SEBI TAKEOVER AMENDMENT 2025: RESTRUCTURING THE FOUNDATIONS OF CORPORATE DOMINANCE

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ABSTRACT

The regulation of corporate takeovers sits at the intersection of securities law, company law, and market governance. In India, the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, known as the Takeover Code, has been the foundation of this regulatory framework for over a decade. The said Regulation was notified on December 3, 2025, the Securities and Exchange Board of India (SEBI) made significant amendments with the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025. The main goal of the aforementioned regulations was to establish independent valuation, tighten disclosure requirements, and reduce structural ambiguities that allowed acquirers to exert excessive influence over pricing in open offers. This article provides a thorough examination of the amended framework. It traces its legislative history, looks at its key provisions, assesses its impact on different types of acquirers, outlines the procedural obligations it creates, and critically evaluates how well the reforms protect minority shareholders and address regulatory theory. The article concludes with recommendations to further improve the takeover regime in India.

1. INTRODUCTION:

Mergers and Acquisitions are the most significant commercial transactions in market economy. These transactions often decide the allocations of control over productive asset, while shaping the competitive dynamics across the industries. Perhaps these transactions technically affect the rights and interest of shareholders, to be specific the rights of minority share holder who do not have the bargaining power to negotiate independently. Due to these specific vulnerabilities of the minority shareholder, the worldwide regulators of the securities market have established an elaborative framework that governs the process by which public listed companies change hands. In India the Regulation on the Securities market is done through Security Exchange Board of India (SEBI), and the specific legislation governing the acquisition of shares is namely the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.[1]

The Achutan Committee[2] ,recommended the 2011 code, which introduced basic improvements over its predecessor, a higher initial trigger threshold, a revised mandatory open offer quantum, a consolidated offer price formula, and cleaner provisions governing persons acting in concert (PAC). Notwithstanding these improvements, the code like any living instrument has periodically required adjustment to address gaps that emerge through practice and to respond to evolving market certainties.

The most recent of these recalibrations came through the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025, notified in December 2025.[3] The amendments are principally directed at one structural infirmity that had persisted since the 2011 code, the excessive discretion vested in acquirers. And their appointed merchant bankers to determine offer prices in situations where market data is absent or inadequate. By mandating the involvement of registered independent valuers and by reinforcing disclosure and compliance architecture, the 2025 Amendment seeks to rebalance the informational and bargaining asymmetries that characterise large scale corporate acquisitions. This paper

[1] Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, notified vide SEBI Notification No. LAD-NRO/GN/2011-12/07/15023 dated September 23, 2011.
[2] Report of the Takeover Regulations Advisory Committee (TRAC) under the Chairmanship of Justice P.N. Bhagwati (2010), SEBI, New Delhi. The Committee was constituted in 2009 to review and suggest revisions to the 1997 Regulations
[3] Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025, notified on December 3, 2025, exchange-board-of-india-substantial-acquisition-of-shares-and-takeovers-amendment-regulations-2025

examines these changes in detail and offers a critical assessment of their sufficiency.

II. THE SEBI TAKEOVER CODE: OBJECT, EVOLUTION, AND CONCEPTUAL FRAMEWORK

2.1 Legislative Background

In India Sebi Take over code did not just appear out in the isolation in thin air. In 1991 India witnessed a surge in foreign investment and international mergers, there was an absolute necessity at this point of time to keep the listed companies under a supervision or check. The very first regulation introduced by SEBI relating to the Takeover was in the year 1994,subsequently the same was replaced by a more detailed set of regulations in 1997, However the same was criticised for several reasons namely being unnecessarily complicated, having vague rules around pricing, mainly it consisted of gaps while drafting in the language that could be used in the other way around., leaving a room for exploitation. Later the Bhagwati Committee[4] laid out all the abovementioned shortcomings in a report in 2002.

Then comes into picture the proper SEBI Take over regulations. i.e the 2011 Code, it was a proper overhaul rather than just a patch -up job. It brought in two ideas borrowed from established systems like the UK's City Code on Takeovers and Mergers[5]. The first was the concept of mandatory offer, meaning that once an acquirer crosse certain ownership limits, they are required to give all public shareholders a chance to sell their shares. The second mainly is the idea of equal treatment, ensuring that every shareholder gets the same opportunity the same price. Both these ideas serve the foundation and answers the questions as to hoe these regulations work in India. The 2025 regulations have only made the implementation in an effective manner.

2.2 The Core Architecture of the 2011 Regulations:

The 2011 Code, operates through a set of connected rules that work together as a whole. The Code simply emphasises on the actions of the acquirer as , whenever an acquirer on their own or alongside of others, purchases shares or voting rights in a listed company beyond the

[4] Report of the High-Powered Advisory Committee on Takeovers chaired by Justice P.N. Bhagwati, SEBI, 2002.

[5] The City Code on Takeovers and Mergers (United Kingdom), administered by the Panel on Takeovers and Mergers, is widely regarded as the model for rule-based takeover regulation globally.

prescribed limits as mentioned in the code, or further takeover the control over the company regardless of how many shares they hold in the same company, regardless of that they are supposed to make an public announcement, offering to buy shares from the existing shareholders at a minimum price that the code prescribes.

There are two main situations that set this obligation in motion, The first is described under Regulation 3[6](1), when person acquires up 25% or more of the total hares or voting rights of the targeted company. And second relates to a person when he already had acquired 25% to 75% and subsequently wants to acquire 5% in addition to the share aforementioned in the same financial year under Regulation 3(2).

Apart from the basic requirement for the public offer, the code further lays down details onto further fronts and answers the questions as to how the offer price should be worked out, what the public announcement process looks like, how a detailed letter of offer needs to be prepared and filled, how an escrow account system works to confirm that the acquirer actually has the financial backing to follow through, and the various timelines that everyone involved must stick throughout the entire process.

III. TO WHOM DOES THE TAKEOVER CODE APPLY?

3.1 Acquirers and Persons Acting in Concert:

The Code has a wider definition when it comes to deciding who falls under its rules. Under Regulation 2 (1) (a), an acquirer is essentially anyone who directly or indirectly buys, or even agrees to buy, shares, voting right, or control in a target company. The definition of persons acting in concert or PAC under regulation 2 (1) (q)[7] is equally broad, it pulls in anyone who collaborates with another party through any kind of agreement or understanding whether written down or simply informal, with the shared aim of acquiring share, voting rights, or control over the target. Because this definition is so wide, it can rope in institutional investors, private equity funds, family members, subsidiaries, and holding companies, all of whom may be treated as working in coordination with the acquirer. The practical effect of this is that their shareholdings get added together when checking whether any ownership threshold has been

[6] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 3(1).
[7] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 2(1)(q); see also Regulation 2(1)(r) defining "person"

crossed. Not Surprisingly, this has been a fertile ground for legal battels in India, with many parties disputing whether their particular relationship is close enough to qualify as PAC arrangement.

3.2 Target Companies:

The Code doesn't apply to everyone company, it applies to specific target companies, under Regulation 2(1) (z) defines as companies that are listed on a stock exchange in India. Private Limited companies, unlisted public companies and foreign entities that aren't listed on an Indian exchange all fall outside the codes reach. That said, indirect acquisitions, where someone buys a company that itself control a listed Indian entity, are caught under Regulations 5[8], and the 2025 Amendment is looking to tighten this provision further.

3.3 Exemptions from Mandatory Open offer Obligations:

Not every acquisition triggers the open offer requirement. Regulation 10 and 11 ca[9]rve out a number of transactions that are exempt that are exempt from this obligation. These include acquisition that acquisitions that happen as part of a scheme sanctioned by a court or tribunal, purchases made by the government under recognised policy, buying shares through the open market on stock exchange up to a specified limit, and several other situations that have a sound commercial or legal basis. Given how significant these exemptions can be, advisors working on any open after process is set in motion.

IV. PROCEDURAL OBLIGATIONS OF THE ACQUIRER UNDER THE TAKEOVER CODE

4.1 Public Announcement and its Timing

The moment an acquirer recognizes that a planned deal will push them past a mandatory trigger threshold, their first and most time sensitive obligations kicks in making a public announcement of the open offer .Regulation 13[10] of the code requires that this announcement

[8] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 5, which deals with indirect acquisitions and the conditions under which such acquisitions trigger the mandatory open offer obligation.
[9] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulations 10 and 11. For an exposition of exempt categories, see Sandeep Parekh, SEBI and Securities Laws (6th edn., Lexis Nexis, 2023).
[10] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 13.

be made at the same time as signing any agreement to acquire shares, voting rights, or control or even earlier if it becomes apparent that one open offer will be required . the public announcement has to go out through a recognised stock exchange and must be accompanied by a filing with SEBI. What the Public announcement needs to contain is governed by schedule III of the Regulation, this includes details about the acquirer, the proposed offer price, how many shares the acquirer is looking to buy, who has been appointed as the manager to the oofer, and what financial arrangements have been put in place to back the offer. getting the timing wrong or, simply not issuing the public announcement when required. Can attract serious civil and criminal consequences under the securities and Exchange Board of India, 1992.

4.2 Appointment of Manager to the Open Offer:

The acquirer is required to bring on board a SEBI registered merchant banker to serve as the manager to the open offer, and this person plays a important role throughout the entire transaction. As per the Regulation 12 [11]the manager is responsible for ensuring that the Public Announcement goes out to the public in the given time frame under the code. That the said offer is abiding all the regulations set forth in the schedule IV and that every filing is done with the SEBI on correct time and order. The manager acts as the point of contact between the the targeted company's board directors and independent directors who are separately required to give their opinion on the same offer. It is worth nothing that the 2025 Amendment has considerably shifted the valuation responsibilities that merchant bankers traditionally carried, something that is explored in more detailed below.

4.3 Offer Price Determination:

Before the recent amendments, the offer price was governed by Regulation 8[12]of the Code. The shares with an annualize trading turnover of more that 10%of total shares, meaning or the shares that are frequently traded the offer price was required to be the highest among the following benchmarks, firstly the highest price the acquirer or PAC paid or agreed to pay during the 52 weeks leading up to the Public Offer. , the volume- weighted average market price over the 60 trading days before the PA; the highest price paid or agreed upon in the 26 weeks before the PA; or the per share value arrived at from the highest negotiated price for the target's shares. For infrequently traded shares, where reliable market data simply wasn't available, this formula

[11] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 12.
[12] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 8(1) to 8(3).

couldn't be applied in all of the above-mentioned cases the acquirer and its merchant banker were generally left to determine the price themselves using methods like book value, earnings capitalization, or comparable company analysis. Without any genuinely independent party in the picture. This arrangement carried on obvious conflict of interest, since both the acquirer and the merchant banker they had appointed had their own financial reasons to arrive at a lower offer price.

4.4 Escrow mechanism and Financial Capability:

Regulation 17[13] of the Code, requires the acquirer to set up an escrow account with a scheduled commercial bank ora recognised depository participant and deposit a specified percentage of the total consideration, either in cash ar as bank guarantee. The purpose of this mechanism it to protect minority shareholders by ensuring that an acquirer who has already made a public announcement has genuinely secured the funds needed to go through with the offer, if an acquirer fails to setup or properly maintain the escrow arrangements, SEBI has the authority to step in with regulatory action, which can go as far as cancelling the open offer entirely.

45 Filling of detailed Letter of Offer:

Following the public announcement, the acquire has a set window within which to a draft letter of offer has to be filled with the SEBI, done through the manager to the open offer. SEBI can review this draft and raise comments, all of which need to be addressed an incorporated before the final version is dispatched to the target company shareholders. Regulation 16[14] of the code lays out how this letter should be structured and what information it must cary, with the overarching aim of making sure shareholders have everything they need to make a genuinely informed decisions about whether or not to tender their shares.

V. THE 2025 AMENDMENT: SUBSTANTIVE CHANGES AND THEIR IMPLICATIONS

5.1 Introduction of the "Valuer" Under the Takeover Framework:

The most fundamental structural shift brought by the 2025 Amendment is the addition of a new

[13] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 17.

[14] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 16.

Regulation 2(1) (zaa), which for the first time gives the Take over Code its own definition of a valuer. under this definition, a valuer is someone who is registered with the Insolvency and Bankruptcy Board of India in accordance with the section 247 of the companies Act, 2013[15]. read with Companies (Registered Valuers and Valuation) Rules 2017[16]. This link to the companies Act framework carries real significance, it anchors the takeovers valuation process within an already functioning professional licensing system, and automatically imports the eligibility criteria, qualification standards, and professional obligations that registered valuers are already held to in other areas of corporate law. Rather than building the entire regulation from scrath, the decision to plug into the existing companies act infrastructure is both practical and sensible. Registered Valuers under section 247 are bound by a code of conduct, are professionally accountable, and operate under IBBI oversight. All of which point towards genuine independence. This stands in contrast to the earlier arrangement where merchant bankers, who were appointed and paid by the acquirer, handled valuations without any such structural safeguards. Trying into the Companies Act framework also helps cut down on regulatory fragmentation, which has long been a recurring problem across Indias layered financial regulatory landscape.[17]

5.2 Mandatory Independent Valuation for Infrequently Traded Shares Regulation 8(4)

Among all the operational changes the 2025 Amendment introduces, the revision to Regulation 8(4) [18]is likely to have the most on the ground impact, this regulation deals with how the offer price should be determined when there simply isn't enough market trading data to run the standard formula. Under the updated version, the offer price in such cases must now be worked out by an independent registered valuer specifically appointed for the purpose, the acquirer and the manager no longer get to make this call themselves.

The valuer is required to arrive at the offer price using recognised financial valuation approaches, including the book value of the company net assets, trading multiples drawn from comparable listed companies, and any other relevant methods such as discounted cash flows,

[15] Companies Act, 2013, Section 247, which mandates that valuations for specified purposes under the Act be conducted by a registered valuer
[16] Companies (Registered Valuers and Valuation) Rules, 2017, notified by the Ministry of Corporate Affairs, which establish the eligibility, registration, and conduct requirements for registered valuers.
[17] On regulatory fragmentation in Indian financial markets generally, see Umakanth Varottil, "Regulatory Fragmentation and Corporate Governance in India" (2016) 1 Asian Business Law Review 1.
[18] SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025, amending Regulation 8(4) of the 2011 Code.

earning multiples or liquidation value. The word independent in this requirement is doing a lot of heavy lifting , while the 2025 Amendment dosent spell out what independence means in the takeover context specifically, the companies act framework makes clear that an independent registered valuer should have no financial ties to either the acquirer or the target beyond the valuation fee itself, and no family , business or other connections that could cloud their judgment. This is meaningful departure from the earlier position, where the merchant banker heired and compensated by the acquirer effectively had the final word on valuing infrequently traded shares.

5.3 SEBIs power to order Independent Valuation -Regulation 8 (16):

Along with changes in the Regulation 8 (4)[19] the 2025 amendment introduces regulation 8(16, which gives SEBI the power to step in on its won and direct that an independent registered valuer be appointed to determine on re examine the offer price in any open offer, whenever SEBI is of the view that the price arrived at through normal methods doesn't genuinely reflect the true value of the shares. Theis is a considerable expansion of SEBI role in the process it shifts SEBI from being a largely passive recipient of compliance filings to an active participant in the valuation exercise when circumstances call for it. The cost of any such independently ordered valuation falls squarely on the acquirer, not on the target company or its shareholders.

SEBI to, on its own initiative, instruct that an independent registered valuer be appointed to calculate or recalculate the offer price in any open offer. This is applicable when SEBI believes that the price determined by normal methods does not fairly reflect the value of the shares. This represents a significant expansion of SEBI's oversight powers. It changes SEBI from a passive receiver of compliance filings to an active participant in the valuation process whenever necessary. Importantly, the cost of the independent valuation ordered by SEBI under Regulation 8(16) will fall entirely on the acquirer, not the target company or its shareholders. This cost allocation is reasonable from a regulatory standpoint. It ensures that the financial responsibility for fixing potential valuation issues lies with the party best able to avoid them. It also encourages SEBI to use this power without worrying about imposing costs on minority shareholders. This allocation makes good regulatory sense, it places the financial burden on the party that is best positioned to avoid the problem in the first place, and it also frees SEBI

[19] SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025, inserting Regulation 8(16) in the 2011 Code.

to exercise this power without the concern that doing so might impose costs on the very minority shareholders, the code is designed to protect.

5.4 Valuation in Indirect Acquisitions and Non-Cash Consideration Regulation 9(5)(c)

Regulation 9 (5) (c)[20] tackles a particularly tricky valuation scenario: hoe to determine the offer price when the acquisition is indirect, meaning the acquirer is buying an entity that controls the target or when the consideration being offered isn't cash but something like equity shares of the acquirer. Previously this valuation could be signed off by either the merchant banker handling the open offer or a chartered accountant with at a least ten years of post-qualification experience. The 2025 Amendment does away with both these options and makes it compulsory for an independent registered valuer to be involved instead. This change carries particular weight for non- cash offers, which are showing in more frequently in large scale- corporate restructurings. When shareholders are being offered acquirer shares rather than cash, the fairness of the exchange ratio depends entirely on how accurately both companies have been valued. Letting the acquirer's own merchant banker sign off on that valuation was always a questionable arrangement. Bringing in an independent registered valuer for this task should meaningfully improve the credibility and fairness of exchange ratio determinations going forward.

5.5 Transitional Provisions: The Nine-Month Compliance Window

Recognizing that an immediate switchover to the new valuation rules could cause real disruption for deals ready in progress, the 2025 Amendment builds in a transitional window of nine months. During this period, acquirers and merchant bankers who are already mid way through an open offer process are permitted to complete the valuation exercise under the old rules. The length of this window is well judged, long enough to let ongoing transactions reach their natural conclusion without being forced to change course halfway through, but not so open -ended that it gives parties an excuse to drag their feet on compliance.

5.6 Strengthening Disclosure Obligations

The 2025 Amendment doesn't stop at valuation it also tightens up what acquirers are required

[20] SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Regulation 9(5)(c), prior to amendment.

to disclose more broadly. The post-acquisition plan, which sets out what the acquirer intends to do with the targets business, its workforce and its capital structure, now needs to be laid out in considerably more detail and with greater specificity than was previously required. Stock exchanges have also been given stronger authority to check whether acquirers are actually following through on these disclosures. On the funding side, the information that must be included in both the public announcement and the letter of offer about how the acquirer plans to finance the open offer has become more precise, making it harder for acquirers to get away with giving vague or loosely worder descriptions of their financing arrangements.

VI. SUGGESTIONS AND RECOMMENDATIONS

6.1 Codifying Independence Standards for Registered Valuers in Takeover Contexts

While borrowing the registered valuer framework from the Companies Act is sensible starting point, the 2025 Amendment leaves an important question unanswered, it never actually spells out what independence means when it comes to takeover situations specifically. This is a gap that needs to be addressed sooner rather than a later. The Kinds of conflicts of interest that can arise between valuers, acquirers and target companies during a takeover are quite different from those that come up in the routine corporate valuations, and a one size fits all approach may not be adequate. SEBI would do well to issue supplementary circular or make targeted changes to the schedule of the code to lay down clear independence standards for registered values operating in open offer processes. These standards should cover things like cooling off periods before a valuer can be appointed, disclosure of any past engagements with the parties involved and restrictions /on a valuer taking on related appointments in connected transactions simultaneously.

6.2 Mandatory Peer Review of Valuation Reports

Even a registered valuer acting in complete good faith can fall into methodological error or carry unconscious biases that affect the outcome of valuations. In markets like United Kingdom, Australia, and Singapore, high stakes transaction typically require that an independent experts report be reviewed by another expert, or that the target company's board separately obtain a fairness opinion, India's Takeover Code should seriously consider introducing a similar peer review or fairness opinion requirement, at least for transactions where the offer value crosses a certain threshold or where the standard pricing formula cannot

be used because the shares in question are infrequently traded.

6.3 Strengthening Minority Shareholder Participation Rights

Historically, the Takeover Code has focused heavily on placing obligations on acquirers, without doing much to give minority shareholders a meaningful seat at the table during the process. At the moment, a shareholder who believes the offer price is unfair has very few practical options beyond approaching SEBI or taking the matter to court, both of which are time consuming and costly. The framework could be meaningfully improved by creating a more through the target company's shareholders committee or its adult committee, through which minority shareholders could formally raise concerns about the valuation methodology or put forward alternative evidence of value to SEBI before the offer period comes to a close.

6.4 Revisiting the Concept of Control:

Few aspects of the takeover code have generated as much controversy as the definition of control under regulation 2 (1) (e). The courts and the Securities Appellate Tribunal have wrestled with these definitions across numerous cases, including the well-known Subhkam venture (India) Pvt Ltd V SEBI decision[21], without ever arriving at a clear and consistent answer. The 2025 Amendment does nothing to resolve this ongoing uncertainty. Given that modern corporate structures are only growing more complex, with special rights veto provisions and protective covenants becoming increasingly common, SEBI should consider putting out a focused consultation paper aimed at arriving at a definition of control that is both legally precise and workable in practice.

6.5 Digital Infrastructure for Compliance Monitoring

The enhanced disclosure obligations introduced b the 2025 amendment will amount to very little if the systems need to monitor and enforce them aren't up to the task. SEBI and the stock exchanges should make meaningful investments in dedicated digital compliance platforms capable of collecting, cross-referencing, and flagging potential issues in open offer fillings on a near real time basis. Bringing in technology -driven monitoring tools, including machine learning systems that can identify patters suggestive of price manipulations or disclosure gaps, would go a long way in ensuring that the strengthened regulatory framework actually delivers

[21] Subhkam Ventures (India) Pvt. Ltd. v. Securities and Exchange Board of India, [2010] 99 SCL 159 (SAT);

on its promises in practice.

VII. CONCLUSION

The SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2025 mark a careful but significant step forward in the effort to strengthen India's takeover regulations. By making independent registered valuers' part of the process for determining offer prices, the Amendment directly tackles a key issue that allowed acquirers to inappropriately influence the pricing of open offers, especially in cases involving rarely traded shares or non-cash payments. Aligning with the registered valuer system under the Companies Act creates a clear regulatory base. Additionally, enhancing SEBI's supervisory powers through Regulation 8(16) indicates a shift towards more active regulation.

However, the Amendment has its shortcomings. It does not set clear independence standards for valuers in takeovers. Also, there is no structured way for minority shareholders to take part in the valuation dispute process. The unclear definition of "control" and the need for stronger enforcement also require more legislative and regulatory effort. Therefore, the 2025 Amendment should be seen not as the end of takeover regulatory reform in India, but as an important step in an ongoing evolution of regulations.

Ultimately, the effectiveness of any securities regulation is measured not by how well it is written but by how well it protects the investors who rely on it. By shifting valuation authority from interested parties to qualified independent professionals, the 2025 Amendment moves in the right direction. Whether this promise is realized will depend on how diligently SEBI, the stock exchanges, and the registered valuers fulfil their responsibilities under the new framework.