

‘SEBI’s power to disgorge, a major boon in NSEL case’

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The attempt to recover ₹5,600 crore from National Spot Exchange defaulters has gone through many twists and turns but reached no where in the past two years. Also, with news out-of-court-settlements with defaulters coming in, worried investors are wondering whether they will get their money back. But the merger of Forward Markets Commission (FMC) with SEBI has given investors hope. Prakash Chaturvedi, Joint Managing Director, NSEL, spoke to Business Line on the way forward. Excerpts:

Will the FMC-SEBI merger expedite recovery from defaulters?

The recovery process can be expedited only if the government takes action against the defaulters. Intense action has been taken only against NSEL and FTIL. This action should rather be against the defaulters because the money is with them. There is precedence as well. In 2008, there was an IPO scam in NSDL when fictitious and fake benami demat accounts were opened. SEBI acted with alacrity and went against those who had

taken the money. To the credit of SEBI, a lot of money was disgorged and given to those who lost it. SEBI’s power to disgorge is a major boon in the NSEL case.

How do you think SEBI can speed up the recovery?

We expect SEBI to conduct a thorough forensic audit on brokers and defaulters. Once this is done, it will find out how many benami transactions have been done. This data they will not get from NSEL as we have only records provided by brokers. SEBI has enormous powers to raid, arrest and disgorge assets of defaulters. It had even exercised the same earlier. Once SEBI re-examines the investigation conducted by various agencies, they will definitely find where the fault lies.

How hopeful are you of recovering the money?

Unfortunately, we are not getting enough time and support from authorities to recover money. There are so many cases where we have to defend ourselves. We have the right to defend ourselves. We have faith in judiciary which is the only saviour. The machinery has done enough damage to ensure burial of the entire group. Defaulters, who have taken the money, are having a field day.



Prakash Chaturvedi, Joint MD, National Spot Exchange Ltd

Will merger of NSEL and FTIL help?

I do not think it will happen. First of all, it is illegal. It will in no way help in recovery of money. It is a misconception that the money will come from FTIL after merger. The reserve in FTIL is their hard earned money. NSEL investors’ money has to come from the defaulters. No Court will allow misappropriation of reserves of a listed limited liability company in an arbitrary manner.

What is the latest on the merger?

NSEL and FTIL have sought certain

documents from the Ministry of Corporate Affairs before considering the draft order. Besides, the Ministry has to decide on our plea to conduct an investigation on the number of genuine clients and their entitlements. We believe that FMC and certain other officials misled the ministry into passing the draft order and we have trust it will consider the facts put forth by us positively.

Can FTIL pay off the claims if it is less than the fresh loan of ₹320 crore it has offered for settlement? I cannot speak on behalf of FTIL. Moreover there is no clarity on the total claim. The High Court Committee said it had received 4,500 envelopes containing investors KYC details. Each envelop may contain details of one or more investors. Theoretically, it can be said over 4,500 investors have responded. The deadline to submit the document was extended to July-end.

Any deadline for investors to take action against brokers?

The delay in action against brokers is helping them to ensure that the claims of clients get time barred. There is a three-year time line before which claims have to be made.