



## **A Guide to Board Evaluation**



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

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# PREFACE TO REVISED EDITION

*“Evaluation of the past is the first step toward vision for the future.”*

*~ Chris Widener*

The above words come across as perfectly befitting the thought behind the propagation of the concept of Board Evaluation. Often considered as the first and foremost step in enhancing Board effectiveness. Linked with planning both past and futuristic, Board evaluation is directly tied to achieving the outcomes and results outlined in the board's strategic plan.

The significance of this activity can be gauged from the fact that Investors, regulators and other stakeholders are increasingly interested in board evaluation processes and results seeking greater board effectiveness and accountability and Boards themselves are seeking evaluation to enhance their own effectiveness and to more clearly address stakeholder interest by enhancing their board evaluation processes and disclosures.

In view of the same, the Institute had released A Guide to Board Evaluation based on the provisions of the Companies Act, 2013 and related best corporate practices in the year 2015 facilitate board performance evaluation. The publication discussed the need and importance of board evaluation, international trends, legal framework in India, methodologies, steps involved, post-evaluation activities and barriers to board evaluation. The same was followed by a revised edition in 2017.

Given the role played by Board Evaluation in promoting good governance across the India Inc. the Institute of Company Secretaries of India standing true to its vision to be a global leader in promoting good corporate governance has once again endeavored to update the knowledge of our professionals assisting the corporates in undertaking this activity.

This Publication comprising international trends and practices in Board Evaluation and the prevailing legal framework in India, methodologies, parameters and other aspects is a revised edition of the publication titled

A Guide to Board Evaluation and shall serve as a perfect reference and guide in undertaking this activity.

I would like to place on record my sincere appreciation towards CS Kalidas Ramaswami, CS Makarand Joshi and CS Sudhakar Saraswatula for their contribution in the review process of the publication. I commend the dedicated efforts put in by CS Anamika Chaudhary, Deputy Director in preparing the revised edition under the guidance of CS Samir Raheja, Director, Directorate of Professional Development and under the stewardship of CS Asish Mohan, Secretary, ICSI.

I am confident that the publication will prove to be immensely beneficial in the Board evaluation process. I would appreciate the users/readers for offering their constructive suggestions/comments for the improvement of this publication.

Place: New Delhi

Date: 15th August 2020

**CS Ashish Garg**

President

The Institute of Company Secretaries of India

## **PREFACE TO SECOND EDITION**

The performance evaluation is best tool in enhancing the board's effectiveness is recognised globally. An effective performance evaluation exercise helps the board, committees and individual directors perform to their optimum capabilities. It improves leadership/performance culture, clarifies differing directors' roles, improves board communication and facilitates board teamwork, improves decision making processes and efficiency of board operations, etc.

In India, the Companies Act, 2013 laid down greater emphasis on good governance through the boards, board processes and enhancing board's effectiveness, and performance evaluation is one of them. The performance evaluation is a qualitative factor certainly facilitates transition from good to great boards which if implemented in true letter and spirit would definitely take good governance in India to greater heights.

In April 2015, the Institute released A Guide to Board Evaluation based on the provisions of the Companies Act, 2013 and related best corporate practices. The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 which came into existence later in 2015, also contains detailed provisions on board evaluation. This year, the SEBI has released a Guidance Note on Board Evaluation, considering all these developments, this publication is being revised.

To facilitate the board performance evaluation, the Institute has brought out this revised publication. This publication discusses the need and importance of board evaluation, international trends, legal framework in India, methodologies, steps involved, post-evaluation activities and barriers to board evaluation. It also contains the Parameters and Sample models for evaluation of Chairperson, Managing Director, Executive Director, Non-executive director, Independent Director, Board as whole and the Committees and also provides guidance on how to conduct evaluation of Board. It also contains Current Trends and Practices in India with respect

to board evaluation and analysis of Annual Reports of top 100 companies listed on Bombay Stock Exchange.

I am confident that the publication will prove to be immensely beneficial in the Board evaluation process. I urge upon the corporates and my professional colleagues to follow the principles, procedures & practices as enunciated in this publication for performance evaluation so as to promulgate good Corporate Governance.

I commend the dedicated efforts put in by CS Nishita Singhal, Assistant Director in preparing the revised edition and CS Sudhir Kumar Saklani, Research Associate in analysing the Annual Report of top 100 companies and finalising the publication under the guidance of CS Banu Dandona, Joint Director and under the stewardship of CS Dinesh C. Arora, Secretary.

Improvement is a continuous process; therefore, I would appreciate the users/ readers for offering their constructive suggestions/ comments for the improvement of this publication.

Place: New Delhi

Date: 14th June 2017

**CS (Dr.) Shyam Agrawal**

President

Institute of Company Secretaries of India

# PREFACE TO FIRST EDITION

*“Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted”*

*Albert Einstein*

The duties of the Board defined under the Companies Act, 2013 clearly codifies that the director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment. This enhanced role of directors requires Boards to be more engaged, more knowledgeable and more effective.

Board Evaluation is the most effective way to ensure Board members understand their duties and to adopt effective good governance practices. To be effective, boardroom appraisals need to have specific, clearly defined steps and practices, and a special commitment from the Board.

Board Evaluation as a good governance practice has found its place in the Companies Act, 2013. This Handbook comprehensively captures all the provisions relating to Board Evaluation in the Companies Act, 2013, Steps involved in Board Evaluation, Parameters and Sample models for evaluation of Chairperson, Managing Director, Executive Director, Non- executive director, Independent Director, Board as whole and the Committees and also provides guidance on how to conduct evaluation of Board.

I am confident that the publication will prove to be of immense benefit to companies and professionals.

I place on record my sincere thanks to CS S. K Agrawala, Central Council member, CS Ahalada Rao, Central Council member, Mr. N Hariharan Vice President (Secretarial) & Company Secretary, Larsen & Toubro Ltd for their valuable inputs in finalizing the hand book.



I commend the dedicated efforts put in by team ICSI led by CS Alka Kapoor, Joint Secretary and comprising CS Banu Dandona, Deputy Director, Mr. Chittaranjan Pal, CS Disha Kant, Assistant Education Officers under the overall guidance of CS Sutanu Sinha, Chief Executive & Officiating Secretary and leadership of CS Mamta Binani, Vice President and CS Vineet Chaudhary, Central Council Member and Chairman, Corporate Laws and Governance Committee.

In any publication, there is always scope for further improvement. I would personally be grateful to users and readers for offering their suggestions/ comments for further refinement.

**(CS Atul H Mehta)**

Place: New Delhi

President

Date: 15-04-15

Institute of Company Secretaries of India

# INDEX

|   |           |
|---|-----------|
| <b>Introduction</b>   | <b>1</b>  |
| • Need for Board Evaluation   | 3         |
| • Potential Benefits of Board Evaluation  | 4         |
| <b>International Trends and Practices</b>   | <b>7</b>  |
| • Good Practices in Board Evaluation by IFC   | 8         |
| • G20/OECD Principles of Corporate Governance   | 11        |
| • ICGN Global Governance Principles   | 12        |
| • UK Corporate Governance Code 2018   | 13        |
| • ASX Corporate Governance Council -Australia   | 15        |
| • King IV Code of Governance for South Africa   | 17        |
| • Code of Corporate Governance, Singapore   | 19        |
| • Comparative table of Board Evaluation in various countries                                      | 21        |
| <b>Legal Framework in India</b>   | <b>26</b> |
| • Requirements under the Companies Act, 2013  | 27        |
| • Requirements under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 | 31        |
| • Frequency of Board Evaluation   | 33        |
| • Snapshot of Indian Legislative Framework  | 34        |
| <b>Board Evaluation Methodologies</b>   | <b>39</b> |
| • Internal Evaluation   | 40        |
| • Board Evaluation by External Agencies   | 44        |

|   |            |
|---|------------|
| <b>Broad Evaluation Framework and Parameters</b>                | <b>46</b>  |
| • Evaluation of the Board as a Whole                            | 46         |
| • Evaluation of the Committees                                  | 47         |
| • Evaluation of Individual Directors                            | 48         |
| • Managing Director/Whole time Director/<br>Executive Director  | 48         |
| • Independent Directors   | 49         |
| • Non-Executive Directors                                       | 50         |
| • Evaluation of the Chairperson                                 | 50         |
| • Post-Evaluation Activities                                    | 51         |
| • Succession Planning and Board Evaluation                      | 53         |
| <b>Board Evaluation – Disclosure</b>                            | <b>54</b>  |
| <b>Barriers to Board Evaluation</b>                             | <b>57</b>  |
| <b>Board Evaluation – Current Trends and Practices in India</b> | <b>62</b>  |
| <b>Sample Board Evaluation Policy</b>                           | <b>80</b>  |
| <b>SEBI's Guidance Note on Board Evaluation</b>                 | <b>144</b> |
| <b>Bibliography</b>   | <b>163</b> |

# INTRODUCTION

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*“Board evaluation, if it is conducted in a rigorous manner, when it flows on to and is linked with individual director development plans and with board succession planning and when the results are disclosed, is a valuable tool.”*

*Anne Molyneux, ICGN Board*

## Introduction

At the core of the corporate governance practices is the Board of Directors which oversees how the management can serve and protect the long term interests of all the stakeholders of the company. The institution of Board of directors is built on the edifice that a group of trustworthy and respectable people should look after the interests of the large number of shareholders who are not directly involved in the management of the company. The shareholders and investors repose confidence on the Board of Directors as their representatives for conducting and monitoring the affairs of the company. The position of Board of Directors is analogous to that of Trustees and Agents as per the framework provided by the Statute, as the Board is entrusted with the responsibility to act in the best interests of the company. However, directors are neither agents nor trustees in full measure, given that the Companies Act, 2013 endows on them certain powers which are exercisable independent of the sanction of the shareholders. The Board is accountable to the shareholders for creating, protecting and enhancing wealth, ensuring optimum utilisation of resources of the company, and reporting to them on the performance in a timely and transparent manner. The Board is ultimately responsible for ensuring compliance of various applicable laws in the best interests of stakeholders.

The Board generally performs three major roles in a company –

- provides direction (i.e. sets the strategic direction of the company)
- control (i.e. monitor the management)
- provides support and advice (advisory role).

The aftermath of the global financial crisis and the controversies surrounding the corporate landscape have brought the focus and attention on the performance of the board as never before. The role of the board of directors has undergone a paradigm shift over the past decade. Board evaluation has emerged as one of the priorities of corporate governance in recent times globally. Corporate governance practitioners have been applying *Peter Drucker's idea that "what gets measured gets managed, and among senior leaders, what gets acknowledged and valued gets done even better"*.

Board evaluation typically examines these roles of the Board and the entailing responsibilities, and assesses how effectively these are fulfilled by the Board.

The "Review of the Role and Effective Functioning of Non- Executive Directors" carried out under the chairmanship of **Sir Derek Higgs in 2003 (the Higgs Review) in U.K.** for the first time noted the importance of Board performance evaluation. It stated that it is *'best practice that the performance of the Board as a whole, of its committees and of its members, is evaluated at least once a year' and that companies should disclose in their annual report whether such performance evaluation is taking place.*

Board evaluation is a key means by which boards can recognize and correct corporate governance problems and add real value to their organizations. A properly conducted board evaluation can contribute significantly to performance improvements on organisational; board and individual member levels. According to Heidrick & Struggles Asia Pacific Corporate Governance Report 2014, *"Foundations and Building Blocks for High performing Boards", regular Board evaluation is the core driver necessary to promote change and deliver best practice.*

The stakeholders and investors are interested to know whether the members of the Board are effectively functioning individually and collectively. The Board at many times requires new skills for promptly responding to the dynamic changing business environment. Performance measurement, against the set benchmarks, in the form of Board evaluation has the potential to significantly enhance Board effectiveness, maximize strength, tackle weaknesses and improves corporate relationships. Annual

assessment is a powerful tool for transforming good boards into great boards.

### **Need for Board Evaluation**

Evaluation provides the board and its committees with the opportunity to consider how group culture, cohesiveness, composition, leadership, meetings information processes and governance policies influence performance. Board Evaluation helps to identify areas for potential adjustment and provides an opportunity to remind directors of the importance of group dynamics and effective board and committee processes in fulfilling board and committee responsibilities.

Emphasis on evaluating board and committee performance is appropriate given the collective nature of board and committee decision-making authority. However, evaluation of individual directors is also important as the foundation for effective collective decision-making is the engagement and efforts of all individual directors. Therefore, individual director assessment is also a valuable complement to the board and committee evaluation process. Individual evaluation encourages self-reflection and can help directors identify and address individual behaviors that may improve group dynamics and performance. In addition, formal evaluation of individual directors can help support the re-nomination decision process.

Thus, Board evaluation contributes significantly to improved performance at three levels - organizational, Board and individual Board member level. It also improves the leadership, teamwork, accountability, decision-making, communication and efficiency of the board. A commitment to annual evaluation is powerful change agent.

The Board evaluation sets the standards of performance and improves the culture of collective action by Board. Evaluation also improves teamwork by creating better understating of Board dynamics, board-management relations and thinking as a group within the board. It helps to maximize board/ director contribution by encouraging participation in meetings and highlighting the skill gaps on the Board and those of individual members. Directors demonstrate commitment to improvement, based on the feedback provided on individual and collective skill gaps.

The purposes of the Board evaluation may be summarized as under:

- Improving the performance of Board towards corporate goals and objectives.
- Assessing the balance of skills, knowledge and experience on the Board.
- Identifying the areas of concern and areas to be focused for improvement.
- Identifying and creating awareness about the role of Directors individually and collectively as Board.
- Building Team work among Board members.
- Effective Coordination between Board and Management.
- Overall growth of the organisation.

### Potential Benefits of Board Evaluation

| Benefits     | To organisation   | To board  | To individual director   |
|--------------|---|---|--|
| Leadership   | <ul style="list-style-type: none"> <li>• Sets the performance tone and culture of the organisation</li> <li>• Role model for CEO and senior management team</li> </ul>                    | <ul style="list-style-type: none"> <li>• An effective chairperson utilising a board evaluation demonstrates leadership to the rest of the board.</li> <li>• Demonstrates long-term focus of the board</li> <li>• Leadership behaviours agreed and encouraged</li> </ul> | <ul style="list-style-type: none"> <li>• Demonstrates commitment to improvement at individual level</li> </ul>                 |
| Role clarity | <ul style="list-style-type: none"> <li>• Enables clear distinction between the roles of the CEO, management and the board</li> <li>• Enables appropriate delegation principles</li> </ul> | <ul style="list-style-type: none"> <li>• Clarifies director and committee roles</li> <li>• Sets a board norm for roles</li> </ul>   | <ul style="list-style-type: none"> <li>• Clarifies duties of individual directors</li> <li>• Clarifies expectations</li> </ul> |

| Benefits        | To organisation  | To board  | To individual director  |
|-----------------|--|---|---|
| Teamwork        | <ul style="list-style-type: none"> <li>● Builds board/ CEO/ management relationships</li> </ul>  | <ul style="list-style-type: none"> <li>● Builds trust between board members</li> <li>● Encourages active participation</li> <li>● Develops commitment and sense of ownership</li> </ul>                 | <ul style="list-style-type: none"> <li>● Encourages individual director involvement</li> <li>● Develops commitment and sense of ownership</li> <li>● Develops commitment</li> <li>● Clarifies expectations</li> </ul> |
| Accountability  | <ul style="list-style-type: none"> <li>● Improved stakeholder relationships (e.g. investors, financial markets)</li> <li>● Improved corporate governance standards</li> <li>● Clarifies delegations</li> </ul> | <ul style="list-style-type: none"> <li>● Focuses board attention on duties to stakeholders</li> <li>● Ensures board is appropriately monitoring organisation</li> </ul>                                 | <ul style="list-style-type: none"> <li>● Ensures directors understand their legal duties and responsibilities</li> <li>● Sets performance expectations for individual board members</li> </ul>                        |
| Decision-making | <ul style="list-style-type: none"> <li>● Clarifying strategic focus and corporate goals</li> <li>● Improves organisational decision-making</li> </ul>  | <ul style="list-style-type: none"> <li>● Clarifying strategic focus</li> <li>● Aids in the identification of skills gap on the board</li> <li>● Improves the board's decision-making ability</li> </ul> | <ul style="list-style-type: none"> <li>● Identifies areas where director's skills need development</li> <li>● Identifies areas where the director's skills can be better utilised</li> </ul>                          |
| Communication   | <ul style="list-style-type: none"> <li>● Improves stakeholder relationships</li> <li>● Improves board-management relationships</li> <li>● Improved board-CEO relationships</li> </ul>                          | <ul style="list-style-type: none"> <li>● Improves board-management relationships</li> <li>● Builds trust between board members</li> </ul>   | <ul style="list-style-type: none"> <li>● Builds personal relationships between individual directors</li> </ul>  |



| Benefits         | To organisation  | To board   | To individual director   |
|------------------|--|--|--|
| Board operations | <ul style="list-style-type: none"><li>• Ensures an appropriate top-level policy framework exists to guide the organisation</li></ul> | <ul style="list-style-type: none"><li>• More efficient meetings</li><li>• Better time management</li></ul> | <ul style="list-style-type: none"><li>• Saves directors' time</li><li>• Increases effectiveness of individual contributors</li></ul> |

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# INTERNATIONAL TRENDS AND PRACTICES

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*Over time, a board may become complacent or may need new skills and perspectives to respond nimbly to changes in the business environment or strategy. Regular and rigorous self-evaluations help a board to assess its performance and identify and address potential gaps in the boardroom.*

*(CII 2014)*

A global trend is that Board evaluation is a pre-requisite towards achieving the objective of embracing better practices and board succession planning. Regulators around the world have provided for board evaluation. Several national codes or regulations require or expect board evaluations and/or related disclosures, and in most countries it is a recommended practice. Some countries have mandated an external, independent board evaluation once every three years. However there is no one-size-fits-all approach; there are many different ways for countries and companies to approach evaluations.

Heidrick & Struggles published a report (Heidrick & Struggles 2014) that reviewed corporate governance data, including board evaluation practices and reporting, from over 400 companies across 15 diverse European jurisdictions, reported that:

- 70% of boards surveyed undergo a performance evaluation annually.
- 78% percent of boards were evaluated in the last two years, up from 75 percent in 2009.
- The board chairperson and/or the board members themselves are responsible for the evaluation.
- 21% of entities use external consultants to facilitate the board evaluation.

A study conducted by the Rock Center for Corporate Governance at Stanford University and the Miles Group titled 'Board of Directors Evaluation and Effectiveness' in 2016 reveals that while board evaluation is a common practice, it is not universal. Eighty percent of companies conduct a formal evaluation; twenty percent do not.

The study also reveals that board evaluation appears to be much less effective at the individual level. Only half (55 percent) of companies that conduct board evaluations evaluate individual directors, and only one-third (36 percent) believe that their company does a very good job of accurately assessing the performance of individual directors. Boards appear not to be keen in using the results of evaluations to improve individual performance. Only half (52 percent) believe that their board is very effective in dealing with directors who are underperforming or exhibit poor behavior, while a quarter (26 percent) do not.

To improve board functioning, the study recommends the following:

1. Conduct a diagnostic where each director's input is solicited around a variety of critical topics: board effectiveness, committee effectiveness, current board composition, the forward-looking needs of the board to meet the strategic needs of the enterprise, board structures and processes, agendas and materials, board interface with management, board succession process, and board leadership.
2. Provide a detailed report of the findings. Include recommended actions based upon short, medium, and long- term timeframes. Develop a skills-and-experience matrix to assist with board refreshment efforts, individual director coaching plans, and feedback sessions to provide directors with more detailed feedback around their effectiveness.
3. Create a process that is as independent as possible. Identify a point person on the board accountable for managing the process and following through on its recommendations. Develop a process for removing under performing directors.

**(1) Good Practices in Board Evaluation – International Finance Corporation (IFC)**

Some of the Good Practices in Board Evaluations as specified

in IFC Report titled “From Companies to Markets – Global Developments in Corporate Governance”, 2015, are given below-

- Evaluations will vary from company to company and within a company at different times in the company's development. Evaluations should consider the specific context of the company. Nevertheless, below are some recognized good practices that are emerging:
  - Trust in the credibility and confidentiality of the evaluation is a key factor for its success, regardless of who manages the process (IFC 2011). Also, confidentiality and transparency are critical to the process.
  - It is important to have board members' full understanding of and commitment to quality corporate governance and the evaluation.
  - The goal of an evaluation is to improve the performance of the board and the company itself.
  - Leadership of the evaluation process is key—usually led by the chairperson.
  - Evaluations should be a regular feature of board practices. Most companies undertaking board evaluations do so annually; some companies, where they are not mandated otherwise, may undertake an evaluation once every three years.
  - Evaluations may be best completed in time for discussion at the board strategy session, thus any actions may be incorporated into the strategy.
  - Prior to an evaluation, all board members should know how they will be assessed (that is, the topics for evaluation), the process, and the way they will be measured.
  - Performance metrics should be developed over time.
  - Questionnaires, open discussion, and one-to-one discussions are the most widely used approaches.
  - Questionnaires should be carefully drafted, probably in

collaboration with the chairperson, and reviewed by all those being evaluated, prior to finalization.

- Evaluations should cover key topics: board composition and structure, dynamics and functioning (including leadership and teamwork), role clarity, governance of strategy and risk, board accountability and oversight role, board decision making, board advice role, individual characteristics of directors (vision, contributions, behaviors, time availability, preparation, particular skills), chairperson's role, board functioning (notices, meeting processes, proactivity), and communication.
- An evaluation of board committees should cover issues pertinent to that particular committee.
- Evaluation results should remain confidential and be analyzed, distributed to board members, and discussed in an open and non-confrontational manner.
- Any evaluation should focus on the improvement of board performance and thus should lead to the development of an action plan to address issues arising.
- The process itself should be reviewed for improvements.
- Disclosure of the evaluation goals and process should be communicated to shareholders in the annual report, included in the company code of corporate governance, and placed on the company website.
- Board evaluations can be a sensitive issue to some people. It is important to be aware of this possibility and to deal with its sensitivities.
- Evaluations may expose board weaknesses that, if not attended to, may provide information for a later litigation process.
- Safeguards should be built into the system to protect both the company and individual directors.
- It is essential for any independent evaluator to be experienced in board evaluations, be seen to be

independent and fair, and be respected for his or her approach.

- The evaluation may destroy board collegiality if it is not handled well and if directors' comments on peers are too harsh or ill-considered.
- Careful consideration should take place before management is included in the evaluation process. The presence of management may constrain directors' comments

## **(2) G20/OECD Principles of Corporate Governance**

The revised/updated G20 Principles maintain many of the recommendations from earlier versions as continuing essential components of an effective corporate governance framework. The chapter on the responsibilities of the board provides for a new principle recommending board training and evaluation and a recommendation on considering the establishment of specialized board committees in areas such as remuneration, audit and risk management.

In the 2004 version of the OECD Principles, there was little reference to board evaluations, and only as a voluntary, recommended practice. In the intervening 11 years to 2015, pressure has been built for board evaluations to become the norm. The revised Principles make it clear that board evaluation is a way to ensure continual board development, with the goal of achieving an independent board capable of objective judgment. Board evaluation is now a corporate governance priority.

OECD Principle VI.E.4 as revised in 2015 provides:

Boards should regularly carry out evaluations to appraise their performance and assess whether they possess the right mix of background and competences.

In order to improve board practices and the performance of its members, an increasing number of jurisdictions now encourage companies to engage in board training and voluntary board

evaluation that meet the needs of the individual company. Particularly in large companies, board evaluation can be supported by external facilitators to increase objectivity. Unless certain qualifications are required, such as for financial institutions, this might include that board members acquire appropriate skills upon appointment. Thereafter, board members may remain abreast of relevant new laws, regulations, and changing commercial and other risks through in-house training and external courses. In order to avoid group think and bring a diversity of thought to board discussion, boards should also consider if they collectively possess the right mix of background and competences.

Countries may wish to consider measures such as voluntary targets, disclosure requirements, boardroom quotas, and private initiatives that enhance gender diversity on boards and in senior management.

### **(3) ICGN Global Governance Principles**

The ICGN Global Governance Principles describe the responsibilities of boards and shareholders respectively and aim to enhance dialogue between the two parties. The Principles apply predominantly to publicly listed companies and set out expectations around corporate governance issues that are most likely to influence investment decision-making. They are also relevant to non-listed companies which aspire to adopt high standards of corporate governance practice. The Principles are relevant to all types of board structure including one-tier and two-tier arrangements.

- The ICGN Global Governance principles provides for the following responsibilities of the board:
  - The Board should ensure a formal, fair and transparent process for nomination, election and evaluation of directors;
  - The Board should conduct an objective board evaluation on a regular basis, consistently seeking to enhance board effectiveness including an external review once every three years.

- The board should rigorously evaluate the performance of itself (as a collective body), the company secretary (where such a position exists), the board's committees and individual directors prior to being proposed for re-election.
- The board should also periodically (preferably every three years) engage an independent outside consultant to undertake the evaluation.
- The non-executive directors, led by the lead independent director, should be responsible for performance evaluation of the chair, taking into account the views of executive officers.
- The board should disclose the process for evaluation and, as far as reasonably possible, any material issues of relevance arising from the conclusions and any action taken as a consequence.
- Extending a director's tenure for additional terms should be premised on satisfactory evaluations of his/her contribution.
- The Nomination committee should be responsible for the appointment of independent consultants for recruitment or evaluation including their selection and terms of engagement and publically disclosing their identity and consulting fees.

#### **(4) UK Corporate Governance Code 2018**

The first version of the UK Corporate Governance Code (the Code) was framed in 1992 by the Cadbury Committee. The recommendations in the Cadbury Report have been added to at regular intervals since 1992. In 2003 the Code was updated to incorporate recommendations from reports on the role of non-executive directors and the role of the audit committee.

In 2016, a revised version of the UK Corporate Governance Code was published containing guidance on risk management and internal controls, remuneration policies and engagement with shareholders etc.



*The revised Code provides that for board effectiveness it is required that the board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.*

In 2018, the UK Corporate Governance Code was revised with specific focus on the application of the Principles with an objective to set higher standards of corporate governance to promote transparency and integrity in the business.

### **Supporting Principles of the Code**

- Appointments to the board should be subject to a formal, rigorous and transparent procedure, and an effective succession plan should be maintained for board and senior management. Both appointments and succession plans should be based on merit and objective criteria and, within this context, should promote diversity of gender, social and ethnic backgrounds, cognitive and personal strengths.
- The board and its committees should have a combination of skills, experience and knowledge. Consideration should be given to the length of service of the board as a whole and membership should be regularly refreshed.
- Annual evaluation of the board should consider its composition, diversity and how effectively members work together to achieve objectives. Individual evaluation should demonstrate whether each director continues to contribute effectively.

*Further the Provisions to the Principles provide the following:*

- There should be a formal and rigorous annual evaluation of the performance of the board, its committees, the chair and individual directors. The chair should consider having a regular externally facilitated board evaluation. In FTSE 350 companies this should happen at least every three years. The external evaluator should be identified in the annual report and a statement made about any other connection it has with the company or individual directors.

- The chair should act on the results of the evaluation by recognising the strengths and addressing any weaknesses of the board. Each director should engage with the process and take appropriate action when development needs have been identified.
- The annual report should describe how the board evaluation has been conducted by the nomination committee, the nature and extent of an external evaluator's contact with the board and individual directors, the outcomes and actions taken, and how it has or will influence board composition.

#### **(5) ASX Corporate Governance Council - Australia**

The ASX Corporate Governance Council Principles and Recommendations were initially introduced in 2003 and subsequent revisions were made in 2007 and 2010. As a result of the events that occurred both before and during the Global Financial Crisis, a number of jurisdictions adopted new legislation to tighten corporate governance codes. Australia also comprehensively reviewed and released the third edition of the Principles and Recommendations in 2014 and the fourth edition in 2019. The fourth edition shifts focus on the role of the board in overseeing management, recognising the importance of monitoring and taking responsibility for culture, conduct and behaviour within the corporate group.

#### **Principle 1: Lay solid foundations for management and oversight**

A listed entity should clearly delineate the respective roles and responsibilities of its board and management and regularly review their performance.

*Recommendation 1.6* : A listed entity should:

- (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and
- (b) disclose, for each reporting period, whether a performance

evaluation has been undertaken in accordance with that process during or in respect of that period.

*Commentary* : The board performs a pivotal role in the governance framework of a listed entity. It is essential that the board has in place a formal and rigorous process for regularly reviewing, preferably annually, the performance of the board, its committees and individual directors. Particular attention should be paid to addressing issues that may emerge from that review, such as the currency of a director's knowledge and skills or if a director's performance has been impacted by other commitments.

The board should consider periodically using external facilitators to conduct its performance reviews.

A suitable non-executive director (such as the deputy chair or the senior independent director, if the entity has one), should be responsible for the performance evaluation of the chair, after having canvassed the views of the other directors.

*Recommendation 1.7* : A listed entity should:

- (a) have and disclose a process for periodically evaluating the performance of its senior executives at least once every reporting period; and
- (b) disclose for each reporting period whether a performance evaluation has been undertaken in accordance with that process during or in respect of that period.

*Commentary* : The performance of a listed entity's senior management team will usually drive the performance of the entity. It is essential that a listed entity has in place a proper process for regularly reviewing the performance of its senior executives and addressing any issues that may emerge from that review.

## **Principle 2: Structure the board to add value**

A listed entity should have a nomination committee and if it does not have a nomination committee, it should disclose the fact and the processes it employs to address board succession issues and

to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively.

The role of the nomination committee is usually to review and make recommendations to the board in relation to:

- board succession planning generally;
- induction and continuing professional development programs for directors;
- the development and implementation of a process for evaluating the performance of the board, its committees and directors;
- the process for recruiting a new director, including evaluating the balance of skills, knowledge, experience, independence and diversity on the board and, in the light of this evaluation, preparing a description of the role and capabilities required for a particular appointment;
- the appointment and re-election of directors; and
- ensuring there are plans in place to manage the succession of the CEO and other senior executives.

## **(6) King IV Code of Governance, South Africa**

The King Committee published the King IV Report on Corporate Governance for South Africa 2016 (King IV) on 1 November 2016. King IV is effective in respect of financial years commencing on or after 1 April 2017. King IV replaces King III in its entirety. While King III called on companies to apply or explain, King IV assumes application of all principles, and requires entities to explain how the principles are applied – thus, apply and explain. King IV is principle- and outcomes-based rather than rules-based. The focus is on transparency and targeted, well-considered disclosures. King IV recognises information in isolation of technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset. There is a new emphasis on the roles and responsibilities of stakeholder.

King III recommended that an evaluation of the governing body, its committees and its individual members be conducted every year. To provide for sufficient time to appropriately respond to the results of such performance evaluations, the King IV Code recommends for a formal evaluation process to be conducted at least every two years. Every alternate year, the governing body should schedule an opportunity for consideration, reflection and discussion of its performance.

### **Evaluations of the performance of the governing body**

#### ***Governing body's primary governance role and responsibilities:***

Principle 9: The governing body should ensure that the evaluation of its own performance and that of its committees, its chair and its individual members, support continued improvement in its performance and effectiveness.

### **Recommended Practices**

- The governing body should assume responsibility for the evaluation of its own performance and that of its committees, its chair and its individual members by determining how it should be approached and conducted.
- The governing body should appoint an independent non-executive member to lead the evaluation of the chair's performance if a lead independent is not in place.
- A formal process, either externally facilitated or not in accordance with methodology approved by the governing body, should be followed for evaluating the performance of the governing body, its committees, its chair and its individual members at least every two years.
- Every alternate year, the governing body should schedule in its yearly work plan an opportunity for consideration, reflection and discussion of its performance and that of its committees, its chair and its members as a whole.
- The following should be disclosed in relation to the evaluation of the performance of the governing body:

- A description of the performance evaluations undertaken during the reporting period, including their scope, whether they were formal or informal, and whether they were externally facilitated or not.
- An overview of the evaluation results and remedial actions taken.
- Whether the governing body is satisfied that the evaluation process is improving its performance and effectiveness

## **(7) Code of Corporate Governance, Singapore**

The Code of Corporate Governance, Singapore was first issued by the Corporate Governance Committee in 2001. The Code is not mandatory but listed companies are required under the Singapore Exchange Listing Rules to disclose their corporate governance practices and give explanations for deviations from the Code in their annual reports.

The Council on Corporate Disclosure and Governance initiated a review of the Code in May 2004. A revised Code was issued on July 2005.

The Code of Corporate Governance came under the purview of Monetary Authority of Singapore (MAS) and Singapore Exchange (SGX) with effect from 1st September 2007 to clarify and streamline responsibilities for corporate governance matters for listed companies, bringing it under the sectoral regulator.

The Corporate Governance Council conducted a comprehensive review of the Code, and submitted its recommendations to MAS in 2011.

MAS issued a revised Code of Corporate Governance on May 2012. The 2012 Code of Corporate Governance superseded and replaced the Code that was issued in July 2005. The Code was effective in respect of Annual Reports relating to financial years commencing from 1st November 2012.

The Singapore Corporate Governance Code of May 2012 included

for the first time a requirement that boards conduct a formal assessment of their effectiveness.

Six years after the last revision to the Code of Corporate Governance, the Monetary Authority of Singapore released the updated version in August 2018. This updated version of the Code represents a significant development both in terms of the way the Code is structured, and the way in which companies are required to describe their corporate governance practices. The Principles of the Code state the following on Board Evaluation:

*Principle 4 on Board Membership:* The Board has a formal and transparent process for the appointment and reappointment of directors, taking into account the need for progressive renewal of the Board.

*Provision 4.1 (b):* The Board establishes a Nominating Committee to make recommendations to the Board on relevant matters relating to the process of and criteria for evaluation of the performance of the Board, its Board Committees and directors.

*Principle 5 on Board Performance:* There should be a formal annual assessment of the effectiveness of the Board as a whole and that of each of its board committees and Individual Directors.

*Provision 5.1:* The Nominating Committee recommends for the Board's approval the objective performance criteria and process for the evaluation of the effectiveness of the Board as a whole, and of each board committee separately, as well as the contribution by the Chairman and each individual director to the Board.

On 12 February 2019, MAS established the corporate Governance Advisory Committee (CGAC) as a permanent, industry-led body to advocate good corporate governance practices among listed companies in Singapore. The role of CGAC will be to identify current and potential risks to the quality of Corporate Governance in Singapore, and to monitor international trends. The CGAC will also be responsible to revise the Practice Guidance to clarify the Code from time to time, and recommend updates to the Code.

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COMPARATIVE TABLE OF BOARD EVALUATION IN VARIOUS COUNTRIES

|   | UK  | USA<br>(NYSE Corporate<br>Governance<br>Guidelines)   | SOUTH AFRICA   | AUSTRALIA   | SINGAPORE  |
|---|---|---|--|---|--|
| MODE                                    | Internal and<br>External facilitated<br>evaluation  | Annual self-<br>evaluation  | Internal and External<br>evaluation (chairman<br>or an independent<br>provider.)   | External facilitators is<br>recommended   | Internal and<br>External<br>evaluation   |
| EVALUATION<br>OF INDIVIDUAL<br>DIRECTOR | <p>The board should undertake a formal and rigorous annual evaluation of its individual directors.</p> <p>Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role.</p> | <p>An annual self-evaluation of the performance of the board of directors and its committees.</p> | <p>The evaluation of the individual directors should be performed every year.</p> <p>The nomination for the re-appointment of a director should only occur after the evaluation of the performance and attendance of the director.</p> | <p>The board has in place a formal and rigorous process for regularly reviewing the performance of the board, its committees and individual directors and addressing any issues that may emerge from that review.</p> | <p>There should be a formal annual assessment of the effectiveness of the contribution by each director to the effectiveness of the Board.</p> |



|                     |   |      |   |      |   |  |
|---------------------|---|------|---|------|---|--|
| EVALUATION OF BOARD | The board should undertake a formal, rigorous and transparent annual evaluation of its own performance. | -do- | The evaluation of the board should be performed every year. | -do- | Individual evaluation should aim to assess whether each director continues to contribute effectively and demonstrate commitment to the role (including commitment of time for meetings of the Board and board committees, and any other duties) | There should be a formal annual assessment of the effectiveness of the Board as a whole. |
|---------------------|---|------|---|------|---|--|

|                                |   |      |  |      |  |  |  |  |
|--------------------------------|---|------|--|------|--|--|--|--|
| EVALUATION OF BOARD COMMITTEES | The board should undertake a formal and rigorous annual evaluation of its committees. | -do- | The evaluation of the board committees should be performed every year. | -do- | The results of performance evaluations should identify training needs for directors. |  | If an external facilitator has been used, the Board should disclose in the company's Annual Report whether the external facilitator has any other connection with the company or any of its directors. | There should be a formal annual assessment of the effectiveness of the board committees. |
|--------------------------------|---|------|--|------|--|--|--|--|

|                        |   |  |  |   |   |
|------------------------|---|--|--|---|---|
|                        |   |  |  |   | Nothing specific  |
| EVALUATION OF CHAIRMAN | The non-executive directors, led by the senior independent director, should be responsible for performance evaluation of the chairman, taking into account the views of executive directors.  | Nothing Specific   | Chairman's ability to add value, and his performance against what is expected of his role and function, should be assessed every year. | A suitable non-executive director (such as the deputy chair or the senior independent director, if the entity has one), should be responsible for the performance evaluation of the chair, after having canvassed the views of the other directors. |   |
| DISCLOSURES            | The board should state in the annual report how performance evaluation of the board has been conducted, the nature and extent of an external evaluator's contact with the board and individual directors, the outcomes and actions taken, and how it has or will influence board composition. | The results of the self evaluation are not disclosed publicly. | An overview of the appraisal process, results and action plans should be disclosed in the integrated report.                           | A listed entity should: (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and  | The Nomination Committee should decide how the Board's performance may be evaluated and propose objective performance criteria. |

|   |  |  |  |  |
|---|--|--|--|--|
| <p>The Board should state in the company's Annual Report how its assessment has been conducted.</p>   | <p>There should be a formal annual assessment of the effectiveness of the contribution by each director to the Board. The Board should state in the company's Annual Report how its assessment has been conducted.</p> |  |  |  |
| <p>(b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.</p> |  |  |  |  |
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# LEGAL FRAMEWORK IN INDIA

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In India the Companies Act, 2013 has introduced a slew of regulations focused towards enhancing overall governance standards. Effective stewardship by the board has been amplified as one of the important cornerstones in the various requirements specified under the new Act.

The Companies Act, 2013 for the first time codifies under Section 166 the duties of directors, and specifies that the director of a company shall act in accordance with the articles of the company and also provides following mandate to the directors -

- A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, community and for the protection of environment.
- A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.
- A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.
- A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.
- A director of a company shall not assign his office and any assignment so made shall be void.

Several other measures for increasing board effectiveness like performance evaluation of board of directors; training of independent directors, guidelines for remuneration of directors have been specified.

Board evaluation, until recently, was recognised as a good corporate governance practice and largely undertaken voluntarily. The erstwhile Clause 49 of the Listing Agreement as a non-mandatory requirement, provided for performance evaluation of non-executive directors by a peer group. Further, the Corporate Governance Voluntary Guidelines

2009 recommended that the Board should undertake a formal and rigorous evaluation of its own performance and that of its committees and individual directors. A few progressive companies however had been pursuing Board evaluation (and in some instances even peer evaluation of directors) voluntarily as they believed in its usefulness. In all these voluntary cases, the evaluation was led by the Chairperson and the assistance of independent external experts was seldom sought. However, the Companies Act, 2013 has introduced mandatory provisions for board evaluation in India. The Clause 49 of listing agreement which was revised in 2014 mandated performance evaluation of Independent Directors.

Currently legal provisions for board evaluation are provided under the Companies Act, 2013 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for all listed entities.

## **Requirements under the Companies Act, 2013**

### **1. Disclosure requirement in the Board's Report on Performance Evaluation**

*Section 134(3)(p) read with Sub-rule (4) of Rule 8 of the Companies (Accounts) Rules, 2014* : Every listed company and every other public company having paid-up share capital of twenty five crores or more calculated at the end of the preceding financial year should include in the report by its Board of Directors, a statement indicating the manner in which formal annual evaluation of the performance of the Board, its committees and of individual directors has been made.

*However, the Ministry of Corporate Affairs vide Notification No.G.S.R. 463(E) dated 5-6-2015 provided certain exemption to Government Companies.* Accordingly, the provisions of Section 134(3)(p) does not apply in case the directors are evaluated by the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government, as per its own evaluation methodology.

The issue of performance evaluation of the Board in public sector undertakings has acquired centre stage in view of its inevitability in ensuring its effectiveness and professionalization. An objective performance evaluation mechanism would help in identifying the gap in pursuing the good corporate governance practices and also pave the way for further reforms.

Keeping in view the importance of performance evaluation, the

Department of Public Enterprises (DPE) has designed a format and laid down a procedure for filling up and evaluation of the Director's performance.

Thus, the Board of every listed company and every other public company having paid-up share capital of twenty five crores or more calculated at the end of the preceding financial year except Government Companies has to do formal annual evaluation of the-

- board
- its committees and
- all individual directors.

The Board's report of such companies must include a statement indicating the manner & criteria of formal Board Evaluation.

Section 178(2) also needs to be referred which states that *"the Nomination and Remuneration Committee of every listed public company and all public companies with a paid up capital of Rs. 10 crore or more; or having turnover of Rs. 100 crore or more; or having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding Rs. 50 crore or more except Section 8 Companies and Government Companies shall formulate criteria for evaluation of performance of independent directors and the board of directors."*

Hence, all companies covered under Section 178 need to formulate the criteria for performance evaluation, but disclosure in Board's report can be given only by those companies which are covered under Section 134(3)(p).

In 2019, the Reserve Bank of India (RBI) and the Bank Board Bureau (BBB) started developing an objective framework for performance evaluation of public sector banks. According to the RBI Governor, the performance of MDs/CEOs of both public and private sector banks should be closely monitored by the board of directors either through a sub-committee or through an external peer group review.

## **2. The Role of the Nominations and Remuneration Committee in Performance Evaluation of Directors**

*Section 178(1) read with Rule 6 of the Companies (Meetings of Board and its Powers) Rules, 2014:* The Board of Directors of every listed public company and all public companies with a paid up capital of ten crore rupees or more; or having turnover of one hundred crore rupees or more; or having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore

rupees or more shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors.

Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

**Section 178(2)** : The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Committee or by an independent external agency and review its implementation and compliance.

***Section 178 is not applicable to a company to which a licence has been granted under the provisions of Section 8 of the Companies Act, 2013 (Notification No. GSR 466(E), dated 05-06-2015). Section 178(2) is not applicable to Government Companies except with regard to appointment of senior management & other employees (Notification No. GSR 463(E), dated 05-06-2015).***

Therefore, the Nomination and Remuneration Committee of every listed public company and all public companies with a paid up capital of ten crore rupees or more; or having turnover of one hundred crore rupees or more; or having in aggregate, outstanding loans or borrowings or debentures or deposits exceeding fifty crore rupees or more except Section 8 Companies and Government Companies shall formulate criteria for evaluation of performance of independent directors and the board of directors. However such companies need not make a statement in the Board's Report on evaluation of performance of the Board.

***Note : The paid up share capital or turnover or outstanding loans, or borrowings or debentures or deposits, as the case may be, as existing on the date of last audited Financial Statements shall be taken into account.***

As mentioned above, though the criteria for evaluation is to be formulated by all companies covered under Section 178, but disclosure about manner in which formal annual evaluation has been made by the Board of its own performance, and that of its committees and of individual directors, can be made only those companies which are covered under Section 134.



### **3. Independent Directors' Role in Performance Evaluation of Boards, Non-independent Directors and Chairperson**

Section 149(8) of the Act provides that the company and independent directors' shall abide by the provisions specified in Schedule IV.

*Schedule IV (Part II(2))*: Independent directors are required to bring an objective view in the evaluation of the performance of board and management.

*Schedule IV (Part VII)* : The independent directors are required to hold at least one meeting in a financial year, without the attendance of non-independent directors and members of the management. All the Independent directors of the company shall strive to be present at such meetings and in that meeting they are required to review the performance of:

- the non-independent directors and the Board as a whole;
- also review the performance of the Chairperson of the company, taking into account the views of the executive directors and non-executive directors; and
- assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

### **4. Performance Evaluation of Independent Directors**

*Schedule IV Part V : Re appointment* - The reappointment of the independent directors shall be based on the report of their performance evaluation.

*Schedule IV Part VIII: Evaluation mechanism*

The performance of the independent directors would have to be done by the entire Board excluding the director to be evaluated.

On the basis of the report of performance evaluation, the continuance or extension of the term of appointment of the independent director would be determined.

As per Para 1.2.5 of the Secretarial Standard-2, in case of re-appointment of independent directors, performance evaluation report of such Director or summary thereof shall be included in the explanatory statement.

An indicative list of items which can be included in this performance evaluation summary can be as follows:-

- What were the parameters looked at for evaluation?
- What was the method of evaluation?

### **Requirements under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015**

SEBI with a view to consolidate and streamline the provisions of existing listing agreements for different segments of the capital market and to align the provisions relating to listed entities with the Companies Act 2013, notified the SEBI (LODR) Regulations, 2015. The regulations are applicable to all listed entities. It also requires Boards to conduct an annual performance evaluation and its disclosure in the annual report through the following provisions:

#### **1. Regulation (4)(2)(f)(ii)(9)**

The Key functions of the board of directors includes -

- Monitoring and reviewing board of director's evaluation framework.

#### **2. Regulation 17(10)** mandates that the evaluation of independent directors shall be done by the entire board of directors which shall include -

- (a) performance of the directors; and
- (b) fulfillment of the independence criteria as specified in the regulations and their independence from the management:

Provided that in the above evaluation, the directors who are subject to evaluation shall not participate.

#### **3. Regulation 19(4) read with Schedule II Part D(A)** provides that the role of Nomination & Remuneration Committee shall include the following:

- formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the board of directors a policy relating to, the remuneration of the directors, key managerial personnel and other employees;

- formulation of criteria for evaluation of performance of independent directors and the board of directors;
  - devising a policy on diversity of board of directors;
  - identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the board of directors their appointment and removal.
  - whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors.
4. **Regulation 25(3)** provides that the independent directors of the listed entity shall hold at least one meeting in a year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.
5. **Regulation 25(4)** provides that the independent directors in the meeting referred in sub-regulation (3) shall, *inter alia*-
- (a) review the performance of non-independent directors and the board of directors as a whole;
  - (b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors.
  - (c) Assess the quality, quantity and timeliness of flow of information between the management and the Board which is necessary for the board to effectively and reasonably perform their duties.

Thus the listing regulation is substantially a reiteration of provisions provided in the Companies Act, 2013 in the matter of board evaluation.

#### 6. **Schedule V C(d) - Corporate Governance Report**

The following disclosures shall be made in the section on the corporate governance of the annual report under the head- Nomination and Remuneration Committee -

- Performance evaluation criteria for independent directors.

The SEBI has released a Guidance Note on Board Evaluation in 2017, and the same is given at the end of this publication.

## **Frequency of Board Evaluation**

Section 134(3)(p) provides that there has to be a formal annual evaluation of Board of its own performance and that of its committees and individual directors. The Company may undertake annual evaluation either in accordance with calendar year or financial year, as there is no clarity on this. Ideally, the same should be as per financial year.

The Committee on Corporate Governance headed by Mr. Uday Kotak appointed by SEBI, had in its report submitted to SEBI on October 5, 2017 had the following recommendations on disclosures relating to board evaluation:

### **Recommendation and Rationale**

The Committee is of the view that the concept of board evaluation is at a nascent stage in India and prescribing detailed requirements in this area may not be desirable at this stage. The committee also took note of the Guidance note dated January 5, 2017 issued by SEBI on board evaluation and is of the opinion that the note is comprehensive and covers all major aspects of evaluation.

However, based on the study of a few actual board evaluation disclosures made by global companies, the committee recommends that in order to strengthen disclosures on board evaluation, a guidance should be issued, specifying, in particular, the following disclosures to be made as a part of the disclosures on board evaluation:

- a) Observations of board evaluation carried out for the year
- b) Previous year's observations and actions taken.
- c) Proposed actions based on current year observations.

The above recommendations are yet not a part of the SEBI LODR Regulations, 2015.

Snapshot of Indian Legislative Framework

Board of Directors and Evaluation

| Source   | Particulars                               | Board's Role in evaluation   | Remarks  |
|--|---|--|--|
| Companies Act-Section 134(3)(p) & Listing Regulations                                | Evaluation to be done by the entire Board | Has to do formal annual evaluation of its own performance          | Overall evaluation of the Board<br><br>Evaluation of Committees<br>Evaluation of individual directors<br><br>The said evaluation will be the basis for continuation of the extension/ the term of the Independent Director.          |
|  |   | Has to do formal annual evaluation of its Committees               |  |
|  |   | Has to do formal annual evaluation of all the individual directors |  |
|  |   | Has to do performance evaluation of Independent Director's         |  |
| Companies Act- Section 134(3)(p) read with Rule 8 of companies (Accounts) Rules 2014 | Disclosure                                | Board's Report   | All the listed public companies and public companies with paid-up share capital of Rs. Twenty Five crore or more shall have to include such a statement in Board Report indicating the manner & criteria of formal Board evaluation. |

Nomination Committee and Evaluation

| Source  | Particulars                                     | Committee's Role in evaluation   | Remarks   |
|---|---|--|---|
| Listing Regulations<br>Companies Act-<br>section 178(2) | Nomination &<br>Remuneration<br>Committee (NRC) | <p>Shall lay down the evaluation criteria for performance evaluation of Independent Directors</p> <p>Evaluate every director's performance</p> <p>Shall specify the manner for effective evaluation of performance of Board, its committees and individual directors to be carried out either by the Board, by the Nomination and Remuneration Committee or by an independent external agency and review its implementation and compliance</p> | <p>The evaluation criteria for Independent Directors shall be prepared by NRC.</p> <p>(This criteria is also required to be disclosed in the Annual Report of the Company)</p> <p>Evaluation of directors include:</p> <ul style="list-style-type: none"><li>a. Independent directors</li><li>b. Non executive directors</li><li>c. Executive directors and whole time directors</li><li>d. Managing Directors</li><li>e. Chairperson</li></ul> |

Role and functions of Independent Directors in relation to evaluation

| Source  | Particulars                                      | Independent Directors' Role in evaluation  | Remarks   |
|---|--|--|---|
| Companies Act - Schedule IV- Code for ID (Part VII) & Listing Regulations | In the separate meeting of Independent Directors | <p>Review the performance of Non-Independent Directors</p> <p>Review the performance of the Board as a whole</p> <p>Review the performance of the Chairperson of the Company, taking into account the views of Executive Director's and Non executive director's</p> <p>Assess the:</p> <ul style="list-style-type: none"><li>a. quality</li><li>b. quantity and</li><li>c. timeliness</li></ul> <p>of flow of information between the Company management and the Board, that is necessary for the Board to effectively and reasonably perform their duties.</p> | <p>Review of:</p> <ul style="list-style-type: none"><li>a. Non executive directors</li><li>b. Managing Director, whole time directors and Executive directors</li></ul> <p>Review the performance of the Board as a whole.</p> <p>Review the performance of the Chairperson.</p> <p>Quality of information includes its relevance, completeness, authenticity, how comprehensive, concise and clear such information is. As regards quantity, the independent director need to assess that the information is neither too less nor too much resulting in an information overload. Typically the information to the board members should carry an executive summary which is supplemented by detailed notes and where necessary back-up papers as annexure. Timeliness of information flow can be gauged from facts such as how soon are important events communicated between board meetings, timeliness of the agenda papers, etc.</p> |

**Some commonly asked questions on Board Evaluation are answered below:**

*Q1. Whether evaluation is required to be done even if the Directors on Board are nominated by some Regulators?*

The Board of Directors function in a fiduciary capacity and the Board is answerable to every stakeholder, including Regulators. Hence, it is recommended that the Board of Directors should do performance evaluation even of those directors who are nominated by some Regulators.

*Q2. Whether Directors retiring by rotation and getting re-appointed at Annual general meeting also need to be evaluated?*

Yes, as per Section 134(3)(p) read with Rule 8 of companies (Accounts) Rules 2014 and as per Para VII of Schedule IV of the Companies Act, 2013, every individual director is subject to evaluation. Hence, even those Directors who are retiring by rotation and getting re-appointed at Annual general meeting also need to be evaluated.

*Q3. Is it necessary that Independent Directors meeting evaluate each of the directors getting re-appointed?*

As per Section 134(3)(p) read with Rule 8 of companies (Accounts) Rules 2014 and as per Para VII of Schedule IV of the Companies Act, 2013, not only the directors who are getting re-appointed, but it is necessary to evaluate the performance of the Board as a whole and non-independent directors and Chairman, in particular.

*Q4. Whether evaluation is required to be done before regularisation of Directors appointed as Additional Directors or Directors appointed to fill casual vacancy of other directors?*

Since section 134 and Para VII of Schedule IV of the Companies Act, 2013 speaks about each performance evaluation of each individual director, it is recommended that evaluation of even such directors, who are appointed as Additional Directors or Directors appointed to fill casual vacancy of other directors, should also be done.

*Q5. Whether evaluation is required prior to appointment of Directors?*

No, as per Section 178(2) as well as under Regulation 19(4) read with



Para A or Part D of Schedule II of SEBI LODR Regulations, 2015 the Nomination and Remuneration Committee is required to identify persons who are qualified to become directors in accordance with the criteria laid down by it.

*Q6. Can a Company compensate differently to different Independent Directors based on evaluation?*

Yes, based on performance evaluation, different independent directors can be compensated differently, but in the form of profit based commission. Further, as per Regulation 17(6)(ca) of SEBI LODR Regulations, 2015 if the annual remuneration payable to a single non-executive director exceeds 50% of the total annual remuneration payable to all non-executive directors, then the approval of shareholders by special resolution shall be obtained every year, in which such remuneration is paid, giving details of the remuneration thereof.

# BOARD EVALUATION METHODOLOGIES

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Both the Companies Act, 2013 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 are silent on how Board evaluation is to be undertaken. Section 178(2) of the Companies Act, 2013 states that the Nomination and Remuneration Committee (NRC) shall specify the manner for effective evaluation of performance of the Board, its committees and individual directors to be carried out either by the Board, by the NRC or by an independent external agency and review its implementation and compliance.

Companies should ensure that the process for evaluation of the board, committees and directors is objective and developmental rather than being a mere compliance exercise. Doing just bare minimum for the sake of compliance would mean squandering the opportunity of genuinely endeavouring to improve the quality of work of the Board.

Typically, the Board evaluation process should comprise of both assessment and review. This would include analysis of how the Board and its committees are functioning, the time spent by the Board considering matters and whether the terms of reference of the Board committees have been met, besides ensuring compliance of the provisions of the Act.

Generally Board appraisals include following components:

1. Evaluation of the Board as a whole
  - a. Internally
  - b. Externally
2. Evaluation of Individual Directors (Independent, Executive, Non-executive, Whole Time Director)
  - a. Self evaluation
  - b. Peer to Peer evaluation
  - c. External

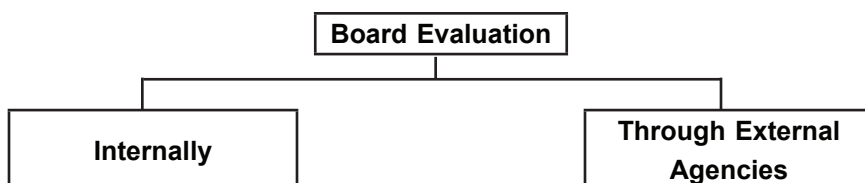
### 3. Evaluation of the Committees

- a. Internal (by the Board)
- b. External

### 4. Evaluation of the Chairperson

- a. All Directors
- b. External

Board Evaluation can either be done internally or through external agencies. This is elaborated below-



### Internal Evaluation

In case of internal evaluation, the Board is responsible for managing both the process as well as the contents. While evaluation processes should be tailored to the specific needs and objectives of a company, some of the common elements for effective evaluation include the following.

- (a) **Delegation of authority** : The company should delegate to the Nomination and Remuneration Committee and/or the lead director or independent chairman, the task of developing and implementing an evaluation process for the entire board, committees and individual directors.
- (b) **Defining the objectives** : The objective of the evaluation should be defined with some specificity. Boards should ask the following key questions to define the objectives of evaluation -
  - Is the evaluation being undertaken simply to comply with laws and to ensure best practices?
  - Are there specific areas that require close attention?
  - Have there been significant changes in the Board that

- Have lead to increased interest in working on board culture and alignment with management?
  - Are there any underlying concerns about how the board is functioning?
  - What would be considered as a successful outcome?
  - Are there sensitivities about exploring certain areas and, if so, why?
- (c) **Determining the scope** : The defined objective will help to determine the scope of the board evaluation, both as to who will be the subject of the evaluation and the topics that should be addressed for each such as– Board, Committees and individual directors.
- (d) **Identifying the participants** : The participants for the Board Evaluation process would generally include - directors for board evaluation; committee members for committee evaluation and all individual directors and independent directors. Individual directors may be asked to self- assess or they may be asked to assess their peers. Nominee directors if any may also provide their perspectives.
- (e) **Selecting the tools** : The evaluation process typically involves obtaining viewpoints from the Board members on the functioning of the Board, Committee or director performance through the use of Questionnaires or Interviews or Facilitated discussions. While selecting the tools, the Company should also keep in mind the culture of the organisation and assure that the process helps to build trust among participants as opposed to creating acrimony and mistrust in the board members.
- **Questionnaires**: Questionnaires are the most common method for facilitating board evaluation in India. These provide an efficient means of obtaining viewpoints while allowing for confidentiality. However, they may not elicit a full explanation of a particular point of view. Typically the questionnaires include questions that can be answered with standardized responses, as well as open-ended questions with scope for elaboration in specific areas by way of comment.

- *Interviews* : Interviews may also be conducted to explore viewpoints of the participants in detail. This is more time consuming but provides the opportunity for in-depth discussions. Questions are typically open-ended and the interviewer can explore issues raised in detail.
- *Facilitated discussion* : This provides the opportunity for directors and committee members to share their viewpoints and discuss potential modifications to governance practices in response to concerns and arrive at a consensus. Facilitated discussion helps to streamline the entire process.

These methods can also be combined. For example, a survey or an interview may be used to obtain information in a manner that protects confidence, followed by a facilitated discussion, or a survey may be sent out, followed by brief interviews culminating in a facilitated discussion. The defined objective will help determine the topics that are covered in the evaluation. To keep the evaluation fresh, both the process for obtaining the inputs and the specific questions should be changed from time to time.

A comparative analysis of the three Approaches to Board Evaluation is presented as under –

|             | <i>Quantitative:<br/>Questionnaires</i>   | <i>Qualitative:<br/>Interviews</i>  | <i>Qualitative:<br/>Facilitated<br/>discussion/ Group<br/>self- assessment</i>                                |
|-------------|---|---|---|
| Description | Board members complete a written survey, rating board performance on a numeric scale; results are discussed by the full board in a feedback session | One-on-one interviews are conducted with each board member; results are discussed by the full board in a feedback session | Trained facilitator leads a group discussion of the full board; session summarized in a report for future use |

|           | <i>Quantitative:<br/>Questionnaires</i>  | <i>Qualitative:<br/>Interviews</i>   | <i>Qualitative:<br/>Facilitated<br/>discussion/ Group<br/>self- assessment</i>  |
|-----------|--|--|---|
| Strengths | <ul style="list-style-type: none"><li>• Participants are familiar with this straightforward, standard practice</li><li>• Can be completed at a participant's convenience</li><li>• Can track a board's progress over time</li><li>• Feedback sessions often focus on generating additional information and insights to supplement the survey data</li><li>• Anonymity can be ensured</li></ul> | <ul style="list-style-type: none"><li>• Participants become engaged in the interview process; most find it interesting and even enjoyable</li><li>• Information tends to be more complete than what a survey gathers, which is helpful in fully understanding the issues, setting priorities, and developing plans to address them</li><li>• Feedback sessions tend to be highly engaging</li><li>• Anonymity can be ensured</li></ul> | <ul style="list-style-type: none"><li>• Participants find the process energizing and engaging</li><li>• Critical thinking is heightened because views are shared with everyone and participants can question each other</li><li>• Generates consensus on priorities and support for plans to address them</li><li>• Requires no preparation by participants</li><li>• Serves as a team building exercise</li><li>• Most effective when there is a high degree of trust and openness among board members</li></ul> |

(f) **Analyze and discuss the results** : The information obtained from questionnaires and interviews should be collected and analyzed in a written or oral report that is designed to stimulate a full board or committee discussion on the results. Whatever format is used, the evaluation should culminate in deliberation and discussion about how the board and its committees can improve their functioning. This is a key to productive evaluation.

- (g) **Commit to action** : The results of the evaluation should be used to resolve issues, make changes and achieve goals. If the Board discussion leads to consensus about areas in which changes might be beneficial, appropriate follow-up action should be taken. The discussion on results of entire board evaluation process should be recorded in the minutes appropriately to reflect the evaluation done and measures taken.

### **Drawbacks of Internal Evaluation**

- Directors are reluctant to share issues within the company.
- This process does not bring confidence among all stakeholders especially shareholders as they may question the rigour of the process.
- As independence of evaluation cannot be ensured, the findings may be considered as biased.

### **Board Evaluation by External Agencies**

The Board of the company may identify an independent external agency to facilitate the entire process of Board, committee and directors evaluation to bring in the transparency in the system and garner the confidence of stakeholders.

A good external facilitator can add much external perspective which a board would otherwise not be able to access. An external view can be both challenging as well as reassuring. Evaluation by external agencies provides independent and impartial advice, bereft of any bias, objectivity and rigour. Board Evaluation by external agency also helps to gain a view on how a board is doing compared to other boards.

While conducting the board evaluation through external agencies, both the parties - the consultants and the company should be clear about the levels of expectation associated with the assignment. Both the parties should communicate openly and transparently to avoid the risk of misunderstandings, and maximise the benefits of the engagement. Agreements in the following areas should be set out formally and in writing. It is also important to note that these external consulting firms have no ties to the Board of Directors or senior management, and have full autonomy in tabulating the results and examining the appraised parameters.

- (a) *Clarity of engagement and scope* : There should be agreement on the scope of the assignment, in advance of commencing work. There should be agreement on the process which will be followed to deliver the assignment, in advance of commencing work.
- (b) *Agreement on timing, deliverables and fees* : There should be agreement on the nature of the services to be provided. The agreement should clearly identify the timescale for completing the assignment, the deliverables, and the basis of remuneration, in advance of commencing work.
- (c) *Assignment of personnel* : There should be agreement on who will carry out the assignment. The consultants should not substitute or sub-contract or assign work without the prior agreement of the client. The consultants should make clear whether any person working on the assignment is employed by the firm, or is working under contract.
- (d) *Communication and feedback* : The consultants will ensure that the company is kept fully informed about the progress of the assignment. The consultants will take note of any feedback provided by the client on the performance of the consultants' services, and will seek formal feedback from the company after the process not just on the outcomes, but on the overall approach pursued by the consultants, and how they could be more effective.
- (e) *Public reporting of outcomes* : There should be clarity in the agreement between the company and the consultants on the degree and extent to which the consultants' assent to public reporting by the company will be required.
- (f) *Post-evaluation review of the assignment* : The company and the consultants should agree on whether there will be a review of the evaluation exercise, and how the lessons learned can be shared to the participants' mutual benefit.
- (g) *Post-evaluation review of the assignment outcomes* : The company and the consultants should agree on whether, and how, there should be a review of what actions have been taken in response to the evaluation, and the effectiveness of the outcomes.



# BROAD EVALUATION FRAMEWORK AND PARAMETERS

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Boards should understand the framework under which board and committee evaluations are conducted, and take steps to ensure evaluations are carried out effectively. As per the Companies Act, 2013 as well as SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Board evaluation would generally cover the following areas:

1. Evaluation of the Board as a whole
2. Evaluation of the Committees
3. Evaluation of Individual Directors
  - Managing Director / Whole time Director / Executive Director
  - Independent Directors
  - Non-executive Directors
4. Evaluation of the Chairperson

## **1. Evaluation of the Board as a Whole**

The performance of the Board as a whole may be evaluated either based on the reviews/ feedback from the directors themselves or by some external source. The Independent Directors at their separate meeting shall also assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties. The evaluation of the performance of the Boards is essentially an assessment of how the Board has performed on following parameters which determines the effectiveness of boards.

- a. *Structure of the Board* : its composition, constitution and diversity and that of its Committees, competencies and experience of the members, transparency in appointment

process, Board and Committee charters, frequency of meetings, procedures;

- b. *Dynamics and Functioning of the Board* : annual Board calendar, information availability, interactions and communication with CEO and senior executives, Board agenda, cohesiveness and the quality of participation in Board meetings;
- c. *Business Strategy Governance* : Board's role in formulation of company strategy;
- d. *Financial Reporting Process, Internal Audit and Internal Controls* : The integrity and the robustness of the financial and other controls regarding abusive related party transactions, vigil mechanism and risk management;
- e. *Monitoring Role* : Monitoring of policies, strategy implementation and systems;
- f. Supporting and Advisory Role; and
- g. The Chairperson's Role.

*The evaluation form placed later as Part I in Sample Evaluation Tools may be referred.*

## **2. Evaluation of the Committees**

The Board is responsible for the evaluation of the performance its Committees. The performance of the committees may be evaluated by the Directors, on the basis of the terms of reference of the committee being evaluated. The evaluation may also be externally facilitated. The broad parameters of reviewing the performance of the Committees, inter alia, are:

- a. Discharge of its functions and duties as per its terms of reference;
- b. Process and procedures followed for discharging its functions;
- c. Effectiveness of suggestions and recommendations received;

- d. Size, structure and expertise of the committee; and
- e. Conduct of its meetings and procedures followed in this regard.

*The evaluation form placed later as Part V in Sample Evaluation Tools may be referred.*

### **3. Evaluation of Individual Director(s)**

#### **(a) *Evaluation of Managing Director / Whole time Director / Executive Director***

The performance evaluation of Managing Director, Executive Director of the Company may be done by all the directors. The external facilitation may also serve as an efficient tool for evaluation. The Code for Independent Directors provides that Independent Directors should review the performance of non-independent Directors, which include the Managing Director / Whole time Director/Executive Director. The broad parameters for reviewing the performance of Managing Director/Executive Director are:

- a. Achievement of financial/business targets set by the Board;
- b. Developing and managing / executing business plans, operational plans, risk management, and financial affairs of the organization;
- c. Display of leadership qualities i.e. correctly anticipating business trends, opportunities, and priorities affecting the company's prosperity and operations;
- d. Development of policies, and strategic plans aligned with the vision and mission of the company which harmoniously balance the needs of shareholders, clients, employees, and other stakeholders;
- e. Establishment of an effective organization structure to ensure that there is management focus on key functions necessary for the organization to align with its mission;

- f. Managing relationships with the Board, management team, regulators, bankers, industry representatives and other stakeholders; and
- g. Demonstrate high ethical standards and integrity, attendance at meetings, commitment to the organization.

*The evaluation form placed later as Part II in Sample Evaluation Tools may be referred in this context.*

(b) *Evaluation of Independent Directors:*

The performance evaluation of independent directors should be done by the entire Board of Directors, excluding the director being evaluated. On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

In addition to the parameters laid down for directors, which shall be common for evaluation to both Independent and non- executive directors, an independent director shall also be evaluated on the following parameters:

- a. Maintenance of independence and no conflict of interest.
- b. Exercise of objective independent judgment without any fear or favour directed towards the best interest of the company;
- c. Ability to contribute to and monitor corporate governance practice; and
- d. Adherence to the code of conduct for independent directors.

*The evaluation form placed later as Part IV in Sample Evaluation Tools may be referred for peer review.*

*The evaluation form placed later as Part III in Sample Evaluation Tools may be referred for self assessment.*

(c) *Evaluation of Non-Executive Directors*

In terms of the Code for Independent Directors, the Independent director(s) on the Board of the company should evaluate the performance of non-independent director(s) which include non-executive director(s). Peer Review method or external evaluation may also facilitate the purpose of evaluating non-executive directors. The broad parameters for reviewing the performance of non-executive directors are:

- a. Participation at the Board / Committee meetings;
- b. Commitment (including guidance provided to senior management outside of Board/ Committee meetings);
- c. Effective deployment of knowledge and expertise;
- d. Effective management of relationship with stakeholders;
- e. Integrity and maintaining confidentiality;
- f. Independence of behaviour and judgment; and
- g. Impact and influence.

*The evaluation form placed later as Part IV in Sample Evaluation Tools may be referred.*

**4. Evaluation of Chairperson of the Board**

The performance of the Chairperson is linked to both the functioning of the Board as a whole as well as the performance of each director. The Code for Independent Directors provides that the Independent Directors should review the performance of the Chairperson of the company taking into account the views of the executive directors and non-executive directors.

Therefore, all the directors of the Board of the company thereof contribute in evaluating the performance of the Chairperson of the Board. External agencies may also be involved in evaluating the Chairperson.

The broad parameters for reviewing the performance of Chairperson of the Board are:

- a. Managing relationship with the members of the Board and management;
- b. Demonstration of leadership qualities and able steering of meetings;
- c. Relationship and communication within the Board;
- d. Providing ease of raising of issues and concerns by the Board members;
- e. Promoting constructive debate and effective decision making at the board;
- f. Relationship and effectiveness of communication with the shareholders and other stakeholders;
- g. Promoting shareholder confidence in the Board; and
- h. Personal attributes i.e. Integrity, Honesty, Knowledge, etc.

*The evaluation form placed later as Part VI in Sample Evaluation Tools may be referred.*

Different criteria may be assigned with different weights depending on the organisation's requirements, circumstances, outcome of previous assessments, stage of Board's maturity, etc. Instead of the questionnaire in a simple yes/no format, it is advised that it provides scope for grading, additional comments, suggestions, etc.

### **Post-evaluation Activities**

Evaluations provide critical insights into how the board can become stronger and support the organization's strategic objectives. However, such assessments become merely superficial if they are not acted upon, if the strengths revealed are not leveraged, or if the weaknesses identified are not rectified. Boards look forward to evaluations for useful feedback, which can be used to develop specific action plans. The results must be communicated to the concerned people in an appropriate manner, leading to generation of improvement action plan.

The actions a board should follow to ensure it does not just "tick the box" in an evaluation, but instead uses the resulting data for improvement.

Generally post evaluation activity should include –

1. Prepare a summary report and analysis of the findings highlighting the degree of board effectiveness in each area examined, noting areas of effectiveness as well as areas of concern.
2. Discuss with the nomination and Remuneration Committee as to what was learnt in the board evaluation process and share any additional insights.
3. Submit the report to each director and place the board's discussion on the findings as a high-priority agenda with sufficient time allocated for discussion.
4. Discuss the findings candidly and openly with each director so that he/she can freely contribute his/her views.
5. Agree on and approve an action plan to address areas of improvement.
6. Assign responsibilities and monitor any improvement achieved.
7. Incorporate achievement objectives into the next board evaluation to make it a dynamic, continuous improvement process that is more than just an annual form-filling exercise.

A similar process may be followed for the evaluation of the board committees.

Where the results of the evaluation concern individual director performance, the generally accepted approach is for the board chairman and/or the nomination and remuneration committee chairman, with or without an external facilitator, to discuss the findings individually with each director.

Some companies even follow the practice of discussing the results of performance of directors around the board table, a process that can lead to much greater mutual understanding.

The success of such an approach depends very much on the introspection, confidence and honesty of the individuals participating in the process and the degree of trust and collegiality in their board culture.

If the objective of the board evaluation is to assess the quality of board-

management relationships, results of the evaluation should be shared with the executive management team.

### **Succession Planning and Board Evaluation**

It is most important that the board is prepared for resignation and/or retirement of its members. Succession planning for the board and for board committees should follow the board evaluation process. As a part of board evaluation, an evaluation of the skills and competences within the current board should be measured against future expected requirements of the skills and competences within the board. This provides a readily available profile of a new board member, if one be required on short notice. The board should continually ensure that it has the right set of skills, talents and attributes.

A well-prepared board will develop a succession plan that provides guidance on identifying and sourcing potential board members who can fulfill key requirements. This succession plan helps the organization appoint new directors quickly in a structured manner, allowing the board to continue its business without disruption, meeting any business challenges that are encountered.

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# BOARD EVALUATION – DISCLOSURE

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Investors need to know whether a board is effective, and good corporate communication can do much to convey the board's message to investors and other stakeholders on outcomes that arise from evaluation. The Council of Institutional Investors in the United States has stated in its report "Best Disclosure–Board Evaluation" that when making voting decisions about directors, shareholders value detailed disclosure of the board evaluation process—how the board goes about evaluating itself, identifying areas for improvement, and addressing them—as a window into the boardroom. While shareholders generally do not expect the board to discuss the details of individual director assessments, they want to understand the process by which the board goes about regularly improving itself. This is particularly important because over time, a board may become complacent or may need new skills and perspectives to respond nimbly to changes in the business environment or strategy. Disclosures about how the board evaluates itself, identifies areas for improvement and provide a window into how robust the board's process is for introducing change.

The Council of Institutional Investors has developed following guidelines explaining its expectations of board evaluation disclosures:

*"Investors value specific details that explain who does the evaluating of whom, how often each evaluation is conducted, who reviews the results and how the board decides to address the results. This type of disclosure does not discuss the findings of specific evaluations, either in an individual or a holistic way, nor does it explain the takeaways the board has drawn from its recent self-evaluations. Instead, it details the "nuts and bolts" of the self assessment process to show investors how the board identifies and addresses gaps in its skills and viewpoints generally".*

CII recommends that self-evaluation disclosures should go beyond a detailed discussion of the board's evaluation methodology to also include a discussion of "big-picture, board-wide findings and any steps for tackling areas identified for improvement." This approach focuses on the most

recent evaluation and recaps key takeaways from the board's review of its own performance. This evaluation includes a discussion of areas where the board feels it functions effectively, areas where it thinks it can improve and a plan of action to address these matters.

### **Disclosure by General Electric**

According to CII's report, General Electric is one of the few U.S. companies that provide a thorough disclosure of its board evaluation process. Its disclosure focuses exclusively on the mechanics of how the evaluation is conducted, without venturing into the results or findings from previous evaluations. The detailed explanation of the evaluation process is included in the company's "Governance and Public Affairs Committee Key Practices" document, which is separate from the proxy statement. General Electric's proxy statement includes a brief high-level overview of how the process is conducted and provides a link to the document where a more detailed explanation can be found.

#### **Disclosure made in Annual Report 2019**

The remaining information called for on DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE is incorporated by reference to "Election of Directors," "Other Governance Policies & Practices" and "Board Operations" in definitive proxy statement for 2020 Annual Meeting of Shareholders.

The proxy statement 2020 of General Electric's states the following:

- Formal Board and committee self-evaluation was conducted by lead director or independent third-party.
- Directors completed written questionnaires focusing on the performance of the Board and each of its committees.
- The lead director conducted a one-on-one interview with each member of the Board focused on:
  - reviewing the Board's and its committees' performance over the prior year; and
  - identifying areas for potential enhancements of the Board's and its committees' processes going forward.

- The lead director reviewed the questionnaire and interview responses with the full Board.
- The Board and each of its committees developed plans to take actions based on the results, as appropriate.
- The 2019 evaluation reaffirmed that changes implemented following the 2018 self-evaluation process, such as elimination of the Finance and Capital Allocation Committee, had resulted in improvements. Other changes coming out of the 2019 self-evaluation included more dedicated meeting time for long-term strategy discussions and enhancements to Board and committee materials.

(The proxy statement 2020 of General Electric's may be accessed at [https://www.ge.com/sites/default/files/GE\\_Proxy2020.pdf](https://www.ge.com/sites/default/files/GE_Proxy2020.pdf))

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# BARRIERS TO BOARD EVALUATION

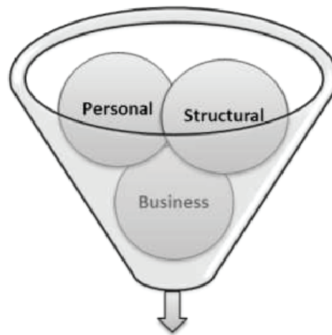
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*“One of the great mistakes is to judge policies and programs by their intentions rather than their results”. – Milton Friedman*

Corporate boards today are expected to be more engaged, more knowledgeable and more effective than in the past. In order to achieve these traits, board evaluation is emerging as the tool to examine board effectiveness. Annual assessments have become the norm for boards in many countries.

Despite the growing acceptance, board assessments are falling short of their promise of enhancing board effectiveness. They are facing certain challenges which are acting as barriers and making evaluation ineffective.

Barriers to board evaluation can be classified under three categories:



## Barriers to Board Evaluation/Effectiveness

### Personal Concerns

- *Mindsets or Attitudes*

Attitudes are the first and greatest challenge, particularly when ‘mindsets’ include indifference or inflexibility – unwillingness to change. The duty to exercise independent judgment also poses distinct challenges. Many directors prefer to go along with the majority (“group think”) to get along. Directors who have served with

the same Board members over an extended period of time may be uncomfortable judging or being judged by colleagues. They are accustomed to evaluating the CEO and other senior executives, but when asked to engage in Board evaluation, they raise a wide range of objections.

- *Incompetency to come out of comfort zone*

Directors who have served with the same Board members over an extended period of time seems to develop a comfort zone and therefore, show reluctance to infusion of new people into the organization. Deliberate thought should be given to form a well-functioning team having a healthy blend of new and old experienced members.

- *Failure to remove unproductive members*

People who are not carrying out their commitments as board members become major blocks to overall board effectiveness. There needs to be a process for evaluating board member performance and making recommendations regarding their future service with the board.

## **Structural Concerns**

- *Non-availability of pre-defined objectives and scope for evaluation*

Boards tend to spend their precious and limited time on discussion of trivial subjects while neglecting major agenda items which require their absolute attention. This happens due to lack of pre-identified objectives and scope for the evaluation. Temptation to micro-management can be minimised by having a strategic plan.

Areas including board process, behaviours, communication issues, the effectiveness of executive sessions, the role of the lead independent director, the board's relationship to management and development of the board's agenda etc. can be identified so that the evaluation can be more focussed.

- *Non-identification of assessment approach*

Board's approach assessments can be done in a variety of ways

ranging from a director questionnaire to a robust process in which directors are interviewed individually, typically by a third party, to draw out candid views about the board's effectiveness.

- *Small size of Board*

Sometimes a board is ineffective because it is simply too small in number. When we consider the awesome responsibilities of board leadership, it's easy to see why we need enough people to do the work. We need enough members to lead and form the core of the committees and, in general, share in other work of the board. We also need sufficient numbers to reflect the desired diversity in the board as well as assure the range of viewpoints that spurs innovation and creativity in board planning and decision-making. This issue of board size has been addressed by the SEBI LODR Regulations, 2015 which provide that effective from April 1, 2019 the top 1000 listed companies and the top 2000 listed companies with effect from April 1, 2020 shall have a board strength which is not less than six directors.

- *Ineffective Nomination and Remuneration Committee and lack of functioning committee structure*

Nomination and Remuneration Committee has a lasting impact on an organization as this committee determines who shall constitute as Board leaders in future. A well organized nomination and remuneration committee with clear sense of recruiting priorities as well as expectations for individual board members especially in the area of fund-raising makes the committee more effective. These elements are frequently missing in many organizations. If the nomination and remuneration committee or board recruiting committee is poorly organized, board members in turn are not likely to have a good understanding of the organization and their role as board members.

Also, Board fails to perform at an acceptable level is due to lack of a functioning committee structure. While it is true that major decisions are made in board meetings, it is also true is that most of the work that supports and implements this decision-making occurs at the committee level. If the board has a committee structure

that functions inadequately, this can lead to poor performance in general.

- *Non-availability of post evaluation action plan*

Some boards, for compliance reasons, begin an assessment process, but then spend little or no time on discussing the findings. In addition to leaving issues unresolved, lack of follow-up can generate cynicism about the process and the board leadership's commitment to improving effectiveness in the future.

Absence of action plan to review the results of the assessment and addressing the results of evaluation further adds to the ineffectiveness to the board evaluation process.

- *Diversity in culture and governance process*

Board structures, governance issues and cultural norms differ by company and country, and these differences also can affect the style and scope of the board assessment. To be most effective, a board assessment must be tailored to the company's current business context.

## **Business Concerns**

- *No strategic plan*

Absence of a strategic plan in this period of rapid change would make the process ineffective. A strategic plan provides clear direction and helps in revealing questionable transactions like inappropriate loans, related party transactions or fairness of remuneration packages (annual, per meeting fees, etc). Similarly, lack of a long-range service delivery and financial development plan that will advance the strategic plan also is major business concern.

- *Absence of a Board Leader*

A pre-requisite to a successful evaluation is having an independent board leader to champion the assessment process. The Independent Board Leader is in a position to drive the process by involving the right people, asking for directors' time, scheduling time on the agenda to discuss the results and ensure that the board follows up on the issues that emerge.

Boards Leadership Culture strongly influences the issues investigated by it. The Chairperson plays crucial role in ensuring legitimacy with sense of fairness and authority in evaluation process.

- *Having narrower Perspectives*

Narrower perspective on Board evaluation is a major hurdle in process. Incorporating new perspectives on the board's effectiveness by seeking inputs from senior management team members, executives who participate in most of the board meetings such as the Chief Financial Officer and Head of Human Resources can help in broadening our perspectives. Non-availability of a platform for obtaining valuable feedback from Executives about what Board does well and what needs improvement is an important issue.

Board assessments also can be more valuable when boards benchmark themselves against other high-performing boards in the same industry segment or against best practices in a specific area.

- *Compliance based Assessment*

The Assessment process is limited to compliances only. Rather, the process should go beyond compliance issues considering the board's role in strategic decision-making, gaps in knowledge and competencies on the board, executive and director succession planning, etc.

- *No process for Just-in-Time Board Orientation*

Learning curve of directors lag sometimes because timely training and orientation is not provided. An effective "just-in-time" board orientation program should be prescribed focussing on the strategic plan of the organization. If the prospective board members are familiar with the mission, vision, major goals, and strategies of the organization and additional information and training is provided to the greatest extent possible, new board members will participate in their first meeting with confidence and vigour.

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# BOARD EVALUATION - CURRENT TRENDS AND PRACTICES IN INDIA

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Prior to the introduction of the Companies Act, 2013, most companies conducted board evaluation to raise the company's Corporate Governance standards and to ensure that the Boards and their members are functioning properly in line with the requirements of the erstwhile listing agreements. Now, Board evaluation is a mandatory requirement for all listed and certain prescribed classes of companies. Only the Government companies where directors are evaluated by the Ministry or Department of the Central or State Government are exempted.

India Board Report 2015-16 surveyed over 500 companies. Selection of the companies was based on their market capitalization (750 crore INR and more) on the Bombay Stock Exchange (BSE) and their ownership. According to the survey, sixty-two per cent of the companies surveyed do not currently have a board evaluation process, and will have to introduce it. Eighty-nine per cent of companies that have a board evaluation process, would prefer to do it internally. Among the companies that need to implement a board evaluation process, 66% would prefer to do a self-assessment and a very small percentage (16%) of companies, indicated that they will avail the services of an external/third-party assessor. However, most of the top 100 companies listed on BSE have implemented board evaluation process, except Govt. companies which are exempted.

## Disclosures

Section 134 (3) (p) provides that the report by Board of Directors of every company except Government Companies should include a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.

Though most of the companies have disclosed a paragraph on Board evaluation stating that they have conducted evaluation of board, this approach does not focus on the mechanics of how the evaluation process

has been conducted and analyzed. Investors value specific details that explain who does the evaluating of whom, how often each evaluation is conducted, who reviews the results and how the board decides to address the results. This type of disclosure does not discuss the findings of specific evaluations, either in an individual or a holistic way, nor does it explain the takeaways the board has drawn from its recent self-evaluations. Instead, it details the “nuts and bolts” of the self-assessment process to show investors how the board identifies and addresses gaps in its skills and viewpoints generally. This kind of disclosure can be an “evergreen” approach that remains the same in proxy materials from year to year, assuming the board’s evaluation process does not change.

### **Process of Evaluation**

The Act does not prescribe any specific method for evaluating the board. Generally, Board evaluation is an elaborate process. Pre-evaluation process involves deciding the objective, criteria and method for evaluating the board. The board decides all those with inputs from the CEO. The most common evaluation method is to collect data by analysing governance documents (e.g., agenda and minutes), surveying directors through a questionnaire and interviewing directors. A robust board evaluation strategy employs all of these tools both in combination and rotation over time.

The data so collected is analysed and a report is presented for discussion before the full board. Performance of individual directors is assessed through self-assessment and interview. Feedback is provided to each director on a one-to-one basis. Usually, the chairperson of the Nomination and Remuneration Committee or the lead independent director supervises the whole process, interviews individual directors, provides feedback to each director and presents the report before the full board. Confidentiality is the hallmark of the evaluation process. Therefore, names of individuals are removed from all documents while collating and analysing the data.

On analysing the latest available annual reports of top 50 companies listed on Bombay Stock Exchange, most of the companies have evaluated their directors and committees through questionnaires.

### **Process of Evaluation**

**HDFC Bank Ltd.** has stated in its annual report for the year 2019-20 that

the Nomination and Remuneration Committee (NRC) has approved a framework / policy for formal annual evaluation of the Board, Committees of the Board and the individual members of the Board (including the Chairperson), which is reviewed annually by the NRC.

The process of board evaluation adopted by HDFC Bank Ltd. disclosed in its annual report 2019-20 is given in following paras -

*“A questionnaire for the evaluation of the Board, its Committees and the individual members of the Board (including the Chairperson), designed in accordance with the said framework and covering various aspects of the performance of the Board and its Committees, including composition and quality, roles and responsibilities, processes and functioning, adherence to Code of Conduct and Ethics and best practices in corporate governance was sent out to the Directors. The responses received to the questionnaires on evaluation of the Board and its Committees were placed before the meeting of the Independent Directors for consideration. The assessment of the Independent Directors on the performance of the Board and its Committees was subsequently discussed by the Board at its meeting.”*

*“The Bank has in place a process wherein declarations are obtained from the Directors regarding fulfilment of the ‘fit and proper’ criteria in accordance with RBI guidelines. The declarations from the Directors other than members of the NRC are placed before the NRC and the declarations of the members of the NRC are placed before the Board. Assessment on whether the Directors fulfil the said criteria is made by the NRC and the Board on an annual basis. In line with the Bank’s Board-approved policy on appointment and fit and proper criteria for directors, any director appointed during the financial year for which performance review / evaluation exercise of the Board of Directors is being conducted, must have attended at least three (3) Board meetings convened in that financial year in order to participate in such review / evaluation exercise. Since Mrs. RenuKarnad was appointed on the Board with effect from March 3, 2020, she has attended one Board meeting held in FY 2019-20 and is thus not eligible for the Board performance evaluation for FY 2019-20.”*

*“In addition, the framework / policy approved by the NRC provides for*

*a performance evaluation of the Non-Independent Directors by the Independent Directors on key personal and professional attributes. In addition to the above parameters, the Board also evaluates fulfillment of the independence criteria as specified in SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015 by the Independent Directors of the Bank and their independence from the management. Such performance evaluation has been duly completed as above.”*

**Hero MotoCorp Ltd.** has stated in its annual report for the year 2019-20 that a formal evaluation of the performance of the Board, its Committees, the Chairman and the individual Directors was carried out for FY 2019-20.

The process of board evaluation adopted by Hero MotoCorp Ltd. disclosed in its annual report 2019-20 is given in following paras -

*“Led by the Nomination & Remuneration Committee, the evaluation was carried out using individual questionnaires covering, amongst others, composition of Board, conduct as per company values & beliefs, contribution towards development of the strategy & business plan, risk management, receipt of regular inputs and information, codes & policies for strengthening governance, functioning, performance & structure of Board Committees, skill set, knowledge & expertise of Directors, preparation & contribution at Board meetings, leadership etc.”*

*“Further, the Committees were evaluated in terms of receipt of appropriate material for agenda topics in advance with right information and insights to enable them to perform their duties effectively, review of committee charter, updation to the Board on key developments, major recommendations & action plans, stakeholder engagement, devoting sufficient time & attention on its key focus areas with open, impartial & meaningful participation and adequate deliberations before approving important transactions & decisions.”*

*“As part of the evaluation process, the performance of Non-Independent Directors, the Chairman and the Board was conducted by the Independent Directors. The performance evaluation of the respective Committees and that of Independent and Non-Independent Directors was done by the Board excluding the Director being evaluated.”*

**Tata Consultancy Services Ltd.** has mentioned in its annual report for the year 2019-20 that the Board of Directors has carried out an annual evaluation of its own performance, board committees and individual directors pursuant to the provisions of the Act and SEBI Listing Regulations.

The process of board evaluation adopted as disclosed in its annual report 2019-20 is given in following paras -

*“In a separate meeting of independent directors, performance of non-independent directors, the Board as a whole and the Chairman of the Company was evaluated, taking into account the views of executive directors and non-executive directors.”*

*“The Board and the Nomination and Remuneration Committee reviewed the performance of individual directors on the basis of criteria such as the contribution of the individual director to the board and committee meetings like preparedness on the issues to be discussed, meaningful and constructive contribution and inputs in meetings, etc.”*

*“At the board meeting that followed the meeting of the independent directors and meeting of Nomination and Remuneration Committee, the performance of the Board, its Committees, and individual directors was also discussed. Performance evaluation of Independent Directors was done by the entire Board, excluding the independent director being evaluated.”*

**Bajaj Finance Ltd.** has stated in its annual report for the year 2019-20, the manner in which formal annual evaluation of performance was carried out by the Board:

- *“The Nomination and Remuneration Committee (NRC), at its meeting held on 17 March 2017, revised the criteria for performance evaluation. The said criteria is available on the website of the Company at <https://www.bajajfinserv.in/media/finance/downloads/performanceevaluation-criteria-for-board-committees-of-board-chairperson-and-directors.pdf>*
- *Based on the said criteria, questionnaire-cum-rating sheet were deployed using an IT platform for seeking feedback of the directors with regards to the performance of the Board, its Committee, Chairperson and individual directors.*

- *From the individual ratings received from the directors, a report on summary of ratings in respect of performance evaluation of the Board, its Committees, Chairperson and individual directors for the year 2019 and a consolidated report thereof were arrived at.*
- *The report of performance evaluation so arrived at, was then noted and discussed by the Board at its meeting held on 19 May 2020.*
- *The NRC reviewed the implementation and compliance of the performance evaluation at its meeting held on 19 May 2020.*
- *Under the law, as per the report of performance evaluation, the Board shall determine, inter alia, whether to continue the term of appointment of the independent director.*
- *Details on the evaluation of Board, non-independent directors and Chairperson of the Company as carried out by the independent directors at their separate meeting held on 19 May 2020 have been furnished in a separate para elsewhere in this Report.”*

**ITC Ltd.** stated in its Report and Accounts for the year 2019 that the Nomination & Compensation Committee formulated the Policy on Board evaluation, evaluation of Board Committees’ functioning and individual Director evaluation, and also specified that such evaluation will be done by the Board, pursuant to the Act and the Rules thereunder and the Listing Regulations 2015.

*“In keeping with ITC’s belief that it is the collective effectiveness of the Board that impacts Company’s performance, the primary evaluation platform is that of collective performance of the Board as a whole. Board performance is assessed against the role and responsibilities of the Board as provided in the Act and the Listing Regulations 2015 read with the Company’s Governance Policy. The parameters for Board performance evaluation have been derived from the Board’s core role of trusteeship to protect and enhance shareholder value as well as to fulfill expectations of other stakeholders through strategic supervision of the Company. Evaluation of functioning of Board Committees is based on discussions amongst Committee members and shared by the respective Committee Chairman with the Board. Individual Directors are evaluated in the context of the role played by each Director as a*

*member of the Board at its meetings, in assisting the Board in realising its role of strategic supervision of the functioning of the Company in pursuit of its purpose and goals.”*

*“While the Board evaluated its performance against the parameters laid down by the Nomination & Compensation Committee, the evaluation of individual Directors was carried out against the laid down parameters, anonymously in order to ensure objectivity. Reports on functioning of Committees were placed before the Board by the Committee Chairmen. The Independent Directors Committee of the Board also reviewed the performance of the non-Independent Directors and the Board, pursuant to Schedule IV to the Act and Regulation 25 of the Listing Regulations 2015.”*

**Hindustan Unilever Ltd.** has stated in its annual report for the year 2019-20 that the criteria of performance evaluation of Board, its Committees and Individual Directors forms part of the ‘Corporate Governance Code’ which is available on the website of the Company.

The process of board evaluation adopted by Hindustan Unilever Ltd. disclosed in its annual report 2019-20 is given in following para:

*“During the year, Board Evaluation cycle was completed by the Company internally which included the Evaluation of the Board as a whole, Board Committees and Peer Evaluation of the Directors. The exercise was led by the Chairman and Managing Director of the Company along with the Chairman of the Nomination and Remuneration Committee of the Company. The Evaluation process focused on various aspects of the functioning of the Board and Committees such as composition of the Board, Board Oversight and effectiveness, performance of Board Committees, Board skills and structure, etc. Separate exercise was carried out to evaluate the performance of individual Directors on parameters such as attendance, contribution and independent judgment.”*

**Housing Development Finance Corporation Ltd.** has stated in its annual report for the year 2019-20 that the Nomination and Remuneration Committee (NRC) formulates the criteria for evaluation of the Chairman, independent directors, executive directors, the board as a whole and board committees.

The process of board evaluation adopted as disclosed in its annual report 2019-20 is given in following para:

*“During the year, the evaluation of the performance of the board as a whole and its committees and the performance of directors was conducted internally through an online module after taking cognisance of the guidance note on board evaluation issued by SEBI.*

*Dr. J.J. Irani, Chairman of the Nomination and Remuneration Committee, shared the feedback received on board evaluation with members of the committee and other independent directors at their respective meeting.*

*The whole-time directors and the Chairman of the Corporation were evaluated based on various quantitative and qualitative criteria, including knowledge and competency, commitment and contribution, leadership, governance and other parameters. The directors also undertook peer evaluation with a view to have a more comprehensive board evaluation process.”*

### **Criteria for evaluation**

The Section 178(2) of Companies Act 2013 and SEBI (LODR) Regulations, 2015 provides that Nomination and remuneration Committee shall formulate criteria for evaluation of performance of independent directors and the board of directors. Below stated disclosures are made in the latest annual reports of the following companies:

**HDFC Bank Ltd.** has stated in its annual report for the year 2019-20 that ‘the Nomination and Remuneration Committee’ formulates criteria for evaluation of performance of individual directors including independent directors, the Board of Directors and its Committees:

*“The criteria for evaluation of performance of directors (including independent directors) include personal attributes such as attendance at meetings, communication skills, leadership skills and adaptability and professional attributes such as understanding of the Bank’s core business and strategic objectives, industry knowledge, independent judgment, adherence to the Bank’s Code of Conduct, Ethics and Values etc.”*



**Tata Consultancy Services Ltd.** has mentioned the criteria for evaluation in its annual report for the year 2019-20 in the following paras:

*“The performance of the Board was evaluated by the Board after seeking inputs from all the directors on the basis of criteria such as the board composition and structure, effectiveness of board processes, information and functioning, etc.”*

*“The performance of the committees was evaluated by the board after seeking inputs from the committee members on the basis of criteria such as the composition of committees, effectiveness of committee meetings, etc.”*

*“The above criteria are broadly based on the Guidance Note on Board Evaluation issued by the Securities and Exchange Board of India on January 5, 2017.”*

**HCL Technologies Ltd.** has stated the criteria for evaluation process in its annual report for the year 2018-19 in the following paras:

*“The checklist for the evaluation of the performance of the Board, the Committees of the Board and the individual Directors, including the Chairman of the Board was approved by the Nomination & Remuneration Committee (‘NRC’) of the Company.”*

*“The Board and the NRC reviewed the performance of the individual Directors on the basis of the criteria such as the contribution of the individual Director to the Board and Committee meetings, preparedness on the issues to be discussed, meaningful and constructive contribution and inputs in meetings, etc. In addition, the Chairman was also evaluated on the key aspects of his role.”*

**Reliance Industries Ltd.** has stated the parameters of criteria for performance evaluation in its annual report for the year 2019-20 which is outlined in the following paras:

*“The Human Resources, Nomination and Remuneration Committee has devised a criteria for evaluation of the performance of the Directors including the Independent Directors. The said criteria provides certain parameters like attendance, acquaintance with business, communication inter se between board members, effective participation, domain*

*knowledge, compliance with code of conduct, vision and strategy, benchmarks established by global peers etc., which is in compliance with applicable laws, regulations and guidelines.”*

## **Evaluation by External Agency**

On analysing the annual reports of top 50 companies listed on Bombay Stock Exchange in India, it is observed that some companies including Kotak Mahindra Bank, Bharti Airtel, Nestle India, Infosys and Larsen & Toubro have disclosed that they have appointed external agency for board evaluation. In Dr. Reddy's Laboratories Ltd. during financial year 2019, an independent expert was engaged to perform the evaluation and effectiveness process of the board, its committees and individual directors. However during financial year 2020, the evaluation process was undertaken internally.

**Kotak Mahindra Bank Ltd.** has stated in its annual report for the year 2019-20 that

*“The Nomination and Remuneration Committee (NRC) of the Bank's Board has formulated the criteria for performance evaluation of the Directors and the Board as a whole which broadly covers the Board role, Board/Committee membership, practice & procedure and collaboration & style. The performance of the Committees of the Board is evaluated on the criteria viz. composition & quality, process & procedure and the terms of reference.”*

*“The NRC of the Bank's Board engaged an external professional services firm to facilitate the self-evaluation process of the Board, its committees, Chairman and individual directors.”*

*“A Board effectiveness assessment questionnaire designed for the performance evaluation of the Board, its Committees, Chairman and individual directors (including Independent directors) in accordance with the criteria set and covering various aspects of performance including structure of the board, meetings of the board, functions of the board, role and responsibilities of the board, governance and compliance, evaluation of risks, grievance redressal for investors, conflict of interest, stakeholder value and responsibility, relationship among directors, director competency, board procedures, processes, functioning and*

*effectiveness was circulated to all the directors of the Bank for the annual performance evaluation.”*

*“Based on the assessment of the responses received to the questionnaire from the directors on the annual evaluation of the Board, its Committees, the Chairman and the individual directors, the Board Evaluation Report was placed before the meeting of the Independent Directors for consideration. Similarly, the Board at its meeting assessed the performance of the Independent Directors. The Directors noted that the results of the performance evaluation of the Board and its Committees, Chairman and individual directors indicated a high degree of satisfaction amongst the directors. Some of the suggestions this year for improving the performance of the Board and its Committees were mapping of potential impact of changes in macroeconomic factors, product development with customer centric lens and improvement in area of customer service.”*

**Bharti Airtel Ltd.** has stated in its annual report for the year 2018-19 that the HR and Nomination Committee has approved the process, format, attributes and criteria for the performance evaluation of the Board, Board Committees and Individual Directors including the Chairman and MD & CEO (India & South Asia) in compliance with the provisions of the Companies Act, 2013 and the Listing Regulations.

The annual report outlines the evaluation process which was facilitated by an independent consulting firm in the following paras:

*“During the year, the Directors completed the evaluation process, which included evaluation of the Board as a whole, Board Committees and individual Directors including the Chairman and the MD & CEO (India & South Asia). The evaluation process was facilitated by an independent consulting firm.”*

*“Performance of the Board and Board Committees was evaluated on various parameters such as structure, composition, quality, diversity, experience, competencies, performance of specific duties and obligations, quality of decision-making and overall Board effectiveness.”*

*“Performance of individual Directors was evaluated on parameters, such as meeting attendance, participation and contribution, engagement*

*with colleagues on the Board, responsibility towards stakeholders and independent judgement. All the directors were subject to peer-evaluation.”*

*“The Chairman and the MD & CEO (India & South Asia) were evaluated on certain additional parameters, such as performance of the Company, leadership, relationships, communication, recognition and awards received by the Company”*

*“All Directors participated in the evaluation process. The results of evaluation were discussed in the Independent Director’s meeting, respective Committee meetings and in the Board Meeting held on May 06, 2019. The Board discussed the performance evaluation reports of the board, board committees, individual directors, Chairman and Managing Directors & CEO (India & South Asia) and also noted the suggestions / inputs of independent directors, HR and Nomination Committee and respective committee Chairman. Recommendations arising from this entire process were deliberated upon by the Board to augment its effectiveness and optimize individual strengths of the Directors.”*

**Nestle India Ltd.** has stated in its annual report for the year 2019 that the Company has devised a formal process for annual evaluation of performance of the Board, its Committees and Individual Directors (“Performance Evaluation”) which include criteria for performance evaluation of non-executive directors and executive directors as laid down by the Nomination and Remuneration Committee and the Board of Directors of the Company.

*It covers the areas relevant to the functioning as Independent Directors or other directors, member of the Board or Committee of the Board. The Independent Directors carried out annual performance evaluation of the Chairman and Executive Directors. The Board carried out annual performance evaluation of its own performance. The performance of each Committee was evaluated by the Board, based on report on evaluation received from respective Committees.*

*The Company engaged a leading HR Consulting Firm for compilation of the report and feedback received from the Board members, Committee members and directors in the questionnaires circulated and for identifying*

*key inferences and observations with respect to Performance Evaluation. A consolidated report was shared with the Chairman of the Board for his review and giving feedback to each Director.*

**Infosys Ltd.** stated in its annual report for the year 2019-20 that the nomination and remuneration committee engaged Egon Zehnder, external consultants, to conduct Board evaluation for the year.

The process of board evaluation adopted by Infosys Ltd. disclosed in its annual report 2019-20 is given under:

*“One of the key functions of the Board is to monitor and review the Board evaluation framework. The Board works with the nomination and remuneration committee to lay down the evaluation criteria for the performance of the Chairman, the Board, Board committees, and executive / non-executive / independent directors through peer evaluation, excluding the director being evaluated. “*

*“The Board had engaged Egon Zehnder, a leadership advisory firm on board matters, to conduct Board evaluation for fiscal 2020. The evaluation process focused on Board dynamics and softer aspects. The process involved independent discussions with all Board members. The Board evaluation process was completed during fiscal 2020.”*

*“Further, the evaluation process was based on the affirmation received from the independent directors that they met the independence criteria as required under the Companies Act 2013, the Listing Regulations and the NYSE listing manual.”*

**Larsen & Toubro Ltd.** stated in its annual report for the financial year 2018-19 that:

*“The Nomination & Remuneration Committee and the Board have laid down the manner in which formal annual evaluation of the performance of the Board, committees, individual directors and the Chairman has to be made. All Directors responded through a structured questionnaire giving feedback about the performance of the Board, its Committees, Individual directors and the Chairman. “*

*“For the year under review, the questionnaire was modified suitably, based on the comments and suggestions received from Independent*

*Directors. As in the previous years, an external consultant was engaged to receive the responses of the Directors and consolidate/ analyze the responses. The same external consultant's IT platform was used from initiation and till conclusion of the entire board evaluation process. This ensured that the process was transparent and independent of involvement of the Management or the Company's IT system. This has enabled unbiased feedback."*

### **Post-Evaluation Activities**

Most companies out of the top 50 companies which have been analysed, have not mentioned anything about post evaluation activities done by them in the annual report. Some companies including Hero Motocorp Limited, Hindustan Unilever Limited, HDFC Ltd. and Wipro Ltd. have reported that they have taken post evaluation activity also. The extracts from their annual reports are given below

**Hero MotoCorp Ltd.** has stated in its annual report for the year 2019-20:

*"The actions emerging from the Board evaluation process were collated and presented before the Nomination and Remuneration Committee as well as the Board. Suggestions/feedback concerning strategic, governance and operational matters are actioned upon by the team."*

**Hindustan Unilever Ltd.** has stated in its annual report for the year 2019-20:

*"It was noted that the Board as a whole is functioning as a cohesive body which is well engaged with different perspectives. The Board Members from different backgrounds bring about different complementarities and deliberations in the Board and Committee Meetings are enriched by such diversity and complementarities. It was also noted that the Committees are functioning well and besides the Committee's terms of reference as mandated by law, important issues are brought up and discussed in the Committees."*

*"The Board also noted that given the changing external environment the Company should be prepared for any likely disruption. The Board agreed that the Board was focused in the right direction of creating a*

*‘purpose-driven’ organisation. The evaluation exercise also highlighted the need for having better understanding of competitive landscape in a dynamic business environment and importance of being updated in the emerging technology areas relevant for the Company. These areas have been identified for the Board to engage itself with and the same will be acted upon.”*

**Housing Development Finance Corporation Ltd.** has stated in its annual report for the year 2019-20:

*“As part of the evaluation exercise carried out in the previous year, the board had expressed the need to interact with a wider group of senior management, including two or three levels below the board. The objective was two-fold – to assess pipeline talent within the organisation and for the directors to get a broader perspective of certain critical functions across the organisation. Accordingly, during the year, a number of senior officials interacted with the board and also made presentations and shared their perspectives on their respective areas of work.”*

*“The overall performance evaluation exercise was completed to the satisfaction of the board. As an outcome of this exercise, the board suggested off site meetings which would extend over a longer duration and would also facilitate deeper interaction with senior management in both, a formal and informal atmosphere. The evaluation exercise acknowledged the steady progress made by the Corporation in its IT strategy, but emphasised on needing to be more future ready and creative in re-imagining doing business from a digitalised perspective. The board also emphasised the need for the Corporation to revisit and assess its medium and long-term strategy.”*

### **Review of board by independent directors**

The Act requires independent directors to hold at least one meeting in a year, without the attendance of non-independent directors and members of the management and in that meeting they are required to review the performance of the non-independent directors and the Board as whole; and also review the performance of the Chairperson of the company, taking into account the views of the executive and non-executive directors.

Independent directors should formally evaluate the board and non-independent directors. They may finalise the draft report in the separate meeting. Although, the law is silent on how the result of evaluation will be used, the draft report should be discussed with the full board to decide the actions for improving board effectiveness. Independent directors should involve the CEO and the full board in deciding the objective, criteria and method of evaluation.

**HCL Technologies Ltd.** has stated in its annual report for the year 2018-19 that a separate meeting of Independent director was conducted:

“In a separate meeting of the Independent Directors, the performance of the Non-Independent Directors, performance of the Board as a whole and performance of the Chairman was evaluated. The same was discussed in the Board meeting that followed the meeting of the Independent Directors, at which the performance of the Board, its committees and the individual directors was discussed.”

### **Evaluation of Independent Directors**

The laws and regulations also provide for the review of performance of the independent directors by the entire Board excluding the director and the continuance or extension of the independent director would be determined by the performance evaluation report.

However, discussion of report cards of individual directors with the full board is likely to be resented to by directors and might drive away good directors. The best practice may be to use self-assessment and interview method to assess individual performance and to provide feedback to each director (independent or non-independent) on a one-to-one basis. The reports of independent directors should be submitted to the chairperson of the Nomination and Remuneration Committee. It should consider the same while deciding the continuation of the independent director as a board member. Boards should adopt the global best practices.

Mostly companies in India which have been assessed have evaluated the entire board including independent directors.

**Nestle India Ltd.** stated in its annual report 2019 “*The criteria for performance evaluation covers the areas relevant to the functioning as*



*Independent Directors such as preparation, participation, conduct and effectiveness. The performance evaluation of Independent Directors was done by the entire Board of Directors and in the evaluation of the Directors, the Directors being evaluated had not participated.”*

**Bharti Airtel Ltd.** stated in its annual report for the year 2019, some of the performance indicators based on which the Independent Directors were evaluated:

- *Devotion of sufficient time and attention towards professional obligations for independent decision making and for acting in the best interests of the Company.*
- *Providing strategic guidance to the Company and help determine important policies with a view to ensuring long-term viability and strength.*
- *Bringing external expertise and independent judgement that contributes objectivity in the Board's deliberations, particularly on issues of strategy, performance and conflict management*

**Infosys Ltd.** stated in its annual report for the year 2019-20, some of the performance indicators based on which the Independent Directors were evaluated:

*“Independent directors have three key roles – governance, control and guidance. Some of the performance indicators, based on which the independent directors are evaluated, include:*

- *The ability to contribute to and monitor our corporate governance practices*
- *The ability to contribute by introducing international best practices to address business challenges and risks*
- *Active participation in long-term strategic planning*
- *Commitment to the fulfillment of a director's obligations and fiduciary responsibilities; these include participation in Board and committee meetings.”*

**Tata Consultancy Services Ltd.** stated in its annual report for the year 2019-20, some of the performance indicators based on which the Independent Directors were evaluated:

*“The performance evaluation criteria for independent directors is determined by the Nomination and Remuneration Committee. An indicative list of factors on which evaluation was carried out includes:*

- *participation and contribution by a director,*
- *commitment,*
- *effective deployment of knowledge and expertise,*
- *integrity and maintenance of confidentiality and*
- *independence of behavior and judgment.”*

**Hindustan Unilever Ltd.** stated in its annual report for the year 2019-20, some of the performance indicators based on which the Independent Directors were evaluated:

*“For Independent Directors, evaluation is carried out based on the criteria viz. the considerations which led to the selection of the Director on the Board and the delivery against the same, contribution made to the Board / Committees, attendance at the Board / Committee Meetings, impact on the performance of the Board / Committees, instances of sharing best and next practices, engaging with top management team of the Company, participation in Strategy Board Meetings, etc.”*

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# **SAMPLE POLICY FOR EVALUATION OF THE PERFORMANCE OF THE BOARD OF DIRECTORS**

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## **EFFECTIVE DATE**

### **1. INTRODUCTION**

As one of the most important functions of the Board of Directors is to oversee the functioning of the company's top management, this policy aims at establishing a procedure for conducting periodical evaluation of directors' performance and formulating the criteria for determining qualification, positive attribute and independence of each and every director of the company in order to effectively determine issues relating to remuneration of every director, key managerial personnel and other employees of the company. This policy further aims at ensuring that the committees to which the Board of Directors has delegated specific responsibilities are performing efficiently in conformity with the prescribed functions and duties. In addition, the Nomination and Remuneration Committee shall carry out the evaluation of performance of every director, key managerial personnel in accordance with the criteria laid down.

### **2. OBJECTIVE**

The object of this policy is to formulate the procedures and also to prescribe and lay down the criteria to evaluate the performance of the entire Board of the Company.

### **3. RESPONSIBILITY**

#### **– Responsibility of the Board**

It shall be the duty of the chairperson of the board, who shall be supported by the Company Secretary to organise the evaluation process and accordingly conclude the steps required to be taken.

The evaluation process will be used constructively as a system to improve the directors' and committees' effectiveness, to maximise their strength and to tackle their shortcomings.

The Board of Directors shall undertake the following activities on an annual basis :

- The board as a whole shall discuss and analyze its own performance during the year together with suggestions for improvement thereon, pursuant to the performance objectives.
- Review performance evaluation reports of various committees along with their suggestions on improving the effectiveness of the committee. Also, the requirement of establishing any new committees shall be reviewed by the Board on an annual basis.
- Review the various strategies of the company and accordingly set the performance objectives for directors.
- Ensure that adequate disclosure is made with regard to the performance evaluation in the Board's Report.

– *Responsibility of the Nomination & Remuneration Committee*

It shall evaluate the performance of individual Directors of the Company as per the terms of the Nomination and Remuneration Policy of the Company framed in accordance with the provisions of section 178 of the Companies Act, 2013.

– *Responsibility of Independent Directors*

Independent Directors are duty bound to evaluate the performance of non-independent directors and Board as a whole. The independent directors of the Company shall hold at least one meeting in a year to review the performance of non-independent directors, performance of the chairperson of the Company and Board as a whole, taking into account the views of the executive directors and non-executive directors. The independent directors at their separate meetings shall:

- (a) review the performance of non-independent directors and the Board as a whole;
  - (b) review the performance of the Chairperson of the Company, taking into account the views of the executive directors and non-executive directors;
  - (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.
- Evaluation of Independent Director shall be carried out by the entire Board of Directors of the Company except the Director getting evaluated.

#### **4. POLICY REVIEW**

Subject to the approval of Board of Directors, the “Nomination and Remuneration Committee” reserves its right to review and amend this policy, if required, to ascertain its appropriateness as per the needs of the Company. The Policy may be amended by passing a resolution at a meeting of the Nomination and Remuneration Committee.

#### **5. DISCLOSURE**

In accordance with the requirement under the Act, disclosure regarding the manner in which the performance evaluation has been done by the Board of Directors of its own performance, performance of various committees of directors and individual directors’ performance will be made by the Board of Directors in the Board’s Report. Further, the Board’s Report containing such statement will be made available for the review of shareholders at the general meeting of the Company.

The Policy has been made available on Company’s official website and the key features of this Policy have also been included in the corporate governance statement contained in the annual report of the Company.

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Rating Scale:

- 1. Outstanding
- 2. Exceeds Expectation
- 3. Meets Expectation
- 4. Needs Improvement
- 5. Poor

SAMPLE EVALUATION TOOLS  
PART I  
Board of Directors Evaluation  
(By all the directors or externally facilitated)

| Criteria  | 1 | 2 | 3 | 4 | 5 | How can<br>the board<br>do it<br>better or<br>differently |
|---|---|---|---|---|---|---|
| Board Composition & Quality   |   |   |   |   |   |   |
| 1 The Board has appropriate qualifications, expertise and experience to meet the best interests of the company.           |   |   |   |   |   |   |
| 2 The board has appropriate combination of industry knowledge and diversity (gender, experience, background, competence). |   |   |   |   |   |   |

|    |   |
|----|---|
| 3. | The process of appointment to the board of directors is clear and transparent.  |
| 4. | The role and responsibilities of the Board and its members are clearly documented.  |
| 5  | All the independent directors are independent in true letter and spirit i.e. whether the independent Director has given declaration of independence and they exercise their own judgement, voice their concerns and act freely from any conflicts of interests. |
| 6  | Board members demonstrate highest level of integrity (including maintaining confidentiality and identifying, disclosing and managing conflicts of interests).   |
| 7  | The Board members spend sufficient time in understanding the vision, mission of the company and strategic and business plans, financial reporting risks and related internal controls and provides critical oversight on the same.                              |
| 8  | The Board understands the legal requirements and obligations under which they act as a Board; i.e. by laws, corporate governance manual etc. and discharge their functions accordingly.   |
| 9  | The Board has set its goals and measures its performance against them on annual basis.  |
| 10 | The Board has identified its stakeholders and has appropriate level of communication with them.   |
| 11 | The Board understands the line between oversight and management.  |
| 12 | The board monitors compliances with corporate governance regulations and guidelines.  |

|                                      |   |
|--------------------------------------|---|
| 13                                   | An effective succession plan of board is in place.  |
| 14                                   | The Board has the proper number of committees as required by legislation and guidelines, with well-defined terms of reference and reporting requirements. |
| 15                                   | The Board regularly reviews the grievance redressal mechanism of investors.   |
| <b>Board Meetings and Procedures</b> |   |
| 1                                    | The Annual Calendar of Board meetings is communicated well in advance and reviewed from time to time.   |
| 2                                    | The Board meeting agenda and related background papers are concise and provide information of appropriate quality and detail.                             |
| 3                                    | The information is received by board members sufficiently in advance for proper consideration.  |
| 4                                    | Adequacy of attendance and participation by the board members at the board meetings.  |
| 5                                    | Frequency of Board Meetings is adequate.  |
| 6                                    | The facility for video conferencing for conducting meetings is robust.  |
| 7                                    | Adequate and timely inputs are taken from the members of the board prior to setting of the Agenda for the meetings.                                       |
| 8                                    | Location of Board Meeting (As a good governance practice the Board meeting should be held at different places).   |
| 9                                    | The Board meetings encourage a high quality of discussions and decision making.   |



|                          |  |
|--------------------------|--|
| 10                       | Openness to ideas and ability to challenge the practices and throwing up new ideas.  |
| 11                       | The amount of time spent on discussions on strategic and general issues is sufficient.   |
| 12                       | The Board works effectively and collectively as a team in the best interest of the company?  |
| 13                       | The minutes of the Board meetings are clear, accurate, consistent, complete and timely and records dissenting views.   |
| 14                       | The actions arising from board meetings are properly followed up and reviewed in subsequent board meetings.  |
| 15                       | The processes are in place for ensuring that the board is kept fully informed on all material matters between meetings (including appropriate external information e.g. emerging risks and material regulatory changes). |
| 16                       | Adequacy of the separate meetings of independent directors.  |
| 17                       | Appropriateness of secretarial support made available to the Board.  |
| 18                       | The Board members understand the terms and conditions of D & O insurance policy taken by the company.  |
| 19                       | All proceedings and resolutions of the Board are recorded accurately, adequately and on a timely basis.  |
| <b>Board Development</b> |  |
| 1                        | Appropriateness of the induction programme given to the new board members.   |

|   |   |
|---|---|
| 2   | Timeliness and appropriateness of ongoing development programmes to enhance skills of its members   |
| 3   | Appropriate development opportunities are encouraged and communicated well in time  |
| <b>Board Strategy and Risk Management</b> |   |
| 1   | The time spent on issues relating to the strategic direction and not day-to-day management responsibilities   |
| 2   | Engaging with management in the strategic planning process, including corporate goals, objectives and overall operating and financial plans to achieve them.  |
| 3   | The Board has developed a strategic plan/policies and the same would meet the future requirement of the Company.  |
| 4   | The Board has sufficient understanding of the risk attached with the business structure and the Board uses appropriate risk management framework and whether board reviewed and understood the risks provided in the internal audit report and the management is taken sufficient steps to mitigate the risk. |
| 5   | The Board evaluates the strategic plan/policies periodically to assess the Company's performance, considers new opportunities and responds to unanticipated external developments.  |
| 6   | The Risk management framework is subject to periodic review.  |

|                                       |  |
|---------------------------------------|--|
| 7                                     | Monitoring the implementation of the long term strategic goals.  |
| 8                                     | Monitoring the company's internal controls and compliance with applicable laws and regulations.  |
| 9                                     | The adequacy of Board contingency plans for addressing and dealing with crisis situations.   |
| 10                                    | Appropriateness of effective vigil mechanism.  |
| 11                                    | The Board focuses its attention on long-term policy issues rather than short-term administrative matters.  |
| 12                                    | The Board discusses thoroughly the annual budget of the Company and its implications before approving it.  |
| 13                                    | The Board periodically reviews the actual result of the Company vis-à-vis the plan/policies devised earlier and suggests corrective measures, if required. |
| <b>Board and Management Relations</b> |  |
| 1                                     | The Board sets the overall tone and direction of the Company.  |
| 2                                     | The Board has approved comprehensive policies and procedures for smooth conduct of all material activities by Company.                                     |
| 3                                     | The Board has a range of appropriate performance indicators that are used to monitor the performance of management.  |
| 4                                     | The Board is well informed on all issues (short and long-term) being faced by the Company.   |

|   |   |
|---|---|
| 5   | The Board adequately reviews proposed departures from the long-and short-term business plans of the Company before they take place.   |
| 6   | The Board sets a corporate culture and the values by which executives shall behave.   |
| 7   | The Board and the management are able to actively access each other and exchange information.   |
| 8   | The level of independence of the management from the Board is adequate.   |
| <b>Succession Planning</b>                  |   |
| 1   | The Board has a succession plan for the Chairperson and the Chief Executive Officer/Managing Director.  |
| 2   | The Board reviews the existing succession plan and if appropriate, makes necessary changes by taking into account the current conditions.   |
| <b>Stakeholder value and responsibility</b> |   |
| 1   | The Board treats shareholders and stakeholders fairly where decisions of the board of directors may affect different shareholder/stakeholder groups differently.                  |
| 2   | The Board regularly reviews the Business Responsibility Reporting/related corporate social responsibility initiatives of the entity and contribution to society, environment etc. |

|                                     | Outstanding | Exceeds<br>Expectation | Meets<br>Expectation | Needs<br>Improvement | Poor |
|-------------------------------------|-------------|------------------------|----------------------|----------------------|------|
| Overall rating of Board performance |             |                        |                      |                      |      |
| Comment                             |             |                        |                      |                      |      |
|                                     |             |                        |                      |                      |      |
|                                     |             |                        |                      |                      |      |
|                                     |             |                        |                      |                      |      |

|   |  |                   |
|---|--|-------------------|
| Please suggest three things that could improve Board's performance. |  | Name of Director: |
| a)  |  |                   |
| b)  |  | Signature:        |
| c)  |  |                   |
|   |  | Date :            |
| If Externally facilitated, Comments of evaluator:                   |  |                   |

**PART II**  
**MANAGING DIRECTOR / EXECUTIVE DIRECTOR ASSESSMENT FORM**  
(By all the Board members)

|            | EVALUATION FACTOR   | RATINGS |   |   |   |   | COMMENTS |
|------------|---|---------|---|---|---|---|----------|
|            |   | 1       | 2 | 3 | 4 | 5 |          |
| Leadership |   |         |   |   |   |   |          |
| 1.         | The MD/ED has shown clear vision in correctly anticipating business trends, opportunities and priorities affecting the Company's prosperity and operations.   |         |   |   |   |   |          |
| 2.         | The MD/ED has clearly translated his/her vision and strategy into feasible business or operational plans to achieve strategic success for the Company.  |         |   |   |   |   |          |
| 3.         | The MD/ED has accurately communicated his/her concept, vision, mission, strategies, goals and directions for the Company to stakeholders.   |         |   |   |   |   |          |
| 4.         | The MD/ED has motivated and encouraged high employee morale and loyalty to the organization and facilitated team-building and cohesiveness among the Company's employees to achieve the Company's vision. |         |   |   |   |   |          |
| 5.         | The MD/ED is open to constructive suggestions and exercised effective leadership for the organization.  |         |   |   |   |   |          |

- 6. The MD/ED has been an initiator, setting high working standards and pursuing goals with a high level of personal drive and energy.

Strategy Formulation

- 7. The MD/ED has developed clear mission statements, policies and strategic plans that harmoniously balance the needs of shareholders, clients, employees and other stakeholders.
- 8. The MD/ED has accurately identified and analyzed problems and issues confronting the Company.
- 9. The MD/ED has accurately determined and assessed key success factors for formulating the Company's strategy.
- 10. The MD/ED has ensured that board members, senior management and other employees had participated in the formulation of strategic plans so that they have the ownership of the plans.
- 11. The MD/ED has assured that company's resources and budgets are aligned to the implementation of the organization's strategic plan.
- 12. The MD/ED has established processes to ensure monitoring and controlling works, thus ensuring that the effectiveness of organizational performance, including risk management, was achieved.

|                                       |  |
|---------------------------------------|--|
| <b>Strategy execution</b>             |  |
| 13.                                   | The MD/ED has established an effective organization structure ensuring that there is management focus on key functions necessary for the organization to align with its mission. |
| 14.                                   | The MD/ED has organized and delegated work accurately and has performed his or her functions within his/her scope of responsibility.   |
| 15.                                   | The MD/ED has consistently made sound decisions and made timely adjustments in strategies, wherever is required.   |
| 16.                                   | The MD/ED has timely and effectively executed strategies on priorities and with measures set by the Board.   |
| 17.                                   | The MD/ED has accurately supervised performance monitoring and performance control to ensure accountability at all levels of the organization.                                   |
| 18.                                   | The MD/ED has ensured that the company's operations comply with requirements from all pertinent laws and regulations.  |
| <b>Financial planning/performance</b> |  |
| 19.                                   | The MD/ED possesses a good understanding of the company's financial measures relevant to its business and financial situation.   |
| 20.                                   | The MD/ED has exercised good judgment in managing the financial affairs and budgets of the organization.   |



21. The MD/ED has effectively monitored and evaluated financial planning, budget and administrative operations.

**Relationships with the Board**

22. The MD/ED has built strong working relationships with Board members and has worked closely and cooperatively with the board in developing the mission, and short, medium and long-term strategic plans.

23. The MD/ED has demonstrated a sound knowledge of Board governance procedures and has consistently followed them.

24. The MD/ED has presented information to the board on items requiring Board opinions and decisions in a professional and transparent manner, with recommendations based on thorough study and sound principles.

25. The MD/ED has been available to individual Board members whenever necessary, as well as supported the board in its governance duties by providing necessary resources and other facilities.

**External Relations**

26. The MD/ED has served as an effective Company's representative in communicating with all stakeholders.

|   |   |
|---|---|
| 27.   | The MD/ED has encouraged corporate social responsibility and community involvement in promoting a positive image of Company.  |
| 28.   | The MD/ED has assured that the Company maintains positive relationships in the community and cultivates good working relationships with community groups and organizations.                             |
| <b>Human Resources Management/Relations</b> |   |
| 29.   | The MD/ED has created and maintained an organizational culture and climate which attracts, keeps and motivates staff to carry out the Company's mission, strategic directions and organizational goals. |
| 30.   | The MD/ED effectively monitors procedures and practices pertaining to human resources, including appraisal process and rewarding systems for management and employees.                                  |
| 31.   | The MD/ED has ensured that the company has good internal communication and treated all personnel fairly, without favoritism or discrimination.  |
| <b>Succession</b>                           |   |
| 32.   | The MD/ED has effectively reviewed the Company's succession plan and wherever appropriate, made necessary changes by taking into account conditions that are external or internal to the Company.       |

33. The MD/ED has put in place the processes and programs required to create a pipeline of future leadership.

**Product/Service Knowledge**

34. The MD/ED has demonstrated a thorough knowledge and understanding about key aspects of the Company's products and services.

35. The MD/ED has demonstrated a thorough knowledge and understanding of Company management and operations.

36. The MD/ED has a good understanding of the company's business model and allocation of its resources, as well as business and industry environment.

37. The MD/ED has regularly demonstrated creativity and initiative in creating new products and services.

**Personal Qualities**

38. The MD/ED has attained an image that reflects positively on the company, as well as demonstrated a personality, outlook, and attitude that wins trust and support from all stakeholders.

39. The MD/ED has exercised good judgment in dealing with sensitive issues between people and between groups.

40. The MD/ED has shown skills at analyzing and addressing problems, challenges and conflicts, and has been comfortable with ambiguity and complexity.

41. The MD/ED has maintained a high standard of ethics and integrity, as well as a healthy balance of time management and priorities in both work-related and personal matters.

|  | Outstanding | Exceeds Expectation | Meets Expectation       | Needs Improvement | Poor |
|--|-------------|---------------------|-------------------------|-------------------|------|
| Overall rating of Overall rating of Managing Director/Executive Director's performance |             |                     |                         |                   |      |
| Comment  | .....       |                     |                         |                   |      |
|  | .....       |                     |                         |                   |      |
|  | .....       |                     |                         |                   |      |
| Please suggest three things that could improve Board's performance.                    |             |                     |                         |                   |      |
| a)   | .....       |                     | Name of Director: ..... |                   |      |
| b)   | .....       |                     | Signature: .....        |                   |      |
| c)   | .....       |                     | Date : .....            |                   |      |
|  | .....       |                     |                         |                   |      |

PART III  
DIRECTOR SELF ASSESSMENT/PEER REVIEW

| Criteria   | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|
| <b>KNOWLEDGEABLE</b>   |   |   |   |   |   |
| 1 Understands duties, responsibilities, qualifications, disqualifications and liabilities as a director.   |   |   |   |   |   |
| 2 Brings relevant experience to the board and uses it effectively.   |   |   |   |   |   |
| 3 Understands the vision and mission of the company, strategic plan and key issues.  |   |   |   |   |   |
| 4 Staying abreast of issues, trends and risks (including opportunities and competitive factors) affecting the company, and using this information to assess and guide the company's performance. |   |   |   |   |   |
| 5 Takes advantage of opportunity to upgrade skills by regularly attending professional development programmes.   |   |   |   |   |   |
| 6 The management communications are sufficient to enhance company specific updates.  |   |   |   |   |   |
| <b>DILIGENCE &amp; PARTICIPATION</b>   |   |   |   |   |   |
| 1 Regularly and constructively attends board, committee and general meetings.  |   |   |   |   |   |
| 2 Prepares in advance for board and committee meetings.  |   |   |   |   |   |

|                 |   |
|-----------------|---|
| 3               | Communicates opinions and concerns in a persuasive yet clear and concise manner.    |
| 4               | Uses Independent judgement in relation to decision making.                          |
| 5               | Facilitates and encourages change when it would improve board processes.            |
| 6               | Encourages other members to contribute their opinions.                              |
| 7               | Raises appropriate issues at meetings asking the appropriate questions for clarity. |
| 8               | Contributes and adds value to the decision making.                                  |
| 9               | Gets dissent recorded in minutes, if so required.                                   |
| 10              | Maintains confidentiality.  |
| 11              | Abides by the legal obligations and code of conduct.                                |
| 12              | Reports concerns about unethical behaviour, actual and suspected fraud.             |
| LEADERSHIP TEAM |   |
| 1               | Listens attentively to the contributions of others.                                 |

|   |  |
|---|--|
| 2 | Initiates discussions on issues in company's interest.                               |
| 3 | Shares good interpersonal relationship with other directors.                         |
| 4 | Supportive and cooperative.  |
| 5 | Respected by board members.  |
| 6 | Insists on receiving information necessary for decision making to all the directors. |
| 7 | Manages conflicts of interest in best interest of the company.                       |
| 8 | Safeguards the interest of all stakeholders in the decision making.                  |
| 9 | Personal values are in congruence with that of the company.                          |

## PART IV

# NON-EXECUTIVE DIRECTOR AND INDEPENDENT DIRECTOR EVALUATION FORM

(PEER REVIEW- by Directors other than director being evaluated)

Name of the Director: \_\_\_\_\_

Category: Independent/Non-executive

## PART A

| EVALUATION FACTOR   | RATINGS |   |   |   |   | COMMENTS |
|---|---------|---|---|---|---|----------|
|   | 1       | 2 | 3 | 4 | 5 |          |
| <b>Participation at Board/Committee Meetings</b>  |         |   |   |   |   |          |
| 1. Director comes well prepared and informed for the Board/Committee meeting(s).  |         |   |   |   |   |          |
| 2. Director demonstrates a willingness to devote time and effort to understand the Company and its business and a readiness to participate in events outside the meeting room, such as site visits. |         |   |   |   |   |          |
| 3. Director has ability to remain focused at a governance level in Board/Committee meetings.  |         |   |   |   |   |          |
| 4. Director's contributions at Board/Committee meetings are of high quality and innovative.   |         |   |   |   |   |          |



- 5. Director’s proactively contributes in the development of strategy and to risk management of the Company.

**Managing Relationship**

- 6. Director’s performance and behaviour promotes mutual trust and respect within the Board/Committee.
- 7. Director is effective and successful in managing relationships with fellow Board members and senior management?

**Knowledge and Skill**

- 8. Director understands governance, regulatory, financial, fiduciary and ethical requirements of the Board/Committee.
- 9. Director actively and successfully refreshes his/her knowledge and skills and is up to date with the latest developments in areas such as corporate governance framework, financial reporting and the industry and market conditions.
- 10. Director is able to present his/her views convincingly yet diplomatically.
- 11. Director listens and takes on board the views of other members of Board.

**Personal Attributes**

- 12. Director has maintained high standard of ethics and integrity.

|   | Outstanding | Exceeds<br>Expectation | Meets<br>Expectation | Needs<br>Improvement | Poor       |
|---|-------------|------------------------|----------------------|----------------------|------------|
| Overall rating of Committee performance                             |             |                        |                      |                      |            |
| Comments  |             |                        |                      |                      |            |
| .....   |             |                        |                      |                      |            |
| .....   |             |                        |                      |                      |            |
| .....   |             |                        |                      |                      |            |
| Please suggest three things that could improve Board's performance. |             |                        |                      |                      |            |
| Name of Director:   |             |                        |                      |                      |            |
| a)  | .....       |                        |                      |                      | .....      |
| b)  | .....       |                        |                      |                      | Signature: |
| c)  | .....       |                        |                      |                      | .....      |
| Date :  |             |                        |                      |                      |            |
| .....   |             |                        |                      |                      |            |

Part - B

If concerned director is “Independent Director” then in addition to Part-A of this sample tool, the following may also be used:

Name of the Director: \_\_\_\_\_ ;

Category: Independent

| EVALUATION FACTOR   | RATINGS |   |   |   |   | COMMENTS |
|---|---------|---|---|---|---|----------|
|   | 1       | 2 | 3 | 4 | 5 |          |
| 1. Director upholds ethical standards of integrity and probity.   |         |   |   |   |   |          |
| 2. Director exercises objective independent judgment in the best interest of the Company.   |         |   |   |   |   |          |
| 3. Director effectively assists the Company in implementing best corporate governance practices and monitors the same.              |         |   |   |   |   |          |
| 4. Director helps in bringing independent judgment during board deliberations on strategy, performance, risk management etc.        |         |   |   |   |   |          |
| 5. Director keeps himself/herself well informed about the Company and external environment in which it operates.                    |         |   |   |   |   |          |
| 6. Director acts within his authority and assists in protecting the legitimate interest of the Company, shareholders and employees. |         |   |   |   |   |          |

7. Director maintains high level of confidentiality.

8. Director adheres to the applicable code of conduct for independent directors.

| <i>Outstanding</i> | <i>Exceeds<br/>Expectation</i> | <i>Meets<br/>Expectation</i> | <i>Needs<br/>Improvement</i> | <i>Poor</i> |
|--------------------|--------------------------------|------------------------------|------------------------------|-------------|
|--------------------|--------------------------------|------------------------------|------------------------------|-------------|

Overall rating of Director performance

Comments

.....

.....

.....

Please suggest three things that could improve Board's performance.

a) .....  
b) .....  
c) .....

Name of Director:

.....

Signature:

.....

Date :

.....

PART V

EVALUATION OF BOARD COMMITTEES

(By Board of Directors)

| Criteria            | 1  | 2 | 3 | 4 | 5 | How can the board do it better or differently |
|---------------------|--|---|---|---|---|---|
| Function and Duties |  |   |   |   |   |   |
| 1                   | The Committees of the Board are appropriately constituted.   |   |   |   |   |   |
| 2                   | The terms of reference for the committees are appropriate with clearly defined roles and responsibilities. |   |   |   |   |   |
| 3                   | Observing Committees terms of reference.   |   |   |   |   |   |
| 4                   | The composition of the committees is in compliance with the legal requirement.                             |   |   |   |   |   |
| 5                   | The amount of responsibility delegated by the Board to each of the committees is appropriate.              |   |   |   |   |   |

|  |  |
|--|--|
| 6  | The reporting by each of the Committees to the Board is sufficient.  |
| 7  | The performance of each of the Committees is assessed annually against the set goals of the committee.                       |
| 8  | Whether the terms of reference are adequate to serve committee's purpose?  |
| 9  | The committee regularly reviews its mandate and performance.   |
| 10                                       | Committee takes effective and proactive measures to perform its functions.   |
| <b>Management Relations</b>              |  |
| 11                                       | Adequate independence of the Committee is ensured from the Board.  |
| 12                                       | Committee gives effective suggestions and recommendations.   |
| 13                                       | Committee meetings are conducted in a manner that encourages open communication and meaningful participation of its members. |
| <b>Committee Meetings and Procedures</b> |  |
| 14                                       | Committee meetings have been organized properly and appropriate procedures were followed in this regard.                     |
| 15                                       | The frequency of the Committee meetings is adequate.   |
| 16                                       | Committee makes periodical reporting to the Board along with its suggestions and recommendations.                            |

|   | Outstanding      | Exceeds<br>Expectation | Meets<br>Expectation | Needs<br>Improvement | Poor |
|---|------------------|------------------------|----------------------|----------------------|------|
| Overall rating of Board performance                                   |                  |                        |                      |                      |      |
| Comments  |                  |                        |                      |                      |      |
| .....   |                  |                        |                      |                      |      |
| .....   |                  |                        |                      |                      |      |
| .....   |                  |                        |                      |                      |      |
| Please suggest three things that could improve Board's performance.   |                  |                        |                      |                      |      |
| Name of Director:   |                  |                        |                      |                      |      |
| a) .....  | .....            |                        |                      |                      |      |
| b) .....  | Signature: ..... |                        |                      |                      |      |
| c) .....  | Date : .....     |                        |                      |                      |      |
| The participation and effective functioning of the committee meetings |                  |                        |                      |                      |      |
| the questions may remain the same as for Board meetings.              |                  |                        |                      |                      |      |

## PART VI

## CHAIRPERSON ASSESSMENT

(By each Board member)

|                               |   | RATINGS |   |   |   |   | COMMENTS |
|-------------------------------|---|---------|---|---|---|---|----------|
|                               |   | 1       | 2 | 3 | 4 | 5 |          |
| <b>Managing Relationships</b> |   |         |   |   |   |   |          |
| 1.                            | The Chairperson actively manages shareholder, board, management and employee relationships and interests.     |         |   |   |   |   |          |
| 2.                            | The Chairperson meets with potential providers of equity and debt capital, if required.                       |         |   |   |   |   |          |
| 3.                            | The Chairperson manages meetings effectively and promotes a sense of participation in all the Board meetings. |         |   |   |   |   |          |
| <b>Leadership</b>             |   |         |   |   |   |   |          |
| 4.                            | The Chairperson is an effective leader.   |         |   |   |   |   |          |
| 5.                            | The Chairperson promotes effective participation of all Board members in the decision making process.         |         |   |   |   |   |          |
| 6.                            | The Chairperson promotes the positive image of the Company.   |         |   |   |   |   |          |
| 7.                            | The Chairperson promotes continuing training and development of directors.                                    |         |   |   |   |   |          |



|   | Outstanding | Exceeds<br>Expectation | Meets<br>Expectation | Needs<br>Improvement    | Poor |
|---|-------------|------------------------|----------------------|-------------------------|------|
| Overall rating of Chairperson's performance                         |             |                        |                      |                         |      |
| Comments  |             |                        |                      |                         |      |
| .....   |             |                        |                      |                         |      |
| .....   |             |                        |                      |                         |      |
| .....   |             |                        |                      |                         |      |
| Please suggest three things that could improve Board's performance. |             |                        |                      |                         |      |
| a) .....  |             |                        |                      | Name of Director: ..... |      |
| b) .....  |             |                        |                      | Signature: .....        |      |
| c) .....  |             |                        |                      | Date : .....            |      |
| .....   |             |                        |                      |                         |      |

## SAMPLE BOARD ASSESSMENT MODELS

Deloitte\*

# Sample Board Performance Form

Select the appropriate rating for each statement

- 1** Insufficient knowledge/Not applicable  
**2** Strongly disagree  
**5** Strongly agree

Select the appropriate rating for each statement

## Composition and Quality

1. Qualified board members are identified by sources independent of management (e.g., independent board members assisted by an independent firm in the search for candidates).
2. Board members have the appropriate qualifications to meet the objectives of the board's charter, including appropriate financial literacy.

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*The right to produce the document is received from the organisation.*

- |     |  |
|-----|--|
| 3.  | The board demonstrates integrity, credibility, trustworthiness, active participation, an ability to handle conflict constructively, strong interpersonal skills and the willingness to address issues proactively. |
| 4.  | The board demonstrates appropriate industry knowledge and includes a diversity of experiences and backgrounds.   |
| 5.  | Members of the board meet all applicable independence requirements.  |
| 6.  | The board participates in a continuing education program to enhance its members' understanding of relevant risk, reporting, regulatory and industry issues.  |
| 7.  | The board monitors compliance with corporate governance regulations and guidelines.  |
| 8.  | The board reviews its charter annually to determine whether its responsibilities are described adequately.   |
| 9.  | New board members participate in an orientation program to educate them on the organization, their responsibilities and the organization's activities.   |
| 10. | The board chairman is an effective leader.   |
| 11. | The board, in conjunction with the nominating committee (or its equivalent), creates a succession and rotation plan for board members, including the board chairman.   |

| Select the appropriate rating for each statement   | 0 | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|---|
| <b>Understanding the Business, including Risks</b>   |   |   |   |   |   |   |
| 1. The board takes into account significant risks that may directly or indirectly affect the organization. Examples include: |   |   |   |   |   |   |
| • Regulatory and legal requirements  |   |   |   |   |   |   |
| • Concentrations (e.g., suppliers and customers)   |   |   |   |   |   |   |
| • Market and competitive trends  |   |   |   |   |   |   |
| • Financing and liquidity needs  |   |   |   |   |   |   |
| • Financial exposures  |   |   |   |   |   |   |
| • Business continuity  |   |   |   |   |   |   |
| • Organization reputation  |   |   |   |   |   |   |
| • Strategy execution   |   |   |   |   |   |   |
| • Management's capabilities  |   |   |   |   |   |   |
| • Management override  |   |   |   |   |   |   |
| • Fraud control  |   |   |   |   |   |   |
| • Organization pressures, including "tone at the top"  |   |   |   |   |   |   |

- |  |
|--|
| 2. The board considers, understands, and approves the process implemented by management to effectively identify, assess, and respond to the organization's key risks.  |
| 3. The board understands and approves management's fraud risk assessment and has an understanding of identified fraud risks.   |
| 4. The board considers the organization's performance versus that of its peers in a manner that enhances comprehensive risk oversight by using reports provided directly by management to the board or at the full board meeting. These may include benchmarking information comparing the organization's performance and ratios with industry and peers, industry trends, and budget analysis with explanations for areas where significant differences are apparent. |

|  |   |   |   |   |   |   |
|--|---|---|---|---|---|---|
| Select the appropriate rating for each statement | 0 | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|---|

**Process and Procedures**

- |   |
|---|
| 1. The board develops a calendar that dedicates the appropriate time and resources needed to execute its responsibilities.  |
| 2. Board meetings are conducted effectively, with sufficient time spent on significant or emerging.   |
| 3. The level of communication between the board and relevant parties is appropriate; the board chairman encourages input on meeting agendas from committee and board members, management, the internal auditors, and the independent auditor. |



- 2. The board reviews the organization's significant accounting policies.
- 3. The board makes inquiries of the independent auditor, internal auditors, and management on the depth of experience and sufficiency of the organization's accounting and finance staff.
- 4. The board reviews the management recommendation letters written by the independent and internal auditors and monitors the process to determine that all significant matters are addressed.
- 5. The board ensures that management takes action to achieve resolution when there are repeat comments from auditors, particularly those related to internal controls.
- 6. Adjustments to the financial statements that resulted from the audit are reviewed by the audit committee, regardless of whether they were recorded by management.
- 7. The board is consulted when management is seeking a second opinion on an accounting or auditing matter.

**Oversight of Audit Functions**

- 8. The board understands the coordination of work between the independent and internal auditors and clearly articulates its expectations of each.
- 9. The board appropriately considers internal audit reports, management's responses, and steps toward improvement.

|  |   |   |   |   |   |   |   |  |  |
|--|---|---|---|---|---|---|---|--|--|
| 10.  | The board oversees the role of the independent auditor from selection to termination and has an effective process to evaluate the independent auditor's qualifications and performance.   |   |   |   |   |   |   |  |  |
| 11.  | The board considers the independent audit plan and provides recommendations.  |   |   |   |   |   |   |  |  |
| 12.  | The board reviews the audit fees paid to the independent auditor.   |   |   |   |   |   |   |  |  |
| 13.  | The board comprehensively reviews management's representation letters to the independent auditor, including making inquiries about any difficulties in obtaining the representations.   |   |   |   |   |   |   |  |  |
| Select the appropriate rating for each statement |   | 0 | 1 | 2 | 3 | 4 | 5 |  |  |
| <b>Ethics and Compliance</b>                     |   |   |   |   |   |   |   |  |  |
| 1.   | Board members oversee the process and are notified of communications received from governmental or regulatory agencies related to alleged violations or areas of non-compliance.  |   |   |   |   |   |   |  |  |
| 2.   | The board oversees management's procedures for enforcing the organization's code of conduct.  |   |   |   |   |   |   |  |  |
| 3.   | The board determines that there is a senior-level person designated to understand relevant legal and regulatory requirements.   |   |   |   |   |   |   |  |  |
| 4.   | The board oversees the organization's hotline or whistleblower process, reviews the log of incoming calls that relate to possible fraudulent activity, and understands the procedures to prohibit retaliation against whistleblowers. |   |   |   |   |   |   |  |  |



|   |
|---|
| <b>Monitoring Activities</b>  |
| 5. An annual performance evaluation of the board is conducted and any matters that require follow-up are resolved and presented to the full board.                        |
| <b>Overall evaluation</b>   |
| Use the space below to conclude on the overall results taking into account the quantitative results of this self-assessment and qualitative factors not considered above. |

## **SAMPLE II GENOME CANADA \*\***

### **Introduction**

The purpose of this evaluation tool is to assist the Board of Directors to:

- understand and recognize what is working well;
- identify areas for improvement;
- discuss and agree on priorities for change which can be addressed in the short-and-long-term;
- agree on an action plan.

It is intended that this evaluation tool will be completed annually by each director of Genome Canada's Board of Directors. The Corporate Governance Committee will have responsibility to oversee the implementation of this evaluation tool, including discussing a summary of the results, and preparation of a final report with recommendations to the Board of Directors.

In order to encourage open and frank evaluations, as well as offer anonymity to respondents, the evaluation process shall be directed by the Corporate Secretary, who will mail the questionnaire to each director as well as collate the results into a report which will be submitted to the Corporate Governance Committee.

The questionnaire is structured in two parts:

PART 1 – Director Self Assessment

PART 2 – Board of Directors Evaluation

Both parts of the questionnaire are to be completed and sealed in the attached envelope and returned to the Corporate Secretary.

## **PART 1 - DIRECTOR SELF ASSESSMENT**

### **Background**

Genome Canada does not undertake a formal evaluation process for each director. Rather, it promotes a self assessment by directors of their own performance.

### **Assessment Criteria for Individual Directors**

The following criteria are useful in determining how effective a Director's performance results in:

- contributing to corporate leadership and stewardship
- contributing to achievement of corporate objectives
- understanding Genome Canada's mandate, strategic plan, and key issues
- constructive contribution to resolution of issues at meetings
- communicating expectations & concerns clearly
- obtaining adequate, relevant & timely information
- promotion of corporation's interests externally
- interpersonal relationships with other directors and management
- attendance, confidentiality and preparation for meetings

PART 1 - DIRECTOR SELF-ASSESSMENT

Rating Scale :

On a scale from 1 to 5 with 1 being “ Strongly Disagree” and 5 being “ Very Strongly Agree” please rate your performance as a director based on the following :

| Assessment Criteria   | Strongly Disagree |   | Disagree |   | Agree |  | Strongly Agree |  |
|---|-------------------|---|----------|---|-------|--|----------------|--|
|   | 1                 | 2 | 3        | 4 | 5     |  |                |  |
| 1 I have a good understanding of Genome Canada's mandate, strategic plan and key issues.  |                   |   |          |   |       |  |                |  |
| 2 I understand the difference between governing and managing a corporate enterprise and avoid intruding on management's responsibilities. |                   |   |          |   |       |  |                |  |
| 3 My special skills/expertise provide a unique contribution to the board's overall effectiveness.   |                   |   |          |   |       |  |                |  |
| 4 I have good interpersonal relationships with the other directors.   |                   |   |          |   |       |  |                |  |
| 5 I think, speak and act independently in relation to decisions the board must make.  |                   |   |          |   |       |  |                |  |

6 I facilitate and encourage change when it would improve board processes.

7 I make a measured and appropriate contribution to board discussions and deliberations.

8 I am sensitive to the complex relationships which naturally exist among the board chair, the independent directors and the president and CEO.

9 I come to meetings well prepared- having done the necessary prior reading and having consulted other directors and/or management if required.

10 I have a good knowledge of the responsibilities of Genome Canada's management team and am able to consult with members of the management team, as required.

11 I promote Genome Canada's corporate interests externally.

12 I respect the confidentiality of business information and our board's deliberations.

13 I understand the legal and fiduciary obligations of individual directors and of the board as a whole.

14 I have a sufficient knowledge of Genome Canada's as a legal entity and not-for-profit corporation, as well as an understanding of its relationship with industry Canada and other federal departments.

15 When it is appropriate I communicate privately and constructively with the chair and/or President and CEO between meetings.

16 I expect high levels of performance from myself, my fellow directors and management.

17 I ask probing questions focused on policy and strategy rather than tactics and details.

18 I insist that I and the other directors receive information necessary for decision making.

19 I make a meaningful contribution when I serve on a board committee.

20 My attendance rate at meetings is satisfactory.

21 I serve as a resource to the board and to management.

22 I introduce new thinking and a fresh perspective to problem solving.

- 23

My attitude is positive, supportive and enthusiastic.
- 
- 24

My personal value and ethical system is congruent with that of the board and the corporation.
- 

**Additional Comments:**

**PART 2 - BOARD OF DIRECTORS EVALUATION**

**Background**

The Board of Directors should undergo on an annual basis, a review of its performance against established criteria, for purposes of assessing its effectiveness.

**Assessment Criteria**

The following criteria assist in determining how effective the Board's performance is in:

- leadership
- stewardship
- contributing to achievement of corporate objectives
- timely resolution of issues at meetings

- communications of expectations & concerns clearly
- obtain adequate, relevant & timely information
- review & approval of strategic and operational plans, objectives, budgets
- regular monitoring of corporate results against projections
- identify, monitor & mitigate significant corporate risks
- assess policies, structures & procedures
- direct, monitor & evaluate President and CEO
- review management's succession plan
- effective meetings
- formal communications policy for corporation
- corporation's approach to governance
- accountability
- assuring appropriate board size, composition, independence, structure
- clearly defining roles & monitoring activities of committees
- review of corporation's ethical conduct





|     |   |
|-----|---|
| 4   | The Board monitors financial and other indicators throughout the year, and takes appropriate action as required.  |
| 5   | The Board regularly assesses strategic and operating risks and takes appropriate action as required.  |
| 6   | The Board understands the legal requirements and obligations under which they act as a Board; i.e., bylaws, funding agreement, corporate governance manual. |
| 7   | The Board has adopted and maintains a senior management succession planning process and is satisfied with succession planning for the CEO.                  |
| 8   | The Board appropriately relates the compensation of the president and CEO to performance.   |
| 9   | The Board is diligent in verifying the integrity of its financial and management controls and systems.  |
| 10. | The Board is made aware of Genome Canada's communications with key stakeholders; i.e. media, government, general public.                                    |

Additional Comments:

**Management Interaction**

|                     |   |
|---------------------|---|
| 11                  | The Board has sufficient formal and informal contact with the President and CEO.  |
| 12                  | The Board has sufficient formal and informal contact with other management personnel.                                   |
| 13                  | The Board is able to function independently of Management and has the mechanisms in place to maintain that distinction. |
| 14                  | The Board understands the difference between its role and that of management.   |
| 15                  | The Board receives appropriate advice and counsel from management.  |
| Additional Comments |   |

**Board of Director Operations**

16 The Board has an effective process for maintaining its size and compositions to provide appropriate expertise and experience to meet the best interests of Genome Canada.

17 The Board has an adequate process for orientating and educating new Directors.

18 The number and length of Board meetings is appropriate.

19 The amount of time spent on discussions on strategic and general issues is sufficient.

20 The chair conducts the meetings in a respectful manner that ensure open communication and meaningful participation.

21 The chair communicates with directors between meetings as necessary and appropriate.

22 The amount of information received in board packages is appropriate for discussion and decision making purposes.

23. The Board materials are received sufficiently in advance to adequately prepare for meetings.

Additional Comments:

**Committee Structure** ° Executive ° Audit ° Investment ° Election ° Corporate Governance ° Compensation

24 The Committee structure is appropriate.

25 The delegation of responsibilities by the Board to its committee is appropriate.

26 The composition of the committee is appropriate.

27 The number and length of committee meetings is appropriate.

28 The meetings are conducted in a manner that ensures open communication and meaningful participation.

29 The amount of information received is appropriate for discussion and decision making purposes.

30 The materials are received sufficiently in advance to adequately prepare for meetings.

31 The committee regularly reviews its mandate and performance.

Additional Comments:

List the top three priorities requiring attention in order for the Board of Directors to function more effectively.

1

2

3

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**SAMPLE III KPMG**  
**AUDIT COMMITTEE INSTITUTE, IRELAND\*\*\***  
**More Satisfied 1 2 3 (Tick any one)**  
**Less satisfied 4 5 (Tick any one)**

| <i>A. Creating an effective board</i>   | 1 | 2 | 3 | 4 | 5 | <i>What could the board do better or differently?</i> |
|---|---|---|---|---|---|---|
| 1. Are you satisfied that the board has clearly documented its role and responsibilities (e.g. schedule of matters reserved for the board, split of the chairman's role and that of the CEO)?                     |   |   |   |   |   |   |
| 2. Are you satisfied that board members, both individually and collectively, understand what is expected of them (e.g. determining the company's strategic aims)?   |   |   |   |   |   |   |
| 3. Are you satisfied that all non executive directors are independent of the organisation's management and exercise their own judgement; voice their own opinions; and act freely from any conflicts of interest? |   |   |   |   |   |   |

|     |  |
|-----|--|
| 4.  | Are you satisfied with the process by which board members are appointed?   |
| 5.  | Are you satisfied with the appropriateness of the succession plans in place?   |
| 6.  | Are you satisfied that board members, as a whole, have sufficient skills, experience, time and resources to undertake their duties?  |
| 7.  | Are you satisfied that there is sufficient diversity in the boardroom (e.g. diversity of experience, balance between non executive and executive director is appropriate)?                       |
| 8.  | Are you satisfied that board members have a sufficient understanding of the organisation and the sector in which it operates?  |
| 9.  | Are you satisfied that all board member demonstrate the highest level of integrity (including maintaining utmost confidentiality and identifying disclosing and managing conflicts of interest)? |
| 10. | Are you satisfied with the level of 'secretarial support' placed at the board's disposal?  |
| 11. | Are you satisfied with the process in place to make funds available to the board to take independent legal, accounting or other advice when it reasonably believes it necessary to do so?        |



| <i>B. Running an effective board</i>   |   |   |   |   |   | <i>What could the board do better or differently?</i> |
|--|---|---|---|---|---|---|
|  | 1 | 2 | 3 | 4 | 5 |   |
| 1. Are you satisfied that the board has in place a set of objectives that seek to enhance its effectiveness?   |   |   |   |   |   |   |
| 2. Are you satisfied with the chairman's leadership style (e.g., are they decisive, open minded and courteous; do they set a good example, allow members to contribute and hold members to high standards; do they relate well to other members/attendees, deal effectively with dissent and work constructively towards consensus)? |   |   |   |   |   |   |
| 3. Are you satisfied that the board's workload is dealt with effectively?  |   |   |   |   |   |   |
| 4. Are you satisfied that board members work together constructively as a team?  |   |   |   |   |   |   |
| 5. Are you satisfied that board meetings are conducted in a manner which encourages open discussion, healthy debate and allows each board member to clearly add value to discussion and decisions?   |   |   |   |   |   |   |
| 6. Are board meetings conducted in an atmosphere of creative tension?  |   |   |   |   |   |   |
| 7. Are you satisfied that the relationship between a) the board and b) the CEO, CFO and members of the senior management team strikes the right balance between challenge and mutuality?   |   |   |   |   |   |   |

|     |   |
|-----|---|
| 8.  | Are you satisfied that the board's discussions enhance the quality of management's decision making (e.g.: does the board engage those reporting to the board in dialogue that stimulates and enhance their thinking and performance)? |
| 9.  | Are you satisfied that the board's schedule of matters is up to date and regularly reviewed?  |
| 10. | Are you satisfied that the board's meeting arrangements (e.g., frequency, timing, duration, venue and format) enhance its effectiveness?  |
| 11. | Are you satisfied that the board's meeting agenda has sufficient input from all board members?  |
| 12. | Are you satisfied that board meetings allow sufficient time for the discussion of substantive matters?  |
| 13. | Are you satisfied that board meeting agendas and related background information are circulated in a timely manner to enable full and proper consideration to be given to the important issues?  |
| 14. | Are you satisfied with the quality of the board papers (e.g., not overly lengthy and clearly explain the key issues and priorities)?  |
| 15. | Are you satisfied that the board has the appropriate committees with necessary chargers?  |

|     |   |  |
|-----|---|--|
| 16. | Are you satisfied that the board is adequately informed of each committee's activities?   |  |
| 17. | Are you satisfied that private meetings without the executive directors present are useful?   |  |
| 18. | Are you satisfied that the board's meeting minutes are clear, accurate, consistent, complete and timely?  |  |
| 19. | Are you satisfied that outstanding actions arising from board meetings are properly followed up?  |  |
| 20. | Are you satisfied that the processes in place for ensuring the board is kept fully informed on all material matters between meetings (including appropriate external information e.g. emerging risks and material regulatory changes) is working effectively? |  |



| <i>D. Strategic foresight</i>  |   |   |   |   |   | <i>What could the board do better or differently?</i> |
|--|---|---|---|---|---|---|
|  | 1 | 2 | 3 | 4 | 5 |   |
| 1. Are you satisfied that the board devotes significant time to determining (via management and other sources) the emerging issues that could affect the organisation in the future? |   |   |   |   |   |   |
| 2. Are you satisfied that the board has a good understanding of the company's key drivers of performance?  |   |   |   |   |   |   |
| 3. Are you satisfied that the board appropriately uses scenario planning as a fundamental process in the evaluation of strategic risks?  |   |   |   |   |   |   |
| 4. Are you satisfied that the majority of the board's time is spent on issues relating to the strategic direction and not day-to-day management responsibilities?                    |   |   |   |   |   |   |
| 5. Are you satisfied that the organisation's purpose (mission) and vision been defined and clearly communicated to all levels within the organisation?                               |   |   |   |   |   |   |



| F. Performance evaluation   |   |   |   |   |   | What could the board do better or differently? |
|---|---|---|---|---|---|--|
|   | 1 | 2 | 3 | 4 | 5 |  |
| 1. Are you satisfied that your existing range of financial and non-financial performance measures are board enough to monitor management's performance? |   |   |   |   |   |  |
| 2. Are you satisfied that your existing performance measures are linked to the organisation's strategy?   |   |   |   |   |   |  |
| 3. Are you satisfied that the organisation's performance is adequately benchmarked against its peers?   |   |   |   |   |   |  |
| 4. Are you satisfied that management's remuneration is appropriately linked to the organisation's performance and an appropriate peer group?            |   |   |   |   |   |  |
| 5. Are you satisfied that the board has in place an appropriate process for regular board, committee and individual board member evaluation?            |   |   |   |   |   |  |
| 6. Are you satisfied that all actions arising from performance evaluation are followed up?  |   |   |   |   |   |  |
| 7. Are you satisfied that the board performance assessment process enhances board effectiveness?  |   |   |   |   |   |  |

| G. Managing management   |   |   |   |   |   | What could the board do better or differently? |
|--|---|---|---|---|---|--|
|  | 1 | 2 | 3 | 4 | 5 |  |
| 1. Are you satisfied that the board has an agreed process to adequately support the CEO?   |   |   |   |   |   |  |
| 2. Are you satisfied that the board has in place a rigorous process to evaluate the performance of the CEO, with input from all non executive board members? |   |   |   |   |   |  |
| 3. Are you satisfied that the board is appropriately engaged in CEO/senior management succession planning?   |   |   |   |   |   |  |
| 4. Are you satisfied that there are appropriate delegation authorities in place for management and that they are regularly reviewed?                         |   |   |   |   |   |  |
| 5. Are you satisfied that the organisation's culture encourages board members to discuss agenda and other issues with senior management?                     |   |   |   |   |   |  |
| 6. Are you satisfied that bad news is communicated to the board as it arises?  |   |   |   |   |   |  |
| 7. Are you satisfied that the CEO and senior management receive constructive support from the board?   |   |   |   |   |   |  |



| <i>H. Value creation</i>  | 1 | 2 | 3 | 4 | 5 | <i>What could the board do better or differently?</i> |
|---|---|---|---|---|---|---|
| 1. Are you satisfied that the board has clearly identified the organisation's major stakeholders and the 'value' each requires?   |   |   |   |   |   |   |
| 2. Are you satisfied that there are systems in place to allow the board to measure whether the organisation is creating or destroying major stakeholder value?                      |   |   |   |   |   |   |
| 3. Are financial and non financial value drivers in place to focus on the enhancement of value?   |   |   |   |   |   |   |
| 4. Is your existing decision making process (including the present structure of management proposals) adequate to properly assess whether proposals create major stakeholder value? |   |   |   |   |   |   |
| 5. Is your organisation creating major stakeholder value?   |   |   |   |   |   |   |
| 6. Does the board/management have adequate mechanisms for communicating with major stakeholders?  |   |   |   |   |   |   |

| I. Corporate culture   | 1 | 2 | 3 | 4 | 5 | What could the board do better or differently? |
|--|---|---|---|---|---|--|
| 1. Are you satisfied that the board's comprehension of the organisation's purpose, vision and strategic plan is reflected in actions taken in the boardroom?   |   |   |   |   |   |  |
| 2. Are you satisfied that the board plays an appropriate pro-active role in change?  |   |   |   |   |   |  |
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# SEBI'S GUIDANCE NOTE ON BOARD EVALUATION

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## A. Background of Board Evaluation in India

India has moved recently from a voluntary Board evaluation under Clause 49 of the Listing Agreement (SEBI) and Corporate Governance Voluntary Guidelines of MCA (2009) to a mandatory Board evaluation under Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI LODR).

The Companies Act, 2013 and SEBI LODR provide for several mandatory provisions for Board Evaluation on who is to be evaluated, who is to evaluate such persons, disclosure requirements, etc. The main provisions of Companies Act, 2013 and SEBI LODR on Board Evaluation as applicable to listed entities is attached at **Annexure A1** and summarized as under:

1. *Role of the Nomination and Remuneration Committee (NRC):*
  - a. NRC shall formulate criteria for evaluation of performance of independent directors and the board of directors.
  - b. NRC shall carry out evaluation of every director's performance.
  - c. NRC shall determine whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors.
2. *Role of independent directors:*
  - a. In the meeting of independent directors of the company (without the attendance of non-independent directors and management), such directors shall:
    - (i) review the performance of non-independent directors and the Board as a whole.

- (ii) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors.
  - (iii) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.
- b. The independent directors shall bring an objective view in the evaluation of the performance of board and management.
- 3. *Evaluation of independent directors:* The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- 4. *Disclosure requirements:*
  - a. A statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors shall be included in the report by Board of Directors placed in the general meeting.
  - b. The performance evaluation criteria for independent directors shall be disclosed in the section on the corporate governance of the annual report.

## **B. Subject of Evaluation**

As required under SEBI LODR and Companies Act, the evaluation of the Board involves multiple levels:

1. Board as a whole
2. Committees of the Board
3. Individual Directors and Chairperson (including Chairperson, CEO, Independent Directors, Non-independent directors, etc.)

## **C. Process of Evaluation**

The process of evaluation is generally elaborate, stretching across pre-

evaluation, evaluation and post- evaluation processes including, inter alia, the following:

1. *Identifying the objectives of evaluation*

Identifying the objectives of the evaluation is the first and a crucial step in the Board Evaluation process. Clear identification of objectives is key to streamlining the process of evaluation, analyzing the results and taking appropriate and corrective action.

The objectives may be:

- (a) General objectives- Standard Objectives for all Board evaluations of the entity
- (b) Specific objectives- Objectives specific to the current Board evaluation based on recent events, new issues of concern, etc.

2. *Criteria of evaluation*

The criteria for evaluation under different categories depends on the role the person/group plays in the organization. For instance, the evaluation of the Chairperson may evaluate the person's leadership, coordination and steering skills, etc. which may be different from the role of other directors. The criteria for every evaluation may be decided at every level depending on the functions, responsibilities, competencies required, nature of business, etc. As per SEBI LODR, the primary responsibility of formulation of criteria lies on the NRC.

Indicative criteria that may be used for different directors/groups are:

**A. Board as a whole**

a. *Structure of the Board:*

- i. **Competency of directors:** (*Different competencies may be identified as may be required for effective functioning of the entity and the Board*) – Whether Board as a whole has directors with a proper mix of competencies to conduct its affairs effectively.

- ii. **Experience of directors:** Whether Board as a whole has directors with enough experience to conduct its affairs effectively.
  - iii. **Mix of qualifications:** Whether Board as a whole has directors with a proper mix of qualifications to conduct its affairs effectively.
  - iv. **Diversity in Board under various parameters:** Gender/ background/competence/experience, etc. – Whether there is sufficient diversity in the Board on the aforesaid parameters.
  - v. **Appointment to the Board:** Whether the process of appointment to the board of directors is clear and transparent and includes provisions to consider diversity of thought, experience, knowledge, perspective and gender in the board of directors.
- b. **Meetings of the Board**
- i. **Regularity of meetings:** Whether meetings are being held on a regular basis
  - ii. **Frequency:**
    - 1. Whether the Board meets frequently
    - 2. Whether the frequency of such meetings is enough for the Board to undertake its duties properly
  - iii. **Logistics:** Whether the logistics for the meeting is being handled properly- venue, format, timing, etc.
  - iv. **Agenda:**
    - 1. Whether the agenda is circulated well before the meeting
    - 2. Whether the agenda has all relevant information to take decision on the matter
    - 3. Whether the agenda is up to date, regularly reviewed and involves major substantial decisions

4. Whether the quality of agenda and Board papers is up to the mark (explains issues properly, not overly lengthy, etc.)
5. Whether outstanding items of previous meetings are followed-up and taken up in subsequent agendas
6. Whether the time allotted for every item (especially substantive items) in the agenda of the meeting is sufficient for adequate discussions on the subject
7. Whether the Board is able to finish discussion and decision on all agenda items in the meetings
8. Whether adequate and timely inputs are taken from the Board members prior to setting of the Agenda for the meeting
9. Whether the agenda includes adequate information on Committee's activities

v. ***Discussions and dissent:***

1. Whether the Board discusses every issue comprehensively and depending on the importance of the subject
2. Whether the environment of the meeting induces free-flowing discussions, healthy debate and contribution by everyone without any fear or fervour
3. Whether the discussions generally add value to the decision making
4. Whether the Board tends towards groupthink and whether critical and dissenting suggestions are welcomed
5. Whether all members actively participate in the discussions

6. Whether overall, the Board functions constructively as a team

vi. **Recording of minutes**

1. Whether the minutes are being recorded properly-clearly, completely, accurately and consistently.
2. Whether the minutes are approved properly in accordance with set procedures.
3. Whether the minutes are timely circulated to all the Board members
4. Whether dissenting views are recorded in the minutes

vii. **Dissemination of information**

1. Whether all the information pertaining to the meeting are disseminated to the members timely, frequently, accurately, regularly
2. Whether Board is adequately informed of material matters in between meetings

c. **Functions of the Board**

(Functions of the Board have been specified in detail in Chapter II of SEBI LODR and Companies Act)

- (i) **Role and responsibilities of the Board:** Whether the same are clearly documented E.g. Difference in roles of Chairman and CEO, Matters reserved for the Board, etc.

(ii) **Strategy and performance evaluation**

1. Whether significant time of the Board is being devoted to management of current and potential strategic issues
2. Whether various scenario planning is used to evaluate strategic risks



3. Whether the Board overall reviews and guides corporate strategy, major plans of action, risk policy, annual budgets and business plans, sets performance objectives, monitored implementation and corporate performance, and oversees major capital expenditures, acquisitions and divestments.

(iii) ***Governance and compliance***

1. Whether adequate time of the Board is being devoted to analyse and examine governance and compliance issues
2. Whether the Board monitors the effectiveness of its governance practices and makes changes as needed
3. Whether the Board ensures the integrity of the entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards
4. Whether the Board oversees the process of disclosure and communications
5. Whether the Board evaluates and analyses the compliance certificate from the auditors/practicing company secretaries regarding compliance of conditions of corporate governance.

(iv) ***Evaluation of Risks***

1. Whether Board undertakes a review of the high risk issues impacting the organization regularly
2. In assessment of risks, whether it is ensured that, while rightly encouraging positive thinking, these do not result in over-optimism that either leads to

significant risks not being recognised or exposes the entity to excessive risk.

(v) ***Grievance redressal for Investors***

Whether the Board regularly reviews the grievance redressal mechanism of investors, details of grievances received, disposed of and those remaining unresolved.

(vi) ***Conflict of interest***

1. Whether the Board monitors and manages potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions
2. Whether a sufficient number of non-executive members of the board of directors capable of exercising independent judgement are assigned to tasks where there is a potential for conflict of interest.

(vii) ***Stakeholder value and responsibility***

1. Whether the decision making process of the Board is adequate to assess creation of stakeholder value
2. Whether the Board has mechanisms in place to communicate and engage with various stakeholders
3. Whether the Board acts on a fully informed basis, in good faith, with due diligence and care, with high ethical standards and in the best interest of the entity and the stakeholders
4. Whether the Board treats shareholders and stakeholders fairly where decisions of the board of directors may affect different shareholder/ stakeholder groups differently

5. Whether the Board regularly reviews the Business Responsibility Reporting/related corporate social responsibility initiatives of the entity and contribution to society, environment etc.
- (viii) **Corporate culture and values:** Whether the Board sets a corporate culture and the values by which executives throughout a group shall behave.
- (ix) **Review of Board evaluation:** Whether the Board monitors and reviews the Board evaluation framework.
- (x) **Facilitation of independent directors:** Whether the Board facilitates the independent directors to perform their role effectively as a member of the board of directors and also a member of a committee of board of directors and any criticism by such directors is taken constructively.
- d. *Board and management*
- (i) **Evaluation of performance of the management and feedback:**
1. Whether the Board evaluates and monitors management, especially the CEO regularly and fairly and provides constructive feedback and strategic guidance
  2. Whether the measures used are broad enough to monitor performance of the management
  3. Whether the management's performance is benchmarked against industry peers
  4. Whether remuneration of the management is in line with its performance and with industry peers
  5. Whether remuneration of the Board and the management is aligned with the longer term interests of the entity and its shareholders
  6. Whether the Board selects, compensates, monitors

and, when necessary, replaces key managerial personnel based on such evaluation

7. Whether the Board 'steps back' to assist executive management by challenging the assumptions underlying strategy, strategic initiatives (such as acquisitions), risk appetite, exposures and the key areas of the entity's focus.

(ii) ***Independence of the management from the Board:***

Whether the level of independence of the management from the Board is adequate

(iii) ***Access of the management to the Board and Board access to the management:***

Whether the Board and the management are able to actively access each other and exchange information

(iv) ***Secretarial support:*** Whether adequate secretarial and logistical support is available for conducting Board meetings

(v) ***Fund availability:*** Whether sufficient funds are made available to the Board for conducting its meeting effectively, seeking expert advice e.g. Legal, accounting, etc.

(vi) ***Succession plan:*** Whether an appropriate and adequate succession plan is in place and is being reviewed and overseen regularly by the Board

e. ***Professional development***

(i) Whether adequate induction and professional development programmes are made available to new and old directors

(ii) Whether continuing directors training is provided to ensure that the members of board of directors are kept up to date

## **B. Committees of the Board**

- a. ***Mandate and composition:*** Whether the mandate, composition and working procedures of committees of the board of directors is clearly defined and disclosed.

- b. **Effectiveness of the Committee:** Whether the Committee has fulfilled its functions as assigned by the Board and laws as may be applicable

*(For different Committees, different functions may be laid out as sub-criteria for evaluation).*

- c. **Structured of the Committee and meetings:**
  - (i) Whether the Committees have been structured properly and regular meetings are being held
  - (ii) In terms of discussions, agenda, etc. of the meetings, similar criteria may be laid down as specified above for the entire Board.
- d. **Independence of the Committee from the Board:** Whether adequate independence of the Committee is ensured from the Board.
- e. **Contribution to decisions of the Board:** Whether the Committee's recommendations contribute effectively to decisions of the Board.

### C. Individual Directors and Chairperson (including Chairperson, CEO, Independent Directors, Non-independent directors, etc.)

#### General

- a. **Qualifications:** Details of professional qualifications of the member
- b. **Experience:** Details of prior experience of the member, especially the experience relevant to the entity
- c. **Knowledge and Competency:**
  - (i) How the person fares across different competencies as identified for effective functioning of the entity and the Board *(The entity may list various competencies and mark all directors against every such competency)*
  - (ii) Whether the person has sufficient understanding and knowledge of the entity and the sector in which it operates

- d. **Fulfillment of functions:** Whether the person understands and fulfills the functions to him/her as assigned by the Board and the law (E.g. Law imposes certain obligations on independent directors)
- e. **Ability to function as a team:** Whether the person is able to function as an effective team-member
- f. **Initiative:** Whether the person actively takes initiative with respect to various areas
- g. **Availability and attendance:** Whether the person is available for meetings of the Board and attends the meeting regularly and timely, without delay
- h. **Commitment:** Whether the person is adequately committed to the Board and the entity
- i. **Contribution:** Whether the person contributed effectively to the entity and in the Board meetings
- j. **Integrity:** Whether the person demonstrates highest level of integrity (including conflict of interest disclosures, maintenance of confidentiality, etc.)

Additional criteria for Independent director:

- a. **Independence:** Whether person is independent from the entity and the other directors and there if no conflict of interest
- b. **Independent views and judgement:** Whether the person exercises his/her own judgement and voices opinion freely

Additional criteria for Chairperson:

- a. **Effectiveness of leadership and ability to steer the meetings:** Whether the Chairperson displays efficient leadership, is open-minded, decisive, courteous, displays professionalism, able to coordinate the discussion, etc. and is overall able to steer the meeting effectively
- b. **Impartiality:** Whether the Chairperson is impartial in

conducting discussions, seeking views and dealing with dissent, etc.

- c. **Commitment:** Whether the Chairperson is sufficiently committed to the Board and its meetings
- d. **Ability to keep shareholders' interests in mind:** Whether the Chairperson is able to keep shareholders' interest in mind during discussions and decisions

Different criteria may be assigned different weights depending on the organisation's requirements, circumstances, outcome of previous assessments, stage of Board's maturity, etc. Instead of the questionnaire in a simple yes/no format, it is desirable that it provides scope for grading, additional comments, suggestions, etc.

### 3. *Method of evaluation:*

As a global best practice, the method of evaluation is generally in 2 ways:

- a. Internal assessment
- b. Assessment by external experts

#### *Internal assessment:*

Internal assessment of the Board is crucial. Who should evaluate whom is provided in the Companies Act and SEBI LODR as specified above.

The internal assessment may be done by following methods:

- a. A detailed Questionnaire to be circulated to individual directors, Committees, Board, etc.
- b. Oral assessments provided by the person on interviews

If deemed fit, the questionnaire may enable written answers to be submitted on a confidential basis. If due to various reasons, members are not willing to provide written inputs, the Chairperson or any other person may take initiative and obtain views of such members on a confidential basis.

*Assessment by external experts:*

Use of external experts imparts an independence to the evaluation process and therefore is used by many entities globally. However, care must be taken to ensure that the external assessor is not a related party or conflicted due to closeness of the Board to ensure impartiality.

Such external assessment may be done based on questionnaires/ interviews or a combination of the two and done on a regular basis. Such external assessment complements the internal assessment and adds an objective aspect to the evaluation process.

Effective use of Information Technology through use of board evaluation software, applications, etc. can also play a facilitating role.

**D. Feedback**

Providing feedback to the individual directors, the Board and the Committees is crucial for success of Board Evaluation. On collation of all the responses, the feedback may be provided in one or more of the following ways:

- a. Orally given by Chairman/external assessor or any other suitable person to
  - i. Each Member separately
  - ii. To the entire Board
  - iii. To the Committees
- b. A written assessment to every member, Board and Committee

The active role of the Chairperson is desirable in providing feedback to the members. If members are not comfortable to open individual assessments, provision for confidentiality may be made where possible. For effectiveness of the evaluation, it is essential that the feedback be given honestly and without bias.

**E. Action Plan**

Based on the analysis of the responses, the Board may prepare an action plan on:



- Areas of improvement including training, skill building, etc. as may be required for Board members
- List of actions required detailing:
  - o Nature of actions
  - o Timeline
  - o Person responsible for implementation
  - o Resources required, etc.
- Review of the actions within a specific time period

The action plan may be prepared by the Board in a comprehensive manner. Suggestions under the external assessment, individual member feedback, etc. may be taken into account while drafting the action plan.

#### **F. Disclosure requirements**

SEBI LODR and Companies Act requires disclosure of manner of formal annual evaluation of the Board, its committees and individual directors and of performance evaluation criteria for independent directors to the shareholders on an annual basis.

In addition, for more transparency, many entities worldwide voluntarily provide additional disclosures including the results of the Board evaluation, action taken on the basis of the evaluation, current status, etc. to various stakeholders.

#### **G. Frequency of Board Evaluation**

As per SEBI LODR and Companies Act, the Board Evaluation is required to be done once a year. The entity, if it so desires, may also conduct such evaluation more frequently. Since Board evaluation is a continuous process, it is felt that feedback provided to the members during meetings and otherwise, whether oral or written, is more effective for continuous improvement and ideally complements the annual evaluation process.

Many entities globally also complement the internal assessment with external assessment at regular intervals to impart objectivity to the process.

## **H. Responsibility**

The responsibility of Board evaluation lies on different persons depending on the subject of evaluation as per Companies Act and SEBI LODR.

However, it is found that on a global basis, generally the primary role of steering the whole process of Board evaluation and of ensuring its effectiveness in improving the Board efficiency lies on the Chairperson. Therefore, to achieve maximum benefit of the process, the role and function of Chairperson in Board Evaluation needs to be laid out clearly in advance.

## **I. Review**

Board evaluation is not a static process and requires periodical review for improvement. The responsibility of such review of the evaluation process lies with the Board of Directors in accordance with SEBI LODR.

Such review may involve the following:

- a. Whether objectives and criteria for evaluation are adequate or needs to be changed/updated
- b. Whether the process/method of evaluation is appropriate for individual members, Committees and the Board
- c. Whether the actions based on the Board evaluation is being followed up on a timely basis
- d. Whether the Board evaluation has enhanced effectiveness of the Board
- e. Whether the review of the process is being done on a regular basis
- f. Whether feedback of the members to improve the process is being taken into account

Such review may be done based on feedback from management, Board members, Chairperson, external assessors, various stakeholders, etc.

### Annexure A1

#### **Main provisions under Companies Act with respect to Board Evaluation**

**Section 134(3)-** There shall be attached to statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

- (p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors

**Section 178(2)-** The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal and shall carry out evaluation of every director's performance.

#### **SCHEDULE IV: CODE FOR INDEPENDENT DIRECTORS**

**II. Role and functions.** (2) The independent directors shall bring an objective view in the evaluation of the performance of board and management;

**V. Re-appointment:** The re-appointment of independent director shall be on the basis of report of performance evaluation.

#### **VII. Separate meetings:**

- (1) The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management;
- (2) All the independent directors of the company shall strive to be present at such meeting;
- (3) The meeting shall:
  - (a) review the performance of non-independent directors and the Board as a whole;

- (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
- (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

**VIII. Evaluation mechanism:**

- (1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

***Rule 8(4) of the Companies (Accounts) Rules, 2014***

Every listed company and every other public company having a paid up share capital of twenty five crore rupees or more calculated at the end of the preceding financial year shall include, in the report by its Board of directors, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.

**Main provisions under SEBI LODR  
with respect to Board Evaluation**

**CHAPTER II:**

**4(2)(f)(ii):** Key functions of the board of directors- (9) Monitoring and reviewing board of director's evaluation framework.

**Chapter IV:**

**17(10):** The performance evaluation of independent directors shall be done by the entire board of directors:

Provided that in the above evaluation the directors who are subject to evaluation shall not participate.

**25: (3)** The independent directors of the listed entity shall hold at least one meeting in a year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.

**(4)** The independent directors in the meeting referred in sub- regulation (3) shall, inter-alia-

- (a) review the performance of non-independent directors and the board of directors as a whole;
- (b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non- executive directors;
- (c) assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties.

**Schedule II (PART D) (A) ROLE OF NOMINATION AND REMUNERATION COMMITTEE:** Role of committee shall, inter-alia, include the following:

**(2)** formulation of criteria for evaluation of performance of independent directors and the board of directors;

**(4)** identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the board of directors their appointment and removal.

**(5)** whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors.

**Schedule V: Corporate Governance Report.** The following disclosures shall be made in the section on the corporate governance of the annual report.

**(4)** Nomination and Remuneration Committee:

- (d) performance evaluation criteria for independent directors.

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## Motto

सत्यं वद। धर्मं चर।

इष्टार्थे तेन त्वाप्ते. ब्रह्मैव तेन तेन ज्ञेय।

## Vision

"To be a global leader in promoting  
good corporate governance"

## Mission

"To develop high calibre professionals  
facilitating good corporate governance"



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