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# For richer dividends

Favourable policy on foreign listings could generate rich dividends for economy

RECENT DEVELOPMENTS have rekindled interest in foreign listings of Indian companies. The Finance Minister had suggested in September that the government is looking to commence listings in GIFT IFSC and may subsequently consider listings elsewhere. The Ministry of Corporate Affairs followed up with a notification in October empowering the government to allow certain public companies to issue securities for listing on permitted foreign stock exchanges. These developments signal a step in the right direction.

Capital is an input and comes at a cost. If Indian companies are to be globally competitive, they should be able to access capital at the lowest possible cost. Foreign investors are also more comfortable investing in securities listed in their home country and tend to give excessive weightage to such securities in their portfolios. This home bias puts Indian companies at a disadvantage in attracting foreign investments. Foreign listings can help overcome this bias and lower the cost of capital for companies. It can also improve valuation by giving exposure to specialised market analysts, and enhance brand reputation among foreign clients.

Broadly speaking, corporations can list overseas in four different ways. Some countries allow their companies to issue a separate class of shares for off-shore listings. For instance, mainland Chinese companies are allowed to issue H-shares for listing in the Hong Kong Special Administrative Region. H-shares are Renminbi-denominated but trade in Hong Kong dollars. Indian laws have also facilitated a somewhat similar mechanism in the past. For example, the Calcutta Electric Supply

Corporation (India) Ltd. (later CESC Limited) was listed on the London Stock Exchange from 1979 to 2013. The company maintained a branch register in London for shareholders resident in London.

A second mechanism involves the Global Registered Share (GRS). A GRS is an ordinary share of a company that trades and transfers freely across national borders. It is an actual share of the company, not a receipt representing ordinary shares deposited with a custodian. The first GRS was issued by DaimlerChrysler in 1998. They were quoted, traded and settled in USD in New York and in Deutschmarks/Euros in Frankfurt.

The dual listed company (DLC) structure enables merged companies to be united operationally but remain separate legal entities. These different legal entities could be listed in different jurisdictions. For example, Rio Tinto operates under a DLC structure. Rio Tinto PLC is listed on the London Stock Exchange while Rio Tinto Ltd. is listed on the Australian Stock Exchange.

Finally, depository receipts (DRs) appear to be the most prevalent mechanism. Domestic securities are deposited with a custodian on-shore and DRs are issued off-shore against such deposited securities by a depository bank. The first DR issue was by JP Morgan in 1927 for the British retailer Selfridges Provincial Stores Ltd.

Over the last three decades, Indian companies have primarily relied on American Depository Receipts (ADRs) and Global Depository Receipts (GDRs) for foreign listings. This was facilitated by a 1993 scheme issued by the Finance Ministry. The first DR is-

suance was by Reliance Industries. The latest MCA notification has now sparked interest in direct listing on foreign exchanges.

"Direct listing" has two very different connotations. It could refer to an unlisted Indian company directly listing its DRs on an overseas exchange without having to list its domestic equity shares on an Indian exchange. The 1993 scheme initially did not prohibit this. Subsequent amendments, however, made prior or subsequent domestic listing a requirement for DR issuance. This was relaxed only in 2013. The 1993 scheme was replaced by a new scheme in 2014 that also allowed direct listing. However, a subsequent 2019 SEBI circular restricted DR issuances only to domestically listed companies.

This restriction is possibly rooted in regulatory concerns around DRs. In the past, the two-way fungibility between DRs and underlying shares has been misused to manipulate domestic share prices. This compromises integrity of public markets in which retail investors are exposed.

Another regulatory concern relates to ultimate beneficial ownership. DRs are tradeable foreign securities. Only a KYC-compliant person can hold a DR in a FATF jurisdiction. However, the identity of the ultimate natural beneficial owner of a DR may remain unknown. That could pose a challenge for investigating agencies if funds are laundered by investing in DRs through related parties. It also creates compliance challenges for domestic custodians which are unable to report details of persons holding beneficial interests in DRs abroad, as required under Indian company law.

These concerns may have nudged policy-

makers to explore another type of direct listing — listing shares of Indian companies directly on foreign exchanges without relying on DRs at all. The idea was first mooted by a SEBI Expert Committee in 2018. The latest MCA notification has now paved way for this. If implemented, it would be akin to either GRS or H-shares.

If Indian companies are allowed to list in GIFT IFSC using an instrument like GRS, it would require creating a single global share register as well as interoperability among clearing corporations in mainland India and the IFSC. Multiple laws would need to be amended. Alternatively, Indian companies could be allowed to issue a special class of shares like H-shares for listing in the IFSC and maintain a foreign register for the same. This would probably be relatively simpler to implement.

For listings in other foreign jurisdictions, DRs would probably be more convenient than instruments like GRS or H-shares. Regulatory concerns around DRs must therefore be balanced with legitimate needs of unlisted companies to list overseas. A middle path could be allowing them to sponsor DR issues only in select FATF and IOSCO compliant jurisdictions that are likely to fully cooperate with Indian authorities in the event of an investigation.

A conducive policy on foreign listings could generate rich dividends for the broader economy.

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*Views are personal*