

# Ideal for stakeholders, bane for promoters holding over 90%

**‘Alternatives like ‘fixed price’ have their own challenges’**

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**DELISTING REGULATIONS HAVE** taken centre stage following Sebi chairperson Madhabi Puri Buch’s statement that norms governing the process are being reviewed.

Drawing a parallel with ‘Abhimanyu’, the Sebi chief said the regulator doesn’t want entities to be “trapped” inside the market.

Data shows that over the past decade, close to a fifth of the companies that have sought a delisting have failed to go through with the process. While 98 have successfully delisted, 23 of them failed — totalling ₹22,408 crore.

At present, price discovery takes place via the reverse book-building process, in which shareholders cite a price at which they will sell their shares. The delisting is successful once the promoter holding crosses 90%.

However, the Sebi chief said there are “operators” who try to extract an unreasonable value from promoters.

Citing feedback from companies, she said certain entities lap up shares of a company expected to delist in a manner that their holding crosses 10%.

As a result, prices are jacked up to an unsustainable level, making it near-impossible for the company to buy back the shares and

## HITTING A SNAG: UNSUCCESSFUL DELISTING BIDS

	Opening date	Offer amount (₹ crore)
Vedanta	Oct 5, 2020	16,175
Linde India	Jan 15, 2019	4,318
DFM Foods	Dec 13, 2022	349
Xchanging Solutions	Aug 19, 2016	304
INEOS Styrolution India	Jul 16, 2020	184
Universus Photo Imaging	Mar 23, 2022	158
Consolidated Finvest & Holdings	Mar 4, 2022	140
Ricoh India	Jun 3, 2014	126
Xchanging Solutions	Feb 9, 2021	124
Riddhi Siddhi Gluco Biols*	Mar 6, 2018	113

\*Withdrawn  
Source:  
Prime Database

cross the 90% threshold.

“We like the present reverse book-building mechanism because it gives the best value to promoters.

At the same time, it is open to abuse by a section of shareholders.

Striking a balance to suit the interests of shareholders and promoters is the need of the hour, but it should be done by plugging the loopholes rather than approaching the issue with a sweeping brush,” said Amit Tandon, founder and managing director of proxy advisory firm IIAS.

One alternative under consideration is the ‘fixed price’ regime, according to Sebi whole-time member Ashwani Bhatia.

According to a blog by Cyril Amarchand Mangaldas, the fixed price could be disclosed upfront during the delisting announcement. It says Sebi could prescribe a methodology to arrive at the

price, while the acquirer could also choose to offer a higher price if deemed fit.

It argues that the dual protection accorded to shareholders will ensure they are not at a disadvantage — 66.66% of the public shareholders will need to approve the fixed delisting price through a resolution, and participation would be optional.

Tandon, however, argues that a fixed price may not necessarily solve the problems, given that shareholders’ refusal to participate will eventually lead to failure in delisting.

A case in point: Vedanta’s ₹16,175-crore delisting bid, which happens to be the largest unsuccessful one.

While the company offered close to ₹87 a share, the fair value was estimated closer to ₹140, which led to a refusal by share-

holders to tender their shares.

The process also affects M&A deals, say others. Given that certain entities do not wish to have listed entities under their belt as part of their business model, they seek to delist a firm if an acquisition is on the agenda.

“Companies that seek to go for an M&A exercise also go for delisting, as they may not want a listed entity under their kitty. However, any failure in the delisting process ultimately impacts the acquirer’s plans. Sebi seems to be actively looking for a solution to plug such gaps and make M&A processes more efficient,” said Manendra Singh, Partner at Economic Laws Practice.

Broadly, there seem to be three major obstacles that hinder the delisting process.

“First, the 90% threshold and reverse book-building process can be manipulated by promoters, raising concerns about the fairness of the delisting.

“Second, certain shareholders exploit the regulatory system, holding companies to ransom by challenging the fair value and refusing to tender their shares, thus creating a regulatory challenge.

“Third, there is a pressing issue concerning over 2,000 illiquid or non-active companies, with the regulator facing the challenge of establishing uniform or distinct norms to facilitate their delisting,” said Sumit Agrawal, founder of Regstreet Law Advisors.

Sebi had, earlier in 2021, made certain amendments to delisting regulations in terms of timelines, role of independent directors, and price discovery.