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Premature on promoters

It is not time yet for SEBI to relax its vigilance on promoters and their group entities

For long, the Securities Exchange Board of India (SEBI) has framed its regulations around the principle that promoters of companies need to be checked from exercising undue influence over corporate decisions using their disproportionate clout to the detriment of public shareholders. This is why SEBI's ICDR (Issue of Capital and Disclosure), LODR (Listing Obligations and Disclosure) regulations as well as its Takeover Code and insider trading rules lay elaborate checks on the definition of promoters and promoter groups apart from specific regulatory obligations for these entities. Given this context, it is somewhat surprising that SEBI should float a rather perfunctory discussion paper, which asks if the concept of 'promoter' has outlived its usefulness in the Indian context. It also proposes to dilute both skin-in-the-game requirements for promoters after Initial Public Offers (IPOs) and disclosures around promoter group entities.

Institutional and public participation in equities has certainly been rising steadily in recent years leading to many promoters ceding control of their companies to institutions or public investors. In such instances, there's certainly a case for the company to reclassify its original promoter and anoint a 'controlling shareholder' in his/her place. Regulations, in such cases, also ought to place the burden of governance on the shareholder who now exercises de facto control over the company. What constitutes 'control' over a listed company is already well-defined in the LODR rules — owning voting rights of over 10 per cent, exercising influence over company affairs directly or indirectly, occupying key managerial roles or having special rights. Where promoters feel that they no longer exercise such 'control', regulations allow them to seek reclassification, with board and shareholder approval. But having said this, widely-held, institution-run companies are still the exception rather than the rule in India. If one considers the example of NSE-listed companies, aggregate equity stakes held by private promoters nudge the 44-46 per cent mark, while institutional investors own 35-36 per cent and retail investors a mere 6-7 per cent. This makes it quite premature for regulators to relax their vigilance around promoters or their associated entities on a blanket basis.

By the same yardstick, it also seems unwise for SEBI to rethink its rules regarding promoter group disclosures or skin-in-the-game in IPOs. Group entity disclosures in IPO prospectuses are very useful for investors to gauge the antecedents and governance records of the issuer. SEBI is also seeking to cut short the post-IPO lock-in period for promoters from three years to one year which is a bad idea. A three-year lock-in is needed to not only prevent usurious IPO pricing but also to ensure business continuity and good governance.