should be restricted to sophisticated investors and Level II should be available for all investors,” it said.

The report has also dealt at length with the taxation of BhDRs, suggesting that their conversion into underlying instruments and vice-versa should not attract any tax. While the taxation regime for BhDRs should be the same as that for comparable domestic securities, the panel has said that the returns on BhDRs should be taxed as if such income arose directly from the underlying foreign securities.

IDRs, are derivative instruments with underlying assets denominated in issues that allow foreign firms to raise funds from the Indian markets. But unlike the American Depository Receipts and Global Depository Receipts that are used by Indian firms to raise funds

abroad, IDRs did not find much favour with investors due to issues of taxation. Since their introduction in 2004, only one such issue has taken place by Standard Chartered.

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