

AstraZeneca's Delisting Process Under Market Regulator's Lens

Sebi finds initial evidence of concerted action between the Swiss drugmaker & an FI

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Swedish drugmaker AstraZeneca's efforts to take the company private by delisting from the Indian bourses are being investigated by Sebi after the regulator found preliminary evidence of "concerted action" between the company and a foreign institutional investor (FII) called the Elliott Group during an offer for sale (OFS) in May 2013 in order to ensure that the ongoing delisting succeeds even if none of the retail investors tender their shares.

Sebi is probing if the 2013 offer for sale (OFS) is linked to the current delisting. Shareholders had approved the proposed delisting on June 20 while a nod from the exchanges is waited. The regulator has asked stock exchanges to allow the final delisting only after it is satisfied that it has been done in a fair and transparent manner. It has asked exchanges to monitor the process closely. AstraZeneca promoters would be allowed to finally purchase shares from public shareholders only after seeking approval from the stock exchanges, Sebi has said.

"If the suspected concerted/coordinated action of AstraZeneca Pharmaceuticals AB Sweden (AZP AB) and Elliott group

is found true, then their act/conduct may amount to contravention of Sebi (Prohibition of Fraudulent and Unfair Practice Relating to Securities Market) Regulations, 2003," said Rajeev Kumar Agarwal, whole-time member, Sebi, in a late evening order on Tuesday. "The matter requires further examination in this regard. However, at this stage, in the facts and circumstances... the interest of retail investors is supreme in my mind. I, therefore, deem this case fit for taking appropriate measures under Section 11(1),



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and 11B of Sebi Act, in order to protect the interest of the retail investors in the delisting process which is already on," Agarwal said.

Section 11 gives Sebi broad powers to protect investors. Agarwal said in the order that he was not stopping the delisting because retail investors were involved.

Sebi started its probe after reports that the OFS of the shares of AstraZeneca by its promoters in May 2013 was an deliberate attempt to subsequently the Indian unit delisted. More than 94% of the total shares sold through the OFS route had been subscribed to by six foreign institutional investors.

In March this year, AstraZeneca informed exchanges that it has received a letter from its parent proposing a voluntary delisting offer to the public shareholders. Interestingly, AZP AB had made two unsuccessful at-

tempts to delist the shares of its Indian unit in the past. The May 2013 OFS was intended to divest 14.99% to comply with Sebi's minimum publicholding norms. Out of the total 37.49 lakh shares offered for sale, 94.02% was allocated to six FIIs and sub-accounts. Based on the information provided to Sebi, it was observed that all the end subscribers (P-note holders and sub-accounts) to AstraZeneca shares are related to the Elliott group. Besides the bid orders were modified by all the six FIIs just ahead of market closing.

"It is observed that the final bid-price amendment by Elliott group through all six FIIs/sub-accounts was significantly more than the indicative price," Sebi said.

Sebi also noticed that prior to the date of OFS, none of the entities of Elliott group had previous exposure in the scrip of AstraZeneca nor did they hold any shares of the company. Besides, from the voting pattern available with the stock exchanges, it was observed that the entire voting rights of Elliott group were exercised in favour of the delisting proposal.

Sebi said the voting pattern of shareholders — who had been asked to approve the subsequent delisting, now underway — indicated it would not have succeeded without favourable voting by Elliott group. "They also, by virtue of their 15.52% shareholding as against the 8.89% shareholding of retail investors, have the potential to influence the delisting price in the proposed delisting offer in the manner that could be detrimental to the interest of these retail shareholders," Sebi said.

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