

SEBI'S JUNE 2026 BOARD DECISION ON THE OPEN-MARKET BUY-BACK ROUTE

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ABSTRACT

On 19 June 2026, the Securities and Exchange Board of India ("SEBI") approved a package of reforms that reinstates the open-market buy-back route through stock exchanges and finalises a registration framework for index providers.⁶⁴⁹ The same Board meeting also cleared a faster launch mechanism for alternative investment funds, an intraday borrowing facility for mutual funds, and a simplified transmission process for legal heirs of deceased investors.⁶⁵⁰ For law firms advising private equity ("PE") sponsors on listed portfolio companies and index-linked strategies, these are not administrative footnotes to the regulatory calendar; they alter the exit toolkit, compress execution timelines, and introduce new insider-trading and diligence risk. This write-up examines five areas where the decision changes advisory practice: the revived tax efficiency of the open-market route, the diligence burden shifting onto portfolio companies once merchant bankers become optional, the constraints on promoters and PE nominee directors, the new registration perimeter for index providers, and ancillary reforms bearing on fund structuring and investor servicing.

Changes Effected By The Sebi Decision

Open-market buy-backs through stock exchanges were phased out in stages under the 2023 amendments to the buy-back regime, fully eliminated from April 2025. Two concerns drove the withdrawal. First, the price-time priority mechanism used to match orders on the exchange meant some shareholders had their tendered shares accepted while others, whose orders arrived later, did not participate at all, so the route did not guarantee equal access. Second, under the tax framework then in force, the company bore the buy-back tax while shareholders whose orders were matched exited free of further tax, creating a mismatch between those who benefited from the concessional treatment and those who did not.⁶⁵¹ For the

following year, PE sponsors seeking partial or staged exits from listed portfolio companies were confined to the tender-offer and book-building routes, both slower, costlier, and more visible than an ordinary secondary sale.

SEBI's Board has now reversed that position with effect from 1 August 2026, but the reinstated route is not the pre-2023 mechanism restored unchanged. It is attached to a compressed execution timeline, a promoter participation bar enforced through an ISIN-level freeze rather than a mere prohibition on paper, and a discretionary, rather than mandatory, merchant banker requirement.⁶⁵² The revised framework also dispenses with a separate trading window and the requirement to display the company's identity as purchaser on the trading screen,

⁶⁴⁹Securities and Exchange Board of India, Press Release No. 33/2026 (June 19, 2026).

⁶⁵⁰Securities and Exchange Board of India, Press Release No. 33/2026 (June 19, 2026).

⁶⁵¹Securities and Exchange Board of India, Consultation Paper on Review of the Framework for Buy-back of Securities Through Stock Exchanges (Apr. 2026).

⁶⁵²Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018, as amended by the SEBI (Buy-back of Securities) (Amendment) Regulations, 2026 (India).

since the tax and promoter-participation changes are considered by SEBI to have addressed the concerns that originally justified those safeguards. Separately, the Board finalised the registration perimeter for index providers under a framework first notified in 2024, building on a May 2026 circular naming the first list of indices caught by the new regime.⁶⁵³ This paper addresses the changes that may follow in drafting and legal compliance for PE investors.

1. Open-market Buy-backs Are Now A Lucrative Exit Option Attracting Lower Tax Rates

The reinstated route is not just a reversal of the pre-2023 mechanism; SEBI has rebuilt it around a changed taxation base, and it is this interaction that makes the route commercially attractive again for PE sponsors, not merely administratively available.

From 1 October 2024, the Finance (No. 2) Act, 2024 taxed the entire buy-back proceeds as a deemed dividend at the shareholder's slab rate, not just the profit.⁶⁵⁴ A fund that bought shares at ₹500 and sold them back at ₹700 was taxed on the full ₹700, not the ₹200 gain; the original ₹500 cost could only be booked as a capital loss, useful only if the fund had other capital gains to offset. The company paid no tax; the entire burden sat with the seller. This made buy-backs irrational for high-bracket sellers, including most PE funds, and listed buy-back volumes fell sharply.

The Union Budget 2026, presented 1 February 2026, reversed this, carried into law through the Income-tax Act, 2025 as amended by the Finance Act, 2026.⁶⁵⁵ From 1 April 2026, only the profit is taxed, computed as consideration less cost of acquisition, under the ordinary capital-gains schedule rather than at slab rate: long-term gains attract 12.5%, short-term gains 20%. In the same example, the fund is now taxed only on

the ₹200 gain, a substantial cut in effective tax. Promoter shareholders, defined for a listed company by reference to the SEBI (Buy-back of Securities) Regulations, 2018, carry an additional tax component on top of ordinary capital-gains tax, producing an effective rate of roughly 30% for individual promoters and 22% for corporate promoters, plus a 12% surcharge applying only to that additional levy.⁶⁵⁶ This reflects Parliament's view that promoters are better placed to time and control buy-backs than ordinary investors.

The practical shift for a firm advising such a fund is twofold. First, the open-market route should now feature, alongside the tender offer and block trade, in every exit-options memorandum, with an explicit after-tax comparison rather than a generic reference to "buy-back tax considerations." Second, the promoter/non-promoter classification of the exiting entity should be confirmed before a term sheet is signed, since a fund classified as part of the promoter group, whether directly or by attribution, faces the higher rate and may be barred from participating altogether, as discussed in Section 3 below; the holding-period computation should also be routed through tax counsel early, since it can change materially where a fund acquired its stake in tranches.

2. Shorter Execution Timelines Shift The Burden Of Diligence From The Merchant Banker Deal Team To The Portfolio Company's Internal Control Functions

The reinstated route imposes hard constraints on execution pace. The buy-back must be completed within 66 working days of opening, at least 40% of earmarked funds must be utilised within the first half of that window, and at least 75% of the overall earmarked funds must be utilised by the end of the period. This is materially tighter than the open-ended windows companies previously enjoyed under the

⁶⁵³Securities and Exchange Board of India (Index Providers) Regulations, 2024 (India); SEBI Circular No. HO/47/17/12(8)2025-MRD-POD2, "Significant Indices" Under SEBI (Index Providers) Regulations, 2024 (May 5, 2026).

⁶⁵⁴Finance (No. 2) Act, 2024, § 2(22)(f), No. 15 of 2024, Acts of Parliament, 2024 (India).

⁶⁵⁵Ministry of Finance, Government of India, Union Budget 2026-27 (Feb. 1, 2026); Income-tax Act, 2025, § 69, Acts of Parliament, 2025 (India), as amended by Finance Act, 2026, Acts of Parliament, 2026 (India).

⁶⁵⁶Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018, reg. 2(k) (India).

tender-offer route, and removes any scope for a board to time deployment around market dips, since a shortfall against either threshold is a compliance failure independent of whether the buy-back is ultimately completed.

A second, related change compounds this risk: appointment of a merchant banker is now discretionary, and where a company elects not to appoint one, the escrow, disclosure, and due-diligence functions previously performed by the merchant banker are reassigned to the company itself, its compliance officer, statutory auditor, secretarial auditor, and the stock exchanges. Under the earlier regime, the merchant banker acted as an independent gatekeeper verifying that unencumbered cash was genuinely available on day one. For a portfolio company dispensing with a merchant banker to save cost, that verification function does not disappear; it is performed, sometimes with less rigour, by internal teams who may not have handled a buy-back before.

For a firm advising the sponsor or the company directly, this carries three consequences. Before a buy-back is announced, the firm should audit the target's treasury position against the 40%/75% front-loading thresholds, since a position adequate on an annual view can still fail a mid-programme checkpoint. Board resolutions and funding authorisations should bind the company to a schedule keyed to the statutory checkpoints rather than a general authorisation to "utilise funds as required," giving the board a contemporaneous record of having addressed the timeline risk. And where the company forgoes a merchant banker, the mandates for the compliance officer, statutory auditor, and secretarial auditor should expressly allocate the functions the merchant banker used to perform, so no function silently assumes another has covered a given check. A missed threshold mid-programme is now a compliance failure with a shorter remediation window, and

the diligence workload, and associated liability exposure, has shifted rather than disappeared.

3. Tighter Constraints On Promoters With Direct Consequences For Pe Nominee Directors

The reinstated framework freezes promoter holdings for the duration of the buy-back window, implemented through an ISIN-level freeze on the promoter's and its associates' shares rather than a contractual undertaking, and aligns the minimum interval between successive buy-backs with the cooling-off period prescribed under the Companies Act, 2013.⁶⁵⁷ The ISIN-level freeze is more mechanical than the participation bar it replaces: it operates at the depository level, so a promoter entity cannot inadvertently deal in the frozen shares even where an internal information barrier fails to flag the restriction in time.

Read together with the trading-window and unpublished price-sensitive information restrictions under the insider trading regulations,⁶⁵⁸ this creates a compliance problem specific to PE sponsors who hold board seats or are classified, formally or by attribution, as part of the promoter or promoter group of a listed portfolio company. A nominee director's ordinary duty to keep the sponsor informed of material corporate developments sits uneasily against a rule barring the promoter group from participating in the very buy-back the company is executing, and the tension is sharper here because the freeze runs for the entire buy-back window, which may approach the full 66 working days, rather than the shorter period typically associated with periodic disclosures.

Firms advising such sponsors should build information barriers into nominee-director mandates before a buy-back is contemplated, since the ISIN freeze takes effect from the opening of the buy-back and there is little scope to restructure a fund's holding once the window has begun. Firms should also confirm in writing which entities within a fund's structure fall within

⁶⁵⁷Companies Act, No. 18 of 2013, § 68, Acts of Parliament, 2013 (India).

⁶⁵⁸Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, reg. 4 & sched. B (India).

the promoter group, since the classification is fact-specific, depends on disclosure filings under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, and is not always obvious from a capitalisation table. Where classification is genuinely borderline, the firm should advise well ahead of any anticipated announcement, since a late reclassification mid-window would leave the fund unable to unwind a position it did not realise was frozen.

4. The Finalised Index-provider "significant Indices" Framework Indicates New Channels For Diligence

Separately from the buy-back reforms, SEBI has operationalised a framework classifying certain benchmarks as "Significant Indices," applying enhanced registration and governance obligations to index providers whose tracked assets under management exceed a prescribed threshold. The May 2026 circular set that threshold at ₹20,000 crore in cumulative daily average assets under management tracking a given index across mutual fund schemes, measured over the preceding six months, and identified an initial list of 48 indices meeting it, spanning equity, debt, and hybrid benchmarks administered principally by three providers. Index providers whose significant indices are already regulated as benchmarks by the Reserve Bank of India are exempt, but only where every one of that provider's significant indices falls within the RBI framework; a provider with even one qualifying index outside it must register in full. Providers have six months from the circular's issuance to apply, and may continue operating during that window if the application is filed in time; providers administering significant indices as an internal department of an otherwise SEBI-regulated entity must hive off that activity into a separate legal entity within two years.

This is directly relevant to institutional clients, including sovereign wealth funds and large asset managers, deploying capital through index-tracking vehicles or proprietary algorithms benchmarked to Indian indices.

Where a firm previously gave general regulatory risk disclosure on index-linked exposure, the finalised framework calls for a more specific compliance check: confirming that the index provider underlying a client's strategy has registered within the prescribed timeline, that its methodology satisfies the transparency and conflict-of-interest standards now in force, including the IOSCO Principles for Financial Benchmarks, and that the provider meets the applicable net-worth and "fit and proper" standards, so a client is not exposed to a sudden tracking halt caused by a provider's own non-compliance. For a client whose mandate references a specific benchmark by name, the firm should confirm whether it appears on the current Annexure of significant indices, since the list is reviewed on a six-monthly cycle.

5. Ancillary Reforms Relevant To Fund Structuring And Investor Servicing

The same Board meeting cleared three further changes that feed into the ordinary transactional work a firm does for PE sponsors and the funds through which they invest. SEBI approved a fast-track launch mechanism for alternative investment funds, under which a regular scheme can be launched within ten working days of filing, subject to acknowledgement of the requisite documentation rather than a full pre-launch review. This compresses the runway between finalising fund documentation and admitting the first close of investors, and places a premium on getting the private placement memorandum correct on first filing.

Mutual funds have separately been permitted to use intraday borrowing to manage temporary liquidity mismatches arising from timing differences between trade settlement, foreign exchange transactions, and derivative obligations, provided any borrowing is repaid in full within the same trading day and is not used

to build leverage.⁶⁵⁹ This sits alongside, rather than replaces, the existing facility permitting mutual funds to borrow up to 20% of net assets for redemption and payout obligations; where a fund's redemption mechanics reference a manager's borrowing capacity, the firm should confirm which facility a given drawdown relies on.

Finally, the Board approved a simplified "Quick Transmission Processing" category for transferring securities to nominees or legal heirs of a deceased investor in small-value claims, raising the thresholds for minimal-documentation processing to ₹10,000 for physical securities and ₹30,000 for dematerialised holdings.⁶⁶⁰ This is relevant wherever a firm administers carry or co-investment arrangements structured through individual demat accounts, since it narrows the cases needing the fuller transmission process.

Conclusion

None of the five areas examined above operates in isolation, and none should be treated as a routine update to be logged and set aside. Together, they convert SEBI's buy-back and index-provider framework, along with the AIF, mutual fund, and transmission reforms cleared at the same meeting, into an active variable in PE deal structuring. An exit route unavailable a year ago is now viable and tax-efficient, but only within a narrow execution window that shifts real risk onto internal control functions; a governance regime once confined to insider-trading windows now extends to a strict, depository-enforced promoter-group participation bar timed to the buy-back itself; and a registration perimeter once informal for index administrators now carries a hard six-month compliance deadline with real consequences for clients benchmarked to an affected index.

A firm advising PE clients on listed holdings may accordingly revise several things: the standard exit-options memorandum, to include the open-

market route on equal footing with tender offers and block trades, supported by an explicit after-tax comparison; board resolution and funding-authorisation templates, to build in the 66-working-day, 40%, and 75% thresholds as binding covenants and to allocate the diligence functions a merchant banker previously performed; nominee-director and information-barrier protocols, to reflect the ISIN-level promoter-group freeze and confirm classification well ahead of any anticipated buy-back; and standing diligence checklists for clients with index-linked exposure, confirming registration status and governance standards before a tracking disruption occurs. Clients who move early to build these safeguards into their documents will be better placed to use the reinstated route, and the accompanying reforms, as the flexible, tax-efficient tools SEBI intends them to be, rather than as a compliance trap.

⁶⁵⁹Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, as amended by the SEBI (Mutual Funds) (Amendment) Regulations, 2026 (India).