

Business Standard

Sebi's settlement norms overhaul: Rejig may aid diverted funds' recovery

The regulator's approved settlement framework includes changes on settlement amount calculation, wrongful gains, fast-track cases and wider access to settlement

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The regulator will also issue a settlement notice before a show-cause notice, giving entities a 60-day window to file a settlement application (Photo: Reuters)

The Securities and Exchange Board of India's (Sebi's) overhaul of settlement norms could help improve recovery of diverted funds and protect shareholders in cases involving financial misrepresentation and siphoning of funds, according to Sebi officials and legal experts. Seeking to resolve such matters without prolonged litigation, the market regulator approved the Sebi (Settlement of Administrative and Civil Proceedings) Regulations, 2026, in its board meeting last week, with key changes on calculation of settlement amount, separate treatment of wrongful gains, fast-track settlements in certain cases, and wider access to settlement.

The norms are yet to be notified, and will be brought into effect after 30 days of notification of the regulations.

Following the board meeting, Sebi chairman Tuhin Kanta Pandey said investor protection in such cases would involve not just the settlement amount but also disgorgement and Remedial and Regulatory Terms (RRT), where applicable.

“Shareholders’ interest can be protected in a variety of ways. One of the sure ways is that if there is a siphoning of money, it should come back first. That is non-negotiable. We have to understand that settlement is not only in terms of settlement amount, but it involves disgorgement and RRT, where applicable,” Pandey said.

Under the approved regulations, the settlement amount will be linked to a defined formula, while RRT will be imposed where applicable. Pandey said the settlement amount would be “certain times of the penalty”. A settlement does not involve an admission or denial of guilt, but would entail a financial impact on the company or individual concerned.

Sebi will also issue a settlement notice before a show-cause notice, giving the entities a 60-day window to file a settlement application.

On whether such a notice would be required to be disclosed by the listed companies, Kamlesh Chandra Varshney, whole time member, Sebi, said: “Disclosure by companies is required on receiving a show-cause notice. Most probably, because it (settlement notice) is not a show-cause notice, that may not arise. But we will examine that particular aspect.”

He added that the settlement process could also facilitate quicker recovery of money, with interest, while RRT would continue to be imposed. “The matters keep going on in the court and by that time one doesn’t know the situation of the company. The idea is that if we can get that money right away with interest — and the settlement amount is still to be paid, RRT will still be imposed — which were earlier called non-monetary terms. The biggest beneficiary will be the shareholders as the money will be back into the company with interest. That is how the shareholder interest is protected,” he said.

Sumit Agrawal, founder and managing partner, Regstreet Law Advisors, said the settlement notice is broadly inspired by the US Wells process, though the US notice primarily invites a response to proposed charges, while Sebi’s notice is an invitation to settle before a show-cause notice (SCN) is issued.

“The current regulations have a summary settlement route for certain specified violations, which is now being replaced by a fast-track route. Whether a pre-SCN settlement notice must be disclosed by a listed company is a question Sebi should clarify, because the listing regulations already treat certain regulatory actions as deemed material. Clarity here will help companies and investors alike,” he added.

Agrawal noted that globally regulators resolve a large share of enforcement matters, including cases of financial misrepresentation, through settlement.

The new regulations will include a one-time 90-days window for those who did not apply earlier or whose applications were rejected, withdrawn or returned under the 2018 regulations, at an additional payment of 20 per cent of the settlement amount. This will be applicable only in cases where the proceedings are pending.

Anubhav Ghosh, partner, financial regulatory practice, Trilegal, said the treatment of financial misrepresentation cases represents a change in Sebi's approach rather than the creation of an entirely new category.

"The 2018 Regulations did not exclude them. Sebi could decline where it saw market-wide impact or loss to a large number of investors, and that call could be made departmentally, without reference to the committees," Ghosh said.

Rulebook revamp

- Fresh formula links settlement amount to base penalty, stage, gravity, aggravating factors
- Wrongful gains treated separately, disgorged apart, removing earlier double counting
- Settlement notice before show-cause notice, giving 60 days to apply, with exceptions
- Fast-track route added for cases up to ~10 lakh or disclosure-related violations
- One-time 90-day window for past rejected/unfiled applicants for pending proceedings, at 20% extra amount

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