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01 >> CS Mamta Binani seen interacting with D V Sadananda Gowda (Hon’ble Union Minister of Law and Justice).

03 >> CS Mamta Binani seen presenting a bouquet to Susheel Kumar (Special Secretary, Ministry of Environment, Forest and Climate Change).

05 >> Meeting of ICSI delegation with Member, CCI – CS Mamta Binani in discussion with M S Sahoo (Member, CCI). Others sitting from Left: Yogesh Dubey, Anil Kumar (Adviser, CCI) and CS Banu Dandona.

02 >> CS Mamta Binani seen interacting with M Venkaiah Naidu (Hon’ble Minister of Urban Development, Housing and Urban Poverty Alleviation and Parliamentary Affairs).

04 >> Meeting of ICSI delegation with Secretary, DPE – Clock wise from Left: Ameising Luikham (Secretary, DPE), CS Makarand M Lele, CS Mamta Binani and CS Sonia Baijal.

06 >> CS Mamta Binani presenting a bouquet to Ajit M Sharan (Secretary, Ministry of Ayush).
07 >> CS Mamta Binani addressing the OECD Conference on improving Women’s Access to Leadership held at Paris.

09 >> WIRC – Indore Chapter - Signing of MOU with IIM, Indore – Standing from Left: CS Anurag Gangrade, Prof. Rishikesha T Krishnani (Director, IIM Indore), CS Ashish Garg, Prof. Dipayan D. Chaudhuri (PGP Chair, IIM Indore), CS Manoj Bhandari and CS Pinky Shrivastava.

11 >> ICSI IT-Legal National Conclave – Standing from Left: Ashok Ram Kumar (Advocate, Intellectual Property Rights & IT), CS Ravi Kumar Mandavilli, CS Mahadev Tirunagari, C V D Ramprasad (Director, Software Technology Parks of India, Ministry of Communications and IT), CS Ahalada Rao V and CS Ramakrishna Gupta R.

08 >> Signing of MoU with Institute of Directors (IoD) – CS Mamta Binani and Lt Gen. J S Ahluwalia (President, IoD) seen signing the MoU while Justice M N Venkatachaliah (Former, Chief Justice of India) looks on.

10 >> EIRC - Seminar on SEBI (LODR) Regulations, 2015 with focus on Specified Securities - CS S K Agarwala addressing. Others sitting from Left: CS Siddhartha Murarka, CS Sandip Kumar Kajral, Hitesh Desai (from Bombay Stock Exchange Limited), CS Taposh Roy (Vice President & Company Secretary, Vesuvius Industries Limited) and Ashok Singh (from Bombay Stock Exchange Limited).

12 >> SIRC – Bengaluru Chapter - ICSI IT Legal National Conclave - Sitting on the dais from Left: CS Gopalakrishna Hegde, Bhsushan Gulabao Borase (Superintendent of Police, Cybercrime Division, Criminal Investigation Department (CID), Karnataka Police), CS G M Ganapathi and CS HaribabuThota.

14. ICSI – CCGRT - Research Circle Brain Storming on Indian Company Law-Decoding Unsolved Mysteries (A Three Days of Aficionados Congregation) - Group Photo - Sitting from Left: CS Makarand Lele, CS Nandakumar PC, CS Atul H Mehta, CS NR Sridharan (Chief Guest, Former ROC, Chennai), CS Chindambaram, CS Anshul Jain and Dr Rajesh Agrawal.

15. ICSI - SCOPE joint Programme on SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 -Sitting on the dais from Left: Dr. U B Choubey (DG, SCOPE), Dr. Madhukar Gupta (Addl. Secretary, DPE), CS Dr. Shyam Agrawal, CS Makarand M Lele and CS Vinit K Chaudhary.

16. WIRC – Indore Chapter - Felicitation of Vice President, ICSI - Standing from Left: CS Pinky Shrivastava, CS Amit Jain, CS Ashish Garg, CS Dr. Shyam Agrawal, CS Manoj Bhandari, Netra Sahani (DGM, BSE) and CS Anurag Gangrade.

17. National Seminar on Entrepreneurship, Skill Development and Governance in MSMEs – Sitting on the dais from Left: CS Pradeep Debnath, CS Vineet Chaudhary, Chief Guest K K Jalan, IAS (Secretary, MSME), CS Dr. Shyam Agrawal and CS Manish Gupta.

18. CS Satwinder Singh presenting Green Plant to CA (Dr.) Girish Ahuja during Program on Union Budget jointly organised by NIRC with ICSI.

19. CS Ranjeet Pandey presenting Green Plant to CS Bimal Jain, during Program on Union Budget jointly organised by NIRC with ICSI.

20. WIRC – Indore Chapter – Budget Talk on Union Budget 2016 -17 jointly organised with Indore branch of ICAI and Tax Practitioners Association – a view of the dais.

21. WIRC – Indore Chapter – Budget Talk on Union Budget 2016 -17 jointly organised with Indore branch of ICAI and Tax Practitioners Association – a view of the invitees, dignitaries and delegates.
Group Photo of GRI South Asia Advisory Group Meeting – Standing among others Aditi Halder (Director, GRI South Asia, 5th from left), Seema Arora (ED, CII, ITC Centre for Excellence for Sustainable Development, 6th from left), CS Mamta Binani (7th from left) and Dr. SK Dixit (3rd from left).

Meeting with ED, RBI - Group Photo - Standing among others B P Kanungo (Executive Director, RBI, Standing 3rd from left), CS Mahavir Lunawat and CS Prakash K Pandya (Standing 4th and 5th from left respectively).

NIRC – Programme on Empowering Women Inspiring Change – CS Manish Gupta welcoming Prof. Asha Kadyan (VC, Bhagat Phool Singh Mahila Vishwavidyalaya, Sonepat) by presenting a green planter.

Women’s day celebration – Group photo of ICSI officials with Sanjay Pandey and CS Vineet K Chaudhary.

NIRC – Faridabad Chapter – Full Day seminar on Union Budget 2016-17 and NCLT – CS Praveen Ranka presenting a bouquet to Atul Seksaria, Senior Partner of E&Y (In the Centre). CS P.C. Jain, Past Chairman Faridabad Chapter (Standing Right side) and Yatin Sharma (Director-Tax and Regulatory Services of E&Y(sitting extreme left).

SIRC - Study Circle Meeting on All You want to Know on ICSA – London - Suman (Partner, Mylsamy Associates LLP) addressing. Others sitting from Left: CS C. Ramasubramaniam, CS Mohan Kumar A and CS Niveditha.

WIRC – Rajkot Chapter – Women’s day celebration held in Rajkot. Similar programmes were also held across the Regions and Chapters of the Institute.

30 WIRC – Ahmedabad Chapter - Two days Residential Seminar on CS - Driving Diversified Disciplines in Corporate World – CS Ashish Doshi addressing.

31 WIRC and Indore Chapter - Full Day Seminar on “A Day with Legend” - Legend’s Speech - CS K. Sethuraman (Group Company Secretary & Chief Compliance Officer, Reliance Industries Limited) addressing


35 NIRC – Bhilwara Chapter – Joint programme with Mewar Chamber of Commerce and Industry on Union Budget 2016-17 - CS Sumit Kachhara addressing. Others sitting from Left: CA P C Parwal and CA Yash Dhadda.

32 ICSI-SIRC - Management Skills Orientation Programme - Valedictory Session - CS Sivakumar P addressing.

34 WIRC – Pune Chapter – CS Hrishikesh Wagh addressing on the foundation day of the Chapter.

36 EIRC – North Eastern Chapter – A view of the invitees, dignitaries and delegates at the Investor Awareness programme held at Tripura.
Dance of Corporate Democracy: The rise of proxy advisors

Aditi Jhunjhunwala & Suman Poddar

The World Bank in its report on “Role of Institutional Investors in the Corporate Governance of their Portfolio Companies” - with respect to India has recognized that the institutional investors have a very passive role against being active, given their roles and skills. Institutional investors invest in multiple companies in different industry range and across the globe and it may not be feasible for those investors to have informed knowledge of the corporate governance specifications of that country and hence there may be an inability to understand the need and impact of a particular agenda item. Accordingly, a need was felt under the various concept papers for “proxy advisors”. In this article the authors have briefed the role and the importance of proxy advisors and have also discussed their presence globally and rise in India. Emphasis has been laid on the working and the practical aspects of research and analysis carried on by the proxy advisors while advising the institutional investors and in their journey of advising such institutional investors how they may influence the corporate democracy of companies.

Transparency in Related Party Transactions: A Key to Good Corporate Governance

Anil Sharma

Transparency in Related Party Transactions (RPTs) helps in improving Corporate Governance system in the organisation. The Companies Act, 2013 and SEBI (LODR) Regulations have come up with structured RPTs mechanism which provides for approval and disclosure requirements while defining RPTs and related parties. There are certain areas where there still exists confusion and detailed guidelines are needed from MCA and SEBI in this regard. In this Article, an attempt is made to study and interpret provisions and regulations in best possible way. Still it is recommended that legal advice/opinion should be taken wherever it is necessary. The article is divided into five headings. Fifth heading i.e. “Gaps required to be filled” is explained under each head in the form of discussions and debates. Robust and more transparent RPTs mechanism can only become possible when our and other concerned professional bodies’ members contribute and give suggestion for its improvement.

Corporate Governance: From shareholders activism to class action?

D.S. Mahajani & Monica Ahir

The journey of Corporate Governance continued even after enactment of the Companies Act 2013 (“the Act”). While complying with the provisions of the Act on Corporate Governance front, India Inc. is still required to keep a pace with the rising Shareholders Activism in the Country. Shareholders Activism is a global phenomenon and has added a new dimension to the Corporate Governance activities across the world. In western countries Shareholders Activism has extended to Class Action Suits in extreme cases. In this changing Corporate Governance landscape, an attempt has been made in this article to highlight the pitfalls of Shareholders Activism and major provisions of Class Action under the Act.

An Analysis of OECD Principles of Corporate Governance vis-à-vis Indian Corporate Laws

Gaurav Pingle & Deepali Dole

The purpose of Corporate Governance (‘CG’) is to help in building an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and more inclusive societies. The OECD Principles of Corporate Governance provide such benchmark. The Principles identify the key in building blocks for sound corporate governance framework and offer practical guidance for implementation at a national level. The Principles direct the policy makers to evaluate and improve the legal, regulatory, and institutional framework for corporate governance, with a view to supporting economic efficiency, sustainable growth and financial stability. The article is a compilation and analysis of the OECD Principles of Corporate Governance with the Indian corporate law – Companies Act, 2013/1956 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. There is comparative analysis of Indian corporate laws with each OECD Principle citing commonalities and differences in the same.

Necessity of International Corporate Governance Day

Mahadev Tirunagari & Ahalada Rao V

The Necessity of observing a Day as International Corporate Governance Day is emanated due to the present thinking and approach towards the corporate governance. In the present scenario, all countries have attributed a narrow approach to the corporate governance by limiting its applicability predominantly only to listed entities. However the actual scope of corporate governance is not only for listed but also for the entire business environment, which may include the unlisted entities, firms, societies etc. Therefore this article emphasises on bringing a platform to the world for evolving the corporate governance to its real potential and reaps the benefits to its core. Therefore an idea is entwined in this article for evolving a code for International Corporate Governance practices termed as “International Corporate Governance Code- ICGC”. At the same time emphasis needs to be given for such novel thought by following a day as “International Corporate Governance Day – ICGD”.

Analytical aspects of Corporate Frauds in India

Dr. Sanjeev Gupta

Corporate Frauds have acquired an undesired but inevitable presence in our economy. Insufficient control, personal financial pressure, expensive lifestyles and unethical behaviour of the employees are among the major ingredients of the Corporate Fraud. Section 447 of Companies Act, 2013 defines Corporate Fraud as an act or omission of concealment of any facts/information with an intention to deceive, to gain or to injure the stakeholders of a company for any wrongful gain or loss. Frauds perpetrated by the management, manipulation of financial statements, lack of action against perpetrators, insufficient powers with fraud regulating agencies are the major features, drawn from the major Corporate Frauds occurred during the last 20 years. Coordination among different regulatory authorities, reporting of fraud, publication of fraud prevention policy, effective due diligence by banks and financial institutions, professionalism on the board and adequate disclosures by professionals need attention for curbing or preventing Corporate Frauds in India.

Mind the Gap: Quorum Voting at the Committee Level

Sarah Alvy & Kshitiw Astawhi

This article identifies a gap in India’s corporate governance system, pertaining to the regulatory framework governing quorum voting at the board committee level. The current legal framework defining quorum voting at the board committee level is ambiguous, lacks continuity, and has resulted in a practice gap within India’s corporate governance system. To provide context of the corporate governance issues precipitated by this identified practice-gap, this article will first present hypothetical situations and then follow through with real-world examples from the top one-hundred firms listed on the Bombay Stock Exchange. Lastly, this article provides a comprehensive list of recommendations that aim to fill the gap. Accordingly, this article is both a managerial and business law policy piece, which will be of substantial utility and interest to all scholars of managerial sciences and law, as well as those affected by the regulations mentioned in this article, including corporate secretaries working for publicly listed firms.

Diversifying the Boards of Directors - A Step towards Better Corporate Governance

Sathyanarayana Reddy P & Dr. V. Balachandran

Diversity in the boardroom is increasingly recognized by governments, stock exchanges, companies, shareholders, customers and investors as an essential component of good corporate governance that ultimately leads to better business success and sustainability. One of the ways to enhance corporate governance is to diversify the board. Diversity can be statutorily achieved; more particularly function wise, as also residence and gender wise, whereby the board has to have an optimum combination of executive, non-executive, independent, resident/non-resident director/s, woman director/s, and small shareholders’ director/s in terms of law and corporate governance. It is often said that having people from different backgrounds on a board fosters better decision making and corporate governance. This article attempts to elaborate on this topic by first introducing the concept of board diversity and how it may benefit the organization, which is followed by a discussion on the possible costs, current regulatory initiatives, and the process of creating a diverse board and how it may contribute towards better corporate governance.

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Corporate Governance for Small and Medium Scale Enterprises

Subhash Nathuramka, FCS

India has about 15 Lac registered companies mainly operating in small and medium scale sector which has a great role to play in Indian economy for generation of employment, export promotion and encouragement of entrepreneurial skills. Globalization and liberalization, coupled with WTO regime have posed great challenges before Indian SMEs. Adopting good governance practices can be a great tool in the process of reinventing themselves to withstand those challenges. Boosting governance can also result into better availability of finance both debt and equity as also attracting better quality of manpower. SMEs can strengthen their implementation of corporate governance through implementation of financial controls under Companies Act 2013, adoption of professional board management, appointment of independent directors, using monitoring by banks/FIs as a tool of governance, using private equity as an instrument of better governance, striving to achieve better credit rating, better succession planning, listing on SME exchanges and achieving better control through effective MIS.

LMJ: 06:04:2016 Registrar of Companies is a person aggrieved to file a complaint against delay in despatching share certificates under section 113 of the Act. [SC] ▶ LW: 18:04:2016 Supreme Court rejects penalty imposed for indulging in “matching trade” while upholding the penalty imposed for indulging in “synchronised trade” and “circular trade”. ▶ LW: 19:04:2016 The two appellants are guarantors and notwithstanding the principal borrower company being a sick industrial company, the DRT & DRTAT have rightly opined that proceedings under Recovery of Debts due to Banks and Financial Institutions Act, 1993 can continue against the them.[Del] ▶ LW: 20:04:2016 Bombay High Court explains the rights of dissenting workmen of a company in liquidation over payment. ▶ LW: 21:04:2016 It is held that the amount of fine has to be Rupees five thousand and the courts have no discretion to reduce the same once the offence has been established. The discretion as per proviso is confined only in respect of term of imprisonment. [SC] ▶ LW: 22:04:2016 It is the intention of the Legislature that the casual employees should also be brought within the purview of the ESI Act. [SC] ▶ LW: 23:04:2016 The power to extend the time to complete assessment proceedings is to be exercised before the normal period of assessment expires. [SC] ▶ LW: 24:04:2016 CCI dismisses complaint against TAM Media Research, regarding TRP ratings methods, filed by Prasar Bharti. ▶ LW: 25:04:2016 CCI dismisses complaint against Uber Group, filed by Meru.

FROM THE GOVERNMENT


LEGAL WORLD

Dr. V. Gopalan & Harini Gopalan

‘Fraud’ is normally understood as a deliberate trickery with a clear motive resulting in gain or any advantage to the fraudster. So is the case with ‘Corporate fraud’. It is abusing trust consisting of dishonest and/or illegal activities deliberately done by any person (including employees, officers, directors of the company) with an ultimate objective of achieving gain or advantage. Section 447 of the Companies Act, 2013 defines ‘fraud’ in relation to affairs of a company or a body corporate as “any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain (gain by unlawful means) or wrongful loss (unlawful loss)”.

A Study on ‘Critical Issues & Corporate Governance Framework in India’

Meenu Gupta

With the increasing incidence of Corporate Fraud and scams in India being Satyam Fiasco of 2009 and Syndicate Bank Bribery Scam, the biggest scandals, it is high time a law is enacted in India for corporate sector to formulate and enforce code of conduct to check malpractices, cases of corruption and corporate scams. Although Satyam case did lead to release of voluntary guidelines by the Ministry of Corporate Affairs, but they scarcely mention in protection in its text. SEBI’s inability to handle crisis is evident in its inability to prevent the National Spot Exchange Limited (NSEL) fiasco which shows that a separate authority catering to the specific needs for prevention of fraudulent practices against duping small shareholders is urgent need of the hour. The research study is undertaken to study various Corporate Governance issues, statistics of corporate scams in India and the laws thereby.

Dr. Megha S. Somani & Jyoti M. Bhatia

Corporate Governance has been one of the major and accepted good disclosure practices by the companies in India. It covers transparency among owners of the company and its management by the Directors elected by such owners. The Board has an eminent position, responsibility and role due to which they decide that tool in the process of reinventing paper attempts to reflect improvements in Corporate Governance policies giving emphasis on board policies. Board of Unitech Ltd. is accountable to its stakeholders and any change in its structure affects performance of the Company. Timely and accurate information helps markets to ascertain the degree to which company responds to investors’ needs, reflects risks, and quality of its future decisions. Due to changes in applicable laws with respect to Board Policies, Governance practices of Unitech Ltd. have reflected major developments.

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1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.

2. The article must be original contribution of the author.

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4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.

5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.

6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.

7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.

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10. The article shall be accompanied by a summary in 150 words and mailed to ak.sil@icsi.edu

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1. I, Shri/Ms./Dr./Professor………………………. declare that I have read and understood the Guidelines for Authors.

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   a. the article titled “………” is my original contribution and no portion of it has been adopted from any other source;
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3. I undertake that I:
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   c. shall be liable for any breach of this ‘Declaration-cum-Undertaking’.

   (Signature)
Greetings from ICSI!

This time, I will start penning my views with a story on ‘faith’. It so happened that once there was a group of soldiers fighting for the country and all the soldiers except one died in the war. He was frantically searching for a hiding place so that he could escape from the eyes of the enemies. Running here and there, he reached a place where he saw many caves. Having no choice, he just entered one of the caves only wishing and praying to God that his enemies should not find him. As he was settling himself at one corner of the cave, he heard footsteps of the enemy soldiers coming closer and closer. His curse towards God also fastened. He started complaining to the Almighty that all through his life, he has been faithful to him and had always worshipped him, so why is he not saving his child? And he almost considered himself to be in the hands of the enemy.

As he was in the midst of these obvious thoughts, a spider was building its web on the mouth of the cave in which he was hiding. When the soldier saw the spider, he again cursed God and said that 'Bhagwan, I am calling you and instead of coming, you have sent a spider!! Alas!!'

The footsteps became closer. The enemy was peeping in each of the cave in search of the soldier. When the enemy came closer to this cave, he did not bother to get inside because he saw the web of spider, which denoted that no one had entered the said cave. So he just left!! The hiding soldier took a great sigh of relief and thanked God a million times. He understood the role of the spider and also understood that.....

‘Faith should never be shaken. Lot of times, on the face of things, we feel that everything is going against us but give it some time. Man only proposes, it is GOD who disposes!!’

I have immense faith in my belief in the Almighty and also in my Team ICSI, which is performing at its level best to make the things happen. On behalf of ICSI, I thank all our professional colleagues for reposing full confidence in ICSI working!!

About this Special Issue on Corporate Governance:
The Institute of Company Secretaries of India is committed to promote good Corporate Governance and has played a pivotal role in creating awareness on a range of critical issues related to Corporate Governance. As a step forward to align with the vision and mission of the Institute, the year 2016 has been declared as the ‘Year of Corporate Governance’ by ICSI. As a part of this, the Institute is organising the International Round Table Conference on Corporate Governance for the first time with an objective to discuss the developments in the field of Corporate Governance and to further the cause of good governance on 15 April 2016 at Vigyan Bhawan, New Delhi. About good governance, great Indian Philosopher Chanakya said “Prosperity or wealth depends on Good governance of the state (Arthasya Mula Rajyam).”

The Round Table will trigger for international consensus on an International Day for Corporate Governance. The cyclopeans from the corporate sector, regulators,
From the president

Deliberations with Various Ministries:

Deliberations with Various Ministries: Deliberations on the Companies (Amendment) Bill, 2016 in the next 10 days. The Institute will be holding a webinar on Companies (Amendment) Bill, 2016 in the next 10 days.

The Institute extended its MoU with Institute of Directors (IoD) on March 21, 2016 in the benign presence of former Chief Justice of India, Hon'ble Justice M N Venkatachaliah.

OECD International Conference: I feel privileged and honoured to represent my country and ICSI at an international platform in a conference hosted by OECD on ‘Improving Women’s Access to Leadership’ on 8 March, 2016 at Paris. The conference focussed on fostering a policy dialogue on including women in decision-making positions and the impact on broader social and economic outcomes. Back here in India, my ICSI team also saluted and celebrated the spirit of womanhood of our women team on Women’s day. I feel dignified that such a zealous and dedicated team in ICSI is there, who cherishes every vista of their feminism and bring both ‘mind and heart’ in their respective areas of responsibility here at ICSI.

ICSI National Seminar on Entrepreneurship, Skill Development and Governance

ICSI National Seminar on Entrepreneurship, Skill Development and Governance


Memorandum of Understanding Extended with Institute of Directors

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The Institute extended its MoU with Institute of Directors (IoD) on March 21, 2016 in the benign presence of former Chief Justice of India, Hon’ble Justice M N Venkatachaliah. This MoU will support in cause of the furtherance of the Institute’s efforts towards organizing joint workshops, seminars, continuing education and training programmes for Directors, senior management and corporate executives, undertaking joint research projects-surveys, reciprocating participation in National and International conferences organised by the institute and any other matter of mutual interest.

CSBF

CSBF is being vivaciously convoyed by Team ICSI. Now, the
members may donate to CSBF online through a link www.icsi.in/ICSIDonation by just a click on the mouse. Financial assistance from CSBF is now disbursed more expeditiously. We have also created and uploaded short stories on CSBF on website of the Institute. In addition, FAQs on CSBF have also been answered on the website of the Institute.

Initiatives to Facilitate Members

A host of discernible initiatives have been taken for the benefit of our esteemed members such as abatement in the processing time for Associate Membership application and printing time of various certificates.

Ponderous Initiatives for My Dear Students: Students are always in the heart of ICSI and ways to facilitate learnings to them are being taken. Following initiatives have been taken up during this month exclusively for them:

• Study Centre Scheme

The Study Centre Scheme was set afloat by the Institute in order to rip out the distance barrier for students belonging to cities / locations in which the representative offices of the Institute were non-existent. In this series, 3 new study centres located in Rohtak, Mathura and Tirupati have been set up in the month of March making the total to 17 till date, in collaboration with reputed colleges Pan-India.

• Class Room Teaching

As on March 2016, 49 Regional Offices/Chapters of the Institute are conducting batches of class room teaching.

• Development and Launch of Website dedicated to 'CS Olympiad'

As shared with your good selves in the March’s communication, the Institute has signed a Memorandum of Understanding (MoU) with the Science Olympiad Foundation (SOF) for conducting the CS Olympiad for students of Classes 11th and 12th in each academic year in schools across India. On 15 March, the website of CS Olympiad www.csolympiad.info was unveiled.

• ICSI Signature Award Scheme

As initiated earlier, ICSI Signature Award Scheme has been given impulse in January, 2016 under which top rank holders in B.Com. Final Examinations in reputed universities and also specialised programmes/papers of IITs / IIMs are to be awarded with a Gold Medal and Certificate. The Institute has signed MoU with IIM, Indore and Kumaun University, Nainital, Uttarakhand in the month of March, 2016 and has also awarded the Gold Medal and Certificate to the topper of IIM Indore at its convocation ceremony on 25 March 2016.

Role of Company Secretary in Developing Sustainable Business Models: A Company Secretary plays a radical role for making any business models sustainable and successful in emerging economies. There are numerous aspects taken care of by Company Secretary professional being 'Key Managerial Personnel' in Corporate sector for sustainability of any business model. It is necessary to pass the importance of sustainability to young start-ups and they should imbibe discipline in their efforts to create and sustain such innovative business models. The significance of the same has been highlighted by ICSI in an International Conference on “Sustainable Business Models: Innovative Strategies and Practices” organised by Shyam Lal College, University of Delhi on 17 March 2016 in India International Centre, New Delhi.

Contest among ROs, CCGRT and Chapters on Child Portal Updation

The Institute has triggered a unique contest among its Regional Offices, Chapters and CCGRT for their respective Child Portal Updation. Child Portals of the offices will be reviewed at the end of the contest period. A letter of appreciation along with a surprise gift has been planned for the best ones, one each from ROs & CCGRT/ A+/A/B/C/D grade Chapters.

Festivities

I feel blessed and fortunate to be born in India which is a land where people of heterogeneous religions and cultures live in harmony with each other. April is such a blessed month that imbibes festivities from multiple religions. As a citizen of this beautiful and pulchritudinous country, we will be celebrating Ram Navmi, Mahavir Jayanti, Vaisakhi and Hazrat Ali’s Birthday this month. Ram Navmi marks birth of Lord Rama, who is known as 'Maryada Purushottam' which means an ideal, righteous and a great or a perfect human being, being the best son, brother, husband and father. As our Hon’ble President Pranab Mukherjee quotes “When the world is faced with multiple challenges, the philosophy and teachings of Ahimsā, truth and compassion enunciated by Bhagwan Mahavira hold great significance. Let us on this auspicious day, resolve to ceaselessly strive for harmony and amity in our country and across the World.

Epilogue: There are many other efforts that your alma-mater is taking, yet, I would be ending on this note ‘Not everything that counts can be counted and not everything that can be counted counts.’ Albert Einstein.

Best regards

Yours sincerely

April 05, 2016
New Delhi

(ICSi) CHARTERED SECRETARY | APRIL 2016

president@icsi.edu
1 ARTICLES

- DANCE OF CORPORATE DEMOCRACY: THE RISE OF PROXY ADVISORS
- TRANSPARENCY IN RELATED PARTY TRANSACTIONS: A KEY TO GOOD CORPORATE GOVERNANCE
- CORPORATE GOVERNANCE: FROM SHAREHOLDERS ACTIVISM TO CLASS ACTION?
- AN ANALYSIS OF OECD PRINCIPLES OF CORPORATE GOVERNANCE VIS-À-VIS INDIAN CORPORATE LAWS
- NECESSITY OF INTERNATIONAL CORPORATE GOVERNANCE DAY
- ANALYTICAL ASPECTS OF CORPORATE FRAUDS IN INDIA
- MIND THE GAP: QUORUM VOTING AT THE COMMITTEE LEVEL
- DIVERSIFYING THE BOARDS OF DIRECTORS - A STEP TOWARDS BETTER CORPORATE GOVERNANCE
- CORPORATE GOVERNANCE FOR SMALL AND MEDIUM SCALE ENTERPRISES
- ‘CORPORATE FRAUDS AND SCAMS’ AND PUNISHMENTS UNDER THE COMPANIES ACT, 2013
Always remember

- Digital Signature should only be used by the authorised person in whose name the digital signature has been issued.

- Create unique and unpredictable passwords that uses a combination of words, numbers, symbols and both upper and lower-case letters for high security.

- To avoid misuse, please ensure that the DSC/DSC Token is not left with any unauthorised person.

- Do not disclose the Password to anyone.

- Always use Digital Signature only with the application recommended by the issuing Authority. Using pirated software may result in compromising the security of digital signature and also it may attract penal provisions under The Information Technology Act, 2000.
An investor may influence the operations of a company primarily by his shareholding and, in turn, may affect the shareholder value and the quality of corporate governance. This is more so if the investor is an institutional investor. Institutional investors usually hold large chunk of a company’s shares collectively. Institutional investors have become dominant players in corporate democracy and vote with millions of shares at general meetings or on items to be passed by ballots, e-voting, etc. However, institutional investors’ primary strength lies in making investments; they may not have adequate expertise or infrastructure to ensure proper corporate governance of their portfolio investees, so as to exercise their voting powers in the best interest of their investee companies and other stakeholders therein. It is for this reason that they depend on the support of proxy advisors.

The concept of proxy advisors is an age-old concept in lots of countries and new phenomenon in India. The system exists for better shareholders’ participation. However, there are times when there may be a potential conflict of interest in their roles acting as proxy advisors. This conflict has developed over time and is an inherent threat in the way they function. The role of proxy advisors seems to have become critical and has brought a significant change in the scenario of corporate governance.

The concept of proxy advisors is an age-old concept in lots of countries, though it may still be a relatively new phenomenon in India. The system exists for better shareholders’ participation. However, there are times when there may be a potential conflict of interest in their roles acting as proxy advisors. This conflict has developed over time and is an inherent threat in the way they function. The role of proxy advisors seems to have become critical and has brought a significant change in the scenario of corporate governance.
DANCE OF CORPORATE DEMOCRACY: THE RISE OF PROXY ADVISORS

that “proxy advisors hold a position of unparalleled influence,” and estimated that between 20-25% of the votes cast at Exxon Mobil’s most recent annual meeting were voted automatically in accordance with proxy advisor recommendations. The main role of these proxy advisors or proxy advisors firms is to recommend institutional investors about the rationale for a proposed resolution to be passed by the company and, accordingly, facilitate them to vote “for” or “against” the motion. Accordingly, the proxy advisory firms exert huge influence by potentially swing the voting at shareholder meetings.

REASONS FOR ENGAGING PROXY ADVISORS

Role of the institutional investors- whether passive or active?

The OECD Principles of Corporate Governance (Principles) rely on the assumption that a shareholder can look best after his interest given the sufficient information and voting rights. When a shareholder belongs to a professional body or has sufficient skills and knowledge, more so he can make an informed decision, such as institutional investors. The prospects in relation to voting by such shareholders have been highlighted in Principles II.F and II.G, added in 2004 to cover disclosure of voting policies, managing conflicts of interest and co-operation between investors. Institutional investors were expected to be one of the important contributors to corporate governance in as much as they were expected to behave in accordance with their skills and knowledge, but seemingly, the behavior was not as expected. This led to formulation of several new principles being agreed by consensus, especially Principles II.F and II.G covering disclosure of voting policies, managing conflicts of interest and co-operation between investors. The annotations to the Principles specified under II.F.1 to the following effect - “the effectiveness and credibility of the entire corporate governance system and company oversight will... to a large extent depend on institutional investors that can make informed use of their shareholder rights and effectively exercise their ownership functions in companies in which they invest.”

OECD in its paper on the role of institutional investors in promoting good corporate governance (OECD Paper) has dealt with their behavior and contribution to the corporate governance in few countries. It has been summarized that “In practical terms, the restriction of the Principles to institutions acting in a “fiduciary capacity” needs to be interpreted broadly since formal fiduciary duties are not specified in many jurisdictions that often prefer the weaker obligation of loyalty.”

The OECD Paper has dealt with various roles and behavior of the institutional investors and their ultimate contribution to corporate governance.

National Stock Exchange of India Limited, in its quarterly briefing in April, 2013 quoted that “historically, outside (non-promoter) shareholders, whether retail or institutional, have been passive in India. They rarely participated in shareholders’ meetings. In any case, the retail shareholders’ miniscule shareholding made their participation less effective. Notably, however, even the institutional shareholders, both domestic and foreign, who could have made a difference, either did not participate in the meetings or, if they did, it was almost always to vote in support of management and the promoters”

The World Bank in its report on “Role of Institutional Investors in the Corporate Governance of their Portfolio Companies” with respect to India has also recognized that the institutional investors have a very passive role against being active, given their roles and skills. The review report deals with how the institutional investors, acting in fiduciary capacity, should be mandated to disclose their corporate governance policies to the market in considerable details. This was also the concern addressed in the OECD Paper. Accordingly, it was also identified that such problems could in principle be solved by making use of proxy advisors

PROXY ADVISORS AND THEIR ROLES

Accordingly, keeping in mind that the institutional investors are expected to be key drivers of corporate governance, the need for proxy advisors was felt. Discussed briefly hereunder are the reasons why institutional investors engage proxy advisors:

a. Proxy advisors generally offer variety of services consisting of both, analyzing the proposals at general meetings and recommending voting decisions.

b. The recommendations of proxy advisors help the investors to obtain a more considered understanding of different agenda items and to arrive at an informed voting decision, allowing them to optimise their own limited resources and cast their votes in a timely and informed manner.

c. Considering that institutional investors invest in multiple companies in different industry range and across the globe, it may not be feasible for those investors to have informed knowledge of the corporate governance specifications of that country and hence there may be an inability to understand the need and impact of a particular agenda item. Proxy advisors help to combat this issue as well through their informed consultancy. Due to cross border voting investors may face issues in terms of language of a country. The proxy advisors

4 http://www.nseindia.com/research/content/res_QB1.pdf
5 http://www.rfogindia.org/final_india-june29.pdf
The proxy advisors simply recommend their voting decisions to the investors, who in turn exercise the same as per the advice of the proxy advisors. However, the rationale and the contents of their research are usually unavailable to the company to ascertain the reason for voting, especially when it may be against a motion. In India, the institutional investors hold around 10%-20% of the paid up share capital of a company, therefore, are able to influence the decisions of the company to the extent of their shareholding.

can assist in mitigating the language issues as well. Further, they may also enable the investors to have a voting platform in cases where electronic voting is a pre-requisite at general meetings.

d. Apart from the above, general meetings across the globe may be concentrated during a certain period of the year and therefore the investors may not be in a position to gather information and knowledge about all the companies and hence, may not be in a position to take informed decision while voting.

OECD Paper discusses the role in brief where it summarizes that, “Verdam (2006) points out that most investors tend to follow their advice, first of all, because it is easier from an administrative perspective ‘for 15 to 20% of ISS’ clients the votes are cast automatically – so without any further action being required– in conformity with ISS’ recommendations’ (page 4). In addition, it would require the investor conducting its own research to conclude differently, and would have to “justify and render account both to themselves and to their beneficiaries why they are going against the advice of the expert called in by them” (page 5). Verdam cites research that has shown that 40% of the votes cast by institutional shareholders for shares in US-listed companies are in conformity with ISS’ recommendations.”

CONFLICT OF INTEREST- AN INHERENT THREAT IN BUSINESS MODELS

The concept of proxy advisors exists for a reason aiming towards better shareholder’s participation, however, there are times when there may be a potential conflict of interest in their roles acting as proxy advisors. This conflict has developed over time and is an inherent threat in the way they function.

One needs to ponder over possible conflict of interest in case of recommendations by the proxy advisors? The proxy advisors simply recommend their voting decisions to the investors, who in turn exercise the same as per the advice of the proxy advisors.

However, the rationale and the contents of their research are usually unavailable to the company to ascertain the reason for voting, especially when it may be against a motion. In India, the institutional investors hold around 10%-20% of the paid up share capital of a company, therefore, are able to influence the decisions of the company to the extent of their shareholding. Since, the rationale of decision by the proxy advisors is unknown to the company, it is oblivious of the reason for its defeat of the resolution or comparatively lower voting in favour of a motion. Proxy advisors are supposed to be unbiased and give their independent decisions to the investors so as to play a constructive role in facilitating greater shareholder involvement. However, at times such firms may also be consultants to the investees as well as advisor to the investor; it is in these cases that there are chances of conflict of interest. It is a major concern as conflict of interest coupled with biased recommendations translates into actual votes, thereby adversely affecting shareholders’ value.

To combat these issues SEBI vide its notification dated 1st September, 2014 introduced SEBI (Research Analysts) Regulations, 2014 (“Regulations”). According to the Regulations, the proxy advisors are required to maintain a minimum capital, disclose the extent of research behind their recommendations and frame policies on interacting with and getting responses from the companies on which they are issuing reports. Provisions of the Regulations are dealt with in the latter part of the article.

CONFLICT OF INTEREST: INTERNATIONAL DISCUSSIONS

A 2007 US Government Accountability Office Report (GAO, 2007)7 concluded that the main source of potential conflict of interest for proxy advisors was the simultaneous provision of services to institutional investors and corporate clients.

The OECD Paper also summarized that “There is the view that the proxy voting industry is already too influential leading to voting and voting recommendations that are “tick the box” in nature and not sufficiently differentiated by country and by company. There is also the question of conflicts of interest prevalent in the industry.”

The most common concern being conflict of interest, which is seemingly inherited in their business models, has been discussed in the Discussion paper by European Securities and Market Authorities (ESMA)8. The various possible ways in conflict of interest may arise, have been discussed. Some of the conflicts are as mentioned hereunder:

a. Dual service: A clear conflict exists when proxy advisors provide dual service, both as consultancy services to issuers and proxy research and advice to investors, to institutional clients with respect of those issuers. The risk is that proxy advisors could provide inappropriate proxy advice to investors, as they are effectively advising investors on how to read statements by issuers which they themselves may have influenced through their advice to those issuers.

b. Relationship of proxy advisor with issuer: The advice by the proxy advisor given to the investor may be influenced due to its relations with the issuer e.g., the proxy advisor may have

7 Source: OECD Paper
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The SEC and ESMA and other capital market regulators worldwide are realizing the importance of the role of the proxy advisors and the impact they have on the corporate governance. Thus, steps are being taken by them on a continuous basis to formulate regulations/guidelines in order to ensure that the decisions of the proxy advisory firms are more transparent, reliable and independent, thereby curbing the threat of conflict of interest.

some other commercial or personal relationships with the issuer or the issuer’s major shareholders, which in turn may result in rendering biased advice to the investor.

c. Potential interest of proxy advisor in issuer: potential conflicts are likely to arise when owners, directors or officers of proxy advisory firms serve on public company’s boards and that have proposals on which the proxy advisors are making voting recommendations.

d. Relative influence of proxy advisor client: Influence by one investor client on the advice of the proxy advisory firm given to another investor clients, in order to maintain its business relations with the investor might influence its advice, even if it is not necessarily the best course of action for the proxy advisor for providing objective and independent advice.

In order to mitigate the risk involved in their services ESMA have come up with the EU code of conduct.

RECOMMENDATION BY ESMA ON IDENTIFICATION OF CODE FOR PROXY ADVISORS

ESMA had released a Discussion Paper on proxy advisors industry on 22nd March, 2012 and received response to the same. Based on the feedback on consultation ESMA have drafted its final report on “The Proxy Advisor Industry”. In its report ESMA advises on developing an EU Code of Conduct (Code) that focuses on:

1. Identifying, disclosing and managing conflicts of interest: Proxy advisors should seek to avoid conflicts of interest with their clients. Where a conflict effectively or potentially arises the proxy advisor should adequately disclose this conflict and the steps which it has taken to mitigate the conflict, in order that the client can make a properly informed assessment of the proxy advisor’s advice.

2. Fostering transparency to ensure the accuracy and reliability of the advice: Proxy advisors should provide investors with information on the process they have used in making their general and specific recommendations and any limitations or conditions to be taken into account on the advice provided so that investors can make appropriate use of the proxy advice.

This will include:

a. Disclosing general voting policies and methodologies
b. Considering local market conditions

c. Providing information on engagement with issuers

GUIDELINES BY SEC (SECURITIES AND EXCHANGE COMMISSION)-UNITED STATES

The guidance proposed in Europe by ESMA was followed by issuance of guidance note by SEC. On June 30, 2014, the SEC issued long-awaited guidance regarding proxy advisory firms, in the form of a Staff Legal Bulletin.

The guidance imposes some responsibilities on the investor clients who retain the services of proxy advisors. The proxy advisory firms are expected to comply with the guidance. Some of the points of due diligences to be ensured by these proxy firms are:

1. They must have the capacity and competency to adequately analyze proxy issues;

2. They must have robust policies and procedures- to identify and address any conflicts of interest, to provide current and accurate information;

3. They need to disclose to the investor clients to whom voting recommendations are made, if they have any significant relationships or material interest, including conflicts of interest arising from providing consulting services to companies;

4. They need to disclose potential conflicts of interest.

The SEC and ESMA and other capital market regulators worldwide are realizing the importance of the role of the proxy advisors and the impact they have on the corporate governance. Thus, steps are being taken by them on a continuous basis to formulate regulations/ guidelines in order to ensure that the decisions of the proxy advisory firms are more transparent, reliable and independent, thereby curbing the threat of conflict of interest.

SEBI (RESEARCH ANALYSTS) REGULATIONS, 2014-INDIA

The proxy advisors while providing their services to the investor clients are inter-alia required to abide by the Regulations notified recently by the SEBI. These Regulations, in a way, protect investors from any motivated research reports by the advisory firms. Further, utmost care has been taken to avoid conflict of interest by way of the provisions of the Regulations. The proxy advisor, apart from complying with other provisions of the Regulations, also has some additional disclosure responsibilities. Some of the requirements of the Regulations are as under:


The proxy advisory industry is dominated by mainly two USA based advisors having its network worldwide:

- Institutional Shareholder Services Inc. (ISS)\textsuperscript{11} and
- Glass Lewis & Co.\textsuperscript{12}

This duopoly structure has allowed them to have a significant influence on corporate governance policy. They jointly capture a significant portion of market worldwide in terms of rendering of their services.

Similarly, India has an institutionally backed voting/proxy advisory firms like Institutional Investor Advisory Services India Limited (IiAS), Stakeholder Empowerment Services (SES), InGovern.

**MAJOR GLOBAL PROXY ADVISORY FIRMS**

**PRACTICAL ASPECTS OF RESEARCH AND ANALYSIS BY THE PROXY ADVISORS**

Usually, all the companies have a team of investor relations to deal with the queries and concerns of the investors. The main role of this team is, at the time of general meetings to be held by the companies or at the time of events such as postal ballot, to handle the queries by investors in relation to the items of resolution. The proxy advisor, in such cases, makes the call for their clients to enquire from the investor relations department with respect to benefits and advantages to the investors from the proposed resolution. The institutional investors may also want to enquire as to why at all a particular resolution is proposed. Based on the response to their queries from the investor relations department, the proxy advisors reason their decision and accordingly advise their clients. Many a times, due to such decisions of the proxy advisors, the company may get perturbed as it may significantly impact the overall voting pattern of the company or at times may even result in turn down of a resolution.

The proxy advisors, thereafter, upload on their website their reasoning and views for a particular resolution of a particular company. Some of the practical examples where voting affected the decisions of the investors are discussed below.

**IMPACT OF PROXY ADVISORY FIRMS OVER THE DECISIONS OF THE INDIAN CORPORATE**

The role of the proxy advisory firms seems all the more prominent in the big corporate giants, when the proposed resolutions in the members’ meeting do not result in the manner anticipated by the
DANCE OF CORPORATE DEMOCRACY: THE RISE OF PROXY ADVISORS

Company. In the current year, member meetings of companies like JSW Steel, Alembic Pharmaceuticals, IPCA Laboratories and Lupin concern was shown by the proxy firms on the agenda of remuneration package of promoter chairman of the company. As per the views of SES, one of the proxy firms in India, promoters take home indirect ownership premium over non-family professionals and board members, inspite of having an impartial remuneration committee in these companies. They are of the view that the promoters and executive directors should take equal or lower compensation than the highest paid professional in the company.

Further in 2014, questions were raised on similar issues by the proxy firms for leading business houses and accordingly, recommendations were made by some firms to the investor clients to vote “against” the proposed resolution in the meetings. A resolution by Tata Motors was proposed to pay excess compensation to three executive directors, wherein two of the three Indian proxy advisory firms recommended that shareholders should support the resolution. SES and global proxy firm ISS, on the other hand, advised shareholders to vote against it. The resolution was turned down sending shock waves across India Inc.

Effect on Corporate Democracy

With ever growing institutional shareholdings and recent regulatory reforms in order to enhance shareholder participation, proxy advisory firms have had a large influence on shareholder votes. It is thus critical that these independent advisory firms issue unbiased recommendations and be free of potential conflict of interests. Although, increased competition could reduce the magnitude of these conflicts, competition itself may not be enough to completely eliminate them.

Thus, the Regulations may help combating the issues challenging the corporate governance. In a way, it can be perceived that the scenario is changing gradually over a period with the recent Regulations. The recommendations and reports by these proxy advisory firms could be relied upon. On the other hand, where the advisory firm makes genuine and justified recommendations to the investors, the same might not turn out as per the expectations of the promoter of issuer company. Thus, it can be said that corporate can no more predict the votes of this group of shareholders, as they seem to be making an attempt to increase their participation in an informed manner.

Indian Inc needs to act rationally while proposing an item of business. General Meetings are no more a one man show; the corporates may also have to dance to the tunes of these proxy advisors, the so called activist investors behind the scene.

Certificate Course on Compliance, Governance and Risk Management in Insurance

Offered by
Insurance Institute of India (III) jointly with The Institute of Company Secretaries of India (ICSI)
for Associate / Fellow of ICSI

Objective: The objective of the Course is to create a cadre of Associates / Fellows ICSI professionals in the Insurance industry to be well versed in risk management, governance and regulatory compliances.

Scope & Coverage: Course seeks to empower
- Company Secretaries and
- Associates & Fellows of III, who are interested in working in Compliance and Governance areas.

The course covers matters relating to Risk Management, Governance and Compliance in the Insurance industry. This would include:
- understanding the conceptual framework of insurance regulations,
- awareness of the international regulatory scenario,
- statutory provisions contained in various legislations applicable in the country,
- specific regulations drawn by the insurance regulator,
- market conduct and
- In-depth learning of the various compliances required in the sector.

Enrollment Date: 16th April to 30th April 2016

Insurance Institute of India (III) jointly with The Institute of Company Secretaries of India (ICSI)

61st year of Insurance Education & Training

61st year of Insurance Education & Training

Insurance Institute of India
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Transparency in Related Party Transactions: A Key to Good Corporate Governance

SEBI was formed to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit. SEBI has done a lot to regulate most irregular market. By incorporating clause 49 in the listing agreement, SEBI took a small step towards initiating Corporate Governance Process. The effort of today is to consummate it into Good Corporate Governance Process. The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations (herein after “SEBI (LODR) regulations”) is a step forward in this direction. Companies Act, 2013 has also given due consideration to Corporate Governance and added a lot of provisions to enhance Corporate Governance at all level.

With view to ensure good governance in the activities of corporates, the Companies Act, 2013 and also the SEBI through its Regulations have incorporated provisions to effectively deal with related party transactions. Earlier the Companies Ac contemplated disclosure of information by directors interested in any transaction by the company. In this digression the author has dealt with the finer aspects of the relevant provisions.

The discussion in this article has been divided into the following headings:

1. Who are the related parties i.e. Identification of Related Parties
2. What are the related parties transactions i.e. Identifications of RPTs
3. Approvals required for RPTs
4. Disclosure of RPTs
5. Gaps required to be filled (Explained under each head)

IDENTIFICATION OF RELATED PARTIES

Section 2(76) of the Companies Act, 2013 read with Companies (Removal of Difficulties) Fifth and Sixth Orders, 2014 cover following persons under related party transactions:

(i) a director or his relative;
(ii) a key managerial personnel or his relative;
(iii) a firm, in which a director, manager or his relative is a partner;
(iv) a private company in which a director or manager is a member or director;
(v) a public company in which a director or manager is a director and holds along with his relatives, more than two per cent. of its paid-up share capital;
(vi) any body corporate whose Board of Directors include a director of the company or his relative.

For deep understanding of Related Party Transactions (RPTs) and its management
Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager or his relative;

(iii) any person on whose advice, directions or instructions a director or manager is accustomed to act. However any advice, directions or instructions given in professional capacity do not come within this definition;

(viii) any company which is—

(A) a holding, subsidiary or an associate company of such company; or

(B) a subsidiary of a holding company to which it is also a subsidiary;

Further, the amended Companies (Specification of Definitions Details) Rules, 2014 provide that a director other than an independent director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

Before moving further, it will be beneficial to clearly understand the terms ‘Associate Company’ and ‘Relative’ under the Companies Act, 2013.

Associate Company means a company in which other company has significant influence. Associate company includes a joint venture company but does not include subsidiary company. Significant influence means control of at least twenty per cent of total share capital, or of business decisions under an agreement.

Relative: A combined reading of section 2(77) of the Companies Act, 2013 and clause 4 of Companies (Specification of definitions details) Rules, 2014 makes it clear that following person shall be considered as relative—

(i) Members of a Hindu Undivided Family;

(ii) Husband and wife;

(iii) Father including step-father.

(iv) Mother including step-mother.

(v) Son including step-son.

(vi) Son’s wife.

(vii) Daughter.

(viii) Daughter’s husband.

(ix) Brother including step-brother;

(x) Sister including step-sister.

In the context of the above definitions the following issues need careful handling:

1. We can Interpret the words “and holds along with his relatives” in Section 2(76)(v) in the following manner-

(i) One view is that in case director does not hold any shares in public company, then relatives shareholding even more than 2% in that company will be irrelevant. In this way Public Company does not become related party

(ii) Other view which is more logical is that even if the director does not have any shareholding in the public company, the shareholding of more than 2% held by his relatives will make that Public Company as related party.

Now-a-days joint families are on extinction. Everybody wants to earn the livelihood and does not want to be financially dependent on others. The whole concept has changed and even there exists rivalry and hostile relationship between brother and sister. In such a situation it can’t be expected that relatives would share disclosure about their business interest or shareholding etc. There is no provision in law through which disclosure from the relatives can be enforced. However being compliance officer, it is our duty to comply with Act. For this purpose we should give advice to Directors/KMP to seek details from relatives in valid manners and keep the same as evidence in our files. Following example will make this point clear.

Example: A is director of XYZ Ltd. and has become director of DEF Ltd. (Listed Company). In DEF, A does not have any shares but his sister, B has more than 2% shares. B does not hold any share of profit in XYZ Ltd. and is no way financially dependent on A. As business interest of B clashes with Director A, she does not want to disclose their holding position in DEF Ltd. There is no other factor which makes XYZ Ltd. and DEF Ltd. related parties. In this case there is no legal right available with A to enforce disclosure from B except requesting through mail/registered letter etc.

There can be a case where a director is common in two public limited companies but it does not make two companies related parties unless share criteria of more than 2% is met. There is a possibility that one company may become related party to other Company but other company may not become related party to the first mentioned company.

Example: A is an independent director of XYZ Ltd. and has become director of DEF Ltd. (Listed Company). In DEF, A does not have any shares but his wife, B has more than 2% shares only. Thus DEF Ltd. has become related party to XYZ Ltd but for DEF Ltd., XYZ Ltd. is not related party at all as share criteria does not meet in this case.

The words “accustomed to act” appears in Section 2(76)(vi) & (vii). There are no guiding principles or explanation in the Act defining the term “accustomed to act”. In the following two cases, SEBI and Supreme Court applied the clause “accustomed to act” based on the circumstances of the case.

(i) In Sahara India Real Estate Corporation Ltd (MANU/SB/0045/2011) the SEBI observed that Mr. Subrata Roy Sahara, apart from being the founder of Sahara India Group, is admittedly a major shareholder (holding about 70% of capital in each of the two companies). He can be reasonably regarded as a person in accordance with whose directions or instructions, the Board of Directors of the two Companies were accustomed to act and therefore fall within the ambit of "officer in default". Furthermore, with 70% ownership or holding in the two Companies, he is definitely in a position of control and has the power to direct the management policy and appoint the majority of directors to the Board.

(ii) The Supreme Court in the case of K. K. Birla v. R. S. Lodha (MANU/SC/1693/2008) has observed that after the death of late Madhav Prasad Birla in or about July, 1990 the deceased who has had no formal education relied and continued to rely on the petitioner and reposed and continued to repose complete trust and confidence in the petitioner in the matters pertaining to all her financial affairs by reason whereof, the
There is no provision in law through which disclosure from the relatives can be enforced. However being compliance officer, it is our duty to comply with Act. For this purpose we should give advice to Directors/KMP to seek details from relatives in valid manners and keep the same as evidence in our files.

petitioner was at all material times, privy to all information concerning the personal and financial affairs of the deceased. The deceased also sought and obtained advice from the petitioner with regard to her assets, savings and investments and with regard to and in the management and affairs of several companies and institutions where the deceased had a stake in the shareholding and/or management and the deceased was at all material times accustomed to act as per the wishes and dictates of the petitioner. The petitioner was at all material times aware of the same.

DEFINITION OF RELATED PARTIES UNDER SEBI (LODR) REGULATIONS

The above Regulations are applicable to all entities which have listed their securities on a recognized stock exchange. Regulation 2(2b) of the regulations defines “related party” to mean a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards. This definition shall not, however, be applicable for the units issued by mutual funds which are listed on a recognized stock exchange(s).

The Regulation gives broader definition. In addition to section 2(76) of the Companies Act, 2013, Indian AS-24, defines related party as the person or entity that is related to reporting entity. The definition takes into account control, significant influence etc of the party over the financial, business and/or operational decision of other party.

(1.) A person or a close member of that person’s family is related to a Company/Reporting entity if that person:
- has control or joint control or significant influence over the Company;
- is a member of the key management personnel of the company or of a parent of the company

(2.) An entity is related to a company if any of the following conditions applies:
- The entity and the company are members of the same group i.e. each parent, subsidiary and fellow subsidiary is related to the others
- One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
- Both entities are joint ventures of the same third party.
- One entity is a joint venture of a third entity and the other entity is an associate of the third entity.
- The entity is a post-employment benefit plan for the benefit

For more clarity on the above, one needs to know the meaning of the terms ‘control’, ‘joint control’, and ‘significant influence’. There is an explanation in the SEBI (LODR) Regulations which provides that words and expression used but not defined in the Regulations, but defined in the Companies Act, 2013 or other SEBI Regulations shall have the same meaning assigned to them in the Act or in Regulation etc. Control, joint control, significant influence or other terms used in the definition may be interpreted as per the Standard.

Control is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

Joint control is the contractually agreed sharing of control over an economic activity.

Significant influence is the power to participate in the financial and operating policy decisions of an entity, but does not control over those policies. Significant influence may be gained by share ownership, statute or agreement.

RELATED PARTY TRANSACTIONS (RPTs)

Related Party Transactions under the Companies Act, 2013

Section 188(1) gives the details of related party transactions which are as follows:
- sale, purchase or supply of any goods or materials
- selling or otherwise disposing of, or buying, property of any kind
- leasing of property of any kind
- availing or rendering of any services
- appointment of any agent for purchase or sale of goods, materials, services or property
- such related party’s appointment to any office or place of profit in the company, its subsidiary company or associate company
- underwriting the subscription of any securities or derivatives thereof, of the company

RELATED PARTY TRANSACTIONS UNDER SEBI (LODR) REGULATIONS

Regulation 2(1)(zc) of SEBI (LODR) Regulations defines “related party transaction” as transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a “transaction” with a related party shall be construed to include a single transaction or a group of transactions in a contract.

Further the Explanation to Regulation 23 (i) of SEBI (LODR)
Regulations define ‘material related party transactions’ as any transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

**INTERPRETATION OF WORD “GOODS” AND “PROPERTY”**

The words ‘Goods’ and ‘property’ as used in section 188(1) need a detailed discussion here.

Section 2(7) of the Sale of Goods Act defines the word "goods" to mean every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

Explanation (iv) to Section 232 of the Companies Act, 2013, which deals with merger and amalgamation of companies, defines property to include assets, rights and interests of every description and liabilities include debts and obligations of every description. Section 44 of the Companies Act, 2013 provides that the shares or debentures or other interest of any member in a company shall be movable property transferable in the manner provided by the articles of the company. It means along with tangible property it also includes intangible property also i.e. intellectual property, copyright etc. So it is better to give broader rather restrictive interpretation to these terms.

Sale, purchase of existing securities are also covered. It may be interpreted that allotment of fresh securities are not covered as such securities are not owned by company before their allotment. One should take legal advice before moving in this direction.

Service has not been defined in the Companies Act, 2013. The way it is used in this section the phrase “availing or rendering any services” seems to have very expanded meaning. Although service is defined in a good number of legislations i.e. Consumer Protection Act, Service Tax Act and in a number of Supreme Court judgements, still a definition from MCA is highly appreciable.

**APPROVAL**

**Approval under the Companies Act, 2013**

Section 188(1) of the Companies Act, 2013 provides that “Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to ---------

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a resolution:

Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm’s length basis.

Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

Section 177 (4)(iv) of the Companies Act, 2013 provides that one of the terms specified by Board in writing shall include “approval or any subsequent modification of transactions of the company with related parties”. Thus approval of audit committee is required for all RPTs unless exempted.

From the above it is clear that

1. Approval of Audit Committee is required. Rule 6(A) inserted vide Companies (Meetings of Board and its Powers) Second Amendment Rules, 2015 authorises audit committee to make omnibus approval for related party transactions proposed to be entered into by the company subject to conditions as mentioned in the said rule.

2. Approval of Board is required

3. Prior Approval of the Company by way of Resolution is required in the following cases where transaction(s) (individually or along with previous transactions in a financial year) amount exceeds the limits as follows -

   (a) sale, purchase or supply of any goods or materials (directly or indirectly through an agent) exceeds 10% of turnover of the Company or Rs. 100 crore, whichever is lower

   (b) selling or otherwise disposing of, or buying, property of any kind (directly or indirectly through an agent) exceeds

**TRANSPARENCY IN RELATED PARTY TRANSACTIONS: A KEY TO GOOD CORPORATE GOVERNANCE**
10% of net worth or Rs. 100 crore, whichever is lower
(c) leasing of property of any kind exceeds 10% of net worth or 10% of turnover of the company or Rs. 100 crore, whichever is lower
(d) availing or rendering of any services (directly or through agent) exceeds 10% of the turnover or Rs. 50 crore, whichever is lower
(e) appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees
(f) underwriting the subscription of any securities or derivatives thereof of the company at a remuneration exceeding one percent of the net worth

Therefore, to claim exemption from the Resolution, the Company should not have transactions exceeding the limit as mentioned above. If this condition is not satisfied, then the company has to pass the Resolution unless the transaction is exempt under the third proviso of Section 188(i) which provides that in case the transactions carried in ordinary course of business and at arm's length then it is exempt

Further no member who is related party shall vote on such resolution. In the following paragraphs, this matter is discussed in details.

4. All the above approvals are not required in case the following two conditions are met
   (i) transaction is in the ordinary course of business and
   (ii) transaction is at arm length’s basis

APPROVAL UNDER SEBI (LODR) REGULATIONS

1. Regulation 23(2) provides that all related party transactions shall require prior approval of audit committee.

2. There is the concept of omnibus approval by the audit committee on need basis which shall be valid for a period not exceeding one year. Details of transactions entered pursuant to such approval on omnibus basis shall be reviewed at least on quarterly basis. Where the need for related party transactions can’t be foreseen and details like name of related party, nature of transactions, period of transaction, maximum amount of transactions, base/current and formula for variation in price etc are not available, such omnibus approval may be granted subject to their value not exceeding rupees one crore per transaction.

3. Material related party transactions (exceeding 10% of annual consolidated turnover) shall require approval of the shareholders through resolutions and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not. It means all entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not.

4. The prior approval from audit committee and approval from shareholders under the Regulations are not applicable in the following cases:
   (i) transactions entered into between two government companies
   (ii) transactions entered into between a holding company and its wholly owned subsidiary (100% owned by holding company) whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

RELATED PARTIES SHALL NOT VOTE ON RESOLUTION

Proviso 2 to Section 188(1) of the Companies Act, 2013 provides that all members who are related parties shall not vote on such resolution. Now the point is whether related parties to a particular transaction are barred from voting or all the related parties which are not related to a particular transaction are barred. In view of SEBI (LODR) Regulations which categorically provides that the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not, we may interpret that law makers’ intentions are clear and Proviso 2 of Section 188(1) covers all related parties.

While accepting this view and before the Companies (Amendment) Act, 2015, the problem surfaced that in this manner no holding company could vote on resolution of wholly owned subsidiary w.r.t. related party transactions as holding company became related party in such cases. This particular problem has been got over with the insertion of the Fourth Proviso to Section 188(1) of the Companies Act, 2013 which provides that the requirement of passing the resolution under First Proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

PRIOR APPROVAL OR POST FACTO APPROVAL

Section 188(3) provides that where any contract or arrangement is entered without taking the consent of Board or approval by a resolution then it should be ratified by Board or by shareholders within three months from the date of entering in to such contract or arrangement.

Thus it may be interpreted that the intent of legislatures is to have prior approval and only correction route is available under section 188(3) in case the Company could not take prior approval due to any circumstances. Similar recourse may be taken for Audit Committee approval under section 177(1)(iv).

SEBI (LODR) Regulations clearly talk about prior audit committee approval.

WHICH APPROVAL COMES FIRST: BOARD OF DIRECTORS OR AUDIT COMMITTEE

SEBI (LODR) Regulations mention that audit committee approval is required for all related party transactions. Thus it means that the first thing for the Company before entering into any related party transaction is to take Audit Committee approval. Nothing is
the Fourth Proviso to Section 188(1) of the Companies Act, 2013 which provides that the requirement of passing the resolution under First Proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

mentioned about Board of Directors’ approval.

However Companies Act, 2013 talks about audit committee and Board approval but nothing is mentioned which approval is to be taken first.

Audit Committee is constituted by Board of Directors. Every audit committee shall act in accordance with the terms of reference specified in writing by the Board. In general, Board of Directors take note of every matter decided by Audit Committee and has every power to go against the decision of audit committee. It will not be right in case Board (in case matter decided by it first) decides in favour of RPTs but subsequently audit committee decides against it. So approval shall be taken in the following order:

1. First approval from audit committee.
2. After this from Board of Directors.
3. Finally from Shareholders, if required.

ORDINARY COURSE OF BUSINESS AND ON ARM’S LENGTH BASIS

Wikipedia defines Ordinary Course of Business which covers the usual transactions, customs and practices of a certain business and of a certain firm. Suppose a company manufactures and sells scooter, its ordinary course of business is manufacturing and selling scooters. In case it sells scooters to related entity, the sale comes in its ordinary course of business.

Explanation (b) to Section 188(1) provides that “arm’s length transaction” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest. No guidelines or approaches have been mentioned in the Companies Act to determine arm’s length transaction. Registered valuer certificate, although it is not required at all, may be taken to ensure that transaction is on arm’s length basis and may be kept as an evidence in file.

Suppose in the above illustration the scooters are sold to corporate customers at discounted price without any quantity restrictions. Company sells these scooters at same discounted price to its related corporate entity. This type of sale happens at “arm’s length basis”.

Further detailed guidelines from MCA are required to determine whether a particular transaction is in ordinary course of business and at Arm’s Length basis.

DISCLOSURE

Following disclosure requirements are prescribed for RPTs under the Companies Act, 2013:

1. Section 188(2) of the Companies Act, 2013 provides that every contract or arrangement entered into shall be referred to in the Board’s report to the shareholders along with the justification for entering into such contract or arrangement.

2. According to Rule 8(2) of the Companies (Accounts) Rules, 2014, the Report of the Board shall contain the particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2.

3. As per Rule 16(1)(c) the Companies (Meetings of Board and its Powers) Rules, 2014, every Company shall maintain one or more registers in Form MBP 4, and shall enter therein the particulars of contracts or arrangements with a related party with respect to transactions to which section 188 applies. Such register (i) shall be placed before the next meeting of the Board and signed by all the directors present in the meeting. (Sec. 189(1)). There are certain exceptions mentioned in Section 189(5) and (ii) shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.

4. SEBI (LODR) Regulations mention following disclosure requirements:

   (i) As per Regulation 23(1), the listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions

   (ii) Regulation 27(2)(b) provides that details of all material transactions with related parties shall be disclosed in the quarterly compliance Report on corporate governance submitted as per regulation 27(2)(a) within 15 days from the end of quarter

   (iii) The policy on dealing with RPTs shall be disseminated on the functional website of listed entity. (Regulation 46(2)(g))

   (iv) As per Regulation 53, Para A of Schedule V the Annual Report shall contain Related Party disclosures in compliance with the accounting standard on “Related Party Disclosures” as per clause 2 of Para A

   (v) Part C of Schedule V provides that Corporate Governance Report in Annual Report shall have (a) disclosures on materially significant transactions that may have potential conflict with the interests of listed entity at large [clause 10(a)] and (b) web link to policy on dealing with RPTs [Clause 10(f)]
BACKGROUND

After a decade long deliberations and based on the reports of the expert committees, the Companies Act 2013 was passed by the Parliament replacing the Companies Act, 1956. The Companies Act, 1956 was in existence for more than fifty years and was found to be ineffective to address issues of all stakeholders in challenging business dynamics in the country. Way back in the year 2000, the most infamous Enron and WorldCom scandal rocked the United States, which opened a new chapter in the corporate history across the World. The magnitude of the scandals was such that the companies involved were led to bankruptcy. The downfall of the two biggest corporate entities gave birth to Sarbanes-Oxley Act, 2002 (SOX) in the United States. The SOX mandated strict financial disclosures from corporations while preventing accounting frauds. Back home in India, after Satyam episode, the need for a strong Corporate Governance framework was felt and accordingly the Ministry of Corporate Affairs (the MCA), Government of India had prescribed Corporate Governance Voluntary Guidelines 2009. As these guidelines were voluntary in nature, they did not yield the expected results from corporates of India.

Considering the significance of Corporate Governance and in line with the global practices, on enactment, the Companies Act 2013 [‘the Act’] raised the bar on Corporate Governance, enhanced accountability on the part of corporates and auditors and raised levels of transparency keeping in mind interests of investors in India Inc. In addition to the Act, listed companies are also required to comply the Corporate Governance guidelines prescribed under the Securities and Exchange Board Of India (Listing Obligations And Disclosure Requirements) Regulations, 2015 [‘the LODR Regulations’].

PIllARS OF CORPORATE GOVERNANCE

The Corporate Governance structure under the Act is standing on following six pillars.

Class Action provisions under the Companies Act can be applicable to Company Secretary in two ways — as an Auditor and as an Expert as defined under the Act. The provision on Auditor applies, mutatis mutandis to a Secretarial Auditor appointed under section 204. Also the definition of ‘Expert’ includes apart from other professionals, a Company Secretary, who has the power or authority to issue a certificate in pursuance of any law for the time being in force. Considering the stringent provisions of Class Action under the Act, Secretarial Auditors will have to be extra careful while discharging their duties in both the roles under the Act.

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1. INDEPENDENT DIRECTOR

Independent Directors are considered as champions and custodians of the Corporate Governance framework across the world. After the Satyam episode, the role of Independent Director came under scanner in India. Prior to enactment of the Act, appointment of Independent Director was mandatory for listed companies only. By way of introduction of Independent Director under the Act, the scope and functions of Independent Directors had been enlarged to the prescribed non-listed companies as well.

The term ‘Independent Director’ is defined extensively under Section 149(6) of the Act. As per Section 149 and the rules framed thereunder, every listed company shall have at least one-third of the Board as Independent Directors. It further prescribes that unlisted public company having a paid up share capital of Rs.10 Crore or more or turnover of Rs.100 Crore or more or outstanding loans, debentures and deposit exceeding Rs.50 Crore shall appoint at least two Independent Directors. In the case of listed companies, at least one-third of the Board should comprise of Independent Directors, where the Chairman of the Board is a Non-Executive Director, and in case he is an Executive Director, at least half of the Board should comprise of Independent Directors. Schedule IV of the Act sets out the duties, role and function, manner of appointment, resignation, evaluation mechanism and remuneration of the Independent Director. To keep the Independent Director truly independent and unbiased, Section 149 (9) prescribes that an Independent Director shall not be entitled to any remuneration other than sitting fee, reimbursement of expenses for participation in the Board and other meetings and profit related commission. An Independent Director shall not be entitled to stock option.

The provision of the Act further mandates a separate meeting of Independent Directors to be held at least once every year without presence of non-Independent Directors to review the performance of the Chairman, Non-Independent Directors and the Board as a whole. This is a unique provision under Act brought in to bring objectivity in appointment of Independent Directors under the Act.

2. AUDIT COMMITTEE

Audit Committee is at the centre stage of Corporate Governance and is entrusted with the responsibilities as outlined under Section 177 (4) . The prime focus of Audit Committee is monitoring and ensuring efficacy of the internal control mechanism and risk management of the Company. As per Section 177 , read with of Companies (Meetings of Board and its Powers) Rules, 2014, the Board of directors of every listed company and public company 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 shall require to constitute Audit Committee consisting of minimum three directors with Independent Directors forming a majority. Regulation 18 of the LODR requires Chairman of Audit Committee shall be an Independent Director. Further, it requires that all members of Audit Committee shall be financially literate of which at least one member shall have accounting or related financial management expertise. Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and can seek professional advice from external sources is required.

3. AUDITORS

Auditors are responsible to provide a true and fair view of the financial position of a Company. In line with global practices, listed companies or companies belonging to such class of companies cannot appoint or reappoint an audit firm as auditor for more than two consecutive terms of five years each. To strengthen the Corporate Governance norms, the Act prohibits auditors from rendering specified non-audit services to the client company. For the first time, the Act casts onerous responsibility on the Auditor to report to the Central Government any fraud or offense involving fraud observed by him in the Company during the course of audit. This provision helps strengthening the norms of Corporate Governance via an external expert who would provide an unbiased opinion regarding the status of the Company.

4. INTERNAL AUDIT

The concept of internal audit was not expressly provided in the Companies Act, 1956 but in terms of Companies (Auditor’s Report) Order, 2003, Internal Audit Systems were followed by the Companies in India. Under the Companies Act, 2013 certain types of Companies are required to have Internal Audit for better internal control and Corporate Governance. Internal audit aims to bring a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes in the Companies.

5. VIGIL MECHANISM / WHISTLE BLOWER POLICY

The importance of Whistle Blower was recognized after the Enron and Worldcom episode under of Sarbanes-Oxley Act, which provides protection to Whistle-Blowers. Understanding the importance of the role of Whistle Blower, Section 177(9) of the Companies Act, 2013 provides that every listed company or every unlisted company which accept deposits from the public and companies which have taken money from banks and public financial institutions of more than Rs.50 Crore shall establish a vigil mechanism for directors and employees to report genuine concerns.

Section 177(10) provides that the vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimization of persons who use such mechanism and make
active participation of all stakeholders in Corporate Governance framework, continuous regulatory changes and entry of domestic and overseas institutional investors have all given birth to Shareholders Activism in India. Shareholders Activism is also visible after the SEBI’s two prominent initiatives – one mandatory requirement for domestic mutual funds to disclose their voting patterns and actions thereof in their investee companies on yearly basis and second being mandatory minimum public shareholding in listed companies.

role of shareholder activism in corporate governance

Apart from the above six pillars of Corporate Governance under the Act, 2013, the key drivers for shareholder activism in India are:

- Regulatory reforms
- Related Party Transactions
- Annual Reports and Business Responsibility Reporting
- E-Voting and Postal Ballot
- Responsibilities of Auditors in reporting Fraud.
- Appointment of director elected by small shareholders.
- Equity Research Analysts
- Proxy Advisory Firm

(a) Regulatory reforms

Till the year 2000, there used to be hardly any participation of minority shareholders at the general meetings of Companies. However, due to regulatory reforms over a period of time as mentioned below, the focus has now been shifted from promoters and institutional shareholders to minority / retail shareholders in the Corporate Governance landscape in India:

- Year 2001 - Voting by Postal Ballot was introduced for certain types of Companies;
- Year 2011 - Option was given to Companies to hold general meetings through Video Conferencing;
- Year 2012 - Mandatory e-voting for top 500 Companies listed on BSE and NSE.

(b) Related Party Transactions

Related Party Transaction is one of the foremost concern areas of Shareholder Activism in India. Section 188 of the Act and the LODR Regulations are required to be complied by the Companies for Related Party Transactions. Section 188 of the Act requires consent of a Board of Directors by a resolution for a Company to enter into any contract or arrangement with related party. Such contract or arrangement shall be referred to in the Board’s report to the shareholders along with the justification for entering into such contract or arrangement. Where any contract or arrangement is entered into by a director or any other employee, without obtaining the consent of the Board or approval by a special resolution in the General Meeting and if it is not ratified by the Board or, as the case may be, by the shareholders at a meeting within three months from the date on which such contract or arrangement was entered into, such contract or arrangement shall be voidable at the option of the Board and if the contract or arrangement is with a related party to any director, or is authorized by any other director, the directors concerned shall indemnify the company against any loss incurred by it.
The current Corporate Governance scenario is based on strong edifice of disclosures to all stakeholders and one of them is Annual Reports for all unlisted companies in the country. As per the provisions of Section 134(3) of the Act, Director Report shall include –

- Extract of Annual Return
- Number of Board Meeting held
- Director Responsibility statement
- Details in respect of fraud reported by Auditors u/s 143 (12) of Act, other than those which are reportable to the Government
- Statement of declaration by Independent Directors
- Comment on observations of auditor in Auditor Report
- Comment on observations of Secretarial auditor in Secretarial Audit Report
- Particular of Loan & Investment
- Disclosure of Related Party Transaction
- Dividend Recommended
- Post Balance Sheet Events
- Risk Management Policy
- Corporate Social Responsibility (CSR)
- Report on performance of subsidiaries, associates companies and joint ventures
- Secretarial Audit Report
- Disclosure about cost Audit
- Disclosure where company is required to constitute Nomination and Remuneration committee
- Disclosure if MD/WTD is receiving remuneration or commission from a MD/WTD or subsidiary Company
- Disclosure of Vigil Mechanism in board Report
- Disclosure of composition of Audit committee and their recommendations not accepted
- Details Relating to Deposit
- Details of Director and KMP
- Disclosure about ESOP and Sweat Equity Share
- Statement of affairs of the Company
- Director Perception of Future of Company
- Order of Court
- Conservation of energy, technology absorption & foreign exchange dealing:

In addition to the above, top 500 listed companies, based on market capitalization, at BSE and NSE are also required to include a Business Responsibility Report in their Annual Report showing the steps taken by the Company in three major areas - Environmental, Social and Governance apart from other details in questionnaire form.

With all above information on hand, shareholders can be well versed with the affairs of the Company for putting the Board at dock when the decisions impacting them are taken contrary to the provision of the Act / the LODR regulations. Considering the disclosure requirements under the Act and LODR, the shareholders are going to be wiser, knowledgeable and active than before on Corporate Governance front in the country.

The Ministry of Corporate Affairs has recently amended Rule 13 of Companies (Audit and Auditors) Rules, 2014 vide notification dated 14.12.2015. Accordingly, an auditor of a Company in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of Rupees One Crore or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Central Government. In case of a fraud involving lesser than Rupees One Crore, the auditor shall report the matter to Audit Committee or to the Board, as the case may be, immediately but not later than two days of his knowledge of the fraud and he shall report the matter specifying nature of fraud with description, approximate amount involved and parties involved and Board has to report such details of each of the fraud (involving lesser than rupees one Crore) in the Board’s Report. The provision of this rule shall apply, mutatis mutandis to a Secretarial Auditor during the performance of his duties under section 204 of the Act.

While the responsibility of reporting of fraud by auditor is relatively a new area in the Act, it must be discharged diligently by all auditors, failing of which, it will not only keep the Companies under dark on Corporate Governance aspect but may also bring disrepute the entire institution of auditors under Act. Besides, early detection of fraud would bring the system, procedure and policies in place before it becomes too late.

In order to have fair representation of small shareholders at Board level, Section 151 of the Act requires that a listed company may have One Director elected by small shareholders as provided under rule 7 of the Companies (Appointment and Qualification of Directors) Rules, 2014. A small shareholder here means a shareholder holding shares in critical decisions making process of the Company. Apart from reducing the administrative cost, it boosts transparency, increases efficiency and improves Corporate Governance standards of the Company. Needless to mention active participation of shareholders will bring more alertness on Corporate Governance arena in India Inc.

The Act and the LODR Regulations have made extensive provisions for active participation and voice of minority shareholders in critical decisions making process of the Company. Apart from reducing the administrative cost, it boosts transparency, increases efficiency and improves Corporate Governance standards of the Company. Needless to mention active participation of shareholders will bring more alertness on Corporate Governance arena in India Inc.
While the responsibility of reporting of fraud by auditor is relatively a new area in the Act, it must be discharged diligently by all auditors, failing which, it will not only keep the Companies under dark on Corporate Governance aspect but may also bring disrepute the entire institution of auditors under Act. Besides, early detection of fraud would bring the system, procedure and policies in place before it becomes too late.

of nominal value of not more than twenty thousand rupees. This provision is there but not used so far. However, if small shareholders organize themselves into groups, they can have a voice at Board’s level to effect a change in decisions taken by a company’s management.

(g) Equity Research Analysts

With advent of time and technology, a new breed of profession - i.e. Equity Research Analysts has emerged in the Country. Equity Research Analysts study and analyze financial information and trends for Industry / Sector vis-a-vis to general economy of the Country. They express unbiased and honest equity research report for the general public. Such reports are now becoming handy for shareholders to analyze particular actions while giving their assent or dissent for any business proposals placed before them.

(h) Proxy Advisory Firms

After corporate scandals World-over, a need was felt to have greater participation of retail investors in significant corporate decisions. For example, in the US, ‘say-on-pay’ reforms were introduced whereby shareholders have given rights to vote on compensation of senior executives of the Company. Similarly, the famous Stewardship Code in the UK was introduced to enhance corporate governance standards by way of involving institutional investors. In addition to this, institutional investors engaged Proxy Advisory Firms to keep watch on financial, long-term and Corporate Governance decisions of the Companies, where they invested their money.

As mentioned earlier, few years back there used to be sporadic participation of shareholders at general meetings of the Companies. However with advent of Proxy Advisory Firms in India since last 4-5 years, minority shareholders are actively involved in major decisions of Companies impacting them.

Proxy Advisory Firms analyse corporate proposals and make recommendations in the manner in which minority shareholders should exercise their voting rights at General Meetings. Such firms also publish their voting recommendations on proposals for restructuring, mergers, re-appointment / remunerations of directors and critical related party transactions.

Let’s have a look at some of the recent cases where Proxy Advisory Firms had gathered momentum in India -

(i) In November 2014, Siemens Limited, a wholly owned Indian subsidiary of Siemens AG, Germany, proposed to sell the company’s Metals Technologies Business to its parent Company. Since the proposal was a related party transaction, it required approval of minority shareholders, via a special resolution. The minority shareholders rejected the offer as the price was too low considering the value of the business. Consequently, Siemens AG had to revise upward the offer price.

(ii) In January 2014, Suzuki Motor Corp, Japan announced that it will invest Rs. 3, 000 Crore in its factory located in Gujarat and sell cars to its wholly owned subsidiary, Maruti Suzuki India Ltd. Since it was significant departure from earlier announcement where the Indian arm (i.e. Maruti Suzuki) was supposed to have built the plant, serious concerns were raised by minority shareholders, including institutional investors that Suzuki could sell the cars at a higher price to Maruti than it would have cost the latter to produce them itself forcing the company to alter its proposal. There was a lot of uproar against the move backed by prominent Proxy Firms in India. It is a different matter that shareholders of the Company at last approved the proposal by 89.75% majority in December 2014.

(iii) In the case of United Spirits Limited in the year 2015, minority shareholders had rejected as many as nine related party transactions with Vijay Mallya entities.

(iv) In mid-2015, shareholders of Tata Motors Limited rejected payment of managerial remuneration in excess of prescribed limits to three directors due to the company’s weak performance during the year.

In addition to the above there are many cases seen India recently, where shareholders objected critical proposals and have kept the Board on check on corporate governance issues.

IS SHAREHOLDER ACTIVISM JUST ONE STEP AHEAD OF CLASS ACTION REGIME IN CG FRAMEWORK

In the rising scenario of shareholder activism, one should consider the next logical statutory provision in the extreme adverse situation available that is Class Action Suit under the Act.

(a) Application for Class Action

Section 245 of the Act empowers member(s), depositor(s) or any class of them are of the opinion that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors to file an application before the Tribunal on behalf of the members or depositors to seek all or any of the following -

(a) to restrain the company from committing an act which is ultra vires the articles or memorandum of the company;
CORPORATE GOVERNANCE: FROM SHAREHOLDERS ACTIVISM TO CLASS ACTION?

(b) to restrain the company from committing breach of any provision of the company’s memorandum or articles;

(c) to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by mis-statement to the members or depositors;

(d) to restrain the company and its directors from acting on such resolution;

(e) to restrain the company from doing an act which is contrary to the provisions of this Act or any other law for the time being in force;

(f) to restrain the company from taking action contrary to any resolution passed by the members;

(g) to claim damages or compensation or demand any other suitable action from or against -
   (i) the company or its directors for any fraudulent, unlawful or wrongful act or omission or conduct or any likely act or omission or conduct on its or their part;
   (ii) the auditor including audit firm of the company for any improper or misleading statement of particulars made in his audit report or for any fraudulent, unlawful or wrongful act or conduct; or
   (iii) any expert or advisor or consultant or any other person for any incorrect or misleading statement made to the company or for any fraudulent, unlawful or wrongful act or conduct or any likely act or conduct on his part;

(h) to seek any other remedy as the Tribunal may deem fit.

(a) Who can file Class Action?

Class Action is also called representative action, where one of the parties is a group of people who are represented collectively by a member of that group.

The requisite number of members for filling of Class Action is as under: -

1. in the case of a company having a share capital, not less than 100 members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member(s) holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant(s) has paid all calls and other sums due on his or their shares;

2. in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

Not less than 100 depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor(s) to whom the company owes such percentage of total deposits of the company, as may be prescribed, can file Class Action before the Tribunal.

(b) What if Class Action is found to be frivolous in nature?

Where any application for Class Action filed before the Tribunal is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, reject the application and make an order that the applicant shall pay to the opposite party such cost, not exceeding one lakh rupees, as may be specified in the order.

Class Action is a new provision under the Act and still not known to the members and depositors of India Inc. This provision is widely used in Western Countries. In 2011, Mahindra Satyam had to pay $125 million (about Rs.580 Crore) to its investors abroad, in an out-of-court settlement to end Class Action Suits filed a group of investors, who had lost substantial money after Satyam Computers (then Tech Mahindra) fiasco. In India, Satyam Computer’s home country, mutual funds and small investors lost their money, as Class Action provision was not there in the Companies Act, 1956.

In mid of last year, Toshiba, a 140-year-old Corporate giant of Japan, was caught in the country’s biggest accounting scandal for inflated earnings by $1.20 billion during the period 2009-2014, resulting in the exit of the CEO and eight other executives. In order to claim damages, Class Action Suits have been filed against Toshiba Corporation in the United States.

Not too far away, last year the Class Action Suit peeped for the first time in the famous Maggi controversy in our Country. In this case, under Section 12 of Consumer Protection Act, 1986, the Government of India through National Consumer Disputes Redressal Commission (NCDRC) filed a Class Action Suit for Rs.640 Crore ($1.20 billion) against Nestle.

Class Action provisions under the Act can be applicable to Company Secretary in two ways – as an Auditor and an Expert as defined under the Act. As we know the provision of Auditor applies, mutatis mutandis to a Secretarial Auditor appointed under section 204 of the Act. Also the definition of Expert includes apart from other professionals, a Company Secretary, who has the power or authority to issue a certificate in pursuance of any law for the time being in force. Considering the stringent provisions of Class Action under the Act, Secretarial Auditor will have to be extra careful while discharging their duties in both the roles under the Act.

WAY FORWARD

Considering the ever changing Corporate Governance scenario, India Inc. will have to be more vigilant on all proposals relating to minority shareholders, failing of which a day will not be far when minority shareholders would be up in arms by way of Class Action to seek financial compensation in case decision taken by the Company has led to their wealth erosion and benefited promoter-related entities on the other hand.
The purpose of Corporate Governance ('CG') is to help in building an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and more inclusive societies. The OECD Principles of Corporate Governance ('Principles') provide such benchmark. The principles identify the key in building blocks for sound corporate governance framework and offer practical guidance for implementation at a national level. The Principles direct the policy makers to evaluate and improve the legal, regulatory, and institutional framework for corporate governance, with a view to supporting economic efficiency, sustainable growth and financial stability. This article is a compilation and analysis of the OECD Principles of Corporate Governance with the Indian corporate law – Companies Act, 2013/1956 and the SEBI (Listing Obligations and Disclosure requirements) Regulations, 2015 ('SEBI LODR'). There is comparative analysis of Indian corporate laws with each OECD Principle citing commonalities and differences in the same.

India is largely compliant with the revised OECD Corporate Governance Principles which seek to identify the key in building blocks for sound corporate governance framework and offer practical guidance for implementation at a national level. If India proposes to overhaul its existing CG framework based on the revised OECD CG Principles, it may not be a herculean exercise for the Indian companies in its implementation.
AN ANALYSIS OF OECD PRINCIPLES OF CORPORATE GOVERNANCE VIS-À-VIS INDIAN CORPORATE LAWS

with new OECD Principles. It was noted that India is by and large compliant with the revised principles and it might not be necessary to immediately try to be compliant on one or two remaining areas. The IAB also observed that while new OECD code recognizes variation in equity markets in different jurisdictions, an advanced code however may not be a guarantee for a well-functioning corporate sector.

The IAB also noted that there is too much focus on external governance whereas internal governance of corporations is equally important. Also, different corporations may have to be treated differently in terms of CG norms considering the complexity and their ownership structure. The Board agreed that effective enforcement of prescribed standards is also important and was suggested that SEBI may have a strategy to implement its existing policies on the ground.

PRINCIPLE I: ENSURING THE BASIS FOR AN EFFECTIVE CORPORATE GOVERNANCE FRAMEWORK

The first OECD principle of CG suggests that policy makers have a responsibility of putting in place a framework that is flexible enough to meet the needs of corporations operating in widely different circumstances, facilitating their development of new opportunities creating value and determining the most efficient deployment of resources. The other factors that may call for flexibility include company’s ownership and control structure, geographical presence, sectors of activity, and company’s stage of development.

CONSULTATION PROCESS IN INTRODUCING/AMENDING LEGISLATION

OECD also suggests that if new laws and regulations are needed, for dealing with clear cases of market imperfections, they should be designed in a way that makes them possible to implement and enforce in an efficient and even handed manner covering all parties. The effective way includes Govt. consultation with corporations, their representative organisations and other stakeholders. It states that mechanisms should also be established for parties to protect their rights. With the objective of avoiding over-regulation, unenforceable laws, and unintended consequences that may impede business dynamics, the policy measures should be designed with a view to their overall costs and benefits.

Considering the Indian context, the relevant and the most recent example is the introduction and contents of the Companies (Amendment) Bill, 2016 (‘the Bill’) which is based on the Companies Law Committee Report. After issue of the Report, which contained approximately 100+ proposed amendments, the same was made open for public comments. The Government based on the entire exercise of receiving public comments on the proposed amendments to Companies Act, 2013 (‘the Act’), drafted the Bill which was presented in Lok Sabha on March 16, 2016. The Amendment Bill aims to bring in the much needed ease of doing and ironing the complexities and absurdities in the Act. Another example of the consultative process is the introduction of Regulations by SEBI. SEBI floats consultative or discussion papers and seeks public comments by giving a reasonable time frame. Based on the industry feedback and SEBI’s consultative process with other government departments, SEBI then introduces Regulations.

VARIETY OF LEGAL INFLUENCES CAUSES UNINTENTIONAL OVERLAPS

OECD has acknowledged the key issue, wherein CG requirements and practices are influenced by an array of legal domains which includes company law, securities regulation, accounting standards, auditing standards, insolvency law, contract law, labour law and tax law. Sub-principle states that there is a risk that variety of legal influences may cause unintentional overlaps and even conflicts, which may frustrate the ability to pursue key CG objectives. With an objective of eliminating such risk, it states that policy-makers are aware of the risk and take measures to limit it. The Related Party transactions (‘RPT’) is a classic example in this context wherein multiple regulations like the Act, SEBI LODR, Accounting standards, Transfer pricing guidelines define and regulate RPT in a different manner creating conflicts thereby frustrating the ability to pursue CG.

It further proposes that effective enforcement requires that the allocation of responsibilities for supervision, implementation and enforcement among different authorities is clearly defined so that competencies of complementary bodies and agencies are respected and used most effectively. It states that overlapping and contradictory regulations between jurisdictions is also an issue that should be monitored so that no regulatory vacuum is allowed to develop and to minimize the cost of compliance with multiple systems by corporations. Recent judgment in Sahara case has cleared the fog about the jurisdiction of SEBI with respect to public issue and the same has now been incorporated clearly in the Act. Also the Bill now aims to omit Section 195 of the Act.
In jurisdictions where enforcement of legal and regulatory framework is weak, OECD suggests that *ex ante* rights of shareholders be strengthened, which includes low share ownership thresholds for placing items on the agenda of shareholders meeting or by requiring supermajority of shareholders for certain important decisions. This principle supports equal treatment for foreign and domestic shareholders in CG.

PRINCIPLE II: RIGHTS AND EQUITABLE TREATMENT OF SHAREHOLDERS AND KEY OWNERSHIP FUNCTIONS

The second OECD principle provides a mechanism for protecting and facilitating exercise of shareholders’ rights and ensuring equitable treatment to all shareholders. It states that all shareholders should have opportunity to obtain effective redress for violation of their rights.

Appropriate demarcation of shareholders’ & director’s authority

It states that the corporation cannot be managed by ‘shareholders’ referendum’, wherein the shareholding body is made up of individuals and institutions whose interests, goals, investment horizons and capabilities vary and the corporation’s management must be able to take business decisions rapidly. Taking note of such realities and complexity of managing corporation’s affairs in fast moving markets, OECD suggest that shareholders are not expected to assume the responsibility for managing corporate activities. It states that responsibility of corporate strategy and operations is placed in hands of board of directors. Under the Act, there is demarcation of roles, responsibilities and approval process among the shareholders and board of directors. Section 179 of the Act states about the Powers of the Board and Section 179(3) lists the powers to be exercised only at the meetings of Board. Whereas, Section 180 relates to ‘restrictions on the powers of the Board’, which prescribes a list of powers which can be exercised only with the consent of the company by special resolution.

Significance of Investor Confidence

OECD observes that an important factor in development and proper functioning of capital markets is ‘investors’ confidence’, which means that investors are protected from misuse or misappropriation by corporate managers, board or controlling shareholders. It states that in providing protection to investors, distinction can be made between ‘ex ante rights’ (pre-emptive rights and qualified majorities for certain decisions) and ‘ex post rights’ (allow seeking of redressal, once rights have been violated). In jurisdictions where enforcement of legal and regulatory framework is weak, OECD suggests that ex ante rights of shareholders be strengthened, which includes low share ownership thresholds for placing items on the agenda of shareholders meeting or by requiring supermajority of shareholders for certain important decisions. This principle supports equal treatment for foreign and domestic shareholders in CG.

Challenging Corporate Action Vs Excessive Litigation

OECD notes that there are some risks in the legal system which enables the investor to challenge corporate activity in the courts which amounts to excessive litigation. It states that many legal systems have introduced provisions to protect management and board members against litigation abuse in the form of tests for sufficiency of shareholder complaints, i.e. ‘safe harbours for management and board member actions’, which means ‘best judgment rule’. Hence, it is necessary to strike a balance between allowing investors to seek remedies for infringement of ownership rights and avoiding excessive litigation. It states that many countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by securities regulators. Hence specialised court procedures can also be practical instrument for obtaining timely injunctions, and facilitate rapid dispute settlements.

In the Indian context, Section 397/398 of Companies Act, 1956 provided for a mechanism for filing of oppression and mismanagement petitions against company management by shareholders having requisite shareholding, thereby avoiding frivolous and trivial complaint by the shareholders. Section 245 of the Companies Act, 2013 relates to ‘class action’, which provides member(s) or depositor(s) to file class action suit, if they are of the opinion that management or conduct of company affairs are being conducted in manner prejudicial to company’s interests or its members or depositors. With respect to the alternative adjudication procedures, there are also adequate provisions under SEBI Regulations and Stock Exchange rules for alternative remedies for dispute between trading members and investors, which facilitates rapid dispute settlements.

Importance of shareholder’s meeting

OECD highlights that the right to participate in shareholders’
The idea of ‘paying attention to key stakeholder relationships’ is and has been of utmost importance in the strategic management. The vital aspect of CG lies in ensuring that there is flow of external capital to companies, whether owned or borrowed/debt capital. However, the existence, growth and success of the companies are a contribution by various stakeholders including employee, shareholders, creditors, suppliers, customers and other stakeholders and hence their interests be protected.

Managerial Remuneration & Disclosures
In the sub-principle, OECD observes the shareholders should be able to make their views known on directors’ remuneration of board members and/or key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval. The Act in line with the OECD principles ensure that there is adequate shareholders’ participation (voting by attending the meeting, proxy, electronic voting, remote electronic voting (which has been a maiden attempt to improve shareholders participation) and postal ballot and the companies are required to give necessary disclosures under the Act and SEBI LODR. With respect to Directors’ remuneration under the Act, the quantum of disclosures differs from whether the company is earning profit, inadequate profit or suffering losses.

Inter-se consultation of shareholders
OECD proposes that shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic rights, subject to exceptions to prevent abuse. In relation to this, OECD observes that co-operation among investors could also be used to manipulate markets and to obtain control over company without being subject to any Takeover Regulations or Disclosure Regulations. However, it cautions that co-operation might also be for the purposes of circumventing competition law. Hence, with an objective of providing more clarity, OECD suggests that the regulators may issue guidance on form of co-ordination and agreements that do or do not constitute such acting in concert in Takeover and other rules.

PRINCIPLE III: INSTITUTIONAL INVESTORS, STOCK MARKETS, AND OTHER INTERMEDIARIES
The third OECD principle of CG states that the framework should provide sound incentives throughout investment chain and provide for stock markets to function in a way that contributes to good CG.

The sub-principles recommend that institutional investors disclose their policies w.r.t. CG. In case of institutions acting in a fiduciary capacity (e.g. pension funds, collective investment schemes and some activities of insurance companies, and asset managers acting on their behalf), OECD observes that the right to vote can be considered part of the value of investment. Failure to exercise ownership rights could result in loss to investor who should be made aware of the policy to be followed by Institutional Investors.

In the Indian context, companies are under legal obligation to provide electronic voting facility, remote electronic voting facility, in addition to the postal ballot and voting at the meeting (by poll or by show of hand). Institutional Investors are also involved in the dialogue with the board and management relating to the strategic and management discussions affecting the company’s operations at large.

REGISTRATION OF ADVISORS & THEIR ROLE
The sub-principles further suggests that CG framework should require that proxy advisors, analysts, brokers, rating agencies (collectively abbreviated as “Advisors”) that provide analysis or advice relevant to decisions by investors should disclose and minimize conflicts of interest that might compromise the integrity of their analysis/advice. OECD notes that proxy advisors who offer recommendations to institutional investors on how to vote and sell services that help in voting process are among the most relevant from direct CG’s perspective. Further it is observed that the Advisors in certain cases also offer CG related consulting services to corporations.

It further observes that many jurisdictions have adopted regulations or encouraged the implementation of self-regulatory codes designed to mitigate conflicts of interest or other risks related to integrity, and have provided for private and/or public monitoring arrangements. OECD suggests that the providers of proxy advisory services should disclose publicly and/or to investor clients the process and methodology that underpin their recommendations, and the criteria for their voting policies relevant for their clients.
In line with this, SEBI has introduced Research Analyst Regulations, 2014 which monitors and manages conflicts of interest and disclosure requirements, limits trading by research analysts and publication of research reports, public appearance and conduct of business, disclosures in research reports and recommendations in public media. Pursuant to the Research Analyst Regulations, 2014, Proxy Adviser shall additionally disclose following information: (i) Extent of research involved in particular recommendation and the extent and/or effectiveness of its controls and procedures in ensuring accuracy of issuer data; (ii) Policies and procedures for interacting with issuers, informing issuers about recommendation and review of recommendations. SEBI also suggests that proxy adviser shall maintain record of the voting recommendations and furnish the same to it on request.

**PRINCIPLE IV: STAKEHOLDER’S ROLE IN CG**

The fourth OECD principle highlights that the framework should recognize the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.

**IMPORTANCE OF VARIOUS STAKEHOLDERS IN CG**

The idea of ‘paying attention to key stakeholder relationships’ is and has been of utmost importance in the strategic management. The vital aspect of CG lies in ensuring that there is flow of external capital to companies, whether owned or borrowed/debt capital. However, the existence, growth and success of the companies are a contribution by various stakeholders including employee, shareholders, creditors, suppliers, customers and other stakeholders and hence their interests be protected.

The sub-principle specifically articulates that where stakeholder should have the opportunity to obtain effective redress for violation of their rights and where stakeholders participate in the CG process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.

**EMPLOYEE’S PARTICIPATION**

This sub-principle also emphasizes that mechanism be developed for employee participation in the CG framework. However, this may vary depending the size and operation scales of the company and the laws applicable. In the Indian context, it can be noted that ‘Internal Complaints Committee’ formed under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, comprises of specified employees, providing the participation of employees. Further, various Employee Stock Option Schemes, thereby making the employees, the owners of company, increases their participation in the CG.

Another sub-principle states that the stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board and to the competent public authorities and their rights should not be compromised. Both the Act and SEBI LODR enunciate that the companies should establish vigil mechanism/whistle-blower Policy wherein the employees can report any bona fide complaint to Audit Committee or Board without any fear of unfair treatment including fear of retaliation.

**EFFECTIVE & EFFICIENT INSOLVENCY FRAMEWORK**

The last sub-principle states that the framework should be complemented by an effective, efficient insolvency framework and by effective enforcement of creditor rights. In Indian context the creditors can enforce their rights by filing a petition for winding-up the company in case the company is unable to pay its debts or a scheme of compromise and arrangement can also be reached between the creditors and company. As Insolvency and Bankruptcy Code has still not seen light of the day in India, the existing mechanism provided are not very effective or in line with the international practices.

**PRINCIPLE V: DISCLOSURES & TRANSPARENCY**

The fifth OECD principle emphasizes that CG framework should ensure timely and accurate disclosure be made on all material matters regarding corporation, including financial situation, performance, ownership and governance. The sub-principles lay down various disclosures pertaining to material information, which highlights that such information should be in accordance with high standards of accounting, financial and non-financial reporting.

**WHY DISCLOSURES?**

Disclosure of “material information” is regarded as foundation to transparency amongst the shareholders. The ambit of such dissemination of information may vary from private companies to listed companies. However, it is emphasized that “time” is an essence for such disclosures and it should be disseminated to all the shareholders for equitable treatment. Though the ideology is not to endanger company’s competitive position, or increase compliance cost but “disclosures” aims to be a powerful tool for protecting the investors, attracting capital and maintaining high confidence amongst stakeholders about company’s functioning. It has proved that weak, non-compliant or unethical practices weakens investor’s confidence and have significant negative effect on company’s cost of equity capital and market reputation. The disclosures can be of on-going in nature, periodic or “immediate” or “as soon as possible” disclosures of material development.

This OECD principle is in line with disclosures provided under the Act and SEBI LODR. These disclosures relates to financial...
statements, Board’s Report, Annual Report, management analysis, shareholding pattern & its changes, RPT, risk factors, appointment, resignation, remuneration of Directors & KMP, Code of Conduct, CSR Policy, policy to determine ‘materiality’, Whistle-blower Policy, policy on diversity of Board, continuing disclosures on the company’s website, stock option schemes, price-sensitive information, etc.

Further to have a fair and independent representation of financial statements, it is been mandated that companies shall implement applicable Accounting Standards in letter and spirit in preparation of financial statements taking into consideration interest of all stakeholders and shall also ensure that annual audit is conducted by an independent, competent and qualified auditor. Further, the SEBI LODR mandates in line with OECD Principles that channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.

PRINCIPLE VI: RESPONSIBILITY OF THE BOARD OF DIRECTORS

The sixth OECD principle lays down that the CG framework should ensure strategic guidance of company, effective monitoring of management by Board, and Board’s accountability to the company and shareholders.

In the evolution of the ‘organic theory’, in the well-known English judgment in Lennard’s Carrying Co Ltd v Asiatic Petroleum Co Ltd [1915] AC 705 in which Viscount Haldane LC said: ‘a corporation is an abstraction. It has no mind of its own any more than it has a body of its own; its active and directing will must consequently be sought in the person of somebody who for some purposes may be called as an agent, but who is really the directing mind and will of the corporation, the very ego and centre of the personality of corporation.” Thus, the organic theory of corporate life treats directors as directing mind and will of company or organs of the company for whose actions the company is held liable. Hence, the Board of directors is entrusted with chief responsibilities which include governing the enterprise, monitoring management, overseeing risk management, achieving an adequate return for shareholders, preventing conflict of interests and ensuring that company complies with applicable laws.

DIRECTORS’ DUTIES

The sub-principle highlights that for discharging functions effectively, and in order to fulfil their responsibilities, board members should have access to accurate, relevant and timely information. Basis the plethora of precedents, the Section 166 of the Act also in line with OECD Guidelines substantiates and casts duty on the board of directors to act in good faith, diligently and in company’s best interest. This principle accentuates two prime elements of the fiduciary duty of the Board which are ‘duty of care’ and ‘duty of loyalty’.

The Code of conduct as detailed in the SEBI LODR is in line with the sub-principle enshrined stating that board of directors should apply high ethical standards and take into account stakeholders’ interest. The sub-principle highlights that Board should fulfil certain key functions which are mirrored in SEBI LODR.

OPTIMUM COMPOSITION OF BOARD OF DIRECTORS

The sub-principles also emphasizes that the Board should have an optimum combination of non-executive & executive Board members to avoid potential conflict of interest like RPT. The Act and SEBI LODR in line with the OECD principles provides for formation, roles & responsibilities of Audit Committee, Nomination & Remuneration Committee, CSR Committee & Stakeholders Relationship Committee with prescribed mix of executive, non-executive and independent directors.

The Act also laid a maiden step that the Directors’ Report should contain a statement indicating manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors. These steps enshrine the sub-principle that Boards’ should regularly carry out evaluations to appraise their performance and assess whether they possess the right mix of background and competences.

EMPLOYEES’ REPRESENTATION ON BOARD

OECD sub-principle refers to “employee representation” on Board whether mandated by law or collective agreements, or voluntary adoption. It further substantiates that a mechanism be evolved to provide access to information and training for such employee representatives, so that this representation is exercised effectively and best contributes to the enhancement of board skills, information and independence. In Indian context, though we do not come across such “Employee representation” it can be looked into from the “Small Shareholders Directors” perspective and the principles referred may be applied.

CONCLUSION

It can be said that the India is largely compliant with the revised OECD Corporate Governance Principles except few areas / sub-principles. Therefore, if India proposes to overhaul its existing CG framework based on the revised OECD CG Principles, it may not be a herculean exercise for the Indian companies in its implementation. It also noteworthy that SEBI’s International Advisory Board2 opined that 100% compliance with OECD principles, though desirable, may not be absolutely necessary. It is essential that every key stakeholder understands the principles and sub-principles along with the implication of OECD Corporate Governance Principles, which may have an impact on not only Indian companies but also its holding companies, subsidiary companies and associate companies incorporated outside India. The Principles are important and relevant in cross-listing or cross-border merger or acquisition, as well.

Reference


INTRODUCTION:

Is Corporate Governance a new concept? What made all the countries to have corporate governance norms in one form or the other? If all the corporate organizations are following meticulously the Governance norms prescribed in their respective countries for so many years, then why the world is still facing new scams either from one part or the other hemisphere? Is there any necessity for the corporate to deliberate further and frame much more adaptable and foolproof corporate governance norms for the entire world in line with the changing corporate culture and pragmatism? What will happen if all the nations come together on a single platform and try to evaluate and formulate good corporate governance norms according to the changing world? Will observing a day every year as an International Corporate Governance Day serve any purpose?

This Article is putting forth the significance of observing an International Corporate Governance Day, so as to achieve the objective of inundating various policies and frame works to be followed by various corporate in uplifting the ethics and governance norms and thereby establishing a platform for creation of normative procedures in their dealings with various stake holders, thereby achieving the good corporate citizenship in and across the globe, safeguarding the interests at micro and macro level which will foster the economies of the respective countries.

Corporate governance essentially involves balancing the interests of the many stakeholders in a company - these include its shareholders, management, customers, suppliers, financiers, government and the community.

In order to have an effective system of rules, practices and processes by which a corporate is directed and controlled, the world needs a platform to discuss and enumerate the possible methods and procedures for the adoption by corporate beyond the horizons of the respective countries.

In the new era of globalization and modernization the corporate houses are not restricted to their own country of functioning but spearheading across the globe and the entire world is becoming a stakeholder.

On the occasion of “International Corporate Governance Day”, the member participants can dwell upon various anomalies and can reverberate the sound policies and procedures for governance in the corporate in their respective countries.

Importance of Governance:

1. What is governance? It's not as easy a question to answer as we might think. Most of us, when we think of governance, think of government. We think of “the state” and the ways in which...
particular governments, elected by citizens, control the activities of the state. Our elected “governments” play a crucial role in the governance of our daily lives through the programs they enact and the laws they pass. But, thinking more broadly, governance means more than just the programs and laws of governments. Governance can refer to any sort of action taken by any sort of organization or group of individuals—for example, civic organizations, corporations, NGOs, and even markets—to coordinate and control how we act in our highly complex society. Governance is about establishing the “rules of the game” for how we live and interact.

Almost everyone would agree we need governance. We need a sense of safety and security; we need some basis for predictability. The absence of institutions of governance would be anarchy—or more accurately, chaos. Interestingly, even anarchists develop institutions of governance, albeit entirely from the bottom up.

So how can we evaluate the quality of our institutions of governance? That’s a really tough question. For one thing, if we are really going to take governance seriously, we can’t equate governance with government. Many institutions, both state and non-state, are involved in the governance of our daily lives. In fact, a crucial aspect of the governance of our lives is the extent to which governance functions are allocated to democratic state institutions versus undemocratic institutions, such as markets. In the former, a critical question is “how democratic and just are these state institutions?” In the latter, a critical question is “how efficient and productive are these non-state institutions?” Of course, we can also ask questions about the efficiency and productivity of state institutions, and the representativeness and justness of non-state institutions, but these are not the first things we expect from these institutions.

The first question of governance is not how well the governing institutions work, but which institutions have been selected to perform governance functions. Which functions are assigned to which institutions can have huge implications for social justice and social equity?

The second question of governance is how well the institutions of governance work? Are we concerned with the ability of citizens to participate in the day-to-day decisions of government? Are we concerned about the influence of powerful special interest groups? Are we concerned about the transparency of government decision-making? And for each of these and many other concerns, what are the best ways to measure performance? Are the data we need even available?

None of these are easy questions and the measurement of good governance is as much value-laden as it is data-driven. But if we are concerned with good governance we must attempt to define what we consider central to good governance, and what sort of proxy measures we might look to. Only after we do this can we raise serious demands for better governance.

Good governance promotes equity, participation, pluralism, transparency, accountability and the rule of law, in a manner that is effective, efficient and enduring.

The greatest threats to good governance come from corruption, violence and poverty, all of which undermine transparency, security, participation and fundamental freedoms.

Democratic governance advances development, by bringing its energies to bear on such tasks as eradicating poverty, protecting the environment, ensuring gender equality, and providing for sustainable livelihoods. It ensures that civil society plays an active role in setting priorities and making the needs of the most vulnerable people in society known.

In fact, well-governed countries are less likely to be violent and less likely to be poor. When the alienated are allowed to speak and their human rights are protected, they are less likely to turn to violence as a solution. When the poor are given a voice, their governments are more likely to invest in national policies that reduce poverty. In so doing, good governance provides the setting for the equitable distribution of benefits from growth.

The UN system promotes good governance through many avenues. The UN Development Programme (UNDP), for example, actively support national processes of democratic transition. In the process, it focuses on providing policy advice and technical support and strengthening the capacity of institutions and individuals. It engages in advocacy and communications, supports public information campaigns, and promotes and brokers dialogue. It also facilitates “knowledge networking” and the sharing of good practices.

The International Monetary Fund (IMF) promotes good governance through its programmes of lending and technical assistance. Its approach to combating corruption emphasizes prevention, through measures that strengthen governance. The IMF encourages member countries to improve accountability by enhancing transparency in policies, in line with internationally recognized standards and codes. In its work with poor countries, the IMF emphasizes adequate systems for tracking public expenditures relating to poverty reduction. In its regular consultations with its members, the IMF also provides policy advice on governance-related issues.

The United Nations Democracy Fund (UNDEF), established in 2005, supports projects that strengthen the voice of civil society, promote human rights, and encourage the participation of all groups in democratic processes. The bulk of its funds go to local civil society organizations, both in the transition and consolidation phases of democratization. In these ways, it complements the UN’s work with governments to strengthen democratic governance worldwide.

The United Nations Public Administration Network (UNPAN) was created to set up an internet-based network to link regional and national public administration institutions. It facilitates the exchange of information and experience, as well as training in the area of public sector policy and management. Its long-term goal is to build the capacity of these regional and national institutions, with the aim of improving public administration overall.

Through such measures as these, the promotion of good governance now runs like a thread through all UN system activities.

NECESSITY OF A CORPORATE GOVERNANCE DAY

All the countries and organizations are working independently based on either the geographical limitations or otherwise bounded by the purpose for which those organizations were established.

There is a necessity to bring a uniform consensus among all the countries as well as all the organizations to follow the most best global corporate governance practices.

Corporate Governance is needed to create a corporate culture of Transparency, accountability and disclosure. It refers to compliance with all the moral & ethical values, legal framework and voluntarily adopted practices to achieve the following:

Corporate Performance: Improved governance structures and processes help ensure quality decision-making, encourage effective succession planning for senior management and enhance the long-term prosperity of companies, independent of the type of company
and its sources of finance. This can be linked with improved corporate performance- either in terms of share price or profitability.

**Enhanced Investor Trust:** Investors consider corporate Governance as important as financial performance when evaluating companies for investment. Investors who are provided with high levels of disclosure & transparency are likely to invest openly in those companies. The consulting firm McKinsey surveyed and determined that global institutional investors are prepared to pay a premium of up to 40 percent for shares in companies with superior corporate governance practices.

**Better Access to Global Market:** Good corporate governance systems attract investment from global investors, which subsequently leads to greater efficiencies in the financial sector.

**Combating Corruption:** Companies that are transparent, and have sound system that provide full disclosure of accounting and auditing procedures, allow transparency in all business transactions, provide environment where corruption will certainly fade out. Corporate Governance enables a corporation to compete more efficiently and prevent fraud and malpractices within the organization.

**Easy Finance from Institutions:** Several structural changes like increased role of financial intermediaries and institutional investors, size of the enterprises, investment choices available to investors, increased competition, and increased risk exposure have made monitoring the use of capital more complex thereby increasing the need of Good Corporate Governance. Evidences indicate that well-governed companies receive higher market valuations. The credit worthiness of a company can be trusted on the basis of corporate governance practiced in the company.

**Enhancing Enterprise Valuation:** Improved management accountability and operational transparency fulfill investors’ expectations and confidence on management and corporations, and in return, increase the value of corporations.

**Reduced Risk of Corporate Crisis and Scandals:** Effective Corporate Governance ensures efficient risk mitigation system in place. The transparent and accountable system that Corporate Governance system makes the Board of a company aware of majority of the mask risks involved in a particular strategy, thereby, placing various control systems in place to facilitate monitoring the related issues.

**Accountability:** Investor relations’ is essential part of good corporate governance. Investors have directly/ indirectly entrusted management of the company for the creating enhanced value for their investment. The company is hence obliged to make timely disclosures on regular basis to all its shareholders in order to maintain good investors’ relation. Good Corporate Governance practices create the environment where Boards cannot ignore their accountability to these stakeholders.

If all the above objectives of uniform good Corporate Governance practices are followed by the entire world, an immense transformation will apparently visible and the entire world will march forward collectively to a new regime. To achieve this it is advised to observe a day as an International Day of Corporate Governance.

**CONCLUSION**

Goverance is such an important aspect, without which none can achieve harmony in the working patterns and further to this it has to evolve day in and day out in accordance with the changing requirements both internally and globally in each and every aspect.

As observed all the countries are trying to implement good governance norms in all facets and accordingly established few international organizations which have already declared various principles to follow the good Corporate Governance norms.

Now it is the need of the hour to leap forward to have international congruence for having internationally accepted Corporate Governance norms, which can be established along the length and breadth of the whole world.

To achieve this objective, it is suggested to have a day as an International day for Corporate Governance, on which each and every nation along with the corporate organizations will conduct various programmes for further evolution of best practices in Corporate Governance and disseminate the information, reports, statistics etc globally with their counter parts.

By observing an International Day, a best uniform Corporate Governance Norms can be practiced by each and every nation across the globe.
There are two ways to get something from someone illegally: (1) Forcing someone by using a weapon, or a brute force, and (2) Trickling someone out of his assets or belongings. While the first can be termed robbery, the latter can be termed fraud. Robbery is often more violent and traumatic than fraud, and attracts larger public attention. However, the loss from fraud far exceeds the loss from robbery.

Fraud is an intentional deception or a wilful misrepresentation of a material fact and includes lying, cheating, and stealing.

Fraud as per Oxford Dictionary, a fraud is the use of a false representation to gain an unjust advantage and criminal deception. In the broadest sense of the term, a fraud can encompass any crime for personal gain that uses deception as its principal modus operandi. Of the three ways to illegally relieve a victim of money-force, trickery or larceny, all the offences that employ trickery amount to a fraud. Thus, deception is the linchpin of any fraud.

Under the common law, the general elements that must be present in a fraud are:

1. It is a misrepresentation of a material fact,
2. It is made knowingly and deliberately,
3. It is made with the intent to deceive,
4. It relies on the misrepresentation by the victim,
5. It results in injury or damage to the victim.

Corporate frauds can have a devastating effect on the business firms in which a fraud has occurred. The loss in the organisation can also have an impact on the local, state and national economic conditions based on the size of the business affected by the fraud. Fraud cannot be committed without some sort of rationalisation, even when there is enough motivation and opportunity.

Motivation: The motivation component of fraud is the pressure or ‘need’ that a person feels. The motivation could also be a perceived financial need, whereby a person strongly desires some material goods, but does not have enough money or means to acquire them. Motivation is a combination of an individual’s personality and the environment surrounding him. Opportunity provides the method or circumstances of committing a crime or fraud. Management in an organisation must understand the opportunity that could lead any person to commit a fraud and then to minimise the risk of fraud by reducing the opportunity that exists for such fraud and Rationalisation, which...
encourages the committing of a fraud, is the ability of the person to rationalise his or her own behaviour. Without such rationalisation, a person will not commit fraud, even if he has the motivation and opportunity. The sense of ethics, morality and the idea of right and wrong is what prevents some individuals from rationalising their behaviour. Thus, a fraud cannot be committed without some sort of rationalisation, even when there is enough motivation and opportunity.

There are various factors which lead to pressure, opportunity, and rationalisation. The major ingredients of these fraud elements are listed in Table 1:

<table>
<thead>
<tr>
<th>Motivation</th>
<th>Opportunity</th>
<th>Rationalisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Financial greed</td>
<td>• Weak or inadequate internal control</td>
<td>• Low moral character</td>
</tr>
<tr>
<td>• High personal debt</td>
<td>• Excessive trust in certain employees</td>
<td>• View of fraud as action less crime</td>
</tr>
<tr>
<td>• Addiction that requires money like gambling</td>
<td>• Unprofessional environment</td>
<td>• 'Rules do not apply to me'</td>
</tr>
<tr>
<td>• Poor credit rating</td>
<td>• Lack of appropriate separation of duties or independent checks</td>
<td>• A strong desire to beat the system</td>
</tr>
<tr>
<td>• Power Dominance</td>
<td>• Inadequate management approval</td>
<td>• Sense of entitlement</td>
</tr>
<tr>
<td>• Maintenance of lifestyle standard or living beyond means</td>
<td>• Inadequate system control</td>
<td>• Lack of strong code of ethics</td>
</tr>
<tr>
<td>• Revenge</td>
<td>• Nexus with supplier</td>
<td></td>
</tr>
<tr>
<td>• Possessiveness about custody of records/ office space</td>
<td>• Inadequate record keeping with respect to misappropriation of assets</td>
<td></td>
</tr>
<tr>
<td>• Inadequate income</td>
<td>• Poor physical safeguards over cash inventory or fixed assets</td>
<td></td>
</tr>
<tr>
<td>• Frustration with the job</td>
<td>• Lack of mandatory vacations for employees holding key positions</td>
<td></td>
</tr>
</tbody>
</table>

**WHY IS A FRAUD COMMITTED?**

Motivation, Opportunity and Rationalisation are three important factors which are connected with committing a fraud. Motive comes from financial pressure; opportunity occurs through weakness in internal control and rationalisation is the fraudsters' internal justification for his or her act. Competitive and economic survival can be a motive to commit a fraud. The circumstances for committing a fraud can be categorised as (1) The lifestyle issues, and (2) Other issues.

**WHO COMMITS A FRAUD?**

Anyone can commit fraud and fraudsters cannot be distinguished from other people by their characteristics. From the ingredients, one may conclude that fraud is caused mainly by factors external to the individual: economic, competitive, social and political issues, and poor control mechanism.

**HOW A FRAUD IS CULMINATED?**

Although the Indian regulatory and legal system is well designed and quite comprehensive, it is inefficient in implementation and handling of the corporate frauds both from definitional and strategic handling perspective. A flow chart developed by the author showing the activities involved in the culmination of a corporate fraud in India is given in the following Figure.

**A CONCEPTUAL MODEL FOR CULMINATION OF CORPORATE FRAUD**

![Flow Chart Image]
FRAUD UNDER THE COMPANIES ACT, 2013

The corporate sector is mainly regulated by the Companies Act, 2013, since different provisions have been provided in the Act for regulating the affairs of a company and the first time the concept of fraud has been inserted in the Companies Act, 2013.

Explanation to Section 447 reads: -“ for the purposes of this section—

(i) “fraud”, in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or act of omission committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) “wrongful gain” means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) “wrongful loss” means the loss by unlawful means of property to which the person losing is legally entitled”.

Fraud: A graphic description

The building blocks of a corporate fraud are briefly described below:

Any act/Omission to act: An act means to take action or to do something. Mere coming of an idea into mind to do a fraud is not fraud, until the idea is converted into an act. An act of omission is the failure to perform an act expected to be done by a person whereas the act of commission is doing an act that causes harm.

In Barendra Kumar Ghose ‘s case AIR 1924 Cal 257, 312: 25 Cri LJ 817 (FB) it was held that the legal consequences of an ‘act’ and of an ‘omission’ being the same, if an act is committed partly by an act and partly by an omission, the consequences will be the same as if the offence was committed by an ‘act’ or by an ‘omission’ alone. This does not create a substantive offence. This shows that when an offence is the effect partly of an act or partly of an omission, it is one offence only.

Fraudulent Concealment: The word “Fraudulently” in Section 206 of Indian Penal Code, 1860 cannot be interpreted as nothing more than “dishonestly.” A dishonest act is not a fraudulent act unless and until an intention to deceive is present in that dishonest act. Where there is neither an intention to deceive, nor secrecy, the act though dishonest, is not fraudulent. [1937 MWN 462: 46LW139: AIR 1937 Mad 713: (1937) 2 MLJ 802]. Fraudulent misrepresentation is also a part of fraudulent concealment. A misrepresentation is made with the express intention of defrauding someone, which subsequently causes injury to that person.

Abuse of position: In many cases the most serious frauds and corruption frauds are committed by people at the top who have the power to conduct fraudulent transactions and cover them up. There are several things which suggest someone is abusing his position and could actually be committing fraud.

By any Person: The Companies Act has not defined the concept of a person, while the meaning of person is defined under Section 11 of Indian Penal Code, 1860. Every person who has been charged for committing a crime in India is liable for punishment without distinction of caste, religion, creed, sex, or colour. Companies and corporations are excluded since these entities are artificial juridical persons and the acts of these are performed by an individual or a group of individuals. Therefore, the criminal courts are exempted to award any punishment of imprisonment to a company but a fine can be imposed on a company.

Intent: An act of fraud, omission or concealment should be done with an intent: (a) to deceive; (b)to gain undue advantage from someone; and (c) to injure the interest of (i) the company, (ii) a shareholder, (iii) creditor, or (iv) any other person. It is the ‘intent’ of a person which will determine whether his action, omission, concealment of facts or abuse of position amounts to fraud or not. The intent of a person must be to deceive, to gain undue advantage, or to injure the interest of the other party.

Injury: The word “injury” denotes any harm whatever illegally caused to any person in body, mind, reputation or property. In Swami Nayudu v Subramania Mudali (1864) 2 MHC 158, 160. (Per Halloway, J); Appalasami B (1892) 1 Weir 441; Priyanath Gupta v Lal Jhi Chowkidar AIR 1932 Cal 590: 24 Cri LJ 396; Baij Nath Bhagat AIR 1940 Pat 486: (1940) 41 Cri LJ 427 (Pat) and Appalasami B, supra it was held that ‘Injury’ is an act contrary to law. The word ‘injury’ has been given a wide meaning. It will include every tortious act.

Wrongful Gain and Wrongful Loss: It is immaterial whether or not there is any ‘wrongful gain’ or ‘wrongful loss’. ‘Wrongful gain’ mean the gain by unlawful means of any property to which the person gaining is not legally entitled, ‘Wrongful loss’ means the loss by unlawful means of any property to which the person having is legally entitled.

FRAUDS FOR AND AGAINST THE COMPANY

Any fraud perpetrated by, for, or against a company is known as a corporate fraud. Corporate frauds are often intended to satisfy the economic needs of the officials, or executives or of a Company whose compensation is based largely on one measure of performance. Examples of frauds against the company and for
the company are listed in Table 2. The frauds committed against the company can be further classified as: (1) Fraud perpetrated by employee and (2) Fraud perpetrated by vendors/competitors.

### Table 2

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Victims</th>
<th>Type of Fraud</th>
<th>Fraud perpetrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bankers</td>
<td>False applications for credit, False financial statements for working capital arrangements.</td>
<td>Companies and their Directors</td>
</tr>
<tr>
<td>2</td>
<td>Competitors</td>
<td>Predatory/exploitative Pricing, Selling below cost to eliminate or prevent competition, Information piracy, Infringement of patents/copyrights, Theft of trade secrets.</td>
<td>Companies and their Directors, Competitors</td>
</tr>
<tr>
<td>3</td>
<td>Customers</td>
<td>False advertising, False weights, False representations, Price fixing, Defective products, Short shipment, Overbilling, Double billing, Substitution of inferior goods, Corruption of employees.</td>
<td>Companies and their Directors, Vendors</td>
</tr>
<tr>
<td>4</td>
<td>Employers</td>
<td>Expense account Padding, Fake Performance, Overstating revenue and assets, Overstating profits, Underspending expenses and liabilities, Theft of assets, Embezzlement, Commercial bribery, Insider Trading, Related Party Transactions, Manipulation/destruction of records.</td>
<td>Vendors, Suppliers and Contractors, Employees</td>
</tr>
<tr>
<td>5</td>
<td>Employees</td>
<td>False employment applications, False benefit claims, False expense claims, Theft and Pillage, Fake Performance, Embezzlement, Corruption.</td>
<td>Employees and Employers</td>
</tr>
<tr>
<td>6</td>
<td>Government Agencies</td>
<td>False reports/returns, False claims, Contract padding, Wilful failure to file reports/returns.</td>
<td>Companies and their Directors</td>
</tr>
<tr>
<td>7</td>
<td>Insurance Agencies</td>
<td>Fraudulent loss claims, Arson for profit, False insurance claims.</td>
<td>Companies and their Directors</td>
</tr>
<tr>
<td>8</td>
<td>Stakeholders (Shareholders/Creditors/Investors)</td>
<td>False financial statements, False financial forecasts, False representations. False applications for credit.</td>
<td>Companies and their Directors</td>
</tr>
</tbody>
</table>

### VICTIMS OF CORPORATE FRAUD

The most trusting people are also the most gullible and victims of fraud. Frauds are committed by owners, employees, and by even outsiders. People, become the victim of corporate frauds outside or inside the company. The insiders, including the directors, managers, and the employees, may suffer a loss of position, reputation or standing. The outside victims would include the investors, creditors, partners, customers, suppliers, underwriters, attorneys, and the independent auditors. The list of fraud perpetrators, victims and types are summarised in Table 3:

### CONSEQUENCES OF CORPORATE FRAUDS

Corporate frauds can have a devastating effect on the business firms in which a fraud has occurred. The loss in the organisation can also have an impact on the local, state and national economic conditions based on the size of the business affected by the fraud. The consequences of frauds on company’s stakeholders; for the organisation and for the economy has been shown briefly in the following figure:
The most trusting people are also the most gullible and victims of fraud. Frauds are committed by owners, employees and by even outsiders. People, become the victim of corporate frauds outside or inside the company. The insiders, including the directors, managers, and the employees, may suffer a loss of position, reputation or standing. The outside victims would include the investors, creditors, partners, customers, suppliers, underwriters, attorneys, and the independent auditors.

CONSEQUENCES OF FRAUDS

<table>
<thead>
<tr>
<th>Stakeholders</th>
<th>Organisation</th>
<th>Economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Loss of confidence of investors in the organisation</td>
<td>• Adverse effect on bank's attitude in respect of granting of loans and other credit facilities</td>
<td>• Loss of confidence of foreign investors</td>
</tr>
<tr>
<td>• Loss of credibility of the organisation</td>
<td>• Loss of Net worth</td>
<td>• Adverse effect on overall growth</td>
</tr>
<tr>
<td>• Loss of employees due to switching over</td>
<td>• Loss of Reputation/Goodwill of the company</td>
<td>• Higher cost of projects</td>
</tr>
<tr>
<td>• Non-payment to creditors</td>
<td>• Loss of dedicated and experienced employees</td>
<td>• Imposition of more government controls</td>
</tr>
<tr>
<td>• Non-payment to bankers against working capital facilities availed leads to NPA which damages bankers</td>
<td>• More government regulations</td>
<td>• Reduction in employment</td>
</tr>
<tr>
<td>• Non-receiving of dividend for long period</td>
<td>• Decrease in value of shares</td>
<td>• Negative impact on the investment climate in the country</td>
</tr>
<tr>
<td>• Loss of capital invested by investors (Indian and Foreign investors)</td>
<td>• Loss of confidence of investors (Indian and Foreign)</td>
<td>• Loss of Revenue due to stripping of large taxes</td>
</tr>
<tr>
<td>• Decrease in value of investment</td>
<td>• Bound to set unrealistic corporate targets</td>
<td>• Negative plunge on national wealth</td>
</tr>
<tr>
<td>• Employees losses their savings and pension</td>
<td>• Lowering of employee's morale</td>
<td>• Adverse effect on the Foreign Exchange</td>
</tr>
<tr>
<td></td>
<td>• Loss of customers (existing and future) due to negative publicity by media</td>
<td>• Inadequate or false returns affects policy decisions</td>
</tr>
</tbody>
</table>

INFAMOUS CORPORATE FRAUDS IN INDIA

Corporate frauds have shown an unprecedented increase in India in recent years and have posed serious questions before managers, regulators and professionals, on the effectiveness of corporate governance mechanism, regulatory mechanism, and the role of corporate and individual ethics.

Probably the first major corporate scam in Independent India was what is referred to as the Mundhra scam. Hari Das Mundhra, an industrialist and stock speculator, sold fictitious shares to the Life Insurance Corporation of India (LIC) and thereby defrauded the corporation by Rs. 1.25 crore in 1957. He was found guilty and was sentenced to imprisonment for 22 years. The then Union Finance Minister, T.T. Krishnamachary had to resign from his prestigious post in the face of scathing criticism within and outside Parliament.

After the Haridas Mundra case of 1957, another major scam in the mid-sixties and early-seventies was associated with Jayanti Dharma Teja. He availed loans from banks and financial institutions and used this easy money to establish a shipping empire, in the name of Jayanti Shipping Company Limited. While he had set up this company with a paid-up capital of a mere Rs. 200/- and took government loans amounting to Rs. 22 crore.

The infamous cases have been summarized below in a tabular form as Table 4:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Fraud/ Scam</th>
<th>Year/ Period</th>
<th>Nature of Industry</th>
<th>Fraud Perpetrators</th>
<th>Modus Operandi</th>
<th>Amount Involved (Rs. crore)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Harshad Mehta</td>
<td>1992</td>
<td>Capital Market</td>
<td>Managing Director</td>
<td>Trading in shares at premium in stock market.</td>
<td>4000</td>
</tr>
<tr>
<td>2</td>
<td>C.R. Bhansali</td>
<td>1992-1996</td>
<td>Capital Market</td>
<td>Managing Director</td>
<td>Collecting money from public and transfer the same to non-existent companies.</td>
<td>1200</td>
</tr>
<tr>
<td>3</td>
<td>Coblentz Scam</td>
<td>1995</td>
<td>Shoe Making</td>
<td>Promoter</td>
<td>Borrowing loans from banks in the name of fictitious/ non-existent Co-operative societies of shoe makers.</td>
<td>600</td>
</tr>
<tr>
<td>4</td>
<td>Ketan Parekh</td>
<td>2001</td>
<td>Capital Market</td>
<td>Managing Director</td>
<td>Availing loan with the help of bankers, above the maximum banking limits.</td>
<td>1500</td>
</tr>
<tr>
<td>5</td>
<td>Sanjay Agarwal</td>
<td>2001</td>
<td>Financing</td>
<td>Chairman, Executive Director</td>
<td>Taking money from nearly 20 banks and sold the same securities to other banks. Defaulting on the payments and loss of interest</td>
<td>600</td>
</tr>
<tr>
<td>6</td>
<td>Dinesh Dalmia</td>
<td>2001</td>
<td>Information Technology</td>
<td>Managing Director</td>
<td>Trading in shares which were not listed in Stock Exchange.</td>
<td>595</td>
</tr>
<tr>
<td>7</td>
<td>Satyam</td>
<td>2009</td>
<td>Information Technology</td>
<td>Auditor, Director</td>
<td>Hugely inflated accounting entities</td>
<td>8000</td>
</tr>
<tr>
<td>8</td>
<td>NSEL 2013 Exchange</td>
<td>2013</td>
<td>Exchange</td>
<td>Promoters, Auditors and Members</td>
<td>Fake certificates about availability of goods meant for sale</td>
<td>5600</td>
</tr>
<tr>
<td>9</td>
<td>Saradha Group</td>
<td>2013</td>
<td>Chit Fund</td>
<td>Promoters</td>
<td>Fake Collective Investment Schemes</td>
<td>4000</td>
</tr>
<tr>
<td>10</td>
<td>Bank of Baroda</td>
<td>2015</td>
<td>Money Laundering</td>
<td>General Manager, Foreign Exchange Officer</td>
<td>Created a fraudulent trade circuit, where exports claim duty drawback on inflated export bills and creation of shell Companies to make payment for non-existent imports.</td>
<td>6172</td>
</tr>
<tr>
<td>11</td>
<td>PACL 2015 CIS</td>
<td>2015</td>
<td>CIS including Ponzi Scheme</td>
<td>Founder and KMP</td>
<td>Lure investors by raising money against bogus land allotment letters</td>
<td>47000</td>
</tr>
</tbody>
</table>

FEATURES OF CORPORATE FRAUDS IN INDIA

The following features drawn after going through the summary of the major corporate frauds in India:

Fraud Perpetrators: A careful look at the major scams in the corporate world in India reveals that the maximum number of frauds have been perpetrated either by the company management or by its top executives. The management or the executives, in connivance with the unscrupulous professionals and consultants, committed the frauds through various modus operandi in order to make personal gains at the cost of other stakeholders'. This may be partly due to the non-existence of independent directors and members in the
audit committees.

Common types of Frauds: It is noted that the most prevalent type of fraud in India is the manipulation of financial statements in order to evade taxes and other government levies. The second largest type of fraud prevailing in the corporate world is the one resulting from procedural lapses. These procedures include the carrying on of business ultra vires the company objects, merger and amalgamation, and seeking company liquidation on grounds having mala fide intentions.

Lack of Action against Perpetrators: Companies are reluctant to take legal recourse against employees responsible for committing frauds. A few companies take disciplinary action against unscrupulous employees and their associate professionals. This may be due to fear of damages to company goodwill and reputation if news about the fraudulent incidence leaks into public domain. Also companies prefer to avoid reporting of any economic offence to a regulator. Companies are generally interested in recovering the defrauded money rather than getting the culprit punished. The analysis of cases of corporate frauds reveals that the fraud perpetrators got imprisonment for a period ranging from one year to 22 years, besides imposition of penalty.

Accountability: In the first reported major case of corporate fraud, namely, the Hari Das Mundhra case, the then Union Minister of Finance, the legendary T. T. Krishnamachary, and the Finance Secretary both had to resign from their posts. No such action was ever taken in any subsequent case. But, then that was the era of Jawaharlal Nehru and Lal Bahadur Shastri! In fact, no senior functionary in the government either owned up the responsibility or was impugned as a party to the fraud case for administrative lapses.

Insufficient authorities: Lack of an effective regulatory and compliance mechanism, and weak law enforcement are equally responsible for facilitating frauds. Corporate frauds were unearthed because of legislations such as Right to Information Act (RTI) and Public Interest Litigation (PIL).

Insufficient Powers with fraud regulating agencies: It is noted from the above cases that after the introduction of the SEBI Act in 1992, corporate frauds have been rampant in India, which may probably be due to the fact that the SEBI does not enjoy powers of a criminal court. The SEBI also suffers from jurisdictional disadvantages in respect of non-listed companies. It appears that the major regulator of the corporate world has not made its presence felt in the market insofar as the regulation of corporate frauds is concerned.

Approach of the Adjudicating Agencies: The corporate fraud perpetrators have been treated in courts at par with other fraudsters, while the causes and consequences are entirely different and far-reaching. The time lag in judicial decisions is also responsible for inducing corporate fraud as no separate wing has existed to punish the guilty expeditiously.

Time Taken in Disposal of Cases: The disposal of the fraud cases has on an average taken and relatively long period of time. Most of the cases took more than 7 years. The minimum time was taken in the Satyam Case, where the main accused B. Ramalinga Raju, the company chairman, was convicted in two months as he himself confessed the crime. Companies hesitate to record such matters to the police, apprehending the hardship they may face during the investigation and prolonged judicial trials.

Weak Anti-fraud Measures: Companies still rely on old traditional techniques and measures for protection of frauds. Reliance on Internal and External Audit and code of conduct are main measures to detect and prevent frauds. These methods are not sufficient for detecting and preventing frauds. A few companies have pro-active fraud risk management initiatives and whistle-blowing mechanisms. It is surprising as fraudsters are using advance tools and technology to perpetrate frauds.

POLICY IMPLICATIONS

It is not possible to eliminate frauds in corporate sector as no system is completely ‘fraud proof’. However, if an organisation or government pays greater attention to the most common indicators, they can provide early warning to discover the fraudster and to prevent the fraudster from committing a fraud. Therefore, the corporate frauds can be minimised by adopting certain policies by the organisation and stakeholders. The Companies Act, 2013 has covered many points to minimise the frauds in corporate sector but still some are missing from it. The following policy implications can be benefitted for reducing corporate frauds in India:

1. Strengthening of the Internal Audit Department and Audit Committees: The internal audit department needs to be strengthened by appointing qualified and experienced personnel and the Audit Committees should be given the freedom to act independently from the executives.

2. Implementation of Corporate Governance in Small and Medium Enterprises (SMEs):

The Small and Medium Enterprise sector is the second largest employer, after agriculture. The applicability of Corporate Governance in SMEs may have the way for the companies to grow or attract additional investors as alternatives to borrow from Bank at high cost and Corporate Governance in their sector may improve internal control system, better accountability and higher profitability and it will also reduce the conflicts between business owners and management.

3. Conducting of Due diligence by banks and financial institutions:

Banks and Financial Institutions are the major stakeholders in companies as finances are provided by them. To safeguard their interest, banks and financial institutions to effectively conduct due diligence by independent professionals and agencies before sanctioning the working capital facilities or other financial assistance to the companies.

4. Adequate disclosures by Professionals:

Regulatory professional bodies should issue guidelines to its members who work as Statutory Auditors, Auditors, Chief Financial Officer and Corporate consultants to ensure giving of proper disclosures in structured deals where money flows from one end to another which goes back to an entity connected with the director of the company.

5. Setting up of corporate offence wing with Criminal Powers:

Presently there is no specific authority with arrest powers exists to deal with corporate frauds and SEBI being the major regulatory authority for listed companies have only civil powers, the advantage of which is taken by the corporate fraud perpetrators. It is suggested to form a Corporate Offence Wing on the parallel line of Economic Offence Wing.
ANALYTICAL ASPECTS OF CORPORATE FRAUDS IN INDIA

6. Provisions for Approval of related-party transactions by specific committee: The Companies Act, 2013 removed the approval of central government for related-party transactions in those companies which have paid up capital as Rs. 1 Crore or more. The Act contains the provisions for related-party transactions but only shareholders’ approval is required. It is suggested that a separate specific committee consisting of one independent director and one minority shareholder representative has to be formed by each company for approving the related-party transaction, subject to the approval of shareholders.

7. Publication of fraud prevention policy: Non-existence of uniformity of publication standard of fraud prevention policy attracts the suggestion that a publication of uniform fraud prevention policy should be made mandatorily by certain class of companies and it has to be discussed at length in board of director’s report of the company. The fraud prevention policy must be publicised among the employees and stakeholders of the company and make mandatorily to report suspected frauds through a well-structured mechanism.

8. Recognition to companies for improved Corporate Governance: Corporate governance has impact on the profitability, growth and sustainability of business. SEBI (LODR) Regulations, 2015 deals with corporate governance. The Institute of Company Secretaries of India for the last several years awarding companies for better corporate governance, it is suggested that government or other authorities should also encourage by giving awards to corporate as well as professionals to adopt better corporate governance which will ultimately affect the growth and sustainability of business.

9. Co-ordination among different regulatory authorities: Regulatory agencies/authorities in India are increasingly identifying possible corporate frauds risks and becoming proactive in their actions and recently the Government of India constituted the Competition Commission of India to preview antitrust and monopolistic risk prior to large merger and acquisition as well as during operations. The Reserve Bank of India has also stepped up of enforcement of anti-money laundry regulations. Proper coordination among numerous regulatory authorities is recommended.

10. Vesting SEBI with Powers to Punish: SEBI has power of only civil courts and to some extent have transnational jurisdiction issues. SEBI has to be given power of a criminal court for imposing punishments to those who are actively involved in insider trading. All professionals institutions which regulate Chartered Accountants, Company Secretaries and brand Assets valuers should fix responsibility of their members incase if they are found guilty and not performing their duties in the ambit of Professionalism.

CONCLUSION

In the corporate sector in India, there is considerable weakness in governance and regulatory mechanism which need amendment in the existing regulatory framework. There is a time lag between the actual occurrence of a fraud and the information reaching the public domain, and public interest is adversely affected by such delay. The appointment of qualified and independent directors in the audit committees will also help in preventing or minimising frauds. The rotation of statutory auditors and compulsory appointment of qualified internal auditors would also tend to prevent frauds. The auditors also need to be trained in order to make them well-equipped with the changed regulatory measures and technological advancements.

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Mind the Gap: Quorum Voting at the Committee Level

WHAT IS A QUORUM?
Notable corporate governance scholar and Chief Business Officer of the Bombay Stock Exchange, Dr. Balasubramanian, notes that the “relevance of a quorum cannot be overemphasized,” pegging it as a “key procedural and legal issue that should never be lost sight of...” (Balasubramaniam, 2010, p.153). In its most simple form a quorum is “the smallest number of people who must be present at a meeting in order for decisions to be made” (Merriam and Webster Dictionary, 2016). In the corporate context it follows that a quorum must be established, either by the board as a whole or by its individual committees, “before that body can ethically and morally exercise the powers collectively vested in it, so as to have the legitimacy for imposing its decisions on the subject population” (Balasubramaniam, 2010, p.153). It is important to understand that a quorum not only provides for legitimacy of the decision-making process, it also ensures that the spirit of related corporate governance principles is attained.

CURRENT REGULATORY FRAMEWORK
Section 174 of the Companies Act, 2013 specifies the quorum requirements for meetings of the board. In whole it states that the “quorum for a meeting of the Board of Directors of a company shall be one-third of its total strength or two directors, whichever is higher, and the participation of the directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this subsection.” Further, common-law interpretation for calculation of a quorum requires a fraction to be rounded up to the nearest whole number, such that 5.2 would require 5 members to be present. Publicly listed firms must also comply with the Securities and Exchange Board of India (SEBI) (Listing Obligations and Disclosure Requirements), Regulations, 2015. These regulations break-down the structural requirements of each mandated committee, however it discusses quorum requirements only as applied to the Audit committee—elsewhere it is silent. It states in whole that the “quorum for audit

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The Companies Act has put in place a term-limit rule on independent directors, which only allows them to serve for two terms of 5 years each followed by a three-year break from the board before they become eligible again. Because the Companies Act is not retroactive, many current directors are still considered “independent” when they have been serving for 30 plus years. Many academics and professionals would agree that a longer tenure may impede a director’s ability to be neutral and unbiased.

Interpreting these provisions together, one should recognize the basic implication that SEBI and the stock exchanges expect Section 174’s two or one-third total strength rule to apply directly at the committee level, and that this direct application would likely apply to all mandated committees required by the Companies Act, 2013. However, there is an addendum to Section 174’s rule in the Listing Regulations, 2015 whereby a minimum of 2 independent directors must be present as applied specifically to the Audit Committee. Thus, the crux of the gap lies in the Listing Regulations, 2015 where it omits any additional addendums beyond Section 174’s rule as applied to the Nomination and Remuneration Committee, the Stakeholder’s Relationship Committee, and the Risk Management Committee. This gap in the regulations might possibly lead to sub-standard corporate governance practices by some firms.

The Regulatory Framework Applied in Practice

To illustrate why only applying Section 174’s two or one-third total strength rule implicates poor governance we will examine its effect on the Nomination and Remuneration Committee (NRC). But first, one must be aware of the structural requirements as well as the roles and responsibilities of this important committee (see figure). The Companies Act, 2013 provides that the NRC must be comprised of a minimum of three directors, all of whom must be non-executive with a minimum one-half being independent. However, the chairman of the company, whether executive or non-executive may be a member of the committee. In addition, the committee must convene once per financial year.

When examining the NRC structure, consider the following statistics compiled from the Annual Reports (2014-2015) of the top 100 firms in terms of market capitalization listed on the Bombay Stock Exchange as of March 31, 2015:

- 58% of boards reported having the chairman of the board sitting on the NRC; of these boards 21.4% of these chairmen were considered executive.
- On average, 25% of the NRC members were considered “gray” or non-independent, non-executive directors.
- On average, 67% of the NRC members were considered independent.¹

After examining the totality of the above facts, with importance placed on a compound of: (1) the structural makeup of the NRC, (2) the fact that full attendance was met less than 65% of the time, and (3) application of Section 174 with no addendum, one could imagine the following scenario’s which could arise:

**Scenario 1:**

- 4-member NRC comprised of:
  - one executive chairman, two independent directors and one gray director
- Application of Section 174 requires 2 members to be present for a valid quorum
  - Hypothetical Meeting #1: Two members attend the meeting, the executive chairman who serves as current CEO and the gray director who is a promoter of the company.
  - Hypothetical Meeting #2: Three members attend the meeting, the gray director who is a promoter and two independent directors, one who has served for 36 years and the other 1 year. Together they propose and vote, simple majority 2-1, to approve the bonus package for the CEO.

**Scenario 2:**

- 5-member NRC comprised of:
  - One non-executive chairman, two independent directors, and two gray directors
- Application of Section 174 requires two members to be present for a valid quorum
  - Hypothetical Meeting: Three members attend the meeting, two gray directors who are promoters, and one independent director who has served for 19 years. Together they propose and vote, simple majority 2-1, to recommend an additional gray director to the board who is a supplier of the firm.

Consequently these scenarios do occur, consider the following reported practices as of the 2014-2015 financial year:

**Grasim Industries:**

Three member NRC comprised of:

- Two independent directors, M.L. and C.S., who have served for 28 years and 1 year respectively.
- One gray director, chairman of the board K.M. who is a promoter director who has served for 23 years.
- Two meetings were held by the NRC in 2014-2015, one meeting had full attendance, and the other had only M.L. and K.M. present.
- Application of Section 174 required only two members to be present in order to call a valid meeting, in which the long-
serving independent director and non-independent promoter director were able to validly propose and vote on important matters affecting the firm.

Ashok Leyland:

Four member NRC comprised of:
- Two independent directors, D.J. and M.G. who have served for 15 years and 1 year respectively.
- Two gray directors, A.K. and D.G. both of whom are promoter directors serving 21 and 19 years respectively.
- Five meetings were held by the NRC in 2014-2015, three of which had 3 of the 4 members present, thus Section 174’s rule was satisfied. The annual report fails to state which director in consequence failed to show. The member not present could have been the 1-year serving independent director, which would result in a meeting held amongst the 15 year serving independent director and the two promoter directors.

Tata Chemicals:

Four member NRC comprised of:
- Two independent directors, N.W. and N.M. who have served for 34 and 9 years respectively.
- Two gray directors, chairman of the board C.P. and R.G. who have served for 3 and 17 years respectively.
- Four meetings were held by the NRC in 2014-2015, in which N.M. did not attend one of the meetings. Section 174’s quorum rule was satisfied, although it resulted in a meeting comprised of the long-serving independent director and two gray directors.

Maruti Suzuki:

Four member NRC comprised of:
- Two independent directors, A.G. and D.B., who have served for 12 and 9 years respectively.
- Two gray directors, chairman of the board R.C. and T.S., who have served 12 and 2 years respectively.
- 1 meeting was held during the year, in which one director, T.S. did not attend.

This stresses the importance of improving committee meeting attendance rates, especially when only one meeting is required and held per annum.

RECOMMENDATIONS

India’s corporate governance system cannot afford to simply mind the gap. Rather, in order to fill in the gap created by the existing regulatory framework a few short-term measures as well as one long-measure could be adopted. Adoption of the these measures would require further legal reform through amendments to the existing Companies Act, 2013 and Listing Regulations, 2015. Additionally, these measures could be viewed as recommended principles that firms could adopt into their Articles of Association at the time of incorporation.

SHORT TERM MEASURES

An explicit addendum shall be applied to all committees: The Listing Regulations, 2015 should be amended where they are silent, such that the additional two independent directors addendum found under the Audit Committee heading should be replicated to all committees in order to improve continuity and good governance. Further, the direct application of Section 174’s rule should be explicitly stated and not read in through inference as applied to all committees.

The minimum number of committee meetings held shall be increased: The Companies Act, 2013 should be amended to reflect that in the event that only one meeting is held during the fiscal year and if attendance was not met in full, then a second meeting must be convened. This recommendation would only be adopted by the committees that currently are only required to have one meeting per annum.

Disclosure norms related to information regarding committee level meetings shall be tightened: To increase transparency the Companies Act, 2013 should be amended to require all firms to report in their annual reports the number of committee meetings per year, the dates of those committee meetings, and exactly who was in/ or not in attendance. SEBI could also provide a standardized template in which companies can copy under the Corporate Governance Report section of their annual report.

LONG TERM MEASURE

Going forward it would be ideal if the key committees could be completely independent, such that the Listing Regulations, 2015 would be amended to emulate the New York Stock Exchange (NYSE) listing rules in which those rules require the Nominating and Corporate Governance Committee, the Audit Committee, and the Compensation Committee to be composed entirely of independent directors. If this is followed it will eliminate the possibility of the above described scenarios that implicate substandard governance.

These measures taken together will not only bring simplicity and coherence to the existing regulatory framework, they will also lead to better corporate governance.

References

Ashok Leyland Annual Report 2014-15


Grasim Industries Annual Report 2014-15

Maruti Suzuki Annual Report 2014-15
INTRODUCTION

The concept of Diversity in the boardroom is becoming an important topic of discussion nowadays. The responsibilities of the board of directors have been on the corporate agenda for years. Acting as the agents of shareholders, directors are expected collectively to devise operational and financial strategies for the organization and to monitor the effectiveness of the company’s practices. The board of directors forms one of the pillars of a robust corporate governance framework. The widely adapted OECD Principles of Corporate Governance highlights the essential role boards play in ensuring that nominations and election processes are transparent and respected and that potential members for the board have “the appropriate knowledge, competencies and expertise to complement the existing skills of the board and thereby improve its value-adding potential for the company”.

Stakeholders are more interested in board diversity than ever. As per various national / international practices, it would also mean that the individuals of the board should be diverse in background, education, experience, knowledge, thoughts, perspective, functional expertise, independence, age and gender. Diversity would further include differences that relate to communication styles, problem solving and interpersonal skills. Diversity is not simply about having a collection of individuals who have different characteristics. It is about getting the right people for the job and harnessing their unique and individual skills and experiences in a way that collectively benefits the organization and the business. This approach may take time and effort, but companies that make this investment will experience the benefits a diverse board can yield.

DEFINITION OF BOARD DIVERSITY

Board Diversity means introducing diversity of thought, experience, knowledge, understanding, perspective, gender and age in the board/s of directors. Over the years, regulators have placed great emphasis on addressing different matters relating to the board of directors. Two prominent examples were: (i) stressing on the roles of non-executive directors as well as the importance of independence of the board; and (ii) emphasizing the significance of balancing skills and experience of the board members. Until recently, there has been an urge for diversifying the board. Intuitively, diversity means having a range of many people that are different from each other. There is, however, no uniform definition of

It is often said that having people from different backgrounds on a board fosters better decision making and corporate governance. This article attempts to elaborate on this topic by first introducing the concept of board diversity and how it may benefit the organization, which is followed by a discussion on the possible costs, current regulatory initiatives, and the process of creating a diverse board and how it may contribute towards better corporate governance.
Diversified board members are more likely to possess different personal characteristics, which lead to dissimilar leadership, thinking, emotional styles and even risk preferences and behaviours. Not only may this foster creativity in delivering solutions to problems, but also provide a more comprehensive oversight to the operations of the organization through a further enhancement of the company’s sensitivity to a wider range of possible risks such as reputation and compliance risks. This may then support a greater supervision on the boards in its performance evaluation and in the decision-making process.

need for a diverse board
Board is essentially a group of individuals working together. The Board must be a fine blend of individuals drawn from different walks of life and diverse sections of community. It is sometimes observed that few members actually discharge their responsibilities while rests are decorative or play a peripheral role. Moreover, when members are too alike, the overall thought process becomes stereotyped and predictable. Therefore, it may hamper the decision making process, since others ideas / issues are not debated / discussed. Having diverse skills and expertise in the Board is a very important pre-requisite for the effectiveness of Governance.

The Board is supposed to be the most powerful body of an Organization and in the absence of an effective Board; it is an arduous task to ensure good governance in any organization. Diversity plays a very crucial role in forming an effective Board. However, it has been seen that in many Organizations diversity is not given much importance. Diversity of background, skills and perspectives are considered essential ingredients of effective Boards. Multiple perspectives are necessary to bring in creativity and to challenge stereotype thought process. Diversity leads to more innovation, more outside box thinking and better governance.

More diversity leads to better Governance. A diverse Board contributes to overall Board effectiveness by safeguarding and fulfilling the mission of the Organization and enhancing fiduciary oversight. A diverse Board brings fresh perspectives to decision making. A more diverse group fosters creativity and produces a greater range of perspectives and solutions to problems. A Board with members having different external linkages can help in easy access to resources and help in establishing connections easily. Organizations having a more diverse board can be a means of acquiring legitimacy in the view of society, media and Government.

benefits of board diversity
The board of directors is the most important decision-making body in any form of company organization. Boards are responsible for approving major strategic and financial decisions, such as mergers and acquisitions (M&As) and changes in capital structure, and...
also for the most important task of all, which is to hire and fire top executives. Diversifying the board is said broadly to have these benefits, i.e. (i) More effective decision making, (ii) Better utilization of the talent pool, and (iii) Enhancement of corporate reputation and investor relations by establishing the company as a responsible corporate citizen.

MORE EFFECTIVE DECISION MAKING

It is believed that a diverse board is able to make decisions more effectively by reducing the risk of ‘groupthink’, paying more attention to managing and controlling risks as well as having a better understanding of the company’s consumers. Directors are responsible for devising strategies through critical analysis and effective problem solving. One of the pitfalls behind the decision-making process in the boardroom is ‘groupthink’, which is described as a psychological behaviour of minimizing conflicts and reaching a consensus decision without critically evaluating alternative ideas in a cohesive in-group environment. Combining contributions of a group of people with different skills, backgrounds and experiences is assumed to be able to approach problems from a greater range of perspectives, to raise challenging questions and to debate more vigorously within top management groups. Such a multiple-perspective analysis of problems can change the boardroom dynamics and is more likely to be of higher quality than decisions made under a ‘groupthink’ environment.

Diversified board members are more likely to possess different personal characteristics, which lead to dissimilar leadership, thinking, emotional styles and even risk preferences and behaviours. Not only may this foster creativity in delivering solutions to problems, but also provide a more comprehensive oversight to the operations of the organization through a further enhancement of the company’s sensitivity to a wider range of possible risks such as reputation and compliance risks. This may then support a greater supervision on the boards in its performance evaluation and in the decision-making process.

Further, companies are competing in a global environment nowadays. In order to achieve organizational goals and objectives, directors need to understand diverse stakeholders’ claims – in particular the needs of customers – well. A balanced board will have more representatives of users and customers of its products in the boardroom to make informed judgment. This may be especially important for consumer-facing industries to have female directors and for multinational companies to include foreign nationals on the board. Dissimilar backgrounds, experience and social networks in the boardroom may therefore improve their understanding of the stakeholders, provide diverse connections with the external environment and help address stakeholders’ claims in a more responsive manner.

ENHANCEMENT OF REPUTATION AND INVESTOR RELATIONS BY ESTABLISHING THE COMPANY AS A RESPONSIBLE CORPORATE CITIZEN

Having a heterogeneous board can enhance corporate reputation through signaling positively to the internal and external stakeholders that the organization emphasizes diverse constituencies and does not discriminate against minorities in climbing the corporate ladder. This may somehow indicate an equal opportunity of employment and the management’s eagerness in positioning the organization as a socially responsible citizen.

It is also argued that board diversity reflects the diversity of the society and community served by the organization. This reflection strengthens the social contract between a business and its stakeholders, which, in turn, improves its strategic fit that the business has with its environment. As a result, it is suggested that a diverse board can help a company build its reputation as a responsible corporate citizen that understands its community and deserves its trust.

Further, more institutional investors have taken into account board diversity as a factor for investment evaluation due to the reasons that: (i) a number of academic research papers indicated the positive correlation between firm value and board diversity; and (ii) institutional investors are placing greater emphasis on corporate social responsibility. Board diversity can, therefore, to a certain extent, improve its investor relations.

Having a diverse board can play an important role in anticipating and managing risk because it will have a broader range of

BETTER UTILIZATION OF TALENT POOL

Stakeholders are demanding more from directors, in particular from non-executive directors (NEDs). Having NEDs on the board has already been a common requirement across countries. NEDs are, however, often criticized for having insufficient devotion of time and effort in understanding the business and representing stakeholders to scrutinize executive directors in making appropriate decisions.

One of the problems of searching for suitable directors lies on the limited number of candidates – there is especially a tendency to search for board members with typical characteristics, such as male directors. If directors expand the pool of potential candidates by considering more diversified attributes, like women and ethnic minorities to be included in the boardroom, it will alleviate the problem of ‘director shortage’ and therefore better utilize the talent pool. It is therefore vital for companies to initiate tapping into the under-utilized pool of talent through board diversity.
perspectives and professional expertise that will allow greater insights and discussion. Being a Board member is a role where one can make a real difference, and the diverse views of Boards make companies more resilient and agile to face the complex world of the 21st century.

COSTS OF DIVERSIFYING THE BOARD

Diversifying the board is not without costs. Though a board is inherently subject to conflict as it is formed by individuals collectively, having a diverse board may potentially increase friction between members, especially when new directors with different backgrounds are stereotyped by existing members as atypical. This may split the board into subgroups, which reduces group cohesiveness and impairs trust among members, leading to reluctance to share information within the board.

Another danger of board diversity is sometimes referred to as tokenism. Theoretically, as mentioned in the previous section, the minorities in the boardroom are said to contribute to value creation of the organization by their unique skills and experiences; however, in practice, they may feel that their presence is only to make up the numbers required by the external stakeholders. They may then tend to undervalue their own skills, achievements and experiences, which demean their potential contribution to the organization.

Further, the board may potentially ignore the underlying important attributes of successful directors as a sacrifice to meet the requirement of board diversity. The board needs to pay special attention to these costs when implementing measures to diversify the board.

Boardrooms need constructive conversations that address alternatives. Getting women on Boards is not the same as getting an existing Board member’s wife, sister, or mother on the Board. You must get women on Boards because they’re good, not because they’re women. A Diverse Board should be seen as an enabler rather than a blocker of progress. Diversity is not about counting people but about making people count.

REGULATORY INITIATIVES OF BOARD DIVERSITY

Board diversity can be promoted by a number of methods. Measures currently adopted by different regulatory bodies are generally classified into the following approaches: (i) through imposing quotas on the board; and (ii) enhancing disclosures using the ‘comply or explain’ approach.

Imposing quotas refers to mandatory requirement in appointing a minimum number of directors with different attributes on the board. This legislation enactment mainly deals with gender diversity to tackle the relative under-representation of women in the boardroom. For example, since 2008, each listed company in Norway has had to ensure that women fill at least 40% of directorship positions. Spain and France are implementing similar mandatory requirements for gender diversity. This approach increases the number of women on the board at a faster rate and forces companies to follow the legislation.

Another measure to enhance board diversity is through transparency and disclosure. Companies, under corporate governance codes are required to disclose their diversity policy in appointing directors so that investors and stakeholders can make proper evaluation. Those who fail to implement such measures have to explain their non-compliance in the corporate governance report or equivalent. The Corporate Governance Code (2010) of the United Kingdom, for example, stipulates that companies are required to: (i) incorporate diversity as a consideration in making board appointments; and (ii) disclose in their annual reports describing the board’s policy on diversity, as well as its progress in achieving the objectives of that policy. Australia and Hong Kong are promoting diversity using a similar ‘comply or explain’ approach. Supporters of this approach believe that board appointments should be made on the basis of business needs, skills and ability instead of legislative requirements, which may sometimes be considered excessive in the market.

The SEBI (listing Obligations and Disclosure Requirements) for the first time has mandated companies whose shares are listed on stock exchanges to formulate, publish and implement a Board Diversity Policy.

The term “diversity” of Board of Directors (Board) has not been defined in the Companies Act, 2013 or in the listing agreement with stock exchanges and has to be understood in broader terms. In keeping with this understanding all relevant legal provisions under Sections 149, 151, 152 of the Companies Act, 2013 read with the Companies (Appointment and Qualification of Directors) Rules, 2014 and Section 178 read with the Companies (Meetings of Board and its Powers) Rules, 2014 will have to be complied.

Every company shall have a Board of Directors consisting of individuals as directors and shall have minimum three directors in case of public company and maximum fifteen directors. This lays down the size of the Board within which board diversity will be ensured.

Every listed company has to appoint at least one woman director on the Board within one year from the commencement of the Companies Act, 2013. Any vacancy shall be filled up at the earliest but not later than immediate next Board meeting or three months from the date of such vacancy, whichever is later. This provision brings in the gender diversity in the Board.

There should be at least one director who has stayed in India for
Board diversity is also a means of strengthening corporate governance, which can respond to increasing regulation and/or codes of practice for listed companies around transparency, accountability and reporting that are now becoming the norm. Various studies indicate that people of different demographics, from different backgrounds and with different professional and personal experiences are likely to approach issues and problems in diverse ways, thus letting the group access a wider range of options and solutions and even leading to better corporate performance.

Every listed public company shall have at least one-third of the total number of directors as independent directors whose period of office is not liable to determination by retirement by rotation. Independent Director shall meet the criteria of Independence. Any vacancy in the office of independent Director shall be filled up at the earliest but not later than the next Board meeting or three months from the date of such vacancy, whichever is later. Bringing diversity with regard to directors who are independent of the management is critical for good corporate governance and that will have to be complied.

Not less than two-thirds of the total number of directors of a public company shall be persons whose period of office is liable to determination by retirement of directors by rotation (i.e., rotational / non executive directors). Moreover, the remaining directors, subject to any regulation in the articles of association of the company, shall be persons whose period of office is not liable to determination by retirement of directors by rotation, (i.e., non rotational director / executive directors). This will ensure diversity by having those directors whose offices are enduring and those whose offices need approvals of shareholders on a regular basis.

The Board of every listed company 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. It shall identify persons who are qualified to become directors 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. This Committee will ensure that Board diversity is carried out as per best practices.

A listed company may have one director elected by small shareholders. An important right has been given to such shareholders resulting in a Board having diversity of group specific directors. Similarly nominee directors of any institution or government will bring in diversity.

Regulation 19(4) of The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 deals with the role of the ‘Nomination and Remuneration Committee’ and sub-clause (3) of Para-A to Part-D of the Schedule-II thereto requires “devising a policy on diversity of board of directors”. This is the provision which is the focal point of assimilating and complying with the provisions of Board diversity as per law and beyond.

Regulation 4(2)(f)(ii)(5) of The SEBI (LODR) Regulations, 2015 deals with a key function of the board of directors that “ensuring a transparent nomination process to the board of directors with the diversity of thought, experience, knowledge, perspective and gender in the board of directors”. Hopefully the purpose of diversity can be achieved in Indian listed corporate boards more in beneficial context than in mere compliance.

**BOARD DIVERSITY IS / AS A STEP TOWARDS BETTER CORPORATE GOVERNANCE**

As diversity has become top-of-mind for most companies and corporate boards, the concept has broadened from the familiar categories of gender, geography, race, and the likes to an understanding that the best ideas can only flourish when an organization embraces individuals with different views and experiences. In this broader understanding, true diversity is “diversity of thought” that reduces “group think”; and it is perhaps the best way to unlock fresh perspectives, innovation, and organizational creativity. Only with broad viewpoints that originate from differences in perspective will the Board be able to provide the opinion(s) necessary to make the governance and advisory function meaningful.

Board diversity is much more than simply a question of fairness. Lack of diversity represents a missed opportunity to bring in new thinking, insights, experiences, and knowledge – with regard to different markets, consumers, practices, and more. And it can impact negatively on decision-making, corporate governance, and financial performance. Indeed, culturally homogenous Boards can face significant blind spots in responding to various environmental clues, market trends, and in guiding their companies’ future decisions.
strategies. A strong and diverse Board has therefore become absolutely crucial, particularly in the face of increased global competition and the need for greater Board accountability and transparency.

Recruiting a more diverse group of Board members is important, but in itself that is not enough. It must be accompanied by inclusion – a company culture that genuinely welcomes, values, and leverages the advantages of diversity. An effective way of bringing about diversity at the Board level is to increase gender diversity. Any approach to increasing gender diversity on Boards will have to address both the demand and supply fronts simultaneously: Encouraging corporates to engage in more aggressive recruiting efforts that extend beyond the traditional pool of candidates is the starting point. Meanwhile, the aspirant women directors should understand what it takes to be on a Board, and then take steps to acquire the requisite Board skills.

Boardroom diversity is also a means of strengthening corporate governance, which can respond to increasing regulation and/or codes of practice for listed companies around transparency, accountability and reporting that are now becoming the norm. Various studies indicate that people of different demographics, from different backgrounds and with different professional and personal experiences are likely to approach issues and problems in diverse ways, thus letting the group access a wider range of options and solutions and even leading to better corporate performance.

Companies need to embrace diversity on boards because it should deliver more effective decision-making and better business performance. Each company will need to define what diversity means depending on its strategic and operating environment. For instance, risk control and management will be essential for a board that is steering a company through challenging economic times such as a recession. Boards should set the tone at the top. By working proactively to improve diversity and aligning with international practices and standards, a board can set the bar for diversity at all levels of the company.

Good governance, by definition, is having a breadth of perspective. It is about bringing in ideas from elsewhere. A board that is not getting the quality of input it needs will likely have a loose approach to governance and a less disciplined approach to business. Diversity of perspective does matter. Having a broad range of collective attributes, rather than overlapping or redundant qualities, helps the board significantly in fulfilling its responsibilities of providing good corporate governance and strategic oversight. Boards that can collectively draw upon a broad assortment of competencies, priorities and insights are an invaluable resource for CEOs and senior management teams working in complex business environments with wide-ranging, multiple constituencies. Diversity of perspective leads to more innovation, better risk management, and stronger connections with customers, employees and business partners.

**PROCESS OF CREATING A DIVERSE BOARD**

A Board needs to be intentional in creating diversity rather than allowing natural processes to take control and create diversity. Therefore, adequate thought and plan must be made to create diversity. Creating a diverse Board may sound lot easier than actually doing it. At first, an organization has to determine the set of competencies, priorities and expertise that are necessary to be present in a Board in order to be more effective. Once the competencies are determined, the organization has to have some process for screening of these qualities.

The next immediate step for an organization is to conduct a gap analysis of the Board to identify the experience and competencies that are already there in the Board and to flag off areas where it’s lacking. After completing a thorough analysis, organization has to set high priority on the skills that they are looking for. However, the most important point here is to choose the members from a varied pool so that the balance of the Board is maintained in terms of gender, age, finance, governance and other specialized skills, etc. The Board diversity matrix is yet another tool to provide good governance and strategic oversight.

**CONCLUSION**

The composition of the Board reflects the efficacy and efficiency of the company directors. Board diversity is justified as a key to better corporate governance. The best boards are composed of individuals with different skills, knowledge, information, power, and time to contribute. Given the diversity of expertise, information, and availability that is needed to understand and govern today’s complex businesses, it is unrealistic to expect an individual director to be knowledgeable and informed about all phases of business. It is also unrealistic to expect individual directors to be available at all times and to influence all decisions. Thus, in staffing most boards, it is best to think of individuals contributing different pieces to the total picture that it takes to create an effective board. In implementing policies on board diversity, both the company’s chairman and the nomination committee play a significant role.

The chairman, being the leader of the board, has to facilitate new members joining the team and to encourage open discussions and exchanges of information during formal and informal meetings. To create such a well-functioning team, the chairman further needs to commit and support mentoring, networking and adequate training to board members. The nomination committee should give consideration to diversity and establish a formal recruitment policy concerning the diversity of board members with reference to the competencies required for the board, its business nature as well as its strategies. The committee members have to carefully analyze what the board lacks in skills and expertise and advertise board positions periodically. They are strongly encouraged not to seek candidates merely through personal contacts and networks in order to carry out a formal and transparent nomination process. The most important ingredient to the success of board diversity, however, would most probably be the board members’ changing their mindset to welcome a more heterogeneous board, as well as to place greater trust in one another and work together more effectively for enhanced output.

**References**

1. The Companies Act, 2013
2. The Securities Contracts (Regulation) Act, 1956
3. The Companies (Appointment and Qualification of Directors) Rules, 2014
5. The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015
India has about 1700 companies listed on NSE and about 5500 Companies listed on BSE. The discussion about corporate governance mainly revolves around these companies as listed companies are obliged to adhere to norms of corporate governance in accordance with listing agreement executed with stock exchanges, Companies Act 2013 and other related corporate laws. With the media becoming hyper active small shareholders and public at large have also become vigilant about these companies sticking to norms of good governance.

It is important to note that India has about 15 Lac registered companies which are mainly operating in small and medium scale sector. In manufacturing sector enterprises with investment in plant and machinery of more than Rs.25 Lacs but upto Rs.5 Cr. are considered small. In service sector investment in equipment exceeding Rs.10 Lacs but upto Rs. 2 Cr. is considered small enterprise. Medium enterprises in manufacturing sector have investment in plant and machinery of more than Rs.5 Cr. but upto Rs.10 Cr. In service sector investment in equipment exceeding Rs.2 Cr. but upto Rs. 5 Cr. is considered medium enterprise.

SMEs play a vital role for the growth of Indian economy by contributing 45% of the industrial output, 40% of exports, 60 million in employment, create one million jobs every year and produce more than 8000 products for the Indian and international markets. In this context the implementation of norms of corporate governance for small and medium scale enterprises is quite critical considering their role in Indian economy for generation of employment, export promotion, encouragement of entrepreneurial skills etc.

SMEs rely on multiple sources of financing ranging from internal sources, Banks, NBFCs, Venture Capital Funds, and Angel Funds etc. Unlike large enterprises which can raise finance through the capital market and external sources like foreign investors, SMEs are largely dependent on banks. However, there exists a significant financing gap for the sector and a large part of the sector is working on the basis of own finance only. There are several concerns that banks face while lending to smaller enterprises, such as lack of credit information and low corporate governance.

As a result of globalization and liberalization, coupled with WTO regime, Indian SMEs have been passing through a transitional period. With the slowing down of economy in India and abroad, particularly USA and European Union and enhanced competition from China many units have been facing a tough time. It can be concluded that those SMEs which
Unlike large enterprises which can raise finance through the capital market and external sources like foreign investors, SMEs are largely dependent on banks. However, there exists a significant financing gap for the sector and a large part of the sector is working on the basis of own finance only. There are several concerns that banks face while lending to smaller enterprises, such as lack of credit information and low corporate governance.

have strong technological base, international business outlook, competitive spirit and willingness to reinvent and finally, restructure themselves shall only be able to withstand the present challenges. In this context the importance of corporate governance for SMEs has significantly increased.

Boosting corporate governance in SMEs can-

- Result into higher availability of debt finance at better terms and conditions;
- Result into attracting much needed venture capital, private equity funds to the sector;
- Enable better quality of manpower to the sector;
- Increase higher growth in exports and employment;
- Reduce dependence on government for providing jobs to the burgeoning youth population

While listed companies are blessed with professionally qualified personnel SMEs have to carry the show with the resources they can afford looking to their size, capacity and ability to attract talent. Still within constraints SMEs can implement the norms of good governance efficiently if only they recognise and accept the resultant benefits. There are various mechanisms available through which SMEs can strengthen their implementation of corporate governance some of which are dealt with as under-

INTERNAL FINANCIAL CONTROLS OVER FINANCIAL REPORTING

The Companies Act 2013 has significantly expanded the scope of internal controls to be considered by the management of companies to cover all aspects of the operations of the company. Rule 8(5)(viii) of the Companies (Accounts) Rules, 2014 requires the Board of Directors’ report of all companies to state the details in respect of adequacy of internal financial controls with reference to the financial statements.

Clause (e) of Sub-section 5 of Section 134 explains the meaning of the term, “internal financial controls” as “the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to company’s policies, the safeguarding of its assets, the prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.”

Under Section 143(3) (i) of the Companies Act 2013 the statutory auditor (including statutory auditor of unlisted company) is required to state in his audit report whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls.

A company’s internal financial control over financial reporting includes those policies and procedures that-

(i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company;

(ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and

(iii) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

The above framework has provided an opportunity to SMEs to review their systems of internal financial controls so as to make them in line with expanded scope of law. The exercise would result into better corporate governance.

MANAGEMENT BY BOARD

SMEs operating in corporate sector can take the benefit of guidance of the board in key policy matters like acquisition of capital assets, shifting to new technology, appointment of key personnel, approval of budgets, approval of accounts, follow up action on key MIS, regulatory compliances, compliances relating to lenders etc. The presence of board with independent directors, outside professionals ensures accountability of key managerial personnel besides bringing credibility in the eyes of various stakeholders. Depending upon the size of operations board can form sub committees like Audit Committee, Personnel matters Committee etc.

Audit Committee can be another useful tool to achieve higher level of corporate governance. It can advise on, deal with important matters like improvement in quality of accounts and MIS, appointment of internal auditors, follow up actions on their reports, appointment of statutory auditors, follow up actions on their reports, external credit rating, CMA data to banks, foreign exchange management etc.

Board/Audit Committee can take the benefit of presence of Company Secretary, Chief Finance Officer and other professionals wherever they are appointed. The participation of employees in governance is crucial as they are responsible for achieving operational goals.
INDEPENDENT DIRECTORS

In addition to listed companies certain classes of public companies based on criteria of paid up capital, turnover or borrowings have to appoint at least two independent directors. An independent director is not related to the promoters and has no pecuniary relationship with the company. Irrespective of the applicability of legal provisions the institution of independent directors can result into several benefits to SMEs including professional approach towards management, higher credibility, and benefit of specific domain knowledge which the director possesses and of course better corporate governance. To meet the challenges of competitive global market the knowledge and experience of promoters has to be blended with knowledge and experience of independent directors who can provide unbiased opinion on matters of control, risk management and succession planning.

DEALINGS WITH BANKS AND FINANCIAL INSTITUTIONS

In moderns times banks and financial institutions are key stakeholders in business. While lending funds they stipulate various terms and conditions to be complied with by the borrower. Pre disbursement conditions like raising stipulated promoters’ contribution, direct payment to suppliers, sticking to the budgeted costs, timely implementation of project, timely statutory clearances, putting into place requisite logistics etc. go a long way in smooth implementation of the project. Honest and sincere compliance of such terms can in fact serve as a tool for good governance. Post implementation banks and FIs ensure a proper monitoring system through monthly stock/receivables statements, drawing power statements, stock/receivables audit, physical inspections, security verification, valuation of properties, annual renewal/review of credit facilities, CMA data, quarterly MIS, annual audited accounts etc. For SMEs the above mechanism provides an opportunity to make a review of their systems and take corrective actions wherever required. Some of the SMEs consider compliance with lenders’ conditions as a routine exercise. However if carried out diligently and sincerely it can a go a long way in strengthening the level of corporate governance as it involves MIS, review and monitoring, credit rating, valuation, budgetary control and audit.

SMEs should ensure integrity of data while presenting information to their lenders. Through the process they can also be benefited by the expertise of their lenders. Some of the SMEs indulge in accounting shenanigans (tricks to intentionally distort company’s financial statements) which indicates low corporate governance and can seriously damage their corporate image.

PRIVATE EQUITY

Private Equity (PE) in addition to providing financial assistance by way of equity or equity linked capital investment, bring domain expertise from portfolio companies, previous industry experience and client network. Private equity investors also lend a professional dimension to the affairs of SMEs. PEs are reputed professionally run organisations with high degree of knowledge and experience. They make investment after strict due diligence through experts in the fields of industry, finance, law and management. PE framework lends credibility to the investee company. Their conditions to engagement of professional CFO, system based MIS, appointment of nominee director, appointment of reputed firm as statutory auditor etc. can result into better corporate governance if implemented in right earnest.

EXTERNAL CREDIT RATING

A credit rating is an opinion on relative degree of risk of timely payment of interest and principal of a debt instrument. The analysis is based on information obtained from the issuer, and on an understanding of the business environment in which the issuer operates; it is carried out within the framework of the rating agency’s criteria. The analytical framework involves the analysis of business risk, technology risk, operational risk, industry risk, market risk, financial risk and management risk. CRISIL, ICRA, CARE and FITCH are the prominent external credit rating agencies in India.

Under SEBI regulations credit rating is compulsory for listing of debt securities. External credit rating can also be sought for all types of loans, working capital facilities, project loans, corporate loans, general purpose loans, working capital demand loans, cash credit facilities and non-fund based facilities like letters of credit, bank guarantees. Under RBI guidelines credit rating is not mandatory. However in order to achieve saving in capital requirement banks insist on rating of credit facilities by ECAs for credit facilities of Rs.5 Cr. and more.

The exercise of External credit rating provides a great opportunity to the company to review its systems including accounting, financial management as also risk management.

Besides various other aspects the exercise also involves analysis of following aspects directly connected with corporate governance-

- Accounting Quality- Adoption of suitable accounting policies, proper reporting and disclosure, Integrity of data
- Cash Flow Adequacy- Sources and Uses of funds, Cash accruals in relation to debt payments, Capital expenditure plans, Funding profile, Working Capital needs
- Financial Flexibility -Bank limits Utilization, Access to capital markets, Relationship with bankers, Contingency Plan
- Integrity -Adherence to laws and regulations, Tack record of debt repayments, Inter group transactions, Reputation in financial markets
- Risk Appetite -Financial Policy, funding profile, unrelated diversification, Attitude towards business risk, Risk management practices, Competence, Track record, Consistency of performance, Succession plans, Quality of senior management, Experience in managing downturns, Ability to attract/retain talent
- Governance Practices - Transparency and disclosures, Value creation to stakeholders, Board Composition, Vision

The analysis for credit rating is quite comprehensive incorporating all kinds of risk factors direct or indirect having a possible bearing on timely payment of interest and principal of a debt instrument. Being done by independent agencies these ratings lend credibility.
Listing on SME exchanges provide SMEs an opportunity to interact with investment/merchant bankers which can pave the way towards adoption of appropriate policies on capital structure, risk management, organisation structure etc. Listed companies enjoy much wider access to the markets when compared with unlisted companies.

to the instrument. Rating (for long term product) of BBB- is considered to be an investment grade rating. SMEs can strive to achieve higher rating by adopting higher level of corporate governance. Higher rating also results into finer rate of interest which can boost the bottom line of the company.

SUCCESSION PLANNING

Historically SMEs have been built on “family business” model. However with growing competition and the need for maintaining sustainability of operations SMEs have also started accepting the importance of succession planning. Succession planning is a process involving continuous identification of people within a company for developing their potential to fill its key business leadership positions. It increases the availability of experienced and capable employees that are prepared to assume these roles as they become available.

For SMEs succession planning is critical for their survival and growth. It should be accepted that protected business environment is fast giving way to competitive, liberalised business environment. Skill set have therefore become more important to business than the mere family background. While promoters should be willing to choose and develop the best people the people should also be willing to accept the challenges to fit in the key leadership roles. Here the role of company secretaries in SMEs also deserves a special mention. Present business is demanding more value addition rather than mere compliance. Professionals like company secretaries should therefore think of increasing their canvass so as to cover key aspects of business in addition to their areas of core competency.

LISTING ON SME EXCHANGES

With the launch of SME exchanges on BSE and NSE in March 2012 the avenues for listing of small companies have been opened. In order to address investor concerns such as transparency and information asymmetry, listed SMEs are required to follow corporate governance norms including submission of audited accounts.

As per present norms in SME Exchanges PE funds, venture capitalists, angel investors, High net worth Individuals (HNIs) and large firms are largely participating. As the corporate governance level rises there will be a likelihood of an amendment in investment norms in order to bring the retail investor closer to the SME community, which can make SME Exchanges as a dominant channel of SME financing.

Listing helps in public profiling which helps in business growth as also makes recruitment of talented employees easier. It builds greater confidence among company’s customers, bankers and private equity providers.

CONCLUDING REMARKS

For a developing economy like India growth and development of SME sector is critical from the angle of employment generation and export promotion. Due to globalised trade SMEs have to reinvent themselves to be capable of meeting stiff competition. Adherence to corporate governance is one of the important planks of rejuvenation of SME sector to ensure its orderly growth and harnessing its true potential. It should also be borne in mind that a number of SMEs have potential to become large scale enterprises.

Corporate governance irrespective of legal requirement is crucial for SMEs to ensure better quality of participation by various stakeholders. Its implementation should be done not only by letter but also its spirit to fetch best results. The systems to be adopted would depend upon the scale of operations and affordability of costs. However any system if implemented in the right earnest with integrity of data is expected to fetch positive results. The need of the hour is to efficiently utilise the resources available and take a proactive approach towards corporate governance. The adherence to good corporate governance practices for SMEs has to be seen more as a matter of necessity of modern business rather than mere legal compliance.
### Suggested Review Mechanism through accounts and MIS (Indicative list of key documents)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Document Description</th>
<th>Periodicity</th>
<th>Presented by</th>
<th>To be presented to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Quarterly Accounts (including Funds/Cash flow, key notes)</td>
<td>Every quarter within one month of closure</td>
<td>CFO</td>
<td>Audit Committee</td>
</tr>
<tr>
<td>2</td>
<td>Annual Audited Accounts along with Directors' Report</td>
<td>Every financial year within three months of closure</td>
<td>Company Secretary/Compliance Officer/CFO</td>
<td>Audit Committee</td>
</tr>
<tr>
<td>3</td>
<td>Quarterly Operations and Financial Review</td>
<td>Every quarter within two weeks of closure</td>
<td>Company Secretary/CFO through CEO</td>
<td>Board of Directors</td>
</tr>
<tr>
<td>4</td>
<td>Quarterly review of financial assets</td>
<td>Every quarter within two weeks of closure</td>
<td>CFO/CEO</td>
<td>Board of Directors</td>
</tr>
<tr>
<td>5</td>
<td>Review of internal audit reports</td>
<td>Every quarter within one month of closure</td>
<td>CFO</td>
<td>Audit Committee</td>
</tr>
<tr>
<td>6</td>
<td>Review of insurance of company assets</td>
<td>Every financial year within one month of closure</td>
<td>CFO</td>
<td>Audit Committee</td>
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<tr>
<td>7</td>
<td>Review of internal controls, policies and procedures</td>
<td>Every half year within one month of closure</td>
<td>CFO</td>
<td>Audit Committee/Board of Directors</td>
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<tr>
<td>8</td>
<td>Review of Accounting Software</td>
<td>Every financial year within one month of closure</td>
<td>CFO</td>
<td>Audit Committee</td>
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<tr>
<td>9</td>
<td>Review of Recruitment, Training Policy</td>
<td>Every financial year within one month of closure</td>
<td>Head of Personnel</td>
<td>Sub Committee/Board of Directors</td>
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<tr>
<td>10</td>
<td>Review of Risk management policy</td>
<td>Every financial year within one month of closure</td>
<td>CEO</td>
<td>Board of Directors</td>
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<tr>
<td>11</td>
<td>Regulatory Compliance (including adherence to listing agreement for listed entities)</td>
<td>Every quarter within one month of closure</td>
<td>Compliance Officer</td>
<td>CEO</td>
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<tr>
<td>12</td>
<td>Review of status of legal cases filed for recovery</td>
<td>Every quarter within one month of closure</td>
<td>Concerned Officer</td>
<td>Board of Directors</td>
</tr>
</tbody>
</table>

### Important Documentation/ Reconciliations (Indicative list)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Statement/Document Description</th>
<th>Periodicity</th>
<th>Nodal Officer</th>
<th>Remarks</th>
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<tr>
<td>1</td>
<td>Bank Reconciliation</td>
<td>Monthly</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<tr>
<td>2</td>
<td>Confirmation of Bank Balances</td>
<td>Quarterly</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<tr>
<td>3</td>
<td>Fixed Assets Statement (including physical verification)</td>
<td>Yearly</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<tr>
<td>4</td>
<td>Loans and Advances, tax accounts</td>
<td>Yearly</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<td>5</td>
<td>Reconciliation and confirmation of stocks, receivables</td>
<td>Every quarter within one month of closure</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<td>6</td>
<td>Reconciliation of investments (including physical verification)</td>
<td>Every quarter within one month of closure</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<td>7</td>
<td>Stock/Receivables Statement</td>
<td>Every month within the prescribed time period set by the bank</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
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<tr>
<td>8</td>
<td>External Credit rating (if applicable)</td>
<td>Yearly review</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
</tr>
<tr>
<td>9</td>
<td>Credit monitoring arrangement (CMA) data to bank (if applicable)</td>
<td>Yearly review</td>
<td>CFO</td>
<td>Should be signed and record be kept</td>
</tr>
<tr>
<td>10</td>
<td>Adherence to listing agreement (in case of listing agreement), Correspondence with stock exchange</td>
<td>Periodical review</td>
<td>Compliance Officer</td>
<td>Should be signed and record be kept</td>
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</tbody>
</table>
The term ‘fraud’ commonly includes activities such as theft, corruption, conspiracy, embezzlement, money laundering, Bribery, and extortion. Types of internal frauds include Asset misappropriation (Cash and Non Cash), fraudulent statements (Financial and Non financial) and Corruption (Conflict of Interest and Bribery and extortion). Fraudsters normally and to start with, do not plan a big and long term fraud. It grows over a period of time unaudited or unnoticed. For eg. for Nick Leeson, who destroyed Barings Bank by losing £862 millions in bad bets on Derivatives it all started when he tried to cover his junior colleague who had lost £20,000 and in the case of Satyam Ramalinga Raju who admitted to inflating the company’s revenues by about US$1 billion, it was like riding a tiger not knowing how to get off without being eaten. As one of the factors, the change in promoter share holding percentage over the years in Satyam as given below explains the scam duration.

<table>
<thead>
<tr>
<th>As on</th>
<th>Promoter Shareholding in company (%) age</th>
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</thead>
<tbody>
<tr>
<td>March 2001</td>
<td>25.60</td>
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<tr>
<td>March 2002</td>
<td>22.26</td>
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<tr>
<td>March 2003</td>
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<td>March 2004</td>
<td>17.35</td>
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<tr>
<td>March 2005</td>
<td>15.67</td>
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<td>March 2006</td>
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<td>March 2007</td>
<td>8.79</td>
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<tr>
<td>March 2008</td>
<td>8.74</td>
</tr>
<tr>
<td>December 2008</td>
<td>2.18</td>
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</table>


Recent Study by Kroll

The Annual Global Fraud Survey, commissioned by Kroll (a business unit of the Corporate Risk Holdings, LLC family of companies) and carried out by

* CS Professional passed undergoing Internship.
Role of Whistle Blowers

It is also observed in the report that whistleblowers were responsible for exposing 41% of cases. The Association of Certified Fraud Examiners also observed that three times as many frauds are discovered by tip-offs than any other method. US Securities and Exchange Commission has created a $450m fund to reward whistle-blowers. Companies that ignore tip-offs end up regretting it. JPMorgan Chase lost billions in its "London Whale" rogue-trader scandal, initially dismissed by its CEO, Jamie Dimon, as a "tempest in a teapot". Protection is given to whistleblowers in many countries including India. Clause 22(2) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 states that the vigil mechanism of listed entities shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the Chairperson of the Audit Committee in appropriate or exceptional cases.

Is Fraud Detection Primary Scope of Audits?

Some frauds are well beyond the scope of the audit. Some are too well concealed. Others are too small. Detection of fraud is not a primary objective of a financial statement audit. Perhaps the greatest reason is that the evidence is not reflected in the financial statements. Off-book frauds tend to involve upper levels of management, involve much larger amounts and are not normally detected by traditional audit procedures. A “clean” audit opinion is neither a warranty nor certification that fraud has not occurred.

Responsibilities of Directors and Key Management Team

The Board of Directors, Audit Committee, CEO, Managing Director, Chief Financial Officer, Company Secretary, Cost Auditor, Risk and Compliance Officer, Chief Security Officer, Internal Auditor and External Auditor have all responsibilities to Prevent, Detect and Investigate frauds.

In respect of the Board of Directors, the Prevention is sole responsibility; in cases like Internal Auditors the Detection is their responsibility and for others like Risk and Compliance Officer or Security Officer the Investigation post fraud is the prime job. Jointly they can mitigate risks of frauds. Corporate frauds can be prevented with efficient and effective internal checks and controls.

Six areas of common abuse are:

1. Revenue measurement and recognition;
2. Provisions for uncertain future costs (restructuring expenses);
3. Asset variation;
4. Derivatives;
5. Related party transactions; and most importantly

Few of the popular Corporate frauds and the nature of frauds committed by them are:

<table>
<thead>
<tr>
<th>Company</th>
<th>Nature of Fraud</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Management Inc</td>
<td>Financial mis-statements.</td>
</tr>
<tr>
<td>Xerox Corp</td>
<td>Falsifying financial results.</td>
</tr>
<tr>
<td>AOL</td>
<td>Inflated revenues.</td>
</tr>
<tr>
<td>Bristol Myers Squibb</td>
<td>Inflated revenues.</td>
</tr>
<tr>
<td>CMS Energy + many others</td>
<td>Round trip trades.</td>
</tr>
<tr>
<td>Freddie Mac</td>
<td>Understated earnings.</td>
</tr>
<tr>
<td>Halliburton</td>
<td>Improper booking of cost overruns.</td>
</tr>
<tr>
<td>Homestore.com</td>
<td>Improper booking of sales.</td>
</tr>
<tr>
<td>Knart</td>
<td>Misleading Accounting Practices.</td>
</tr>
<tr>
<td>Merck &amp; co</td>
<td>Recorded co-payments that were not collected.</td>
</tr>
<tr>
<td>Merrill Lynch</td>
<td>Conflict of interest.</td>
</tr>
<tr>
<td>Mirant</td>
<td>Overstated assets and liabilities.</td>
</tr>
<tr>
<td>Nicor</td>
<td>Overstated assets/understated liabilities.</td>
</tr>
<tr>
<td>Perigine Systems</td>
<td>Overstated sales.</td>
</tr>
<tr>
<td>Qwest Communications</td>
<td>Inflated revenues.</td>
</tr>
<tr>
<td>Reliant Energy</td>
<td>Round trip trades.</td>
</tr>
<tr>
<td>Tyco International</td>
<td>Improper Accounting.</td>
</tr>
<tr>
<td>Worldcom</td>
<td>Overstated cash flows.</td>
</tr>
<tr>
<td>Parmalat</td>
<td>Falsified accounting documents.</td>
</tr>
<tr>
<td>Chiquita Brands Int'l</td>
<td>Illegal payments.</td>
</tr>
<tr>
<td>AIG</td>
<td>Accounting of structured financial deals.</td>
</tr>
<tr>
<td>Bernard Securities</td>
<td>Massive Ponzi scheme.</td>
</tr>
<tr>
<td>Satyam Computers</td>
<td>Falsified accounts.</td>
</tr>
<tr>
<td>Lehman Bros</td>
<td>Failure to disclose 105 transactions to investors.</td>
</tr>
</tbody>
</table>
Where a director acts dishonestly to the interest of the company, he will be held liable for breach of fiduciary duty. As long as the Directors act within their powers without negligence, with reasonable skill and care as expected of them as prudent businessmen, they discharge their duties to the company. Directors can also be held liable for their acts of misfeasance i.e., misconduct or willful misuse of powers.

**HOW TO FIND OUT ACCOUNTING FRAUDS?**

Possibility of frauds and not necessarily presence of frauds can be unearthed by regular and close monitoring and study of some of the items in the accounts like financial statements and reports, notes on accounts, Provisions made for payables and expenses, Change in Inventory accounting, relevance and size of Deferred Revenue expenses, disproportionate receivables, indiscriminate use of Special Purpose Vehicles, frequent changes in re-grouping and re-classifying figures in account heads, any special mention in Directors’ report, qualifications in Auditors’ report, unusual movements in debits and credits in certain heads of accounts in trial balance, Pledge of promoter shares, Income recognition policies, Quantitative information, Standalone and consolidated accounts, Contingent liabilities, abnormal Cash flow changes in Operating, Financing and Investing categories, long pending items in Bank Reconciliation statements, mismatch in creditor and debtor balances with the confirmation of balances obtained periodically, etc. This is only an illustrative list and not an exhaustive prescription.

**DIRECTORS’ RESPONSIBILITIES TO PREVENT FRAUDS**

Directors are supposed to act within the parameters of the provisions of the Companies Act, regulations of SEBI and stipulations of Memorandum and Articles of Association, since these lay down the limits to the activities of the company and consequently to the powers of the Board of directors. Where a director acts dishonestly to the interest of the company, he will be held liable for breach of fiduciary duty. As long as the Directors act within their powers without negligence, with reasonable skill and care as expected of them as prudent businessmen, they discharge their duties to the company. Directors can also be held liable for their acts of misfeasance i.e., misconduct or willful misuse of powers.

**PUNISHMENT FOR FRAUD UNDER SECTION 447 AND FALSE STATEMENTS UNDER SECTION 448 OF THE COMPANIES ACT, 2013**

Though provisions with respect to tackling of ‘fraud’ were available in the earlier Act, the present Companies Act, 2013 has introduced provisions under section 447 for ‘punishment for fraud’. It stipulates that any person who is found to be guilty of fraud shall be punishable with imprisonment between 6 months (if it involves public interest a minimum of 3 years imprisonment) and ten years, plus liable to fine equivalent to anywhere between the amount involved in the fraud and three times thereof. Also, as per the provisions of Sec 448, in any return, report, certificate, financial statement, prospectus, statement or other document, if any person makes a statement which is false in any material particulars, knowing it to be false; or which omits any material fact, knowing it to be material, he shall be liable under section 447.

**PUNISHMENT FOR FALSE EVIDENCE AND REPEATED DEFAULT**

Under section 449 of the Act if any person intentionally gives false evidence, he shall be punishable with imprisonment for a term between 3 years and 7 years and with fine which may extend to 10 lakh rupees. Sec 451 of the Act states, ‘if a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of three years, then, that company and every officer thereof who is in default shall be punishable with twice the amount of fine for such offence in addition to any imprisonment provided for that offence’.

**SERIOUS FRAUD INVESTIGATION OFFICE**

As is mentioned in the Ministry of Corporate Affairs website, the Government in the backdrop of several factors, such as major failure of Non Banking Financial institutions, phenomenon of vanishing companies and the stock market scam, had set up Serious Fraud Investigation Office (SFIO), a multi-disciplinary organization to investigate corporate frauds. SFIO has been constituted under Sec 211 of the Companies Act, 2013. It is a multidisciplinary Investigating Agency, wherein experts from diverse sectors like banking, capital markets regulation, corporate regulation, law, forensic audit, taxation, information technology etc. work together to unravel corporate frauds. The setting up of newly constituted SFIO explains the growing importance and the attention ‘the corporate frauds’ are gaining.
Given below are some of the penalty provisions with respect to corporate frauds under the Companies Act, 2013. Changes suggested in The Companies (Amendment) Bill, 2016 introduced in the Lok Sabha on March 16, 2016 with respect to some of the provisions in the Act are also given under the respective provisions. The list is broadly of items in the nature of fraud and does not cover all the penalty provisions.

<table>
<thead>
<tr>
<th>Section</th>
<th>Head</th>
<th>Nature of Fraud</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Incorporation of company.</td>
<td>Furnishing false or incorrect particulars / Suppression of any material information, in any of the documents filed with the Registrar.</td>
<td>Punishable with imprisonment for a term between 6 months and 10 years and liable to fine between the amounts involved in fraud and 3 times thereof.</td>
</tr>
<tr>
<td>8</td>
<td>Formation of companies with charitable objects, etc.</td>
<td>Affairs of a company registered u/s 8 were conducted fraudulently.</td>
<td>-do-</td>
</tr>
<tr>
<td>34</td>
<td>Criminal liability for mis-statements in prospectus.</td>
<td>Issue of prospectus with misstatement, shall be liable for fraud.</td>
<td>-do-</td>
</tr>
<tr>
<td>35</td>
<td>Civil liability for mis-statements in prospectus.</td>
<td>Issue of Prospectus with intent to defraud the applicants for the securities of a company or for any fraudulent purpose.</td>
<td>Every person including the Director, promoter, expert shall be personally responsible, without any limitation or liability, for all or any of the losses or damage that may have been incurred by any person who subscribed to the securities on the basis of such prospectus.</td>
</tr>
<tr>
<td>36</td>
<td>Punishment for fraudulently inducing persons to invest money.</td>
<td>Making any false or misleading statement and inducing any person to enter into agreement relating to the acquisition, disposal of the securities or into any agreement for the purpose to secure a profit to any parties from the yield of securities.</td>
<td>Punishable with imprisonment for a term between 6 months and 10 years and liable to fine between the amounts involved in fraud and 3 times thereof.</td>
</tr>
<tr>
<td>38</td>
<td>Punishment for personation for acquisition, etc., of securities.</td>
<td>Make or abets making of an application or multiple applications in a fictitious name or different names or in different combinations to a company for acquiring or subscribing for its securities; or otherwise induces directly or indirectly a company to allot, or register any transfer of securities to him or to any other person in a fictitious name.</td>
<td>-do-</td>
</tr>
<tr>
<td>46</td>
<td>Certificate of shares.</td>
<td>Issue of a duplicate share certificate with intent to defraud.</td>
<td>The company shall be punishable with fine which shall not be less than 5 times the face value of the shares involved in the issue of the duplicate certificate but which may extend to 10 times the face value of such shares or ten crore rupees, whichever is higher. And every officer who is found to be guilty of fraud is punishable with imprisonment for a term between 6 months and 10 years and liable to fine between the amounts involved in fraud and 3 times thereof.</td>
</tr>
<tr>
<td>56</td>
<td>Transfer and transmission of securities.</td>
<td>Default is made by depository or depository participant with an intention to defraud a person.</td>
<td>Punishable with imprisonment for a term between 6 months and 10 years and liable to fine between the amounts involved in fraud and 3 times thereof.</td>
</tr>
<tr>
<td>Article</td>
<td>Powers and duties of auditors and auditing standards.</td>
<td>Failure to report to the Central Government, offence involving fraud committed against the company by officers or employees of the company, discovered during the course of performance of the duty.</td>
<td>The Auditor, Cost Auditor, Company Secretary in Practice conducting secretarial audit shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.</td>
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<tr>
<td>Clause 42 of the Amendment Bill seeks to amend sub-section (1) of section 143 of the Act to cover associate companies along with subsidiary companies with respect to right of auditors to have access to accounts and records. It also seeks to provide that auditors shall report on internal financial control systems with reference to financial statements. It also seeks to amend sub-section (14) to replace cost accountant in practice with cost accountant.</td>
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<td></td>
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</tr>
<tr>
<td>143</td>
<td>Powers and duties of auditors and auditing standards.</td>
<td>Failure to comply with requirement of this section by the Auditor.</td>
<td>Where it is proved that an auditor has knowingly or wilfully contravened any of the provisions of the aforesaid sections, he shall be punishable with imprisonment for a term which may extend to 1 year and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees or with both.</td>
</tr>
<tr>
<td>Note 1: Where an auditor has been convicted as aforesaid, he shall be liable to (i) refund the remuneration received by him to the company; and (ii) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report.</td>
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<td></td>
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</tr>
<tr>
<td>Note 2: Where, in case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>147</td>
<td>Punishment for contravention.</td>
<td>In case of audit of a company being conducted by an audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers.</td>
<td>The liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.</td>
</tr>
<tr>
<td>Clause 43 of the Amendment Bill seeks to amend section 147 of the Act to revise quantum of fine. It also restricts the liability of auditor for damages to the shareholders or creditors of the company instead of any other person. It also seeks that in case of criminal liability of any audit firm the concerned partners only shall be liable.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>206</td>
<td>Power to call for information, inspect books and conduct inquiries.</td>
<td>Where business of a company has been or is being carried on for a fraudulent or unlawful purpose.</td>
<td>Punishable with imprisonment for a term between 6 months and 10 years and liable to fine between the amounts involved in fraud and 3 times thereof.</td>
</tr>
<tr>
<td>212</td>
<td>Investigation into affairs of company by Serious Fraud Investigation Office.</td>
<td>Default in complying with any requirement under this section.</td>
<td>Company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees and where the contravention is continuing one with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.</td>
</tr>
<tr>
<td>148</td>
<td>Central Government to specify audit of items of cost in respect of certain companies.</td>
<td>Default in complying with any requirement under this section by the Cost Auditor.</td>
<td>Where it is proved that a Cost auditor has knowingly or wilfully contravened any of the provisions of the aforesaid sections, he shall be punishable with imprisonment for a term which may extend to 1 year and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees or with both.</td>
</tr>
<tr>
<td>Note 1: Where a cost auditor has been convicted as aforesaid, he shall be liable to (i) refund the remuneration received by him to the company; and (ii) pay for damages to the company, statutory bodies or authorities or to any other persons for loss arising out of incorrect or misleading statements of particulars made in his audit report.</td>
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<tr>
<td>Note 2: Where, in case of audit of a company being conducted by a cost audit firm, it is proved that the partner or partners of the audit firm has or have acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to or by, the company or its directors or officers, the liability, whether civil or criminal as provided in this Act or in any other law for the time being in force, for such act shall be of the partner or partners concerned of the audit firm and of the firm jointly and severally.</td>
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</tr>
</tbody>
</table>
**SEBI GUIDELINES ON CORPORATE GOVERNANCE TO PREVENT FRAUDS**

On September 2, 2015 in exercise of the powers conferred by section 11, section 11A (2) and section 30 of the Securities and Exchange Board of India Act, 1992 read with section 31 of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India introduced the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

While prescribing several principles governing disclosures and obligations of listed entities, Clause 4(2)(d) more particularly states that the Stakeholders shall have access to relevant, sufficient and reliable information on a timely and regular basis to enable them to participate in corporate governance process. And, the listed entity shall devise an effective whistle blower mechanism enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices. As per Clause 46(2), the listed entity amongst several other stipulated information, shall also disseminate on its website the code of conduct of board of directors and senior management personnel, details of establishment of vigil mechanism, Whistle Blower policy, policy on dealing with related party transactions etc.

**CONCLUSION**

Corporate frauds are not new to Corporate India. In 2007 a study, ‘Early Warning Signals of Corporate Frauds’, was conducted by Pune based ‘India Forensic Consultancy Services’ and some of its shocking findings about accounting frauds taking place in India were: (i) approximately over 1200 companies listed on the BSE and over 1,300 companies listed on the NSE in the year 2007 have manipulated their financial statements; and (ii) maximum incidents of frauds occur in the manufacturing sector and the 2ND highest number of frauds in the real estate and public sector. This is the finding of a study roughly a decade ago. As stated in the beginning of the article, the latest study by Kroll in 2015 also is in similar lines as regards the magnitude of corporate frauds not only in India but at global level. If at all, it is only increasing despite so many legislations for prevention of frauds and scams!

Therefore, it is not just stringent regulations but strict adherence to principles, values and ethical standards in corporate culture and workplace that can only bring the desired changes.
A STUDY ON ‘CRITICAL ISSUES & CORPORATE GOVERNANCE FRAMEWORK IN INDIA’

IMPROVEMENT IN CORPORATE GOVERNANCE THROUGH BOARD POLICIES: CASE STUDY OF UNITECH LTD.

RESULTS OF OPINION WRITING COMPETITION

RESEARCH INDUCTION WORKSHOP

ICSI - CCGRT ANNOUNCES UNIQUE ALL INDIA RESEARCH PAPER COMPETITION ON THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016
PRECIOUS ‘YOU’ is a ground-breaking initiative from ICSI which aims at bringing all its students closer to the Institute in a quite effective and interesting manner. Every month, the Talk by the President of ICSI would not only motivate the students but would also guide them to achieve greater degree of success in their corporate career as Company Secretaries.
A Study on ‘Critical Issues & Corporate Governance Framework in India’

ABSTRACT

Corporate Governance, in India, an essence on whose edifice contemporary laws and codes rests, gained prominence in the wake of liberalization during 1990s and was introduced by the CCI as a voluntary measure to be adopted by Indian Companies which has acquired a mandatory status in early 2000s through Clause 49 Listing Agreement and in late 2009, MCA released a set of voluntary guidelines for Corporate Governance with amended provisions in Companies Act, 2013. With the increase in number of corporate frauds and scams in India and western economies, a study is undertaken to highlight critical issues in Corporate Governance, cases of corporate scandals with reasons and Corporate Governance laws in India.

I. INTRODUCTION

Corporate Governance, is not only a set of processes, mechanisms, and practices adopted by a corporate for its functioning, but it fosters unwarranted and undesirable image of organization, if not properly taken up, in terms of corruption, bribery, accounting and financial frauds, etc. Frauds/Corruption not only are prevalent in poor and developing countries but in developed world as well including U.K., Belgium, France, Spain, Italy. Primary differences between Corporate Governance enforcement problems in India and most western economies is that entire Corporate Governance approach hinges on displaying the management and making them more accountable. The ‘agency gap’ in western economies represents gap between interests of management and dispersed shareholders which is reduced by CG norms whereas India experiences the gap between majority shareholders and other stakeholders. The research paper undertaken will enumerate critical issues, i.e., Corruption, Bribery, Whistle blowing, abuse of RPTs, large frauds/scams, detailed study of International CG norms with legal framework in India.

II. OBJECTIVES OF THE STUDY

Research Study is undertaken for the following objectives:

a) To study State of Corporate Governance in India.

b) To enlist Corporate Governance issues hinging the profitability and sustainability of a business organization.

c) To tabulate Risk scenario-Corruption, Bribery & Corporate Frauds.

d) To illustrate World’s biggest frauds with reasons.

e) To undertake detailed analysis of International Corporate Governance Laws with legal framework in India.

III. EVOLUTION OF CORPORATE GOVERNANCE IN INDIA- A CHRONOLOGICAL PERSPECTIVE

At the time of independence in 1947 through 1991, the Indian Government pursued markedly socialist policies when the State nationalized most banks and became the principal provider of both debt and equity capital for private firms. Faced with a fiscal crisis in 1991, Indian Govt. responded by enacting a serious of reforms aimed at general economic liberalization.
A STUdy on 'CRITICAL ISSUES & CORPORATE GOVERNANCE FRAMEWORK IN INDIA'

IV. CORPORATE GOVERNANCE ISSUES

i. Shareholder Activism: A process of dialogue between company executives and shareholders in order to influence the actions of the company, it is known as 'relationship investing' which has served as a powerful mechanism to create the pressure on corporations and educate the public on often-ignored social, environmental, and labour issues and the ethical practices being followed by the corporation. A strong legal framework should be there to regulate a company's working which allows shareholders to voice their concerns and expect a speedy, effective and harmonious resolution and a legal remedy to their problems.

ii. Abuse of Related Party Transactions (RPTs): Concentrated ownership and widespread use of company groups is a common feature of listed companies in India; most companies are closely held by families or the state. This provides more scope for RPTs involving controlling shareholders, and increases the probability of abuse if not conducted at arms-length. As many high profile cases have shown, abusive RPTs damage shareholders value, tarnish the company's reputation with investors, both domestic and foreign, and undermine investor confidence in the integrity of the financial market as a whole. In the wake of Satyam fraud in which the company chairman admitted in 2009 that the company's accounts had been falsified, to the tune of some USD 1.5 billion, highlighted inadequacies in the existing legal provisions designed to prevent abusive RPTs in India.

iii. Whistle Blowing: Corruption is widespread throughout the world with bribery also a common practice. Not only the poor and developing countries witness corruption, but it is also prevalent in developed world. In providing information about corruption and mal-administration, an important role is played by Whistle blowers. Whistle Blowing is an ordinary parlance is a person who reveals/discloses the wrongdoing within an organization to the public at large or to those in positions of authority. The past has witnessed many corporate scandals being public when an insider spoke or through a confession and not through an audit report or a regulatory investigation, being Sherron Watkins, one of the few people inside Enron who voiced concern about accounting five months before its collapse and Harry Templeton challenging Robert Maxwell's plundering of the pension fund, better known as “the Maxwell Saga” in the U.K.

V. RISK SCENARIO IN INDIA

Overall Risk Ranking

Source: India Risk Survey 2015

As evident from the Survey, in 2015, 'Corruption, Bribery and Corporate Frauds' continue to be ranked as the topmost risk. The
recent news coverage and public uproar related to various cases involving major corporate houses, justifies this trend as having the highest mind recall value and has also been assigned the greatest concern in recent times. If one were to conduct a root-cause analysis of the major corporate frauds of recent times, a common cause that would emerge is pilferage of data / sensitive information.

**Top three risks in each region of India**

**North**
- Corruption, Bribery & Corporate Frauds
- Information & Cyber Insecurity
- Crime

**South**
- Strikes, Closures & Unrest
- Information & Cyber Insecurity
- Corruption, Bribery & Corporate Frauds

**East**
- Terrorism & Insurgency
- Corruption, Bribery & Corporate Frauds
- Crime

**West**
- Corruption, Bribery & Corporate Frauds
- Information & Cyber Insecurity
- Business Espionage

The above table illustrates Corruption, Bribery & Corporate Fraud as the topmost risk in almost all regions of India except southern region.

**Overall Risk Ranking-Yearly Trends**

The analysis of the above illustration does indicate that the top risk in 2015 & 2014 that impact Indian Business Environment is ‘Corruption, Bribery & Corporate Frauds’. The risks of ‘Strikes, Closures and Unrest’ and ‘Political and Governance Instability’, which were earlier in the top five risk brackets have dropped in the rankings from No. 2 and No. 3 positions to No. 6 and No. 11 respectively. This is a major shift in the yearly trends primarily due to the positive impact caused by a perceived stable Government coming to power at the Centre post the 2014 general elections.

India is strategically placed to ride the waves of change that are flowing in. With a new Government at the helm, there is a lot of optimism among the domestic and global investors. The “Make in India” and “Skillling India” initiative of the new Government to revive manufacturing in the country and be globally competitive, is believed to kick-start the recovery of the Indian economy. Most importantly, the thrust of the Government is on developing infrastructure, encouraging domestic industrial growth, fiscal prudence and bringing in major policy reforms to kick start the economy. The Government has undertaken major reform initiatives in the banking, insurance and financial sectors, which will help the industry in addressing some of the critical risks they face.

**RISK RANKING COMPARISON**

**Risk Ranking - Govt./PSU Vs Private Sector**

**Risk Ranking - Small Scale Vs Large Scale Industries**
The analysis of the risks as perceived by Government sector companies vis-à-vis the private companies reveals that Terrorism and Insurgency is perceived as the No. 1 risk by Government sector considering that Government infrastructure is often perceived as the prime target of terror attacks. The risk of ‘Corruption, Bribery and Corporate Frauds’ remains the highest concern for the Government as a whole along with the corporate tapestry of the land waking up to the increasing threat of Business Espionage. Amongst the larger companies, risks of ‘Information and Cyber Insecurity’, ‘Strikes, Closures and Unrest’ and ‘Corruption, Bribery and Corporate Frauds’ score high on the ratings vis-à-vis smaller companies, who view the risks of ‘Corruption, Bribery and Corporate Frauds’, ‘Crime’ and ‘Terrorism and Insurgency’ as the top risks.

Corruption, Bribery & Corporate Frauds: Continues to be recognized as the Top Risk

Despite infrequent reporting, corporate India waking up to the threat - voted as No. 1 Risk twice in a row.

The reasons for rise in ‘Corruption, Bribery and Frauds’ risk category are varied and spread across multiple notions and theories including weakness in Internal Controls, scarcity of resources at disposal, over-riding powers of Senior Management, etc. The popular explanation given for the rise of this particular risk is related to the economic state of India. Many are trying to survive the economic down-turn, despite the changing regulatory environment and the resulting pressure to remain profitable.

VI. WORLD’S BIGGEST FRAUDS

Corporate Frauds arise with the disclosure of misdeeds by trusted executives of large public corporations including complex methods for misusing or misdirecting funds, overstating revenues, understating expenses, overstating the value of corporate assets or underreporting the existence of liabilities.

Top Ten!!!!!!

1. Enron (USA) – 2001 – Lose of more than $11 billion to shareholders
2. Worldcom (USA) – Profits inflated by $3.8 Billions
3. Bank of Credit and Commerce International (UK) - £5.6bn deficit (at closure)
5. Bernard L. Madoff Investment Securities (USA) - $50 billion
6. American International Group (AIG) (USA) - Inflated its net worth by up to $1.7 billion
7. Barlow Clowes (United Kingdom) – 1990s - £150m to compensate
8. Fannie Mae and Freddie Mac (USA) – 2006 - fined $400 million
9. Daewoo Group (South Korea) – 2005- $54.20 Billions
10. Satyam Computers (India) – 2009 - Rs. 7,100 crores

ENRON (1985-2000s)

Enron Corporation, an energy trading, natural gas, and electric utilities company based in Houston, Texas with 21,000 people of around 40 countries became Seventh Largest Company in US after involving in fraudulent accounting techniques. Its executives and senior managers manipulated publicly reported Financial Results to deceive investing public about its true nature and profitability. The main purpose was to increase the share price from $30 per share in 1998 to $80 per share in 2001 after a stock split. The case ended with filing Bankruptcy to reorganize while protected from creditors. The energy trading arm of Enron tied up with UBS Warburg and European Retail arm to Centrica for £96.4m.

WORLDCOM (1983-2000s)

WorldCom, founded by Bernie Ebbers, was one of the big
success stories of 1990s with asset value soared to $180bn before the US capital market started witnessing a downturn. In March 2002, it overstated cash flow by booking $3.8 billion in operating expenses as capital expenses, gave founder Bernard Ebbers $400 million in off-the-books loans, and with another $3.3 billion found in improperly booked funds, taking the total misstatement to $7.2 billion, it took a goodwill charge of $50 billion. Finally, on July 22, 2002, it filed a bankruptcy listing $107bn in total assets and $41bn in debts, paid $500m to the Securities and Exchange Commission, former CFO Scott Sullivan and ex-controller David Myers arrested and criminally charged, and four foreign banks agreed to pay $428.4 millions for settling the class action law suit by investors.

SATYAM COMPUTER SERVICES (1987-2009)
Satyam Computer Services was established in 1987 by B. Ramalinga Raju in Hyderabad. A subsidiary of satyam computers called ‘Satyam Infoway’ became first Indian Information and Communication Technology company with revenues crossing $ 1 bn. In 2008, the company achieved revenues above $2 bn following the buying of Maytas Infra for $1.6bn. But the deal falls through after investors and board members object, and in a span of four days, four directors of the company quit. In January, 2009, Satyam is barred from doing business with the World Bank for eight years. It alleges that Satyam was involved in data thefts and staff bribery. Shares fall to record low in four years. Satyam employees receive a letter from Raju admitting to the fraud, following which he resigns as chairman. Raju and his younger brother B Rama Raju are arrested by police. Finally, in the case, which is also called the Enron of India, Raju gets bail from India’s supreme court with India’s enforcement directorate in November 2011 filing a charge-sheet against Raju and 212 others under money-laundering charges and seeks Rs1,849 crore as fine.

VII. CORPORATE GOVERNANCE LEGISLATIONS ACROSS COUNTRIES
Many Federal and State policies and laws have been adopted across different countries to combat the growing risk of Corruption, Bribery and Corporate frauds.

GOVERNANCE LAWS IN UNITED STATES
1. Sarbanes Oxley Act, 2002: As an aftermath of Enron Scandal and in an effort to restore public confidence in the securities market, the congress of USA adopted the Sarbanes Oxley Act of 2002 (SOA), mainly designed to enhance the reliability of financial reporting and improve quality of audit report. This Act encourages and protect whistle blowers by providing various channels for anonymous whistle blowing, fixing criminal penalties for those retaliating against whistle blowers, and protection of work status of whistle blowers. It applies to all publicly registered companies issuing securities in any American secondary exchange market.

The statute primarily deals with officers, employees, contractors, subcontractors and agents of only the public companies. Any employee who “assists in any proceeding actually filed or about to be filed relating to securities fraud or fraud against shareholders” is protected under the provisions of this statute. By virtue of protected disclosure such an employee is protected against discharge, demotion, suspension, harassment or discrimination in any other way because the whistle blower is not only protected from potential retaliatory actions of employer/company, but also such actions by any officer, employee, contractor, subcontractor or agent of the company in question. Section 301 of this Act requires the development of whistle blowing procedures of anonymous disclosures relating to accounting and auditing matters by the audit committees of such covered companies. However, the Act has received its share of criticism over the last many years due to the presence of Section 404 which mainly focuses on internal control over the financial reporting.

2. US Foreign Corruption Practices Act, 1977: It is the most widely enforced anti-corruption law which is the first to introduce corporate liability, responsibility for third parties and extraterritoriality for corruption offences, meaning companies and persons can be held criminally and civilly responsible for corruption offences committed abroad. The FCPA’s anti-bribery provisions apply broadly to three categories of persons or entities: issuers, ‘domestic concerns’ and certain persons and entities under ‘territorial jurisdiction’ which prohibit:

i. US persons and companies (domestic concerns),
ii. Companies organized under US laws,
iii. Companies that have their principal place of business in the US,
iv. Companies listed on stock exchanges in the US or
v. Companies required to file periodic reports with the SEC (issuers), and (6) certain foreign persons and businesses acting while in the territory of the US (territorial jurisdiction) from making corrupt payments to foreign officials to obtain or retain business.

CORPORATE GOVERNANCE LAWS IN UK
1. UK Bribery Act, 2010: The Bribery Act 2010 was introduced to update and enhance UK law on bribery including foreign bribery in order to address better the requirements of the 1997 OECD anti-bribery Convention. It is now among the strictest legislation internationally on bribery. Notably, it introduces a new strict liability offence for companies and partnerships of failing to prevent bribery. It creates four prime offences:

- Two general offences covering the offering promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage;
- A discrete offence of bribery of a foreign public official ; and
- A new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain resources-resources-business or a resources-resources-business advantage.

2. Public Interest Disclosures Act, 1998: The Act protects workers that disclose information about malpractice at their workplace, or former workplace, provided certain conditions are met. It not only covers the disclosures by employees but also those of workers, contractors, trainees, agency staff, home-workers, and every professional in the National Health
GOVERNANCE FRAMEWORK IN INDIA

1. Companies Act, 2013: Attempts to focus comprehensively on fraud risk management and prescribes stringent punishment upon violation of its provisions.
   - Section 241 & 242 for Oppression & Mismanagement which allows investors to file a complaint against the company if affairs of company are being conducted in a manner prejudicial to public interest.
   - Section 151 for appointing a small shareholder director on the Board to ensure adequate investors representation of interest.
   - Section 111 to allow members holding a paid-up capital of one lakh or more to file shareholder resolution.
   - Section 245 for class action suits to enable investors to file complaint against the company or management before the Tribunal.
   - Section 211 for establishment of Serious Fraud Investigation Office (SFIO) to investigate frauds relating to companies.

2. Whistle Blowers Protection Act, 2014: The Act which is not applicable to corporate sector provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrong-doing in Government bodies, projects and offices. As per the law, a person can make a public interest disclosure on corruption before a competent authority which is at present the Central Vigilance Commission (CVC). It, however, lays down punishment of up to two years in prison and a fine of up to Rs 30,000 for false or frivolous complaints, and also information related to national security has been kept out of the purview of the Act. The Act is not applicable to Jammu and Kashmir, the armed forces and the Special Protection Group mandated to provide security to the Prime Minister and former Prime Ministers, among others.

3. SEBI Act, 1992: Established by Govt. of India in year 1988 and given statutory powers in 1992, SEBI has a definite and positive role in protecting the interest of shareholders. As far as codes on corporate governance are concerned, recommendations by the Kumar Mangalam Birla committee includes certain mandatory and non-mandatory recommendations including to enhance the corporate governance standards across the corporate sector. Other recommendatory codes were Confederation of Indian Industries(CII) Code recommendations (1996) were the next in line which emphasized on good corporate governance measures to be adopted. Similar suggestions were made by Birla Committee (SEBI)recommendations (2000) and N. Narayan Murthy Committee (2003). The latest addition to the list is the Voluntary Guidelines 2009 by Ministry of Corporate Affairs, Government of India 19 in December 2009.

CONCLUSION

Corporations exist if they were governed by the rules of states which ensure better governance, strong shareholder protection and effective and harmonious resolution to their problems. Corporate Governance acquired mandatory status by Companies Bill, 2011 through consolidation into Companies Act, 1956. Corruption, Bribery and fraud continues to be No. 1 risk in India year-on-year. With Satyam fiasco being India’s biggest accounting fraud in 2009, it lead to release of voluntary guidelines by Ministry of Corporate Affairs but they scarcely mentioned investor protection in its text, so it is high time that a law is enacted in India for corporate sector to formulate and enforce code of conduct to check malpractices, cases of corruption and corporate scams. Unlike US (Sarbanes Oxley Act, 2002) and UK (Financial Services Act, 2012), a separate Act focusing specifically on strengthening the shareholders rights in the country is still lacking in India. SEBI’s inability to handle crisis is evident in its inability to prevent the National Spot Exchange Limited (NSEL) fiasco which shows that a separate authority catering to the specific needs for prevention of fraudulent practices against duping small shareholders is urgent need of the hour.

REFERENCES

1. India Risk Survey 2015 by FICCI
2. Financial Express, the Business Newspaper
3. Chartered Secretary, the Journal for Corporate Professionals
4. SEBI (Securities & Exchange Board of India) website
Improvement in Corporate Governance through Board Policies: Case Study of Unitech Ltd.

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M.M.K. College of Commerce & Economics
Mumbai
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INTRODUCTION

"I don’t believe in taking right decisions, I take decisions and make them right"

– Ratan Tata

It is rightly said that strength of the company lies in its Board, however the policies and codes framed by the Companies or regulations to structure such board is always neglected. Good governance means appropriate usage of corporate resources through managers or controlling shareholders, which contributes to better allocation of resources and ensures better performance. In an aim to improve Corporate Governance of the company it is the primary responsibility of the company to ensure transparency and integrity with the investors and/or stakeholders by taking correct decisions to achieve goals of the company. One such initiative is taken by Unitech Ltd. under New Companies Act 2013 by disclosing and practicing its Board policies, strengthening its board and thereby improving its Corporate Governance. This paper enlists the policies framed by Unitech Ltd. in paralance with the regulations; procedures followed by the company of Directors regulations and disclosures to create transparency and improve its Corporate Governance.

OBJECTIVES

1. To analyse the board of Unitech Ltd.
2. To study the current issues related to Directors and its procedural impact to be dealt with by the company under the Companies Act 2013.
3. To highlight steps taken by the company to improve Corporate Governance through reporting and disclosing of Board policies.

RESEARCH METHODOLOGY

Methodology

- Primary Data: Board policies in Unitech Ltd (Annual Report and Website)
- Secondary Data: Data from published sources-Journals, books, websites and newspapers.
- Research Design: Case Study approach is considered.

Scope of study

- The study is restricted to policies framed by the company with reference to Directors and related regulations considering a case study of Unitech Ltd.
- The annual report 2014-2015 of the company is considered for analysis along with the recent issues related to Directors.

Limitations

- The study revolves around specific aspects of board like code, compliance, policies, procedure for resignation, regulatory norms and Disclosure requirements of Unitech Ltd.

FINDINGS

a. Company Details:

Unitech Ltd. is one of the leading Real estate company and has history of successful partnerships with leading Global organisations. It was the first real estate developer to have been certified ISO 9001:2000 in North India. It is a public listed company with about 70% shareholding by public and 30% held by Promoters as on December 31, 2015.

The company follows Archival policy, Policy of determining materiality of an event/ information, pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Familiarisation programmes for independent Directors pursuant to Regulation 49 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

b. Code of Conduct: The Company has laid down a Code of Conduct for its Directors and all the Board Members give a signed
declaration to affirm their compliance with this Code on an annual basis. The company has also policies relating to Remuneration of Directors, key managerial personnel, and other employees to strengthen the commitment of Boards as Trustees of shareholders.

c. Details of Directors:

<table>
<thead>
<tr>
<th>Name</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Ramesh Chandra</td>
<td>Founder, Chairman, Executive, Non Independent Director</td>
</tr>
<tr>
<td>Mr. Ajay Chandra</td>
<td>Managing Director, Executive Non Independent Director</td>
</tr>
<tr>
<td>Mr. Sanjay Chandra</td>
<td>Managing Director, Executive Non Independent Director</td>
</tr>
<tr>
<td>Ms. Minoti Bahri</td>
<td>Non Executive, Non Independent Director</td>
</tr>
<tr>
<td>Mr. G.R. Ambwani</td>
<td>Non Executive Independent Director</td>
</tr>
<tr>
<td>Mr. Sunil Rekhi</td>
<td>Non Executive Independent Director</td>
</tr>
<tr>
<td>Mr. Chanderkant Jain</td>
<td>Non Executive Independent Director</td>
</tr>
</tbody>
</table>

d. Recent changes in Board of Unitech Ltd:

After Resignation of Non-Executive Independent director Sanjay Bahadur, Company has Seven directors in total; comprising of three executive directors and four Non-Executive Directors out of which three are independent. Board also includes a women Non Executive Independent Director which is one of the requirement of Board composition under Companies Act 2013.

e. Duty of Independent Directors:

The Company provides an orientation to Independent Directors to familiarise them with its procedures, practices, operations and segments. The company conducts separate meeting of its independent Directors only to discuss their roles, fiduciary duties and accompanying liabilities and keep them updated with the same. They are also updated about relevant statutory changes and major judicial pronouncements by circulars. They are given right to access and inquire into financial results, internal audit reports, observations to the auditors from the Management of the company.

The performance of each independent director is evaluated through criteria laid by Nomination committee duly disclosed in its annual report.

f. Payment of Directors Remuneration:

Criteria to determine remuneration is decided according to Responsibilities and duties assigned to them, time and efforts devoted, their contribution and value addition and any other analytical skills. Non-Executive Directors are entitled to Sitting Fees and Non-Executive Independent Directors are paid an Annual Commission within the Ceiling specified under the Companies Act 2013.

g. Composition of various committees of Board of Directors: Board of Unitech Ltd. includes Audit Committee, Nomination and Remuneration committee, Stakeholders Relationship committee, Committee of Directors, Corporate Social Responsibility committee and Risk Management committee.

h. Regulatory Norms followed by the Company w.r.t Directors resignation:

- Sec 168 of the Companies Act 2013 regulates the procedure for Resignation of Director of Company.
- As per Sec 168(1) of the Companies Act 2013 and Rule 16 of the Companies Act, (Appointment and Qualification of Directors) rules 2014, Director may resign by giving a notice in writing to the company. Director is required to submit a copy of Resignation letter with reasons of Resignation directly to the Registrar with Form DIF-11 with his Digital Signature and fees prescribed as per Companies Rules 2014. According to Sec 168(2), Board is required to intimate the Registrar about such notice within 30 day in Form DIF-12. Once Company receives the resignation letter, and the Chairman of the Board has noted it, letter has to be sent to Resigning Director that his/her resignation letter has been received. In the subsequent meeting after Registrar is informed, letter of Resignation of Directors is placed before the board and recorded as Minutes of the Meeting.
- If all the directors of the Company resign from their offices, or vacate their offices under Section 167, the Promoter or Central Government shall appoint required number of Directors who will hold the office till the Directors are appointed by the Company in General meeting.
- Date of Resignation: Resignation of the Director is effective on the date of receipt of Directors Resignation notice or date specified by the Director in Notice whichever is later. (In the above case, Resignation of Director is accepted on February 23, 2016)
- Liability of Retiring Director: After acceptance of Resignation, Director cannot be held liable for liabilities incurred by the company after the date of acceptance of resignation. Director after his resignation also is liable for any offence occurred during his/her tenure as a Director of the Company. In the above case, Sanjay Bahadur is liable for any acts / offence occurred during his tenure as a director.

i. Disclosure Norms and Compliance followed by the Company:

Size of the board, details of the Directors, their qualification, experience, position and interests are mentioned as a disclosure in the Company’s Annual report and Website. As per Regulation 30 of the Listing Regulations, the Company discloses events regularly on its website and regularly updates it. Past information related to financial data, Press releases, Announcements of a specific period is available in Archives on company website for its investors and stakeholders. Company also discloses criteria for determination of Materiality, Events or Information, timelines, Contact details, address, etc. The recent resignation of one of its independent director was disclosed in various newspapers and on the Website of the company.

CONCLUSION

Whenever you see a successful business, Someone made a courageous decision… Peter F. Drucker

The board is observed to have an optimum combination of executive, non-executive and independent directors. However the company has enlisted specific duties for its independent Directors. Board of the company is given the responsibility to device proper systems to ensure compliance with the provisions of all applicable laws. Provision of appointment of at least one women director is complied with. It is observed that Board assists in enhancing quality and responsible decision making capability.
This reflects an effective Corporate Governance policy and ensures sustainable development.

Procedure for resignation of Resignation of Non-Executive Independent director -Sanjay Bahadur has been followed by the company and the stakeholders are intimated through media, newspapers and websites. This leads to a change in Board composition and has an impact on future decisions to be taken by the board of the company.

The Company complies with the requirements of Board Meetings to be convened under the Companies Act 2013 and Clause 49 of the Listing Agreement. The Board periodically reviews Compliance Reports with regards to regulations as applicable. Corporate Governance demands for information, monitors costs or gives access to information and give more emphasis on board performance reports and its accountability. Hence it can be observed that Unitech Ltd promotes aboard culture to reflect transparency, and integrity among its activities by improving Corporate Governance through its policies.

REFERENCES

- Berglof, E. (1997), Reforming Corporate Governance: redirecting the European agenda, Economic Policy
- Companies (Meetings of board and its powers) second amendment rules, 2014.
- Christine Mallin (2009), Corporate Governance, Oxford publishers
- ‘Unitech’s Independent Director Sanjay Bahadur resigns’ Article in The Hindu Business line dated Feb 23, 2016

Websites:
Indiafilings.com; www.unitechgroup.com; www.mca.gov.in

COMPANY SECRETARY

A large multiunit manufacturing & export company in Textile sector listed on NSE / BSE requires a Company Secretary for its H.O. at Kolkata. Candidate should be ACS / FCS with minimum 5 years experience in handling SEBI, Company Law, Board / Committee meetings. Experience of handling legal matters will be preferred.

Remuneration will not be a constraint for the deserving candidate. Please apply with full CV giving present & expected CTC to Email: csho2016@gmail.com
ICSI-C CGRT is pleased to announce unique “All India Research Paper Competition on The Real Estate (Regulation and Development) Act, 2016” with an objective of creating proclivity towards research among its Members, both in employment and practice.

The purpose of research is to identify specific questions and try to find out a comprehensive and definitive answer. Since research in all disciplines and subjects, must begin with a clearly defined goal, this study is also designed keeping those objectives in mind.

The purpose of the Real Estate (Regulation and Development) Act, 2016 (“the Act”) is to establish Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment of building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.

The important characteristics of the Act are as follows:

- Mandatory registration with real estate regulatory authorities of projects of at least 500 sq m area, or those comprising eight flats, which would enable registration of more projects with the regulatory authority and will protect more consumers.

- Project developers will now be required to deposit at least 70% of their funds, including land cost, in a separate escrow account to meet the cost of construction. Their inability to do so has affected thousands of customers across the country, and also resulted in poor demand for new housing projects.

- A provision for imprisonment up to three years in case of promoters and up to one year in case of real estate agents and buyers for violation of orders of appellate tribunals or...
monetary penalties or both.

A clear definition of carpet area and a system that would require the consent of two-thirds of the buyers in case there are changes in project plans.

Appellate tribunals will be required to adjudicate cases within 60 days and regulatory authorities will have to dispose of complaints in 60 days.

Regulatory authorities can also register projects to be developed beyond urban areas, promote a single-window system of clearances, and grade projects and promoters besides ensuring digitization of land records. They will also have to draft regulations within three months of formation.

Objectives:

a. To analyze the Real Estate Regulations Act
b. To identify the best practices real estate industries that can be suggested in the Act
c. To find out the gap between the industry and law
d. To focus on the practical difficulties in administration of the law
e. To verify the cost impact on Financial Institutions Lending Approach
f. To detect the drafting errors and legal lacuna of the law
g. To suggest suitable measures for the Act and the rules
h. To find out the role for the Companies secretaries in employment and practice.
i. To make overall impact of the Act on the industries, customers, professionals and regulators

Themes on which Research Papers are invited

- Real Estate Act- A Dawn of Corporate Governance
- Fostering Compliance
- The Valuation and other key issues
- 70:30 Rule- Excruciating / Ensuring Governance.
- Convergence of Union and State Laws (Real Estate being a subject of Concurrent List).
- Takeaways from countries having Real Estate Regulations
- Impact on Real Estate stock valuations & Portfolio Returns
- Impact on Mergers & Acquisition activities in Real Estate
- Fault lines or Fostering Growth
- Probable Impacts on Financial Institutions Lending Approach
drafting errors and legal lacuna of the law
- Role of Company secretary in employment and practices

Research Paper / Manuscript Guidelines

- Original papers are invited from Company Secretaries in employment & practice, Academicians, Research Scholars and other Professionals.
- The paper must be accompanied with the author’s name(s), affiliations(s), full postal address, email ID, and telephone/fax number along with the title of the paper on the front page.
- Full text of the paper should be submitted in MS Word using Times New Roman, font size 12 on A4 size paper in 1.5 spacing, with a maximum of 5000 words.
- The text should be typed double-spaced only on one side of A4 size paper in MS Word, Times New Roman, 12 font size with one-inch margins all around.
- The author/s’ name should not appear anywhere else on the body of the manuscript to facilitate the blind review process. The research paper should be in clear, coherent and concise English.
- Tables / Exhibits should be numbered consecutively in Arabic numerals and should be referred to in the text as Table 1, Table 2 / Exhibit 1, Exhibit 2 etc.
- All notes must be serially numbered. These should be given at the bottom of the page as footnotes.
- The following should also accompany the manuscripts on separate sheets: (i) An abstract of approximately 150 words with a maximum of five key words, and (ii) A brief biographical sketch (60-80 words) of the author/s describing current designation and affiliation, specialization, number of books and articles in refereed journals, membership number of ICSI and other membership on editorial boards and companies, etc.
- The research papers should reach the Competition Committee on or before 16th May, 2016 by 12 noon (IST).
- Participants should email their research papers on the following email id: ccgrt@icsi.edu

Further Information for Authors / Participants

- The decision of the Reviewing Committee will be final and binding on the participants.
- The Institute of Company Secretaries of India reserves the right to publish or refer the selected papers for various publications viz; Souvenirs, Books, Study materials published by the institute or in any seminar / conference / workshop / Research Programs conducted by institute either on its own or jointly with other organizations and also in regular course of activities of ICSI. Further, the authors whose papers will be selected will receive an Appreciation Letter from the institute and Program Credit Hours (PCH).
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- The papers will be scrutinized by an Expert Committee. For any query / assistance, kindly contact at: ccgrt@icsi.edu / +91-22-41021515/1501
- 4 PCH will be awarded to the authors, whose research papers selected.

CS Ahalada Rao V CS Ashish Garg CS Ashish Doshi
Chairman Chairman Chairman, ICSI-CCGRT
ICSI-Research Committee ICSI -PCS Committee Management Committee
The Institute of Company Secretaries of India
In Pursuit of Professional Excellence

Announces

Research Induction Workshop

<table>
<thead>
<tr>
<th>Day, Date &amp; Time</th>
<th>Friday, 3rd June 2016 &amp; 10:00a.m. to 06:00p.m.</th>
</tr>
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<tbody>
<tr>
<td>Venue</td>
<td>ICSI-CCGRT Auditorium, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai – 400 614</td>
</tr>
</tbody>
</table>
| Proposed Coverage | The sessions will cover on the following areas:  
• Significance of Research, Scope and Sources of Research for Company Secretaries (CS)  
• Grooming Professionals towards Research  
• Research Methodology & Techniques  
• Drafting of Expert opinion |
| Speakers Include | Speakers include eminent Professors, Academicians and Researchers |
| Participant Mix | Company Secretaries in practice and employment, Academicians. Other Corporate Professionals and Students pursuing Company Secretaryship course and other professional courses. |
| Fees (Service Tax extra at actual) | INR 1300/- per participant (early bird discount, for participants registering on or before 10th of May, 2016)  
INR 2000/- per participant (for participants registering after 10th of May, 2016) (to cover the organisational cost, program kit, lunch and other expenses). |

For Registration

Fees may be paid through DD / local / Par cheque payable at Mumbai in favour of "ICSI-CCGRT A/c" and sent to: The Program Co-ordinator, ICSI-Centre for Corporate Governance, Research & Training (ICSI-CCGRT), Plot No. 101, Sector-15, Institutional Area, CBD Belapur, Navi Mumbai- 400 614. You may also pay through Pay U Money, the link is: https://www.payumoney.com/customer/users/paymentOptions/#/5CC5C752DEA07B6F2813FB0136AE4CBF/ICSI-CCGRT/103967

☎ 022- 4102 1501/04/15 / 35, Fax: 022- 27574384; email: programs.ccgrt@gmail.com

Limited seats and hence prior registration is desirable

CS Ahalada Rao V CS Ashish Garg CS Ashish Doshi  
Chairman, Program Director & Chairman, ICSI-CCGRT  
ICSI-Research Committee Council Member Management Committee
CASE FOR OPINION

1. A Ltd is a listed company. B Ltd is A’s wholly-owned subsidiary. It is proposed to transfer a manufacturing unit of A Ltd to B Ltd. A Ltd proposes to pass a special resolution under section 180 of the Companies Act 2013 (‘the Act’) for this purpose.

   The transfer of the unit will take place on a slump sale basis at a value fixed by the Board of directors of A Ltd and agreed to by B Ltd, on the basis of the valuation done by two chartered accountants.

2. Two of the directors of A Ltd are on the Board of B Ltd and, besides, two employees of A Ltd are on the B’s Board. None of directors of B Ltd holds any shares in B Ltd.

3. A Ltd has asked you to advise with regard to the following queries:
   a. Is B Ltd a related party vis-a-vis A Ltd under the Companies Act and Clause 49 of the listing agreement?
   b. Does the abovementioned transaction of transfer of a unit amount to a Related Party Transaction (RPT) under section 188 of the Act and Clause 49 of the Listing agreement?
   c. Does it require approval of the Board of A Ltd and its shareholders?
   d. Can the transaction be exempted under the third proviso to section 188(1) being in the ordinary course of business and at arm’s length?
   e. Will this transaction require any disclosure under the listing agreement?
   f. Will the directors of A Ltd who are also directors of B Ltd be entitled to participate in the Board meeting of A Ltd and vote on the resolution?
   g. Will this transaction require to be entered in the register maintained under section 189 of the Act?
   h. What other requirements under the Act and the listing agreement will be required to be complied with?

MEMORANDUM OF OPINION

DATE: October 13, 2015
TO: A Ltd
SUBJECT: Queries in relation to Companies Act, 2013, and Listing Agreement

1. BRIEF FACTS

1.1 I understand that, that A Ltd is a listed company. B Ltd is A’s wholly owned subsidiary. It is proposed to transfer a manufacturing unit of A Ltd to B Ltd. A Ltd proposes to pass a special resolution under section 180 of the Companies Act, 2013 (‘the Act’) for this purpose. The transfer of the unit will take place on a slump sale basis at a value fixed by the Board of directors of A Ltd and agreed to by B Ltd, on the basis of the valuation done by two chartered accountants.
2. QUERIES

In the backdrop of the foregoing, A Ltd has sought my opinion on the following queries:

2.1 Is B Ltd a related party vis-à-vis A Ltd under the Companies Act and Clause 49 of the Listing Agreement?

2.2 Does the abovementioned transaction of transfer of a unit amount to a Related Party Transaction (RPT) under section 188 of the Act and Clause 49 of the Listing Agreement?

2.3 Does it require approval of the Board of A Ltd and its shareholders?

2.4 Can the transaction be exempted under the third proviso to section 188(1) being in the ordinary course of business and at arm’s length?

2.5 Will this transaction require any disclosure under the Listing Agreement?

2.6 Will the directors of A Ltd who are also directors of B Ltd be entitled to participate in the Board meeting of A Ltd and vote on the resolution?

2.7 Will this transaction require to be entered in the register maintained under section 189 of the Act?

2.8 What other requirements under the Act and the Listing Agreement will be required to be complies with?

3 DISCUSSION & ANSWERS

I have analyzed the relevant provisions of the Companies Act, 2013 (the Act), relevant rules made thereunder, other relevant notifications issued by Ministry of Corporate Affairs and the relevant provisions of the Listing Agreement and circulars issued thereunder, and my opinion is as under:

3.1 Query 2.1: Is B Ltd a related party vis-à-vis A Ltd under the Companies Act and Clause 49 of the Listing Agreement?

Response: As per the principles of statutory interpretation, the definition is a statement of the meaning as of a word or phrase, as it is common to define in a statute certain words and phrases used in the statute. Definitions are either exhaustive or inclusive in nature. When the definition clause uses the word ‘mean’ it denotes that definition is exhaustive in nature. It means that the word or phrase is restricted to the scope indicated in the definition section. Accordingly, section 2 clause (76) of the Act defines ‘related party’ with reference to a company. The relevant part of said section states that:

“2 (76) “related party”, with reference to a company, means… (viii) any company which is (A) a holding, subsidiary or an associate company of such company....”

Hence, related party in relation to a company means a holding or subsidiary of such company. Here, A Ltd is a holding company of B Ltd and obviously B Ltd is a wholly owned subsidiary of A Ltd. Thus, B Ltd is a related party vis-à-vis A Ltd.

Similarly, Clause 49 (VII) (B) of the Listing Agreement defines that, an entity shall be considered as related to the Company if: (i) such entity is a related party under Section 2(76) of the Companies Act, 2013; or (ii) such entity is a related party under the applicable accounting standards. Clause 49 (VIII) (B) incorporated by reference, amongst other, definition of related party as given under section 2(76) of the Act. When a definition of a term is incorporated by reference from another statute, it is deemed to have been cut and pasted in the incorporating statute and that is all. So, the definition of ‘related party’ defined in section 2(76) of the Act will ipso facto apply for the purpose of Clause 49 (VII) (B).

Thus, suffice to say in present case, B Ltd is a related party vis-à-vis A Ltd under the Act and Clause 49 of the Listing Agreement.

3.2 Query 2.2: Does the abovementioned transaction of transfer of a unit amount to a Related Party Transaction (RPT) under section 188 of the Act and Clause 49 of the Listing Agreement?

Response: It is well settled rule of interpretation that, the words, phrases and sentences of statute must prima facie be understood in their natural, ordinary or popular and grammatical meaning. If there nothing to modify, alter or qualify the language which the statute contains, it must be construed according to the ordinary and natural meaning of the words. The safer and more correct course of dealing with a question of construction is to take the words themselves and arrive, if possible, at their meaning without, in the first instance, reference to cases.

In order to attract Section 188 of the Act there are two essential conditions, first, that the company enters into ‘contract or arrangement’ of a kind as specified in sub-section (1) of section 188; and second other party to such contract or arrangement must be a related party as defined under section 2(76) of the Act.

Further, Clause 49 (VII) states that related party transaction is a transfer of resources, services, or obligations between a company and related party, regardless of whether a price is charged.

In present case, a unit of A Ltd is proposed to transfer to B Ltd on slump sale basis under a contract. A ‘Slump-sale’ is not defined in the Act or Listing Agreement however, as per dictionary meaning it is the transfer of one or more undertakings, as a result of the sale for a lump-sum consideration without values being assigned to the individual assets and liabilities, as a going concern. Sub-section (1) of section 188 does not specifically list “slump-sale” as a kind of item as contract or arrangement. However, sub-section (1) (b) of section 188 does state “selling or otherwise disposing of, or buying, property of any kind” [emphasis supplied]. Black’s Law Dictionary defines property means that which belongs exclusively to one; that which belongs exclusively to one. The term is said to extend to every species of valuable right and interest. Slump-sale is a bundle of assets and liabilities sought to be transferred and hence amount to transfer of property vested therein under a contract. And therefore, the underlined wording “property of any kind” is wide enough to include ‘slump-sale’ of a unit being ‘property of any kind’.
In so far as the Listing Agreement is concerned, transfer of unit on slump-sale basis, as a going concern, amounts to transfer of resources, services or obligation in a bundle although without assigning or attributing any value to specific assets.

This transaction satisfies both the essential conditions under the Act and under the Listing Agreement. Therefore, in my opinion abovementioned transaction of transfer of a unit under contract amount to a Related Party Transaction under section 188 (1) of the Act as well as Clause 49 of the Listing Agreement.

3.3 Query 2.3: Does it require approval of the Board of A Ltd and its shareholders?

Response: The present case involves transfer of a unit of A Ltd to its wholly owned subsidiary namely, B Ltd on slump-sale basis.

Section 180 of the Act deals with restriction on powers of the Board. It states that Board shall exercise certain powers only with the consent of the Company by a special resolution. Section 180(1)(a) of the Act mandates that the Board of directors shall exercise the power to sell, lease or otherwise dispose of the whole or substantially the whole of any undertaking(s) of the Company, only with the consent of the members of the Company by way of a special resolution. Explanation (i) to Section 180(1)(a) of the Act states that the meaning of an ‘undertaking’ mean an undertaking in which the investment of the company exceeds twenty per cent of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates twenty per cent of the total income of the Company during previous financial year. It further also explains what is mean by ‘substantially the whole of the undertaking’.

In the case for opinion it is not clearly provided the financial details of undertaking proposed to transfer under slump-sale. However, assuming, it qualifies the definition of ‘undertaking’ given by way of explanation to said Section 180(1)(a) of the Act, the Board can exercise power to sale undertaking only with the consent of the members of the company by way of special resolution to be obtained through postal ballot under section 110 of the Act.

The said transaction, being contract with related party, also needs prior approval of Board of directors under section 188(1) of the Act.

Besides, this transaction also contemplates approval by shareholders under section 188(1) of the Act and Clause 49 of the Listing Agreement. But there is certain exemption provided under said enactments which can be availed legitimately. I have dealt with this aspect in detail in my response to Query 2.4 of the opinion in succeeding paragraphs.

3.4 Query 2.4: Can the transaction be exempted under the third proviso to section 188(1) being in the ordinary course of business and at arm’s length?

Response: Third proviso to section 188(1) of the Act provides that ‘Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm’s length basis.’

A ‘proviso’ qualifies the generality of the main enactment by providing an exception and taking out from the main provision, a portion, which, but for the proviso would be a part of the main provision. In short, ‘proviso’ is an exception or carve out for the main provision but cannot go beyond that. The proviso is said sub-section also contains non-obstante clause, a clause beginning with ‘nothing in this sub-section shall apply’. It is appended to a section in the beginning, with a view to give the enacting part of the section in case of a conflict an overriding effect over the provision or Act mentioned in the non-obstante clause.

In short, nothing mentioned in sub-section (1) of section 188 shall apply if two conditions are satisfied namely, (1) it must be entered into by the company in the ordinary course of its business; and (2) it must be an arm’s length transaction.

Whilst expression ‘arm’s length basis’ is defined to mean a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest, but, the expression, ‘ordinary course of business’ is not defined in the Act (though used at several places in the Act). When the word is not defined in the Act recourse can be made to dictionary meaning of the same. As per Black’s Law Dictionary, it means “the transaction of business according to the common usages and customs of the commercial world generally; in general, any matter which transpires as a matter of normal and incidental daily customs and practices in business”. Dictionary meaning is not clear as to precise meaning and in such case it is not safe or advisable to rely on the dictionary meaning. The language of this proviso is clumsy and confusing. In substance, slump-sale, in my opinion, may not be construed in company’s ordinary course of business though it may be on arm’s length basis. ‘Slump-sale’ is business restructuring, by itself is an extra-ordinary activity which do not occur frequently in the life time of the company. Construing it in the ordinary course of company’s business may be an aggressive proposition, if I may put it rightly.

And in order to avail this exemption, aforementioned two conditions must be satisfied. Accordingly, even though the proposed transaction of slump-sale is to be entered into by A Ltd with B Ltd is on arms length basis, based on the valuations arrived at by two chartered accountant, since this transaction could be construed as being outside the ordinary course of business, this exemption will not be available.

However, the proposed transaction is eligible to avail exemption provided by fourth proviso to sub-section (1) of section 188 of the Act added pursuant to Companies (Amendment) Act, 2015, dated May 25, 2015. The fourth proviso to sub-section (1) of section 188 provides that, ‘Provided also that the requirement of passing resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval’. Thus, if the related party transaction under section 188(1) of the Act is between holding company and its wholly owned subsidiary then passing of shareholder resolution, provided under first proviso of said sub-section, is not applicable, of course.
subject to compliance that the accounts of such wholly owned subsidiary are consolidated with holding company and placed before shareholders at the general meeting for approval.

In line with the aforesaid exemption provided under the Act, similar exemption is provided under Clause 49 (VII) of the Listing Agreement.

Therefore, in my opinion A Ltd need not to obtain shareholders approval in view of the aforesaid exemption available to it by fourth proviso of section 188(1) of the Act and the Listing Agreement, but subject to compliance prescribed thereunder.

3.5 Query 2.5: Will this transaction require any disclosure under the Listing Agreement?

Response: Clause 36(7) of the Listing Agreement mandates disclosure as regards any other information having bearing on the operations/ performance of the Company as well as price sensitive information, which include but not limited to, amongst others, selling divisions of the company etc. The required information should be made public immediately. Thus, slump-sale of undertaking (selling of division) being transaction having bearing on operations/ performance of the company as well as price sensitive information, required disclosure under said clause 36(7) and made public as soon as decision taken by the Board in its meeting.

3.6 Query 2.6: Will the directors of A Ltd who are also directors of B Ltd be entitled to participate in the Board meeting of A Ltd and vote on the resolution?

Response: Provision relating to interested director sets out the proposition that directors owe fiduciary duties to company and sitting in the position of trustees for the shareholders, and hence should not use the powers conferred on them under the Act for their personal benefit conflicting with the interests of company and its shareholders. Section 184 of the Act stipulates disclosure of interest by director in prescribed manner. It is a conflict of interest provision. Relevant part of sub-section (2) of section 184 is reproduced below:

“184. (1)...

(2) Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into

(a) with a body corporate in which such director or such directors in association with any other director, holds more than two per cent shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or

shall disclose the nature of his concern of interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting:….”

Thus, the sub-section (2) as aforesaid requires disclosure of interest by director at a meeting wherein contract or arrangement with a body corporate (which includes a company) is discussed and non-participation by him in such meeting only if he himself or he in association with any other directors holds more than two per cent shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate.

In present case B Ltd is wholly owned subsidiary of A Ltd. Inter alia, two directors of A Ltd are on the Board of B Ltd. None of the directors of B Ltd holds any shares in B Ltd for obvious reason that A Ltd holds entire paid-up share capital of B Ltd. There is nothing wrong in appointing directors by holding company on the Board of it wholly owned subsidiary perhaps it is usual practice. As a matter of fact 100% control is with holding company, there is no question of any director or directors holding any control over the shareholding of subsidiary. There is no self-interest of the directors in the subsidiary company at all.

Therefore, none of the directors of A Ltd hold share individually or in association with other directors entitling them more than two per cent of shareholding of B Ltd, and I am informed that none of the said directors is either promoter, manager or Chief Executive Officer of B Ltd, there is no requirement for them to disclose their nature of concern or interest at the meeting of the board in which the proposed transaction is being discussed and there is no embargo on their participation in such meeting, they can very well participate in the Board meeting of A Ltd and vote on the resolution.

3.7 Query 2.7: Will this transaction require to be entered in the register maintained under section 189 of the Act?

Response: Section 189(1) of the Act states that every company shall keep one or more registers giving separately the particulars of all contracts or arrangement to which sub-section (2) of section 184 or section 188 applies, in prescribed manner. Since slump-sale transaction is a contract requiring board consent under sub-section (1) of section 188 of the Act, this requires to be entered in the register maintained under section 189 of the Act.

3.8 Query 2.8: What other requirements under the Act and the Listing Agreement will be required to be complies with?

Response: In particular, this item of business has to be transacted through postal ballot in pursuance of provision of section 110 of the Act read with rule 16(i) of Companies (Management and Administration) Rules, 2014. Shareholders should be provided with facility for voting through electronic means as prescribed under section 108 of the Act and Clause 35B of the Listing Agreement. Accordingly, provisions relating to scrutinizer and disclosure of results shall require to be complied with. In general, other aspects of board procedures, duties and administration prescribed under the Act shall be adhered with (including duties of directors under section 166 of the Act).

I have nothing to add further. I trust that all your queries have been adequately addressed. Should you require any clarification, please do not hesitate to contact me.

Yours faithfully,

Sd/-XYZ.
REGISTRAR OF COMPANIES v. RAJSHREE SUGAR & CHEMICALS LTD & ORS [SC]
SEBI v. KISHORE R. AJMERA [SC]
OM PRAKASH PARASRAMPURIA & ORS v. UNION OF INDIA & ORS [DEL]
B.I.F.R. & ORS v. KMA LTD & ORS [Bom]
ESIC V. A.K. ABDUL SAMAD & ANR [SC]
ROYAL WESTERN INDIA TURF CLUB LTD v. E.S.I.C & ORS [SC]
STATE OF PUNJAB & ORS v. SHREYANS INDUSTRIES LTD [SC]
PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) v. TAM MEDIA RESEARCH PRIVATE LTD [CCI]
MERU TRAVEL SOLUTIONS PVT LTD v. UBER INDIA SYSTEMS PVT. LTD & ORS [CCI]
ICSID-Centre for Corporate Governance, Research & Training (CCGRT)
Tel: - 022-41021501/34/35/06 Email: cccgnt@icsi.edu Website: www.icsi.edu/ccgnt

Integrated Company Secretary Course (Full Time)
Admission Open for 3rd Batch
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To develop well rounded niche Governance Professional under one roof.

SCOPE
1) A well-structured Company Secretary Course.
2) Soft Skills, Leadership Traits and other Life Skills.
3) Training through Practical Exposure and Internship.

NATURE OF THE COURSE
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DURATION OF THE COURSE
Three years, including one year of training. (Assuming that a student passes the scheduled examinations of Executive & Professional Levels, June Session of The Institute of Company Secretaries of India in the first attempt.)

BATCH SIZE:
50 (Fifty)

FACULTY:
Mix of Academicians from reputed Institutions, Professional and Industry Experts.

PEDAGOGY:
The Course is an interactive programme focusing on experiential learning and combining class room lectures, discussion, class exercises case studies, industry visits, practice sessions etc. Students would be exposed to real life organisational situations, professional dilemmas etc. enable them to develop holistic perspective towards decision making and governance.

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2) Graduate with 50% Marks or Foundation Programme Pass of ICSI, CPT Pass of ICAI or Foundation Course Pass of ICMAI.

ADDITIONAL BENEFITS FOR THE STUDENTS:
ICSID-CCGRT will facilitate the following for the Students of this course:
- Registration and Enrolment with ICSI.
- Educational Loan for the Course, Internship Training and Industry Exposure.
- Placement Assistance, Hostel Assistance around CCGRT, opportunity to attend seminar/workshops/conferences.

SELECTION PROCESS:
a) Online Entrance Examination:
Two hours online entrance examination Comprising of Reasoning, English and Numerical Aptitude. In lieu of online Entrance Examination Scores of Recognized tests, namely CAT, XAT, N MAT, GMAT, SNAP, MH-CET, ATMA would also be considered.
b) Group Discussion and Interview:
On the basis of the performance in the Online Entrance Examination or scores of Recognized test whichever is applicable and Group Discussion and Interview, Candidates would be selected for admission to the programme.

ADMISSION:
Admission process for the Course is in progress. Online Entrance Examination would be held on 30th April, 2016

COURSE COMMENCEMENT DATE:
The Course would commence on 4th July, 2016. For details visit: www.icsi.edu/ccgnt.

PROSPECTUS & ONLINE APPLICATION
The prospectus of the course is available at www.icsi.edu/ccgnt
Online application link: http://103.253.70.12:8930/icsimumbai/LoginAction_input.action

Proposed Timelines

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Landmark Judgement


REGISTRAR OF COMPANIES v. RAJSHREE SUGAR & CHEMICALS LTD & ORS [SC]

Civil Appeal No. 485 of 2000

Ruma Pal, D.P.Mohapatra & K.T.Thomas, JJ. [Decided on 11/05/2000]


Sections 113 & 621 of the Companies Act, 1956 read with sections 468 & 469 of the Code of Criminal Procedure, 1973 – Offences - delay in despatching the share certificates - registrar filed complaint after getting knowledge of the same during inspection - Complaint dismissed by trial court that it is time barred - High court upheld the same and in addition held that Registrar is incompetent to file the complaint -whether tenable - Held, No.

Brief facts:

Two lots of share transfer forms along with share certificates were sent to the Respondent Company on 23.11.1990 and 18.12.1990. The first batch of applications for transfer was received by the company on 11.12.1990, approved on 29.3.1991 and dispatched on 6.4.1991. The second batch of applications was received on 26.12.1990 approved by the company on 3.4.1991 and dispatched on 16.4.1991. Apparently, Section 113 (1) was not complied with. This came to the knowledge of the Appellant Registrar only on 20.7.1992 when the Appellant inspected the books of account of the company under Section 209A (1) (i) of the Act. The complaint was filed by the appellant on 20.08.1992 before the Chief Judicial Magistrate, Coimbatore, who dismissed the complaint on the ground that it was barred by limitation. The Revision Petition challenging the above order was also dismissed on the additional ground that the Registrar was incompetent to file the complaint.

Decision: Appeal allowed.

Reason:

This appeal has been preferred from the decision of the High Court of Madras dated 17th March, 1998. The appeal was filed on 26th July, 1999 after a delay of 406 days. The application for condonation of delay filed by the appellant shows that the Department of Legal Affairs took up the matter only on 16th December, 1998. No explanation whatsoever has been given for the Appellant's inaction during this period of nine months. The observation of this Court in State of U.P. v. Bahadur Singh and Others, AIR 1983 SC 845 regarding the latitude to be shown to the Government in deciding questions of delay, does not give a licence to the Officers of the Government to shirk their responsibility to act with reasonable expedition. However, since the matter has been permitted to be argued on merits, it would not be appropriate to dismiss the appeal on the ground of delay, but our disapproval of the conduct of the appellant in this regard will be reflected in the costs which we intend to award against the appellant in favour of the respondents, irrespective of our decision on merits.

The only decision cited by the respondents which is on Section 113 of the Act is the decision in Nestle India Ltd & Ors v. State & Ors 1994(4) Comp L.J. 446 (Del), Neither the learned Judge in his decision in Nestle India nor the High Court in the judgment under appeal considered the provisions of Section 621 (1) of the Companies Act, which provides:

"621 (1) No Court shall take cognizance of any offence against this Act (other than an offence with respect to which proceedings are instituted under Section 545), which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, or of a shareholder of the company, or of a person authorised by the Central Government in that behalf."

Under this Section therefore, the appellant is competent to file a written complaint in respect of offences under, inter-alia, Section 113 of the Act.

The phrase person aggrieved has not been defined in the Code. However, as far as offences under the Companies Act are concerned, the words must be understood and construed in the context of Section 621 of the Act. If the words person aggrieved are read to mean only the person affected by the failure of the Company to transfer the shares or allot the shares, then the only person aggrieved would be the transferee or the allottee, as the case may be. Under Section 621 of the Act, no Court can take cognizance of an offence against Companies Act except on the complaint of a share-holder, the Registrar or the person duly authorised by the Central Government. Where the transferee or allottee is not an existing share-holder of the Company, if the words person aggrieved is read in such a limited manner, it would mean that Section 469 (1) (b) of the Code would be entirely inapplicable to offences under Section 113 of the Act. There is, in any event, no justification to interpret the words person aggrieved as used in Section 469 (1) (b) restrictively particularly when, as in this case, the statute creating the offence provides for the initiation of the prosecution only on the complaint of particular persons. Having regard to the clear language of Section 621 of the Act, we have no manner of doubt that the appellant would be a person aggrieved within the meaning of Section 469 (1) (b) of the Code in respect of offence (except those under Section 545) against the Companies Act.

Apart from overlooking the provisions of Section 621 of the Act, the High Court erred in construing the provisions of Section 113 (2) with reference to Section 113(3). The latter deals with the civil liability of the Company and its officers for a breach of Section 113 (1) at the instance of the transferee of the shares. Section 113 (2) deals with the criminal liability arising out of a violation of Section 113 (1). The objects of the two sub-sections are disparate. Section 113 (3) is primarily compensatory in nature whereas Section 113 (2) is punitive. An application under Section 113 (3) can only be made by the transferee. And as already seen, a transferee who is not an existing share-holder of the Company cannot file a complaint under Section 113 (2) at all.
The question of law arising in this group of appeals is “what is the degree of proof required to hold brokers/sub-brokers liable for fraudulent/manipulative practices under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations and/or liable for violating the Code of Conduct specified in Schedule II read with Regulation 9 of the SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992?” (‘Conduct Regulations, 1992’).

Decision: C.A. No.2818 of 2008 dismissed; Rest of the appeals allowed.

Reason:
It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.

Insofar as C.A. No.2818 of 2008 SEBI v. Kishore R. Ajmera is concerned the proved facts are that (i) Both the clients are known to each other and were related entities;(ii) This fact was also known to the sub-broker and the respondent – broker;(iii) The clients through the sub-broker had engaged in mutual buy and sell trades in the scrip in question, volume of which trade was significant, keeping in mind that the scrip was an illiquid scrip.

Apart from the above there is no other material to hold either lack of vigilance or bona fides on the part of the sub-broker so as to make respondent-broker liable. An irresistible or irreversible inference of negligence/lack of due care etc., in our considered view, is not established even on proof of the primary facts alleged so as to make respondent-broker liable under the Conduct Regulations, 1992 as has been held in the order of the Whole Time Member, SEBI which, according to us, was rightly reversed in appeal by the Securities Appellate Tribunal.

This will take us to the second and third category of cases i.e. M/s Ess Intermediaries Pvt. Ltd., M/s Rajesh N. Jhaveri and M/s Rajendra Jayantilal Shah [second category] and M/s Monarch Networth Capital Limited (earlier known as Networth Stock Broking Limited) [third category]. In these cases the volume of trading in the illiquid scrips in question was huge, the extent being set out hereinabove. Coupled with the aforesaid fact, what has been alleged and reasonably established, is that buy and sell orders in respect of the transactions were made within a span of 0 to 60 seconds. While the said fact by itself i.e. proximity of time between the buy and sell orders may not be conclusive in an isolated case such an event in a situation where there is a huge volume of trading can reasonably point to some kind of a fraudulent/manipulative exercise with prior meeting of minds. Such meeting of minds so as to attract the liability of the broker/sub-broker may be between the broker/sub-broker and the client or it could be between the two brokers/sub-brokers engaged in the buy and sell transactions. When over a period of time such transactions had been made between the same set of brokers or a group of brokers a conclusion can be reasonably reached that there is a concerted effort on the part of the concerned brokers to indulge in synchronized trades the consequence of which is large volumes of fictitious trading resulting in the unnatural rise in hiking the price/value of the scrip(s). It must be specifically taken note of herein that the trades in question were not “negotiated trades” executed in accordance with the terms of the Board’s Circulars issued from time to time. A negotiated trade, it is clarified, invokes consensual bargaining involving synchronizing of buy and sell orders which will result in matching thereof but only as per permissible parameters which are programmed accordingly.

The conclusion has to be gathered from various circumstances like that

For the reasons stated, we are of the view that the appellant as a person aggrieved would be entitled to the benefit of the provisions of Section 469 (1)(b) of the Code. It is not in dispute that the appellant came to know of the offences on 20th July 1992. The commencement of the period of limitation of six months for initiating the prosecution would have to be calculated from that date. The complaint was filed on 20th August 1992 well within the period specified under Section 468(2) of the Code.

In the circumstances, the decision of the High Court as well as the Chief Judicial Magistrate, Coimbatore are set aside and the matter is remanded back to the Chief Judicial Magistrate, Coimbatore for being decided on merits.

Because of the inordinate delay by the appellant in preferring this appeal, the appellant shall pay the costs of the appeal to the respondents.

**LW: 18:04:2016**

**SEBI v. KISHORE R.AJMERA [SC]**

Civil Appeal No. 2818 of 2008 with Civil Appeal No.8769 of 2012, Civil Appeal No.6719 of 2013, Civil Appeal No.252 of 2014 & Civil Appeal No.282 of 2014.

Ranjan Gogoi & Prafulla C. Pant, JJ. [Decided on 23/02/2016]


Penalty for synchronised trade and circular trade - whether tenable - Held, Yes.

**Brief facts:**

Civil Appeal No. 2818 of 2008 (SEBI v. Kishore R. Ajmera) is with regard to the allegation of indulging in “matching trades” thereby creating artificial volumes in the scrip of M/s. Malvica Engineering Ltd. (MEL).

Civil Appeal No.6719 of 2013 (SEBI Vs. Ess Intermediaries Pvt. Ltd.), Civil Appeal No.252 of 2014 (SEBI Vs. M/s. Rajendra Jayantilal Shah, Civil Appeal No.282 of 2014 (SEBI Vs. M/s. Rajesh N. Jhaveri) are with regard to indulging in “synchronised trades” in the scrip of M/s. Adani Export Ltd. (AEL) by respondents who were sub-brokers.

Civil Appeal No. 8769 of 2012 (SEBI Vs. Networth Stock Broking Ltd.) is with respect to “circular trading” of the scrip on behalf of one Indumati Goda.

In all the above cases the Whole time member of the SEBI imposed penalty which was set aside by the SAT. Therefore, SEBI challenged the orders of SAT before the Supreme Court.

The question of law arising in this group of appeals is “what is the degree of proof required to hold brokers/sub-brokers liable for fraudulent/manipulative practices under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations and/or liable for violating the Code of Conduct specified in Schedule II read with Regulation 9 of the SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992?” (‘Conduct Regulations, 1992’).
Decision: Appeal dismissed.

Reason:
A plain grammatical reading of Section 22(1) as originally enacted would reveal that the bar created was to the continuation or institution of proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company and for the appointment of a receiver in respect thereof without the consent of BIFR, post-amendment, to the continuation or institution of suits for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company.

The second limb of sub-Section (1) of Section 22, which begins with the expression ‘and no suit’ concerns itself with actions for recovery of money or for enforcement of security once again against the industrial company. The latter part of this second limb which reads, ‘or of any guarantee in respect of any loans or advances granted to the industrial company’ creates some kind of a doubt as regards the guarantors i.e. whether notwithstanding proceedings being suspended by virtue of sub-Section 1 of Section 22 of SICA against the sick industrial company, could the proceedings continue or be instituted against the guarantors.

The word used in sub-Section 1 of Section 22 is ‘guarantee’ and not ‘guarantor’. The possible argument that the term ‘guarantee’ meant a guarantee extended by the sick industrial company need not be debated upon in view of the law declared by the Supreme Court in the decision reported as M/s. Pathreja Brothers Forging & Stamping & Anr. Vs. ICICI Ltd. & Ors. (2000) 6 SCC 545 wherein it has been held that the term ‘guarantee’ would also extend to the guarantors.

A Division Bench of this Court in the case of Inderjeet Arya & Anr. Vs. ICICI Bank Ltd reported as ILR (2012) Vol.5 Delhi 218, held that the judgment of the Supreme Court in Paramjit Singh Patheja’s case (supra) cannot be interpreted to conclude that each and every kind of action is contemplated to be included in the term ‘suit’ because the Supreme Court was dealing with a specific issue i.e. whether an award was a decree or an order within the meaning of Section 9(2) of the Insolvency Act.

The Division Bench thereafter noted that what emerges on a reading of the objects and reasons along with the interpretation accorded by the Supreme Court, to the provisions of sub-Section (1) of Section 22, and held that having regard to the law laid down in the various judgments, the word ‘suit’ cannot be understood in its broad and generic sense to include any action before a legal forum involving an adjudicatory process. If that were so, the legislature which is deemed to have knowledge of existing statute would have made the necessary provision, like it did, in inserting in the first limb of Section 22 of SICA, where the expression proceedings for winding up of an industrial company or execution, distress, etc. is followed by the expression or ‘the like’ against the properties of the industrial company. There is no such broad suffix placed alongside the term ‘suit’. The term suit would thus have to be confined, in the context of sub-Section (1) of Section 22 of SICA, to those actions which are dealt with under the Code and not in the comprehensive or overarching sense so as to apply to any original proceedings before any legal forum as was sought to be contended before us. The term, ‘suit’ would therefore apply only to proceedings in a civil court and not actions for recovery proceedings filed by banks and financial institutions before a Tribunal, such as, the ‘DRT’.

The two appellants are guarantors and notwithstanding the principal borrower company being a sick industrial company, the Debts Recovery Tribunal as also the Debts Recovery Appellate Tribunal have rightly opined that proceedings under Recovery of Debts due to Banks and Financial Institutions.
The dissenting workmen cannot be said to be represented by the Union:

(a) Whether the dissenting workmen are bound by the consent terms or the consideration of this Court:

Based on these rival submissions, the following questions broadly arise for

Reason:

Decision: Applications disposed of.

Based on these rival submissions, the following questions broadly arise for the consideration of this Court:

(a) Whether the dissenting workmen are bound by the consent terms or whether they are entitled to be paid in accordance with Sections 529 and 529A of the Act?

The dissenting workmen cannot be said to be represented by the Union which signed the consent terms. The sixty three workmen whom the rival union, KMA workers and Staff Union, Bangalore, claims to represent say that they were not consulted when the consent terms were arrived at; that they never authorised the union to enter into any consent terms; and that they have throughout objected to the consent terms. Ditto for the Applicant in Company Application No. 593 of 2011. For the registered union, it was submitted that many of these workmen including the Applicant in Company Application No. 593 of 2011 did sign affidavits in favour of the registered union accepting the consent terms. But there is no support for this contention in the pleadings or documents. The affidavits themselves are not on record. In fact, the record of the case including affidavits and documents referred to therein suggest otherwise. These dissenting workmen have to be paid dues on the basis of their entitlements in law, particularly under Sections 529 and 529A of the Act. That is how the Company Court had sanctioned the consent terms, noticing that the funds set apart were adequate to meet the claims of dissenting workmen upon adjudication thereof by the Liquidator. The issue of their entitlement was clearly kept open.

(b) If they are to be paid according to their entitlement under Sections 529 and 529A, up to what date are they entitled to be paid wages?

The registered Union, in the consent terms, has taken ‘31 December 2002’ as the date up to which wages ought to be calculated. That was presumably on the footing that the substratum of the Company no longer subsisted after the sale of its assets under orders of the Court. (The consent order for sale of all movable and immovable assets of the Company at Mumbai and Bangalore was passed by this Court in Writ Petition No. 1512 of 2002 on 20 December 2012.) On the other hand, the dissenting workmen rooted for ‘24 October 2008’ as the relevant date, contending that the contract of employment between a company and its workmen subsists till the date of the winding up order and that is the date up to which the wages ought to be computed. (The Company Court ordered the company to be wound up on 24 October 2008.)

It is only those workers, who became members of the workers’ co-operative by fulfilling the terms of the scheme such as conversion into equity of 50 per cent wages due from the year 1991 and waiver of balance 50 per cent and payment of amounts of Rs.20, 000/- (for the Mumbai unit) and Rs.15, 000/- (for the Bangalore unit), who are entitled to wages under the scheme. The others, who did not become such members and who did not work, cannot claim to have continued as workmen of the Company. A scheme sanctioned by BIFR under SICA has the effect of altering contracts of the Sick Industrial Company with its shareholders, creditors, guarantors and employees. Under Section 18(8) of SICA, such scheme is binding on the shareholders, creditors, guarantors and employees. The Company in the present case offered to provide employment to those workmen who agreed to join the Workers’ co-operative on the terms of the sanctioned scheme. Those who did not so join must be treated as having refused to offer themselves for service and accordingly, ceased to be workmen. They cannot now demand wages after 20 September 1991, i.e. the date of closure of the factory.

(c) Whether they are entitled to any (i) notice pay, (ii) leave wages, (iii) bonus or (iv) gratuity and (v) any interest on these dues?

There is no question of the workmen getting any notice pay under Section 25-N of the Industrial Disputes Act by virtue of Section 25-O introduced by the Maharashtra amendment.

The leave that can, thus, be encashed under Section 79 of the Factories Act is only the earned or accumulated leave during the calendar year up to a maximum of thirty days under conditions of Sub-section (3). The rate of such wages has to be as per Section 80 of the Factories Act.

Bonus is not included in the category of wages under Sections 529 and 529A of the Companies Act and cannot be accorded any priority. The dissenting workmen in the present case accept this position, though they would like to keep their option to claim bonus in the event of availability of surplus funds so as to satisfy non-priority debts of the Company (in liquidation).

On gratuity, all parties including the Official Liquidator agree that gratuity would be payable. The consent terms provide for such gratuity. So does the adjudication made by the Official Liquidator. The dissenting workmen would accordingly have to be paid gratuity in accordance with law.

There is no question of awarding any interest on gratuity, in the premises, as preferential payment under Sections 529 and 529A of the Companies Act. If and when there is a surplus, a claim for interest on gratuity can

Brief facts:

The Company had a total of about 1162 workmen, majority of whom have accepted the consent terms between the registered union and the secured creditors filed in the writ petitions and approved by the Company Court. Eight Workmen led by the Applicant in Company Application No. 593 of 2011, and sixty three workmen through the rival union are the only dissenting workmen out of these 1162 workmen. Their case is that they are not bound by the consent terms and must be paid in accordance with the adjudication originally made by the Industrial Court or at any rate, on the principles of that adjudication and in the alternative, in accordance with their entitlement in law under Sections 529A and 530 of the Companies Act, 1956. They submit that whilst their dues other than preferential dues under Section 529A can wait for adjudication and in the alternative, in accordance with their entitlement in law, particularly under Sections 529 and 529A of the Act?

Applicant in Company Application No. 593 of 2011 did sign affidavits in favour of the registered union accepting the consent terms. The sixty three workmen whom the rival union, KMA workers and Staff Union, Bangalore, claims to represent say that they were not consulted when the consent terms were arrived at; that they never authorised the union to enter into any consent terms; and that they have throughout objected to the consent terms. Ditto for the Applicant in Company Application No. 593 of 2011. For the registered union, it was submitted that many of these workmen including the Applicant in Company Application No. 593 of 2011 did sign affidavits in favour of the registered union accepting the consent terms. But there is no support for this contention in the pleadings or documents. The affidavits themselves are not on record. In fact, the record of the case including affidavits and documents referred to therein suggest otherwise. These dissenting workmen have to be paid dues on the basis of their entitlements in law, particularly under Sections 529 and 529A of the Act. That is how the Company Court had sanctioned the consent terms, noticing that the funds set apart were adequate to meet the claims of dissenting workmen upon adjudication thereof by the Liquidator. The issue of their entitlement was clearly kept open.

(b) If they are to be paid according to their entitlement under Sections 529 and 529A, up to what date are they entitled to be paid wages?

The registered Union, in the consent terms, has taken ‘31 December 2002’ as the date up to which wages ought to be calculated. That was presumably on the footing that the substratum of the Company no longer subsisted after the sale of its assets under orders of the Court. (The consent order for sale of all movable and immovable assets of the Company at Mumbai and Bangalore was passed by this Court in Writ Petition No. 1512 of 2002 on 20 December 2012.) On the other hand, the dissenting workmen rooted for ‘24 October 2008’ as the relevant date, contending that the contract of employment between a company and its workmen subsists till the date of the winding up order and that is the date up to which the wages ought to be computed. (The Company Court ordered the company to be wound up on 24 October 2008.)

It is only those workers, who became members of the workers’ co-operative by fulfilling the terms of the scheme such as conversion into equity of 50 per cent wages due from the year 1991 and waiver of balance 50 per cent and payment of amounts of Rs.20, 000/- (for the Mumbai unit) and Rs.15, 000/- (for the Bangalore unit), who are entitled to wages under the scheme. The others, who did not become such members and who did not work, cannot claim to have continued as workmen of the Company. A scheme sanctioned by BIFR under SICA has the effect of altering contracts of the Sick Industrial Company with its shareholders, creditors, guarantors and employees. Under Section 18(8) of SICA, such scheme is binding on the shareholders, creditors, guarantors and employees. The Company in the present case offered to provide employment to those workmen who agreed to join the Workers’ co-operative on the terms of the sanctioned scheme. Those who did not so join must be treated as having refused to offer themselves for service and accordingly, ceased to be workmen. They cannot now demand wages after 20 September 1991, i.e. the date of closure of the factory.

(c) Whether they are entitled to any (i) notice pay, (ii) leave wages, (iii) bonus or (iv) gratuity and (v) any interest on these dues?

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The leave that can, thus, be encashed under Section 79 of the Factories Act is only the earned or accumulated leave during the calendar year up to a maximum of thirty days under conditions of Sub-section (3). The rate of such wages has to be as per Section 80 of the Factories Act.

Bonus is not included in the category of wages under Sections 529 and 529A of the Companies Act and cannot be accorded any priority. The dissenting workmen in the present case accept this position, though they would like to keep their option to claim bonus in the event of availability of surplus funds so as to satisfy non-priority debts of the Company (in liquidation).

On gratuity, all parties including the Official Liquidator agree that gratuity would be payable. The consent terms provide for such gratuity. So does the adjudication made by the Official Liquidator. The dissenting workmen would accordingly have to be paid gratuity in accordance with law.

There is no question of awarding any interest on gratuity, in the premises, as preferential payment under Sections 529 and 529A of the Companies Act. If and when there is a surplus, a claim for interest on gratuity can
be considered, but not otherwise. The same reasoning would apply to other items such as notice pay and leave wages.

In our considered view, the clause “shall also be liable to fine”, in the context of Indian Penal Code may be capable of being treated as directory and thus conferring on the court a discretion to impose sentence of fine also in addition to imprisonment although such discretion stands somewhat impaired as per the view taken by this Court in the case of Zunjarrao Bhikaj Nagarkar (supra).

Accordingly the appeals are allowed. The respondents shall now be required to pay a fine of Rupees five thousand. If they have already paid the earlier imposed fine of Rs.1000/-, they shall pay the balance or otherwise the entire fine of Rs.5000/- within six weeks and in default the fine shall be realised expeditiously in accordance with law by taking recourse to all the available machinery.


ROYAL WESTERN INDIA TURF CLUB LTD v. E.S.I.C & ORS [SC]

Civil Appeal No.49 of 2006

V. Gopala Gowda & Arun Mishra, JJ. [Decided on 29/02/2016]

Employees State Insurance Act, 1948 - Section 2(9) - casual workers engaged by race club - whether they are covered under the scheme - Held, Yes.

**Brief facts:**

The questions involved for decision in these appeals are whether casual workers are covered under definition of employee as defined in Section 2(9) of the Employees State Insurance Act, 1948 (hereinafter referred to as
A bare reading of the provisions of Sections 2(22) and 2(23) dealing with wages and wage period makes it clear that it would cover the “casual employees” employed for a few days on a work of perennial nature and wages as defined in section 2(22) and wage period as defined in section 2(23) does not exclude the wages payable to casual workers. They cannot be deprived of the beneficial provisions of the Act.

This Court in Regional Director, Employees’ State Insurance Corporation, Madras v. South India Flour Mills (P) Ltd, AIR 1986 SC 1686 has held that Section 39(4) and Section 42(3) clearly envisage the case of casual employees. In other words, it is the intention of the Legislature that the casual employees should also be brought within the purview of the Act.

Decision: Appeal dismissed.

Reason:
First we take up the question whether casual employees are covered within the purview of ESI Act. The definition of “employee” is very wide. A person who is employed for wages in the factory or establishment on any work of, or incidental or preliminary to or connected with the work is covered. The definition brings various types of employees within its ken. The Act is a welfare legislation and is required to be interpreted so as to ensure extension of benefits to the employees and not to deprive them of the same which are available under the Act.

A bare reading of the provisions of Sections 2(22) and 2(23) dealing with wages and wage period makes it clear that it would cover the “casual employees” employed for a few days on a work of perennial nature and wages as defined in section 2(22) and wage period as defined in section 2(23) does not exclude the wages payable to casual workers. They cannot be deprived of the beneficial provisions of the Act.

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Decision: Appeal dismissed.

Reason:
It would also be pertinent to note, at this stage, that while arriving at the aforesaid conclusion, the Punjab and Haryana High Court has placed heavy reliance upon the view taken by a Division Bench of Karnataka High Court in Bharat Heavy Electricals Ltd. v. Assistant Commissioner of Commercial Taxes (INT-I), South Zone, Bangalore & Ors (2006) 143 STC 10 [1] which judgment of Karnataka High Court, in turn, refers to similar view taken by Gujarat High Court in Javer Jivan Mehta v. Assistant Commissioner of Sales Tax (Appeal) (1998) 111 STC 198. Thus, three High Courts have taken identical view, namely, though power to extend time of three years for a further period of passing the assessment is there with the Commissioner, the same has to be exercised before the expiry of normal period of three years and not subsequent there to.

Be that as it may, the question before us is as to whether the power to extend time is to be necessarily exercised before the normal expiry of the said period of three years run out.

We have bestowed our serious considerations to the submissions made by the counsel who argued the matter. We may say at the outset that though provisions of the Punjab Act are couched in different language from Karnataka Act or Gujarat Act, the essence of these provisions is same. Even otherwise, it is important to understand the ratio laid down in the judgment of Karnataka High Court in Bharat Heavy Electricals Ltd. (supra). The issue in the said case before the Karnataka High Court was as to whether the power to pass a deferment order is to be exercised even after the expiry of the period of limitation which was answered in the negative. It was also observed that upon the lapse of the period of limitation prescribed, the right of the Department to assess an assessee gets extinguished and this extension confers a very valuable right on the assessee.

If one is to go by the aforesaid dicta, with which we entirely agree, the same shall apply in the instant cases as well. In the context of the Punjab Act, it can be said that extension of time for assessment has the effect of enlarging the period of limitation and, therefore, once the period of limitation expires, the immunity against being subject to assessment sets in and the right to make assessment gets extinguished. Therefore, there would be no question of extending the time for assessment when the assessment has already become time barred. A valuable right has also accrued in favour of the assessee when the period of limitation expires. If the Commissioner is permitted to grant the extension even after the expiry of original period of limitation prescribed under the Act, it will give him right to exercise such a power at any time even much after the last date of assessment. In the instant appeals itself, when the last dates of assessment were 30th April, 2004, 30th April, 2005, 30th April, 2006 and 30th April, 2007, order extending the time under Section 11(10) of the

Brief facts:
In these appeals, the court was concerned with Assessment Years 2000-01, 2001-02, 2002-03 and 2003-04. The assessee had filed quarterly returns in respect of the aforesaid Assessment Years. In terms of Section 11(3) of the Act, time-limit for completing the assessment provided therein is three years from the end of the year. It is an admitted case that no assessment was made in respect of any of these Assessment Years by the aforesaid stipulated dates. The Assessing Officer, however, sent notices to the respondent for the aforesaid Assessment Years, i.e., after the expiry of three years. The assessee took an objection that these notices were time barred the Excise and Taxation Commissioner, granted extension of time, which was upheld by the High Court. This was set aside by the High Court and the Department is before the Supreme Court.

Decision: Appeal dismissed.
Act were passed on August 17, 2007, August 17, 2007, August 17, 2007 and May 25, 2007 respectively. Thus, for the Assessment Year 2000-2001, order of extension is passed more than three years after the last date and for the Assessment Year 2001-2002, it is more than two years after the last date. Such a situation cannot be countenanced as rightly held by the High Court. When the last date of assessment in respect of these Assessment Years expired, it vested a valuable right in the assessee which cannot be lightly taken away. As a consequence, sub-section (11) of Section 10 has to be interpreted in the manner which is equitable to both the parties. Therefore, the only way to interpret the same is that by holding that power to extend the time is to be exercised before the normal period of assessment expires. We, thus, do not find any error in the impugned judgments of Punjab and Haryana High Court and as a consequence, dismiss all these appeals. Parties are, however, left to bear their own cost.

Decision: Case closed.

Reason:

The Commission has perused the material available on record, besides hearing the counsel appearing for Informant and OP. The following issues need to be determined:

Is OP in a dominant position?

The Commission is in agreement with the DG’s finding that OP holds 100% market share in the relevant market since August, 2011, indicating market power of OP in the relevant market.

As regard the issue of entry barrier, the Commission is of the opinion that the DG is correct in concluding that the technical and capital requirements in installing and measuring the device ‘People Meter’ in each sample household across the country may prove to be difficult for new players wanting to enter the market. It may be noted that since OP has no competitor in the market, the analysis on commercial advantage over other players as enumerated by the DG in the report has no significance in assessing the dominance. However, the Commission is of the opinion that the concept of network effects is applicable in this case. Network effect means that a product/service become valuable with the increase of the number of users. Therefore, this may act as entry barrier for new players because of OP’s long standing association with the advertising industry for the past two decades and the number of subscriptions it has all over the country. Moreover, OP’s parent companies, Nielsen and Kantar apart from being the financial strength of OP, have the access to key inputs, skills, knowledge, technology, etc. which a new entrant may not have. This level of advantage which OP has in the market may also act as a barrier or difficulty for new competitors to effectively compete on par with OP.

In view of the above forgoing, the Commission is of the view that OP has the strength to operate independent of competitive forces prevailing and has the ability to impede or influence effective competition in the relevant market. Therefore, in consonance with the findings of the DG, the Commission holds the view that OP is in a dominant position in the market in the provision of services for audience measurement for channels and programmes on television in India.

b. Is OP imposing unfair or discriminatory condition in supply of its services in violation of section 4(2) (a) (i) of the Act?

The Commission is in agreement with the contention of OP that it is not involved in the negotiations between advertisers and broadcasters and its data only serves as a key parameter in determining the cost and price of advertising slots. Therefore, the Commission is of the view that OP is not imposing any discriminatory or unfair condition on broadcasters.

c. Is OP imposing unfair or discriminatory price in sale of its services in violation of section 4(2) (a) (ii) of the Act?

The Commission also finds force in the argument put forth by OP that if same rates are offered to differently placed consumers, i.e., the broadcasters and advertisers advertising agencies, it would lose
In this regard, the DG has observed that OP is procuring expensive ‘People Meters’ from the group company of one of its promoters. The Commission is of the view that the OP can choose to procure the said device from any supplier which meets its criteria. Therefore, the justification provided by OP for procuring the said device from its own promoters because of the superior quality and competitive price appears to be tenable. Therefore, the OP is not limiting scientific and technical development in manufacturing of ‘People Meters’ and hence no competition concern arises in this aspect.

**Brief facts:**

The Informant has alleged that owing to its dominant position, the Uber Group has devised certain abusive practices which inter alia, include unreasonable discounts amounting to abysmally low/predatory pricing to consumers etc. to adversely affect andoust its competitor from the relevant market. It is alleged that under its business arrangement, Uber is giving the whole trip amount received from the passengers to the respective taxi drivers along with additional incentives in order to get them attached exclusively with the Uber network. It is alleged that Uber’s incentive policy is not based upon any economically justified consideration, but solely to gain and maintain the fidelity of the taxi owners and to prevent passengers/customers from obtaining radio taxi services from other radio taxi services operators. The loyalty inducing incentive schemes have or are likely to have an exclusionary effect in the relevant market to the detriment of other competitors. In addition to the payments to drivers, Uber is said to be offering huge discounts and benefits to its consumers which are difficult for similarly placed players to match. Further, the Informant has also alleged that Uber enters into exclusive contract with taxi owners in violation of Sections 3(1), 3(2) and 3(4) of the Act whereby the taxi drivers are restrained from getting attached to any other competing “radio taxi operator” network.

**Decision:** Complaint dismissed.

**Reason:** The definition of relevant geographic market in the radio taxi services market has been dealt with by the Commission in many previous cases, namely Case nos. 06 of 2015, 74 of 2015 and 81 of 2015. The Commission is of the view that the relevant geographic market in the instant case will be “Delhi”. Accordingly, the relevant market in the present case would be market for “Radio Taxi Services in Delhi”.

The Commission has considered the TechSci research report and it is a matter of fact that Uber Group was not interviewed during the collection of data in the TechSci report. Thus, the doubts raised by OP 1 regarding the inaccuracy of data have some merit. The reliability of the data contained in the TechSci report is further weakened due to the existence of another research report i.e. 6W research report, with contradictory results, pertaining to the same relevant market received by the Commission in another case i.e. Case No. 82 of 2015. The TechSci research report submitted by the Informant shows the market share of Uber on the basis of different parameters to be 44.42% (fleet size), 41.38% (active fleet size) and 50.1% (number of trips) as opposed to the market share figures of the next competitor i.e. OLA (along with Taxi For Sure) which are 32% (fleet size), 27% (active fleet size) and 23.1% (number of trips). The 6W research report, on the other hand, shows the market share of OLA to be 52.9% (fleet size), 54.3% (active fleet size), 52.3% (monthly revenue) and 57.5% (number of daily trips) as opposed to Uber’s market share which is stated to be 17.6% (fleet size), 7.8% (active fleet size) and 3.8% (monthly revenue).

Evidently, there are glaring differences in the data and results depicted by the two research reports i.e. 6W research report and TechSci report; casting a serious doubt on their authenticity and neutrality. The conflicting results indicate that either the data relied upon in the said reports is not accurate or the data has been selectively collected and relied upon to reach some predetermined results. Therefore, despite the Informant’s attempt to discredit the results of the 6W research report, the Commission is apprehensive in drawing conclusions with regard to the market share of Uber on the basis of such contradictory research reports. It may be pertinent to point out here that the Commission is conscious of the fact that the findings in the 6W research report and TechSci report relate to the market shares for the Delhi-NCR market whereas the Commission has delineated the relevant geographic market as only Delhi. However, notwithstanding such fact, it seems unlikely that the market shares of the various players on different parameters used in these reports would have changed substantially had these reports been prepared for the radio taxi services market in Delhi alone. Hence, despite the deficiencies observed above, a conclusion may be drawn from a combined reading of both these research reports that there exists stiff competition, at least between OLA and Uber, with regard to the radio taxi industry in Delhi. Further, both the research reports have acknowledged the presence of other major players in the market, apart from Uber and OLA.

Further, the fluctuating market share figures of the various players show that the competitive landscape in the relevant market is quite vibrant and dynamic. Based on the foregoing, the Commission is of the view that the radio taxi services market in Delhi is competitive in nature and Uber does not appear to be holding a dominant position in the relevant market. Since Uber group does not seem to be dominant in the relevant market, there is no need to go into the examination of its conduct in such relevant market.

Based on the aforesaid, the Commission is of the view that no case of contravention is made out against Uber Group.
Companies (Indian Accounting Standards) (Amendment) Rules, 2016
Companies (Accounting Standards) Amendment Rules, 2016
Companies (Incorporation) Second Amendment Rules, 2016
Companies (Share Capital and Debentures) Amendment Rules, 2016
The Companies (Removal of Difficulties) Order, 2016
The Companies (Removal of Difficulties) Second Order, 2016
Companies (Auditor’s Report) Order, 2016
Companies (Share Capital and Debentures) Second Amendment Rules, 2016
Central Registration Centre to exercise functional jurisdiction of processing and disposal of e-forms
Central Government notifies debt to capital and free reserves ratio
Clarification regarding applicability of Indian Accounting Standards to disclosures in offer documents under SEBI (ICDR) Regulations, 2009
Investments by FPIs in Government securities
Modification of Client Codes post Execution of Trades on National and Regional Commodity Derivatives Exchanges
Cyber Security and Cyber Resilience framework of National Commodity Derivatives Exchanges
Circular on Mutual Funds
Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 (IFSC Guidelines) - Inclusion of Commodity Derivatives
Investments by FPIs in REITs, InvIts, AIFs and corporate bonds under default
Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2016
Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Second Amendment) Regulations, 2016
PMQ Course in Corporate Governance is a specialized course and the candidates pursuing it will be required to have thorough knowledge under each topic of the course curriculum.

Fee Structure:
(i) Rs. 25,000 for the entire course payable as under:
   - Rs. 12,500/- payable at the time of registration for the course
   - Rs. 12,500/- payable at the time of workshop cum interview
(ii) Examination Fee of Rs. 1500
(iii) Fee for Change of Examination Centre - Rs. 100
(iv) Fee for Verification of marks - Rs. 250

Registration:
- Registration of the course will be valid for a period of 5 years during which period the candidate will be required to complete both the parts.
- Registration shall be open throughout the year.
- A candidate should register at least six calendar months prior to the month in which the examination commences.

Diploma Certificate:
Candidates successfully completing the course shall be awarded Diploma Certificate and shall be eligible to use the descriptive letters and bracket “DCG (ICSI)”
01 Companies (Indian Accounting Standards) (Amendment) Rules, 2016

[Issued by the Ministry of Corporate Affairs notification vide G.S.R. 365 (E), dated 30.03.2016. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), dated 30.03.2016]

In exercise of the powers conferred by section 133 read with section 469 of the Companies Act, 2013 (18 of 2013) and sub-section (1) of section 210A of the Companies Act, 1956 (1 of 1956), the Central Government, in consultation with the National Advisory Committee on Accounting Standards, hereby makes the following rules to amend the Companies (Indian Accounting Standards) Rules, 2015, namely:—

1. Short title and commencement.—(l) These rules may be called the Companies (Indian Accounting Standards) (Amendment) Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.*

*Not reproduction here for want of space. For the Amendment Rules, 2016 please log on to mca.gov.in and then go to Notifications section.

02 Companies (Accounting Standards) Amendment Rules, 2016

[Issued by the Ministry of Corporate Affairs vide Notification G.S.R. 364(E), dated 30.03.2016. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), dated 30.03.2016]

In exercise of the powers conferred by clause (a) of sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956) read with section 210A and sub-section (3C) of section 211 and of the said Act, the Central Government, in consultation with National Advisory Committee on Accounting Standards, hereby makes the following rules to amend the Companies (Accounting Standards) Rules, 2006, namely:—

1. Short title and commencement.—(1) These rules may be called the Companies (Accounting Standards) Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.*

*Not reproduction here for want of space. For the Amendment Rules, 2016 please log on to mca.gov.in and then go to Notifications section.

03 Companies (Incorporation) Second Amendment Rules, 2016

[Issued by the Ministry of Corporate Affairs notification vide F.No. 01/13/2013 CL-V (Pt-I), G.S.R. 336(E), dated 23.03.2016. Published in the Gazette of India, Extraordinary, PART II-Section 3-Sub-section (i), dated 23.03.2016]

In exercise of the powers conferred by sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Incorporation) Second Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Incorporation) Rules, 2014, in the Annexure, for Form No. INC-11, the following form shall be substituted, namely: -

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"Form No.INC-11
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
Central Registration Centre
Certificate of Incorporation

[Pursuant to sub-section (2) of section 7 of the Companies Act, 2013 and rule 8 the Companies (Incorporation) Rules, 2014]

I hereby certify that <name of the company> is incorporated on this (i.e. FIRST, SECOND etc.) day of <Month of approval of work item in words> two thousand <YEAR of approval of work item in words> under the Companies Act, 2013 and that the company is <limited by shares/limited by guarantee/unlimited company>.

The CIN of the company is <CIN>.

Given under my hand at <Name of the city where the RoC Office is located> this <Date of approval of the work item in words (i.e FIRST, SECOND etc.>) day of <Month of approval of the work item in words> <YEAR of approval of the work item in words

DSC <Full name of the Authorising officer approving the work-item> <Assistant Registrar of Companies/Deputy Registrar of Companies/Registrar of Companies>

For and on behalf of the Jurisdictional Registrar of Companies
Registrar of Companies
Central Registration Centre
Mailing Address as per the records available in Registrar of Companies office:
Name of the company >
Address of the correspondence/registered office of the company >"

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Amardeep Singh Bhatia
Joint Secretary
Companies (Share Capital and Debentures) Amendment Rules, 2016

These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2016.

They shall come into force on the date of their publication in the Official Gazette.

1. (1) These rules may be called the Companies (Share Capital and Debentures) Amendment Rules, 2016.

2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 17, in sub-rule (1), in clause (n), after sub-clause (iii), the following proviso shall be inserted, namely:-

“Provided that where the audited accounts are more than six months old, the calculations with reference to buy back shall be on the basis of unaudited accounts not older than six months from the date of offer document which are subjected to limited review by the auditors of the company.”.

Amardeep Singh Bhatia
Joint Secretary

The Companies (Removal of Difficulties) Order, 2016

This Order may be called the Companies (Removal of Difficulties) Order, 2016.

It shall be deemed to have come into force from the 10th April, 2015.

1. Short title and commencement.- (1) This Order may be called the Companies (Removal of Difficulties) Order, 2016.

2. In the Companies Act, 2013, in section 143, in sub-section (ii), the following proviso shall be inserted, namely:

“Provided that until the National Financial Reporting Authority is constituted under section 132, the Central Government may hold consultation required under this sub-section with the Committee chaired by an officer of the rank of Joint Secretary or equivalent in the Ministry of Corporate Affairs and the Committee shall have the representatives from the Institute of Chartered Accountants of India and Industry Chambers and also special invitees from the National Advisory Committee on Accounting Standards and the Office of the Comptroller and Auditor-General”.

Amardeep Singh Bhatia
Joint Secretary

The Companies (Removal of Difficulties) Second Order, 2016

This Order may be called the Companies (Removal of Difficulties) Second Order, 2016.

Whereas, the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on 29th August, 2013 and section 1 thereof came into force on the same date;

And, whereas, the provisions contained in section 143 of the said Act which provides for powers and duties of auditors and auditing standards has come into force on the 1st April, 2014;

And, whereas, sub-section (11) of section 143 of the said Act provides that the Central Government may, in consultation with the National Financial Reporting Authority, by general or special order, direct, in respect of such class or description of companies, as may be specified in the order, that the auditor’s report shall include a statement on such matters as may be specified therein;

And, whereas, section 132 of the said Act, which provides for constitution, functions etc., of the National Financial Reporting Authority and the National Financial Reporting Appellate Authority, has not been brought into force and it may take some time to bring said section into force;

And, whereas, the National Advisory Committee on Accounting Standards, constituted under section 210A of the Companies Act, 1956 (1 of 1956) provides for advising the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies;
and section 1 thereof came into force on the same date;

And, whereas, section 133 provides that the Central Government may prescribe the standards of accounting or any addendum thereto, as recommended by the Institute of Chartered Accountants of India, constituted under section 3 of the Chartered Accountants Act, 1949 (38 of 1949), in consultation with and after examination of the recommendations made by the National Financial Reporting Authority;

And, whereas, section 133 of the said Act, has come into force with effect from 12 September, 2013;

And, whereas, section 132 of the said Act, which provides for constitution, functions etc. of the National Financial Reporting Authority and National Financial Reporting Appellate Authority, has not been brought into force and it may take some time to bring said section into force;

And, whereas, the National Advisory Committee on Accounting Standards, constituted under section 210A of the Companies Act, 1956 provides for advising the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies;

And, whereas, sub-section (3C) of section 211 of the Companies Act, 1956 (1 of 1956) which corresponds to section 133 of the Companies Act, 2013 (18 of 2013) provides that the expression “accounting standards” means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949 (38 of 1949), as may be prescribed by the Central Government in consultation with the National Advisory Committee on Accounting Standards established under sub-section (1) of section 210A;

And, whereas, difficulties have arisen regarding compliance with the provisions of section 133 in so far as they relate to consultation with National Financial Reporting Authority till the period it is duly constituted under section 132 of the said Act;

And, whereas, on the basis of the recommendations of the National Advisory Committee on Accounting Standards, the Central Government issued the Companies (Indian Accounting Standards) Rules, 2015 with effect from 1st April, 2015 vide notification number G.S.R. 111(E) dated the 19February, 2015 published in the Gazette in India, Extraordinary, Part-II, Section 3, Sub-section (i) dated the 19February, 2015;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the above said difficulties, namely:

1. **Short title, application and commencement.**-(1) This Order may be called the Companies (Auditor's Report) Order, 2016.

(2) It shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) [hereinafter referred to as the Companies Act], except—

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);

(iii) a company licensed to operate under section 8 of the Companies Act;

(iv) a One Person Company as defined under clause (62) of section 2 of the Companies Act and a small company as defined under clause (85) of section 2 of the Companies Act; and

(v) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves not more than rupees one crore as on the balance sheet date and which does not have total borrowings exceeding rupees one crore from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act, 2013 (including revenue from discontinuing operations) exceeding rupees ten crore during the financial year as per the financial statements.

2. **Auditor's report to contain matters specified in paragraphs 3 and 4.** -Every report made by the auditor under section 143 of the Companies Act, 2013 on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after 1st April, 2015, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided the Order shall not apply to the auditor's report on consolidated financial statements.

3. **Matters to be included in the auditor's report.** -The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:-

(i) (a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed
(b) whether these fixed assets have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;

(c) whether the title deeds of immovable properties are held in the name of the company. If not, provide the details thereof;

(ii) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether any material discrepancies were noticed and if so, whether they have been properly dealt with in the books of account;

(iii) whether the company has granted any loans, secured or unsecured to companies, firms, Limited Liability Partnerships or other parties covered in the register maintained under section 189 of the Companies Act, 2013. If so, whether the terms and conditions of the grant of such loans are not prejudicial to the company’s interest;

(b) whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;

(c) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;

(iv) in respect of loans, investments, guarantees, and security whether provisions of section 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide the details thereof.

(v) in case, the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act, 2013 and the rules framed thereunder, where applicable, have been complied with? If not, the nature of such contraventions be stated: If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?

(vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained.

(vii) (a) whether the company is regular in depositing undisputed statutory dues including provident fund, employees’ state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;

(b) where dues of income tax or sales tax or service tax or duty of customs or duty of excise or value added tax have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned Department shall not be treated as a dispute).

(xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act, 2013 have been complied with;

(xvi) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 and if so, whether the registration has been obtained.

4. Reasons to be stated for unfavourable or qualified answers.- (1)
Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.

(2) Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

Amardeep Singh Bhatia
Joint Secretary
Companies (Share Capital and Debentures) Second Amendment Rules, 2016

[Issued by the Ministry of Corporate Affairs vide Notification No. G.S.R. 358(E), F. No. 01/04/2013 CL-V (part-II), dated 29.03.2016. Published in the Gazette of India, Extraordinary, Part-II, Section 3(i), dated 29.03.2016]

In exercise of the powers conferred by sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Share Capital and Debentures) Rules, 2014, namely:

1. (1) These rules may be called the Companies (Share Capital and Debentures) Second Amendment Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Share Capital and Debentures) Rules, 2014, in rule 17, after sub-rule (5), the following proviso shall be inserted, namely:

“Provided that where all members of a company agree, the offer for buy-back may remain open for a period less than fifteen days.”

Amardeep Singh Bhatia,
Joint Secretary

Central Registration Centre to exercise functional jurisdiction of processing and disposal of e-forms

[Issued by the Ministry of Corporate Affairs notification, vide S.O. 1211(E), F. No. A-42011/03/2016-Ad.II, dated 23.03.2016. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii), dated 23.03.2016]

In exercise of the powers conferred by sub-sections (1) and (2) of section 396 of the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the Act), the Central Registration Centre (hereinafter referred to as the CRC) established vide notification number. S.O. 218(E) dated 22nd January 2016 shall also exercise functional jurisdiction of processing and disposal of e-forms and all related matters pertaining to registration of companies under section 7, 8 and 366 of the Companies Act, 2013 having territorial jurisdiction over India.

2. The CRC shall process forms pertaining to registration of companies i.e. e-forms (INC-2, INC-7 and INC-29 along with linked forms INC-22, DIR-12 and URC-1 and any other forms as may be notified by the Central Government) filed along with the prescribed fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014.

3. The jurisdiction, processing and approval of name or names proposed in e-Form number INC-29 hitherto exercised by the respective Registrar of companies having jurisdiction over incorporation of companies under the Companies Act, 2013 and the rules made thereunder shall forthwith be exercised by Registrar, CRC.

4. The jurisdictional Registrar of companies, other than Registrar CRC, within whose jurisdiction the registered office of the company is situated shall continue to have jurisdiction over the companies incorporated by the Registrar, CRC under the Companies Act, 2013 for all other provisions of the Act and the rules made thereunder, which may be relevant after incorporation.

5. This notification shall come into force from 28th March, 2016.

Manoj Kumar
Joint Secretary

Central Government notifies debt to capital and free reserves ratio

[Issued by the Ministry of Corporate Affairs vide F.No. 01/04/2013 CL-V (Pt-II), dated 10.03.2016. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii)]

Order

In exercise of the powers conferred under the proviso to clause (d) of sub-section (2) of section 68 of the Companies Act, 2013 (18 of 2013) (Act), the Central Government hereby notifies that the debt to capital and free reserves ratio shall be 6:1 for government companies within the meaning of clause (45) of section 2 of the Companies Act, 2013 which carry on Non-Banking Finance Institution activities and Housing Finance activities.

Amardeep Singh Bhatia
Joint Secretary

Clarification regarding applicability of Indian Accounting Standards to disclosures in offer documents under SEBI (ICDR) Regulations, 2009

[Issued by the Securities and Exchange Board of India, vide SEBI/HO/CFD/DIL/CIR/P/2016/47, dated 31.03.2016.]

1. SEBI (ICDR) Regulations, 2009 require disclosure of financial information for each of the five financial years immediately preceding the filing of the offer document while following uniform accounting policies for each of the financial years.

2. Ministry of Corporate Affairs (‘MCA’) has notified the Companies (Indian Accounting Standards) Rules, 2015 on February 16, 2015 providing revised roadmap on implementation of Indian Accounting Standards (‘Ind AS’) which stipulates implementation of Ind AS in a phased manner beginning from accounting period 2016-17 (‘MCA Roadmap’).

3. Disclosure of financial information in offer documents in accordance with Ind AS:

To align the disclosure requirements for financial information in the offer document as specified under SEBI (ICDR) Regulations, 2009 with the requirements of Ind AS specified under MCA Roadmap, the disclosure of financial information in accordance with Ind AS in the offer document shall be in the following manner:

a. For issuer companies to which Ind AS is applicable in Phase 1 of MCA Roadmap (beginning from FY 2016-17):
<table>
<thead>
<tr>
<th>Period of filing of Offer Document</th>
<th>Latest financial year</th>
<th>Second latest financial year</th>
<th>Third financial year</th>
<th>Second earliest financial year</th>
<th>Earliest financial year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upto March 31, 2017</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
</tr>
<tr>
<td>Between April 1, 2017 and March 31, 2018</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
</tr>
<tr>
<td>Between April 1, 2018 and March 31, 2019</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
</tr>
<tr>
<td>Between April 1, 2019 and March 31, 2020</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Indian GAAP</td>
<td>Indian GAAP</td>
</tr>
<tr>
<td>On or after April 1, 2020</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
<td>Ind AS</td>
</tr>
</tbody>
</table>

* To be disclosed by making suitable restatement adjustments to the accounting heads from their values as on the date of transition following accounting policies consistent with that used at date of transition to Ind AS.

Disclosures of interim period, if any, shall be made in line with the accounting policies followed for latest financial year.

b. For issuer companies to which Ind AS is applicable in Phase 2 of MCA Roadmap (beginning from FY 2017-18), the above timelines w.r.t. filing of offer documents shall be followed with time lag of one year.

c. The issuer company may, at its discretion, choose to present all the five year periods using the Ind AS framework instead of accounting standards otherwise applicable for such period(s).

d. The issuer company shall clearly disclose the fact that the financial information has been disclosed in accordance with Ind AS while suitably explaining the difference between Ind AS and the previously applicable accounting standards, and the impact of transition to Ind AS. For this purpose, the issuer company shall ensure compliance with the requirements of para 22 of Ind AS 101 on First time adoption of Indian Accounting Standards. Further, the issuer company shall also provide transitional disclosures as envisaged in para 23 to 26 of Ind AS 101 in the annual financial statements and in para 32 of Ind AS 101 in the interim financial statements presented in the offer document.

e. All the financial information disclosed in the offer document for any particular year shall be in accordance with consistent accounting policies (Ind AS or applicable accounting standards).

f. All other requirements with respect to disclosure of financial information in the offer documents shall remain the same. Further, all the information disclosed in the offer document as per Ind AS shall be audited/reviewed in accordance with requirements of SEBI (ICDR) Regulations, 2009.

4. Applicability: This circular is applicable for all the companies which are required to disclose the financial information in accordance with Ind AS as per MCA roadmap and whose offer document is filed with the Board on or after April 1, 2016.

5. This circular is issued in exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992.

6. This circular is available on SEBI website at www.sebi.gov.in under the category “Legal Framework”.

B. N. Sahoo
General Manager

12 Investments by FPIs in Government securities

[Issued by the Securities and Exchange Board of India, vide IMD/FPIC/CIR/P/2016/45, dated 29.03.2016.]

RBI in its Fourth Bi-monthly Policy Statement for the year 2015-16, dated September 29, 2015 had announced a Medium Term Framework (MTF) for FPI limits in Government securities in consultation with the Government of India. Accordingly, SEBI had issued circular CIR/IMD/FPIC/8/2015 dated October 06, 2015 regarding the allocation and monitoring of FPI debt investment limits in Government securities.

2. As announced in the MTF and in partial modification to Para 3 of the SEBI circular CIR/IMD/FPIC/8/2015 dated October 06, 2015, it has been decided to enhance the limit for investment by FPIs in Government Securities, for the next half year, as follows:

a. Limit for FPIs in Central Government securities shall be enhanced to INR 140,000 cr on April 04, 2016 and INR 144,000 cr on July 05, 2016 respectively from the existing limit of INR 135,400 cr.

b. Limit for Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in Central Government securities shall be enhanced to INR 50,000 cr and INR 56,000 cr on April 04, 2016 and July 05, 2016 respectively from the existing limit of INR 44,100 cr.

c. The limit for investment by all FPIs in State Development Loans (SDL) shall be enhanced to INR 10,500 cr on April 04, 2016 and INR 14,000 cr on July 05, 2016 respectively from the existing limit of INR 7,000 cr.

3. Accordingly, the revised FPI debt limits would be as follows:

4. The free limit as on April 03, 2016 within the INR 135,400 cr limit along with the new debt limits of INR 4,600 cr shall be auctioned on the exchange platform on April 04, 2016. An Auction of Government debt limits worth INR 5,035 cr was conducted on the exchange platform on April 04, 2016. In accordance with Para 5(d) of SEBI circular CIR/IMD/FIIC/19/2014 dated October 09, 2014, FPIs have an utilisation period of 15 days within which they have to make the investments. Since the auction being conducted on April 04, 2016 is a special auction for allocation of additional limits, the unutilised limits from the auctions of March 28, 2016 and April 04, 2016 along with any additional limits freed up by the sale/redemption of securities by FPIs as on April 22, 2016, shall be auctioned on April 25, 2016. All other existing terms and conditions pertaining to FPI debt limit auctions shall continue to apply.

5. The incremental limits of INR 5,900 cr and INR 6,000 cr for Long Term FPIs shall be available for investment on tap with effect from April 04, 2016 and July 05, 2016 respectively.

6. The incremental limits of INR 3,500 cr each for investment by FPIs in SDLs shall be available for investment on tap with effect from April 04, 2016 and July 05, 2016 respectively.

7. Further, keeping in view the extent of utilisation of the limits for Central Government securities by long term and other investors, it has been decided that from the next half-year onwards i.e. from October 01, 2016, any unutilised limit within the Government debt.
limit for Long Term FPIs, at the end of the half-year, shall be made available for investment as additional limit to all categories of FPIs for the subsequent half-year.

8. All other existing terms and conditions, including the security-wise limits, investment of coupons being permitted outside the limits and investments being restricted to securities with a minimum residual maturity of three years, shall continue to apply.

<table>
<thead>
<tr>
<th>Type of Instrument</th>
<th>Present Upper Cap (INR cr)</th>
<th>Revised Upper Cap with effect from April 04, 2016 (INR cr)</th>
<th>Revised Upper Cap with effect from July 05, 2016 (INR cr)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Debt</td>
<td>135,400</td>
<td>140,000</td>
<td>144,000</td>
</tr>
<tr>
<td>Government Debt – Long Term</td>
<td>44,100</td>
<td>50,000</td>
<td>56,000</td>
</tr>
<tr>
<td>State Development Loans</td>
<td>7,000</td>
<td>10,500</td>
<td>14,000</td>
</tr>
<tr>
<td>Total</td>
<td>186,500</td>
<td>200,500</td>
<td>214,000</td>
</tr>
</tbody>
</table>

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

A copy of this circular is available at the web page “Circulars” on our website www.sebi.gov.in. Custodians are requested to bring the contents of this circular to the notice of their FPI clients.

Achal Singh
Deputy General Manager

Modification of Client Codes post Execution of Trades on National and Regional Commodity Derivatives Exchanges

[Issued by the Securities and Exchange Board of India, vide SEBI/HO/CDMRD/DEICE/CIR/P/2016/0000000044, dated 29.03.2016.]

1. This circular is issued with an objective to streamline the provisions of the facility of client code modification at commodity derivatives exchanges in line with the securities market. It is also being emphasized here that this facility is expected to be used more as an exception rather than a routine.


3. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

4. This circular supersedes the circulars issued by the Forward Markets Commission related to Client Code Modification from time to time and shall come into force with effect from one month from the date of this circular.

5. This circular is available on SEBI website at www.sebi.gov.in.

Vikas Sukhwal
Deputy General Manager

Cyber Security and Cyber Resilience framework of National Commodity Derivatives Exchanges

[Issued by the Securities and Exchange Board of India, vide SEBI/HO/CDMRD/DEICE/CIR/P/2016/0000000044, dated 29.03.2016.]

1. Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification F.No. 1/9/SM/2015 dated August 28, 2015, all recognized associations under the Forward Contracts (Regulation) Act, 1952 are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 with effect from September 28, 2015. This circular applies to National Commodity Derivatives Exchanges (Exchanges) as defined in the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2015.

2. Exchanges are one of the systemically important Market Infrastructure Institutions (MIIs) and for operational risk management, these MIIs, as per Principle 17 for Financial Market Infrastructures (PFMIs) laid down by CPMI-IOSCO, need to have robust cyber security framework in order to provide essential facilities and perform systemically critical functions relating to trading, clearing and settlement in market operation environment seamlessly.

3. In this regard, based on the recommendations of Technical Advisory Committee (TAC), SEBI had specified framework for MIIs in the securities market with respect to cyber security and cyber resilience, SEBI vide circular CIR/MRD/DP/13/2015 dated July 06, 2015. (copy enclosed)

4. It has been decided to make provisions of the aforesaid circular applicable to MIIs in the commodity derivatives market. The major provisions/framework of cyber security and cyber resilience covered are as under:
   a) Governance
   b) Identify
   c) Protection
   d) Monitoring and Detection
   e) Responses and Recovery
   f) Sharing of Information
   g) Training
   h) Periodic Audit

5. The circular shall be applicable for Exchanges with effect from January 01, 2017.

6. The Exchanges are advised to:
   • Make necessary amendments to relevant bye-laws/rules for the implementation of this circular
   • Communicate SEBI, the status of implementation of the provisions of this circular

7. The circular is issued in exercise of the powers conferred under section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

8. The circular is available on SEBI website at i.e. www.sebi.gov.in.

B J Dilip
General Manager
Circular on Mutual Funds

[Issued by the Securities and Exchange Board of India, vide SEBI/HO/IMD/DF2/CIR/P/2016/42, dated 18.03.2016.]

A. Consolidated Account Statement:

Consolidated Account Statement (CAS), issued to investors in accordance with Regulation 36(4) of SEBI (Mutual Funds) Regulations, 1996 and circulars thereof, at present provides information in terms of name of scheme/s where the investor has invested, number of units held and its market value, among other details. To increase transparency of information to investors, it has been decided that:

1. Each CAS issued to the investors shall also provide the total purchase value / cost of investment in each scheme.

2. Further, CAS issued for the half-year (September/ March) shall also provide:
   a. The amount of actual commission paid by AMCs/Mutual Funds (MFs) to distributors (in absolute terms) during the half-year period against the concerned investor's total investments in each MF scheme. The term 'commission' here refers to all direct monetary payments and other payments made in the form of gifts / rewards, trips, event sponsorships etc. by AMCs/MF's to distributors.
   b. The scheme's average Total Expense Ratio (in percentage terms) for the half-year period, of both direct plan and regular plan, for each scheme where the concerned investor has invested in. Such half-yearly CAS shall be issued to all MF investors, excluding those investors who do not have any holdings in MF schemes and where no commission against their investment has been paid to distributors, during the concerned half-year period.

B. Enhancing Scheme Related Disclosures:

In order to improve transparency as well as ease of access to Mutual Fund (MF) scheme related information, it has been decided that:

1. Mutual Funds shall provide the following additional disclosures in the offer documents (Scheme Information Document (SID) / Key Information Memorandum (KIM)) of Mutual Fund scheme (for existing scheme / new scheme, as applicable):
   a. The tenure for which the fund manager has been managing the scheme shall be disclosed, along with the name of scheme's fund manager(s)
   b. Scheme's portfolio holdings (top 10 holdings by issuer and fund allocation towards various sectors), along with a website link to obtain scheme's latest monthly portfolio holding
   c. In case of FoF schemes, expense ratio of underlying scheme(s)
   d. Scheme’s portfolio turnover ratio

2. Further, the following additional disclosures shall be provided in SID of the MF scheme:
   a. The aggregate investment in the scheme under the following categories:
      i. AMC’s Board of Directors
      ii. Concerned scheme’s Fund Manager(s) and
      iii. Other key managerial personnel
   b. Illustration of impact of expense ratio on scheme’s returns (by providing simple example).

3. Separate SID / KIM for each MF scheme managed by AMC shall also be made available on MFs / AMCs website.

4. Each MF is required to have a dashboard on their website providing performance and key disclosures pertaining to each scheme managed by AMC. The information should include scheme’s AUM, investment objective, expense ratios, portfolio details, scheme’s past performance, among others. Such information shall be provided in a comparable, downloadable (spreadsheet) and machine readable format.

C. Disclosure Of Executive Remuneration:

With the underlying objective to promote transparency in remuneration policies so that executive remuneration is aligned with the interest of investors, MFs /AMCs shall make the following disclosures pertaining to a financial year on the MF/AMC website under a separate head – ‘Remuneration’:

1. Name, designation and remuneration of Chief Executive Officer (CEO), Chief Investment Officer (CIO) and Chief Operations Officer (COO) or their corresponding equivalent by whatever name called.

2. Name, designation and remuneration received of all employees of MF/AMC whose:
   a. Annual remuneration was equal to or above INR 60 lakh for that year.
   b. Monthly remuneration in the aggregate is not less than INR 5 lakh per month, if the employee is employed for a part of the financial year.

3. The ratio of CEO’s remuneration to median remuneration of MF/AMC employees.

4. MF’s total AAUM, debt AAUM and equity AAUM and rate of growth over last three years.

For this purpose, remuneration shall mean remuneration as defined in clause (78) of section 2 of the Companies Act, 2013. The AMCs / MFs shall disclose this information within one month from the end of the respective financial year (effective from FY 2015-16).

D. Internal Credit Risk Assessment:

In order to ensure that MFs / AMCs are able to carry out their own credit assessment of assets and reduce reliance on credit rating agencies, all MFs/ AMCs are required to have an appropriate policy and system in place to conduct an in-house credit risk assessment / due diligence before investing in fixed income products.

E. Deployment of NFO Proceeds in CBLO:

In partial amendment to clause 2(ii)(c) of SEBI circular dated March 15, 2010, Mutual funds are allowed to deploy NFO proceeds in CBLO before the closure of NFO period. However, AMCs shall not charge any investment management and advisory fees on funds deployed in CBLOS during the NFO period. The appreciation received from investment in CBLO shall be passed on to investors. Further, in case the minimum subscription amount is not garnered by the scheme during the NFO period, the interest earned upon investment of NFO proceeds in CBLO shall be returned to investors in proportion of their investments, along-with the refund of the subscription amount.

F. Soft-Dollar Arrangements:

Soft-dollar arrangement refers to an arrangement between AMCs and brokers in which the AMC executes trades through a particular broker and in turn the broker may provide benefits such as free research, hardware, software or even non-research-related services, etc., to the AMC. It may be noted that such arrangements between AMCs and brokers should be limited to only benefits (like free research report, etc.) that are in the interest of investors and the same should be suitably disclosed.

G. Revision of date of submission of MCR:

In partial amendment to point 2 of SEBI circular dated April 30, 2008; it has been decided that the Monthly Cumulative Report (MCR) shall be
From the government

H. Applicability of the Circular

1. Para A will be effective for CAS issued from October 1, 2016.
2. Para B and D will be effective from May 1, 2016.
3. Para C, F and G will be effective from April 1, 2016.
4. Para E will be applicable for NFOs launched on or after April 1, 2016.

This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with the provision of Regulation 77 of SEBI (Mutual Funds) Regulation, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Parag Basu
Chief General Manager

Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 (IFSC Guidelines) - Inclusion of Commodity Derivatives

[Issued by the Securities and Exchange Board of India vide CIR/MRD/DSA/41/2016, dated 17.03.2016.]

1. SEBI (International Financial Services Centres) Guidelines, 2015 were issued on March 27, 2015.
2. Pursuant to Section 131 of the Finance Act, 2015 and Central Government notification S.O. 2362 (E) dated August 28, 2015, all recognized associations (commodity derivatives exchanges) under the Forward Contracts (Regulation) Act, 1952 (‘FCRA’) are deemed to be recognized stock exchanges under the Securities Contracts (Regulation) Act, 1956 (‘SCRA’).
3. Section 133 of the Finance Act, 2015 had amended Securities Contracts (Regulation) Act, 1956 to include “Commodity Derivatives” as securities. Further, the sub-clause (vi) of Clause 7 of IFSC Guidelines, 2015 provides that “Such other securities as may be specified by the Board”. Accordingly, it is hereby specified that the “Commodity Derivatives” shall be eligible as securities for trading and the stock exchanges operating in IFSC may permit dealing in Commodity Derivatives.
4. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

Bithin Mahanta
Deputy General Manager

Investments by FPIs in REITs, InvIts, AIFs and corporate bonds under default

[Issued by the Securities Exchange Board of India vide CIRCULAR CIRC/IMD/39/2016, dated 15.03.2016.]

1. RBI had vide notification No. FEMA.355/2015-RB dated November 16, 2015 carried out necessary amendments in Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) (Eleventh Amendment) Regulations, 2015 for permitting investment by FPIs in the units of REITs, InvIts and AIFs.
2. Accordingly, it has been decided to permit FPIs to invest in units of REITs, InvIts and Category III AIFs in terms of Regulation 21 (1) (n) of SEBI (FPI) Regulations, 2014 subject to such other terms and conditions as may be prescribed by SEBI from time to time.
3. A FPI shall not hold more than twenty five percent stake in a category III AIF.

B. Corporate Bonds under default

4. RBI, vide circular RBI/2015-16/253 dated November 26, 2015 has permitted FPIs to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal installment in the case of amortising bond.
5. In partial modification of Para 2 of the SEBI circular CIR/IMD/FII/1/2015 dated February 03, 2015, FPIs shall be permitted to acquire NCDs/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal installment in the case of an amortising bond. FPIs shall be guided by RBI’s definition of an amortising bond in this regard.
6. Such NCDs/bonds restructured based on negotiations with the issuing Indian company, shall have a minimum revised maturity period of three years.
7. The FPIs shall disclose to the Debenture Trustees, the terms of their offer to the existing debenture holders/beneficial owners of such NCDs/bonds under default, from whom they propose to acquire.
8. All investments by FPIs in such bonds shall be reckoned against the extant corporate debt limit of INR 244,323 cr. All other terms and conditions pertaining to FPI investments in corporate debt securities shall continue to apply.
9. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
10. A copy of this circular is available at the links “Legal Framework/Circulars” and “Info for FPI” on our website www.sebi.gov.in. The DDPs/Custodians are requested to bring the contents of this circular to the notice of their FPI clients.

Barnali Mukherjee
Chief General Manager

Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2016

[Issued by the Securities and Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/038, dated 07.03.2016. Published in the Gazette of India, Extraordinary, Part III, Section 4, dated 07.03.2016]

In exercise of the powers conferred by sections 11 and 30 of the Securities and Exchange Board of India Act, 1992 read with section 25 of the Depositories Act, 1996, the Securities and Exchange Board of India hereby makes the following regulations to further amend the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, namely:—

1. These Regulations may be called the Securities and Exchange Board of India (Depositories and Participants) (Second Amendment) Regulations, 2016.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996,-
   i. in Regulation 7, (a) in clause (eb),
2. They shall come into force on the date of their publication in the Official Gazette.

1. These regulations may be called the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, namely:


In exercise of the powers conferred by section 31 of the Securities Contracts (Regulation) Act, 1956 read with sections 11 and 30 of the Securities and Exchange Board of India Act, 1992, the Securities and Exchange Board of India hereby makes the following regulations to further amend the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, namely:

1. These regulations may be called the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Second Amendment) Regulations, 2016.

2. They shall come into force on the date of their publication in the Official Gazette.


   i. in Regulation 17, in sub-regulation (4), –

      (a) before the words "The combined holding", the words and symbol "subject to the limits as otherwise prescribed by the Central Government from time to time," shall be inserted;

      (b) for the word "The" appearing before the words "combined holding of all persons", the word "the" shall be substituted;

      (c) for the words and symbols ", subject to the following:-", the symbol ":" shall be substituted;

      (d) sub-clauses (a), (b) and (c) shall be omitted;

      (e) the following proviso shall be inserted, namely: –

         "Provided that no foreign portfolio investor shall acquire shares of a recognised stock exchange otherwise than through the secondary market."

   (f) in Explanation –

      (1) for the words "clause (c)", the words "sub-regulation (4)" shall be substituted;

      (2) the word "institutional" wherever appearing shall be substituted with the word "portfolio".

   ii. in Regulation 18, in sub-regulation (4), –

      (a) before the words "The combined holding", the words and symbol "subject to the limits as otherwise prescribed by the Central Government from time to time," shall be inserted;

      (b) for the word "The" appearing before the words "combined holding of all persons", the word "the" shall be substituted;

      (c) for the words and symbols ", subject to the following:-", the symbol ":" shall be substituted;

      (d) sub-clauses (a), (b) and (c) shall be omitted;

      (e) the following proviso shall be inserted, namely: –

         "Provided that no foreign portfolio investor shall acquire shares of a recognised clearing corporation otherwise than through the secondary market."

   iii. in Regulation 23, in sub-regulation (9), for the word "institutional", the word "portfolio" shall be substituted.

U.K. SINHA
Chairman

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**PAYMENT OF ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2016-2017**

The annual membership fee and certificate of practice fee for the year 2016-2017 will become due for payment w.e.f 1st April, 2016. The last date for payment of fee is 30th June, 2016.

The membership and certificate of practice fee payable is as follows:

1. Annual Associate Membership fee Rs.1125/- (*)
2. Annual Fellow Membership fee Rs.1500/- (*)
3. Annual Certificate of Practice fee Rs.1000/- (**)  

* A member who is of the age of sixty years or above and is not in any gainful employment or practice can claim 50% concession in the payment of Associate/Fellow Annual Membership fee and a member who is of the age of seventy years or above and is not in any gainful employment or practice can claim 75% concession in the payment of Associate/Fellow Annual Membership fee subject to the furnishing of declaration to that effect.

**The certificate of practice fee must be accompanied by a declaration in form D duly completed in all respects and signed. The requisite form ‘D’ is available on the website of Institute www.icsi.edu.**

**MODE OF REMITTANCE OF FEE**

The fee can be remitted through online mode (through payment gateway of the Institute’s website (www.icsi.edu) or through Cash/Cheque at par/Demand draft payable at New Delhi (indicating on the reverse name and membership number) drawn in favour of ‘The Institute of Company Secretaries of India’ at the Institute’s Headquarter or Regional/Chapter offices.

For queries, if any, the members may please write to Ms. Vanitha Dhanesh, Senior Executive Assistance at email id: vanitha.dhanesh@icsi.edu
NEWS FROM THE INSTITUTE & REGIONS

- Members Admitted / Restored
- Certificate of Practice Issued/Cancelled
- Company Secretaries Benevolent Fund
- Form-D Application for Issue/Renewal/Restoration of COP
- List of Practising Members/Companies Registered for Imparting Training
- Regional News
Moots the Idea of
“International Corporate Governance Day”

ICSI hosts first ever "International Round Table on Corporate Governance" in New Delhi on 15th April, 2016.
Members Admitted

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**ASSOCIATES**

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*Admitted during the period from 20.02.2016 to 19.03.2016.

**NEWS FROM THE INSTITUTE**

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**Certificate of Practice**

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**Issued during the month of February, 2016.

**Restored from 01.02.2016 to 29.02.2016.
## Company Secretaries Benevolent Fund

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*Enrolled during the period from 21/02/2016 to 20/03/2016.
FORM – D
APPLICATION FOR THE ISSUE/RENEWAL/RESTORATION OF CERTIFICATE OF PRACTICE
See Reg. 10, 13 & 14

To
The Secretary to the Council of
The Institute of Company Secretaries of India
‘ICSI HOUSE’, 22, Institutional Area, Lodi Road, New Delhi
-110 003

Sir,

I furnish below my particulars:

(i) Membership Number FCS/ACS:

(ii) Name in full (in block letters) Surname Middle Name Name

(iii) Date of Birth:

(iv) Professional Address:

(v) Phone Nos. (Resi.) (Off.)

(vi) Mobile No Email id

(vii) Website of the member, if any

(viii) Additions to or change in qualifications, if any

Submitted for (tick whichever is applicable):

(a) Issue _____________ (b) Renewal ________________ (c) Restoration _______________

(a) Particulars of Certificate of Practice issued / surrendered/ Cancelled earlier

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(b) Unique Code Number

(i) Individual/Proprietorship concern (ii) Partnership firm

3. Area of Practice

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<td>Sales Tax/VAT Practice (Filling of returns, Handling assessment, appearing before the appellate authority)</td>
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</tr>
<tr>
<td>8</td>
<td>Income Tax Practice (Filling of returns, Handling assessment, appearing before the appellate authority)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Company Law Practice (Filling of returns, Handling assessment, appearing before the appellate authority)</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Foreign Exchange Management (Specify the areas being handled i.e. filling of various forms/returns, appearing before RBI etc)</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Foreign Collaborations &amp; Joint Ventures</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Intellectual Property Rights (Specify the areas being handled)</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Depositories</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Monopolies/Restrictive Trade Practices/Competition Law</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Consumer Protection Laws</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Arbitration and Conciliation</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Import and Export Policy &amp; Procedure</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Environment Laws(Specify the areas)</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Labour &amp; Industrial Laws (Specify the areas)</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Societies/Trusts/Co-operative Societies &amp; NCTs (Non Co-operative Trust Societies)</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Financial Consultancy</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Other Economic Laws</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>SEBI / Securities Appellate Tribunal</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Banking and Insurance</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Any Other Service (Please specify)</td>
<td></td>
</tr>
</tbody>
</table>

4. i. I state that I am/shall be engaged in the profession of Company Secretary only on whole-time basis and not in any other profession, business, occupation or employment. I am not enrolled as an Advocate on the rolls of any Bar Council and do not hold certificate of practice from any professional body including ICAI and the ICWAI.

ii. I state that as and when I cease to be in practice, I shall duly inform the Council and shall surrender forthwith the certificate of practice as required by the Company Secretaries Act, 1980, and the regulations made thereunder, as amended from time to time.

iii a. I hereby undertake that, I shall adhere to the mandatory ceiling as regards issuing of Secretarial Audit Report (pursuant to Section 204 of the Companies Act, 2013) and certification/ signing of Annual Return (pursuant to Section 92 of the Companies Act, 2013) in terms of the GUIDELINES FOR ISSUING SECRETARIAL AUDIT REPORT, SIGNING AND CERTIFICATION OF ANNUAL RETURN respectively issued by the Institute from time to time.

iii b. Accordingly, I state that I have issued ________ Secretarial
Audit Report and certified ____________ Annual Returns during the financial year 2015-16*.

iv. I state that I have issued / did not issue ___________ advertisements during the year 20__ in accordance with the Guidelines for Advertisement by Company Secretary in Practice issued by the Institute*.

v. I state that I issued ___________ Corporate Governance compliance certificates under Clause 49 of the Listing agreement during the year 20____ ...

vi. I state that I have / have not undertaken ___________ Audits under Section 55A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 during the year 20__ ...

vii. I state that I have / have not maintained a register of attestation/certification services rendered by me/my firm in accordance with the Guidelines for Requirement of maintenance of a Register of Attestation/Certification Services Rendered by Practising Company Secretary/ Firm of Practising Company Secretaries issued by the Institute*.

viii. I hereby declare that I have complied with KYC norms issued by the Council of the ICSI.

ix. I undertake to subject myself to peer review as and when directed by the Peer Review Board.

5. I send herewith Bank draft drawn on _________________
   Bank ____________Branch bearing No.____________
   ________________ dated _______________/ online payment
   vide acknowledgement No.______________
   ________________ dated _______________/ Cash payment at ROs/Chapters
   vide Acknowledgement No. ____________ dated ________________
   ________________ for Rs.__________ towards annual certificate
   of practice fee for the year ending 31st March ____________

6. I hereby declare that I attended the following professional development programmes held during the financial year ____________:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of Programme</th>
<th>Organised by</th>
<th>Place</th>
<th>Date</th>
<th>Duration*</th>
<th>No. of Program Credit Hours Secured***</th>
<th>Details of Certificate for Program Credit Hours</th>
</tr>
</thead>
</table>

* Please specify whether full day/half day/number of hour
** Extra sheet can be attached....
*** The extracts from ICSI portal about the Credit hours with self certification

7. I further declare that the particulars furnished above are true and correct.

Yours faithfully,

(Signature)

Place: _________________________
Date: _________________________

***Encl.

* Applicable in case renewal or restoration of Certificate of Practice

** Rs. 1000/- Annual Certificate of Practice Fee (Rs. 500/- if applied during October-March)

***
- Copy of the relieving letter in case earlier in employment.
- Copy of Form DIR 12 regarding cessation of employment in case working earlier as Company Secretary.
- Copy of letter of cancellation of Certificate of Practice of other professional bodies if applicable.

---

**PAYMENT OF ANNUAL LICENTIATE SUBSCRIPTION FOR THE YEAR 2016-2017**

The annual Licentiate subscription for the year 2016-2017 will become due for payment w.e.f 1st April, 2016. The last date for payment of same is 30th June, 2016. The annual Licentiate subscription payable is Rs.1,000/- per year.

You are requested to remit at the Institute’s Headquarters or Regional/ Chapter offices a sum of Rs.1000/- (Rupees One thousand only) by way of Demand Draft payable at New Delhi or cheque at par drawn in favour of “The Institute of Company Secretaries of India” indicating your name and Licentiate number on the reverse of the Demand Draft/ Cheque and the details of remittance may please be intimated at email id licentiate@icsi.edu.

Note: Donation to the CSBF qualifies for the deduction under section 80G of the Income Tax Act, 1961. The online receipt serves this purpose as well.

---

Attention Members -
Online donation to CSBF on a click now

For making donations to CSBF online, please click www.icsi.in/ICSIDonation You may also visit ICSI website www.icsi.edu and click at “For donations to CSBF – click here”.

For queries if any, you may write or call-
(Mr. Saurabh Bansal)
Executive, CSBF cell
ICSI House, 22 Institutional Area
Lodi Road, New Delhi – 110003
Phone: 011-45341088, Fax: 011-24626727
Email: saurabh.bansal@icsi.edu
csbf@icsi.edu

Note: Donation to the CSBF qualifies for the deduction under section 80G of the Income Tax Act, 1961. The online receipt serves this purpose as well.
List of Practising Members Registered
For The Purpose of Imparting Training
During The Month of February, 2016

ABHIK JAIN
29, MEHTA BHAWAN, KASHIPURI, Pincode:311001, BHILWARA

ABHINAV AGARWAL
28/128, 3RD FLOOR, Gali No. 13, VISHWAS NAGAR, SHAHDRA
Pincode:110032, DELHI

AJAY KUMAR CHHABRA
H. No. 343 L-I-G, HOUSING BOARD COLONY, URBAN ESTATE PHASE -1 Pincode:144022, JALANDHAR

AKSHAY PACHLAG
# 52/99, 3RD FLOOR, NEAR CBT, Pincode:580020, HUBLI

AMRITA SOGANI
II FLOOR, 447/7, GHEE MANDI, NAYA BAZAR Pincode:305001, AJMER

ARCHITA SEHGAL
I-198, BLOCK-25, RANGOLI GARDEN, Pincode:302034, JAIPUR

ARUN KUMAR JAISWAL
C/O SRI ASHARFI LAL SHAW, 29/2, PURVASA PARK, RANIA NORTH, NEAR, MILLENIUM CLUB, PO BANSDRONI Pincode:700070, KOLKATA

ASHISH NAYAK
40 SWAMI VIVEKANAND NAGAR, G-2 ARIHANT KALASHREE, NEAR BENGALI SQUARE Pincode: , INDORE

BARKHA
HOUSE NO. 75, TYPE -2, VARUN KUNJ, DELHI JAL BOARD, SECTOR 5, ROHINI Pincode:110085, DELHI

BHADRESH BIPIN CHANDRA SHAH
21, HASAN ALI BUILDING, 2ND FL, 17 JISOBHOY PADABHAI LANE, BEHIND VIDEOCON HOUSE, FORT Pincode:400001, MUMBAI

CHAITHANYA KRISHNA MURTHY GOGINENI
FLAT NO.303, ANAND PLAZA, B/H HOTEL SANDHYA, OPP. COLLECTORATE, OFFICE, LAKADIKAPOO Pincode:500004, HYDERABAD

CHANDAN SETH
535/196 C/O SHANKAR VERMA, FATTEPUR SECTOR-B, ALIGANJ Pincode:226024, LUCKNOW

CHIRANJEETI BOMMAKANTI
28, CHANDRAPURI COLONY, KAPRA, Pincode:500062, HYDERABAD

DAKSH WADHWA, C-7/118-A, KESHAV PURAM, Pincode:110035, NEW DELHI

DHEERAJ SHARMA
B1/402, RESIDENCY PARK, HDIL, OPPOSITE YAZOO PARK, VIRAR (WEST) Pincode:401303, MUMBAI

DHARUKUMAR DHIKAJUMAR BALADHA
PARTH COMPLEX, 2ND FLOOR, OPP. BHARAT DAIRY, NEAR INDIRA CIRCLE, UNIVERSITY ROAD Pincode:360002, RAJKOT

DOLLY JITENDRA MEHTA
B-5, AJAY APARTMENT, NARAYAN NAGAR ROAD, BHAYANDAR (W) Pincode:401101, THANNE

FARAAZ SHAMS
BE-330, GROUND FLOOR, , GALI NO. 3, HARI NAGAR Pincode:110064, NEW DELHI

GANAPATI MABLESHWAR GHATTI
NO. 1093, 9TH MAIN, 5TH CROSS, NEAR R E S CONVLENT, PRAKASH NAGAR, RAJAINGAR Pincode:560021, BANGALORE

GEETA PRAVIN MANJAREKAR
FLAT NO 4, LIBERTY APT, BEHIND ROYAL ENGLISH SCHOOL, VISHAL NAGAR, VASAI Pincode:401402, PALGHAR

GURPREET SINGH SIAL
B-30, CHANDER GUPT COMPLEX, OFFICE NO. 22, 2ND FLOOR, SUBHASH CHAWK Pincode:110092, DELHI

HINA ARORA
FF-7, RAM RAGHU PLAZA, NEAR HANUMAN MANDIR, KHANDARI Pincode:282001, AGRA

ISHVINDER KAUR
186, SHARVAN NATH NAGAR, BEHIND CHITRA CINEMA, NEAR HOTEL, JAHANVI Pincode:249401, HARIDWAR

ISSAC WILLIAM
KARINGOZAKKAL, KOTTAMPARMBA POST, Pincode:673008, CALICUT

JIGAR DAHYABHAI CHAUDHARI
19, SWAGAT SOCIETY, SOLA ROAD, OPP. SHAKUNTAL BUNGLOWS, GHATLODIYA Pincode:380061, AHMEDABAD

JIGNESH KUMAR D SONI
105, JOLLY PLAZA, BESIDE G P COLLEGE, ATHWAGATE Pincode:395001, SURAT

JITENDRA KUMAR PRADHIPBHAI PARMAR
17, MRIDUL TOWER, OPP BATA SHOWROOM, ASHRAAM ROAD Pincode:380001, AHMEDABAD

JYOTI NADEHRIYA
60, MANSAGAR COLONY, SHEOPUR ROAD, BEHIND GULAB VIHAR, PRATAP NAGAR Pincode:302033, JAIPUR

JYOTI SHARMA
FLAT NO. 1404, NISHAT CGHS, PLOT NO. 5, SECTOR - 19 B, DWARKA PHASE - II Pincode:110075, NEW DELHI

K LOGANATHAN MEKALA
List of Companies Registered for Imparting Training during the month of February, 2016

ADOBE SYSTEMS INDIA PRIVATE LIMITED
PLOT NO. A05, NOIDA EXPRESSWAY, SECTOR 132, NOIDA

ALCON LABORATORIES (INDIA) PRIVATE LIMITED
CRESCENT 4, 3RD FLOOR, PRESTIGE SHANTINIKETAN, WHITEFIELD, BANGALORE

APS ADVISORS LLP
302, A.J CHAMBER, STREET NO.4, NAIWALA, KAROL BAGH, DELHI

ARKAY LOGISTICS LIMITED
27TH KM SURAT-HAZIRA ROAD, HAZIRA - 394 270, DIST. SURAT

BALAJI MERCANTILE PRIVATE LIMITED
GF-18, PLOT NO. 185, D MALL ROHINI, TWIN DISTRICT CENTRE, SECTOR-10, ROHINI, DELHI

BALMUKUND SPONGE AND IRON LIMITED
603, SHANTI KUNJ APARTMENT CHAJU BAGH, P.S: KOTWALI, T.N. BANERJEE ROAD, PATNA

BEETEL TELETECH LIMITED
FIRST FLOOR, PLOT NO. 16, UDYOOG VIHAR, PHASE-IV GURGAON

BHARATIYA GLOBAL INFOMEDIA LIMITED
B-13, LGF, AMAR COLONY, LAJPAT NAGAR-IV, NEW DELHI-110024

BLUEBLOOD VENTURES LTD.
P-27, MALVIYA NAGAR NEW DELHI-110017

CIMPLYFIVE CORPORATE SECRETARIAL SERVICES PRIVATE LIMITED
2ND FLOOR, #35/1, 8TH MAIN ROAD, 16TH CROSS MALLESWARA, BANGALORE 560055

CONTINUUM WIND ENERGY (INDIA) PRIVATE LIMITED
102, EL TARA BUILDING, ORCHARD AVENUE, HIRANANDANI, POWAI, MUMBAI

DMI FINANCE PRIVATE LIMITED
EXPRESS BUILDING, 3RD FLOOR, 9-10, BHAHDUR SHAH ZAFAR MARG, DELHI

GEMS EDUCATION SOLUTIONS INDIA PRIVATE LIMITED
C-310 3RD FLOOR UNITECH BUSINESS ZONE, NIRWANA COUNTRY SOUTH CITY 2, GURGAON

HIMANGA MERCANTILES PVT. LTD.
6, HANSPUKUR LANE, 4TH FLOOR, KOLKATA

IMAGES MULTIMEDIA PRIVATE LIMITED
S-21, OKHLA INDUSTRIAL AREA, PHASE -II, NEW DELHI-110020
<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>IPE GLOBAL LIMITED</td>
<td>B-84, DEFENCE COLONY, BHISHMA PITAMAH MARG, NEW DELHI - 110 024</td>
</tr>
<tr>
<td>KAAR TECHNOLOGIES INDIA PRIVATE LIMITED</td>
<td>LEVEL 8, SHYAMALA TOWERS, NO. 136, ARCOT ROAD, SALIGRAMAM, CHENNAI 900093</td>
</tr>
<tr>
<td>KHETAN FINANCIAL SERVICES PVT LTD</td>
<td>COMMERCE HOUSE, 4TH FLOOR, ROOM-7, 2-A, GANESH CHANDRA AVENUE, KOLKATA-700013</td>
</tr>
<tr>
<td>LOMBARDINI INDIA PRIVATE LIMITED</td>
<td>POST BOX NO 754 PLOT NO J-2/1, MIDC INDL AREA CHIKALTHANA</td>
</tr>
<tr>
<td>M/S ZEVER INDIA PRIVATE LIMITED</td>
<td>MAZINE FLOOR, G-21, AGGARWAL CYBER PLAZA, NETAJI SUBHASH PLACE, PITAMPURA</td>
</tr>
<tr>
<td>MAHESH GAS LIMITED</td>
<td>C-27, GALI NO. 10, SAI CHOWK, MADHU VIHAR, DELHI</td>
</tr>
<tr>
<td>MANDOT SECURITIES PRIVATE LIMITED</td>
<td>217, SILVER SANCHURA CASTLE, 7, RNT MARG, INDORE</td>
</tr>
<tr>
<td>MANE FINANCE PRIVATE LIMITED</td>
<td>2ND FLOOR APSARA CINEMA BLDG, DR.D.D.MARG, GRANT ROAD (E), MUMBAI</td>
</tr>
<tr>
<td>NEXTENDERS (INDIA) PVT.LTD.</td>
<td>&quot;YUCHIT&quot;, 1ST FLOOR, JUHU TARA ROAD, MUMBAI</td>
</tr>
<tr>
<td>OSAW AGRO INDUSTRIES PVT. LTD.</td>
<td>AGROSAW COMPLEX, JAGADHRI ROAD, AMBALA CANTT PIN 133006</td>
</tr>
<tr>
<td>AMBALA CANTT, PAYU PAYMENTS PRIVATE LIMITED</td>
<td>4TH FLOOR, PEARL GLOBAL TOWER, PLOT NO. 51, INSTITUTIONAL AREA, SECTOR - 32, GURGAON</td>
</tr>
<tr>
<td>PELF FINSTOCK LIMITED</td>
<td>11TH FLOOR AGGARWAL MILLENIUM TOWER 11, NETAJI SUBHASH PLACE, NEW DELHI-110034</td>
</tr>
<tr>
<td>PROPLIARTY INFRATECH PRIVATE LIMITED</td>
<td>A-26, SECTOR 63, NOIDA</td>
</tr>
<tr>
<td>RIDDHI STEEL AND TUBE LIMITED</td>
<td>83/84, VILLAGE - KAMOD, PIPLAJ PIRANA ROAD, POST - ASLALI, AHMEDABAD</td>
</tr>
<tr>
<td>SAI COMPUTERS LIMITED</td>
<td>1-E/2, JHANDEWALAN EXTENSION, LINKROAD, NEW DELHI -11055</td>
</tr>
<tr>
<td>SBS TRANSPOLE LOGISTICS PRIVATE LIMITED</td>
<td>217, UDYOG VIHAR PH-1, GURGAON</td>
</tr>
<tr>
<td>SPECTRO ANALYTICAL LABS LIMITED</td>
<td>E-41, OKHLA INDUSTRIAL AREA, PHASE-II, NEW DELHI</td>
</tr>
<tr>
<td>SUMAN MFG. WORKS LIMITED</td>
<td>6, LYONS RANGE, UNIT-2, 5TH FLOOR, KOLKATA</td>
</tr>
<tr>
<td>ALANKIT LIMITED (FORMERLY EURO FINMART LIMITED)</td>
<td>ALANKIT HOUSE, 4E/2, JHANDEWALAN EXTENSION, NEW DELHI</td>
</tr>
<tr>
<td>AMULYA LEASING AND FINANCE LIMITED</td>
<td>37, HARGOBIND ENCLAVE, VIKAS MARG, NEW DELHI DELHI-RO(39),</td>
</tr>
<tr>
<td>ASIA CAPITAL LTD</td>
<td>100 VAISHALI, PITAMPURA, DELHI</td>
</tr>
<tr>
<td>BIRLA CAPITAL &amp; FINANCIAL SERVICES LIMITED</td>
<td>INDUSTRY HOUSE, 159, 5TH FLOOR, CHURCHGATE RECLAMATION MUMBAI</td>
</tr>
<tr>
<td>CLASSIC LEASING &amp; FINANCE LIMITED</td>
<td>16A EVEREST HOUSE, 46C, J. L. NEHRU ROAD, KOLKATA-700 071</td>
</tr>
<tr>
<td>COMPUAGE INFOCOM LIMITED</td>
<td>D-601/602&amp;G-601/602, LOTUS CORPORATE PARK, GRAHAMFIRTH STEELCOMPOUND, WESTERN EXPRESS HIGHWAY, GOREGAON(E) MUMBAI</td>
</tr>
<tr>
<td>GENESYS INTERNATIONAL CORPORATION LIMITED</td>
<td>73A - SDF, SEEPZ, ANDHERI (EAST), MUMBAI - 400096</td>
</tr>
<tr>
<td>INDIA INFOLINE HOUSING FINANCE LIMITED</td>
<td>PLOT NO. 98, UDYOG VIHAR, PHASE 4, GURGAON</td>
</tr>
<tr>
<td>LUPIN LIMITED</td>
<td>159, C.S.T. ROAD, KALINA, SANTACRUZ (E), MUMBAI</td>
</tr>
<tr>
<td>PLETHICO PHARMACEUTICALS LIMITED</td>
<td>AML CENTRE PHASE II, SHANTI NAGAR, ANDHERI E, MUMBAI</td>
</tr>
<tr>
<td>RADHE DEVELOPERS (INDIA) LIMITED</td>
<td>1ST FLOOR, CHUNIBHAI CHAMBERS, OPP. POONAM PALACE HOTEL, B/H. CITY GOLD CINEMA, AHMEDABAD</td>
</tr>
<tr>
<td>ROYAL INDIA CORPORATION LIMITED</td>
<td>62, 6TH FLOOR, C-WING, MITTAL TOWER, NARIMAN POINT MUMBAI</td>
</tr>
<tr>
<td>SEYA INDUSTRIES LIMITED</td>
<td>ANDHERI WEST, MUMBAI</td>
</tr>
<tr>
<td>SHALIMAR PAINTS LIMITED</td>
<td>4TH FLOOR, PLOT NO. 64, SECTOR-44, GURGAON</td>
</tr>
<tr>
<td>TARANGINI INVESTMENTS LIMITED</td>
<td>H-38, LGF, JANGPURA EXTENSION, NEW DELHI</td>
</tr>
</tbody>
</table>
**EASTERN INDIA REGIONAL COUNCIL**

<table>
<thead>
<tr>
<th>Programme</th>
<th>Web link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Half Day Workshop on “The Companies (Amendment) Bill, 2016” and Holi Meet held on 30th March, 2016 at ICSI-EIRC House, Kolkata.</td>
<td><a href="https://www.icsi.edu/eiro/Archive.aspx">https://www.icsi.edu/eiro/Archive.aspx</a></td>
</tr>
<tr>
<td>‘Budget Analysis - Kya Khoya, Kya Paya’ held on 3.3.2016 at ICSI-EIRC House, Kolkata.</td>
<td></td>
</tr>
<tr>
<td>Full day Seminar of ICSI jointly with The Bombay Stock Exchange Limited on SEBI LODR (Listing Obligations and Disclosure Requirements) Regulations, 2015 held on 5.3.2016.</td>
<td><a href="https://www.icsi.edu/eiro/Archive.aspx">https://www.icsi.edu/eiro/Archive.aspx</a></td>
</tr>
<tr>
<td>International Women’s Day a joint programme between Eastern India Regional Councils of ICAI, ICSI and ICoAI held on 8.3.2016.</td>
<td></td>
</tr>
</tbody>
</table>

**BHUBANESWAR CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evening talk on Union Budget – 2016</td>
<td></td>
</tr>
<tr>
<td>Blood donation camp</td>
<td></td>
</tr>
<tr>
<td>Visit to Ravenshaw University, Odisha</td>
<td><a href="https://www.icsi.edu/bhubaneswar/NewsEvents.aspx">https://www.icsi.edu/bhubaneswar/NewsEvents.aspx</a></td>
</tr>
<tr>
<td>Webcast on “Precious You”</td>
<td></td>
</tr>
<tr>
<td>Interactive Session</td>
<td></td>
</tr>
<tr>
<td>Evening talk on ‘SEBI (LODR)’.</td>
<td></td>
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<tr>
<td>Holi meet</td>
<td></td>
</tr>
<tr>
<td>Evening talk on Union Budget – 2016 held on 2.3.2016</td>
<td></td>
</tr>
</tbody>
</table>

**DHANBAD CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fun Fiesta organised on 8.3.2016 on the occasion of International Women’s Day</td>
<td><a href="http://www.icsi.edu/dhanbad/NewsEvents.aspx">http://www.icsi.edu/dhanbad/NewsEvents.aspx</a></td>
</tr>
<tr>
<td>Investor Awareness programme held on 20.3.2016</td>
<td><a href="http://www.icsi.edu/dhanbad/NewsEvents.aspx">http://www.icsi.edu/dhanbad/NewsEvents.aspx</a></td>
</tr>
</tbody>
</table>

**HOOGHLY CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Half-Day Workshop held on 7.2.2016, the discussions were on “Appearance &amp; Practical Aspects Relating to National Company Law Tribunal (NCLT)’ and on “Constitution, Power &amp; Function of National Company Law Tribunal”.</td>
<td><a href="https://www.icsi.edu/hooghly/Home/NewsEventsAnnouncements.aspx">https://www.icsi.edu/hooghly/Home/NewsEventsAnnouncements.aspx</a></td>
</tr>
</tbody>
</table>

**NORTH EASTERN CHAPTER (GUWAHATI)**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women’s day celebration held on 8.3. 2016</td>
<td>N.A.</td>
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</table>

**PATNA CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Development Programme organised on 06.03.2016 at Chapter Premises. The speakers discussed “Intellectual Property Rights in India”, “Trademark and its Infringement” and “Copyright Issues”.</td>
<td>(<a href="http://www.icsi.edu/patna">www.icsi.edu/patna</a>)</td>
</tr>
</tbody>
</table>

**RANCHI CHAPTER**

<table>
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<tr>
<th>Name of the programme</th>
<th>Website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Webcast titled precious ‘You’ addressed by President, the Icsi on 18.3.2016</td>
<td><a href="http://www.icsi.edu/Portals/21/Ranchi-march,2016">http://www.icsi.edu/Portals/21/Ranchi-march,2016</a></td>
</tr>
<tr>
<td>Seminar on “Cyber Security and Awareness” held on 13.3.2016</td>
<td></td>
</tr>
</tbody>
</table>
### NORTHERN INDIA REGIONAL COUNCIL

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus Placement for Students (Trainees) held on 5.3.2016</td>
<td></td>
</tr>
<tr>
<td>INTERNATIONAL WOMEN’S DAY program on the Theme “Empowering Women Inspiring Change” held on 8.3.2016</td>
<td></td>
</tr>
<tr>
<td>National Seminar on “Entrepreneurship, Skill Development and Governance in MSMEs” held on 19.3.2016</td>
<td></td>
</tr>
<tr>
<td>Meeting of Company Secretaries in Practice on Preparedness of NCLT and Celebration of Holi organised on 21.3.2016</td>
<td><a href="http://www.icsi.edu/Portals/70/NEWS%20FOR%20NIRC%20MARCH%202016.pdf">http://www.icsi.edu/Portals/70/NEWS%20FOR%20NIRC%20MARCH%202016.pdf</a></td>
</tr>
<tr>
<td>One Day Workshop on Companies (Amendment) Bill 2016 held on 26.3.2016</td>
<td></td>
</tr>
</tbody>
</table>

### BHILWARA CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Half-day seminar on Union Budget 2016-17 held on 3.3.2016 and organised by Bhilwara Chapter in association with Mewar Chamber of Commerce and Industry</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

### FARIDABAD CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
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### GHAZIABAD CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five Days Professional Entrepreneurship Development Program held from 14 to 18.3.2016 Holi Milan Programme held on 19.03.2016</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

### LUCKNOW CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Women’s day jointly with Kotak Life Insurance. It was a panel discussion on “Women at Workplace-Issues and Prospects”</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

### KANPUR CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEMINAR ON “UNION BUDGET 2016” held on 04/03/2016-</td>
<td></td>
</tr>
<tr>
<td>President addressed to the Student through webcast ‘PRECIOUS YOU’ held on (18/3/2016) - Setup of ICSI Study Centre at Jhansi on 22/3/2016</td>
<td><a href="https://www.icsi.edu/kanpur/Home.aspx">https://www.icsi.edu/kanpur/Home.aspx</a></td>
</tr>
</tbody>
</table>

### SOUTHERN INDIA REGIONAL COUNCIL

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study Circle Meeting on “All You want to Know on ICSA - London”</td>
<td></td>
</tr>
<tr>
<td>Programme on Union Budget – 2016 held on 1.3.2016</td>
<td>N.A.</td>
</tr>
<tr>
<td>Special Programme on Women’s Day Celebrations held on 5.3.2016</td>
<td></td>
</tr>
</tbody>
</table>

### BENGALURU CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICSI IT Legal National Conclave held on 19.3.2016</td>
<td><a href="http://bit.ly/1px1mD5">http://bit.ly/1px1mD5</a></td>
</tr>
<tr>
<td>Joint Programme with Seshadripuram Academy of Business Studies and BUTCCM</td>
<td><a href="http://bit.ly/1S5rU8d">http://bit.ly/1S5rU8d</a></td>
</tr>
</tbody>
</table>

### HYDERABAD CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Half-a-Day Programme on Churning of Secretarial Standards - Open Book Test Model held on 1.3.2016</td>
<td></td>
</tr>
<tr>
<td>ICSIIT-Legal National Conclave Programme held on 8.3.2016</td>
<td></td>
</tr>
<tr>
<td>Safety &amp; Security of Women in Cyber Era Programme held on 8.3.2016</td>
<td></td>
</tr>
<tr>
<td>Lecture Meeting on “Indian economy, way forward - in the context of global currencies depreciation war” held on 18.3.2016</td>
<td></td>
</tr>
</tbody>
</table>

### KOCHI CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upcoming events</td>
<td><a href="http://www.icsi.edu/kochi/NewsEvents.aspx">http://www.icsi.edu/kochi/NewsEvents.aspx</a></td>
</tr>
<tr>
<td>Report of Post Budget Analysis 2016-17</td>
<td></td>
</tr>
<tr>
<td>Report of Overview of New Listing Regulations</td>
<td></td>
</tr>
<tr>
<td>Report of Labour Law Compliances</td>
<td></td>
</tr>
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</table>

### SALEM CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint Seminar on Union Budget 2016 held on 19.3.2016</td>
<td><a href="http://www.icsi.edu/salem/Activities/SeminarPDPs.aspx">http://www.icsi.edu/salem/Activities/SeminarPDPs.aspx</a></td>
</tr>
<tr>
<td>Group Discussion &amp; Study Circle Meeting</td>
<td><a href="http://www.icsi.edu/salem/Activities/StudyCircleMeetGroupDiscussion.aspx">http://www.icsi.edu/salem/Activities/StudyCircleMeetGroupDiscussion.aspx</a></td>
</tr>
<tr>
<td>Investor Awareness Programmes</td>
<td><a href="http://www.icsi.edu/salem/Activities/InvestorAwarenessProgramme.aspx">http://www.icsi.edu/salem/Activities/InvestorAwarenessProgramme.aspx</a></td>
</tr>
</tbody>
</table>
### THIRUVANANTHAPURAM CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>One day seminar held on 13.2.2016</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

### WESTERN INDIA REGIONAL COUNCIL

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Day Seminar on “A Day with Legend” Held on 28.2.2016 Jointly with Indore Chapter.</td>
<td><a href="https://www.icsi.edu/Portals/72/Year%202016/Chartered%20Secretary/Chartered%20Secretary%20February.pdf">link</a></td>
</tr>
<tr>
<td>Women’s Day Celebration of ICSI-WIRC held on March 05, 2016</td>
<td><a href="https://www.icsi.edu/Portals/72/Year%202016/Chartered%20Secretary/March%20Secretary/March%20Assembly%20-%20WIRC.pdf">link</a></td>
</tr>
<tr>
<td>Women’s Day Special Study Circle Meeting held on March 08, 2016</td>
<td><a href="https://www.icsi.edu/Portals/72/Year%202016/Chartered%20Secretary/March%20Assembly%20-%20WIRC.pdf">link</a></td>
</tr>
<tr>
<td>ICSI-WIRC &amp; Navi Mumbai Chapter Joint Seminar on Annual Compliance held on March 12, 2016</td>
<td><a href="https://www.icsi.edu/Portals/72/Year%202016/Chartered%20Secretary/March%20Assembly%20-%20WIRC.pdf">link</a></td>
</tr>
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### AHMEDABAD CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study Circle Meeting on Highlights of Budget 2016 &amp; Economic Overview</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Full Day Professional Development Programme on “IT &amp; I”</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Womens Day Celebration</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Study Circle Meeting on Year End Compliance and Life of CS after Companies Act, 2013</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Full Day Professional Development Programme on “ Success Mantra”</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Two Days Residential Programme on CS - “Driving Diversified Discipline In Corporate World”</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
<tr>
<td>Study Circle Meeting on 26.02.2016 on the topic “Foreign Direct Investment &amp; EBIZ Reporting”</td>
<td><a href="http://www.icsi.edu/Portals/25/Presentations/WRITE%20UP%20MARCH%202016.pdf">link</a></td>
</tr>
</tbody>
</table>

### AURANGABAD CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Day Seminar held on 20.3.2016.</td>
<td><a href="http://www.icsi.edu/aurangabad/NewsEvent.aspx">link</a></td>
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</tbody>
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### BHOPAL CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
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</thead>
<tbody>
<tr>
<td>Tally Training Workshop for Members</td>
<td><a href="http://www.icsi.edu/Portals/26/Bhopal%20chapter%20-%20Tally%20training%20Workshop-%20.pdf">link</a></td>
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</tbody>
</table>

### GOA CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study Circle Meeting on “Compliances for certification of Form No. MGT-8” Secretarial Standards under Companies Act, 2013</td>
<td><a href="http://www.icsi.edu/Portals/117/BHAYANDER%20CHAPTER%20-%20G%20-%201%20-%20March%202016.pdf">link</a></td>
</tr>
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</table>

### INDORE CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICSI-WIRC Full day Seminar on A Day with Legend on 28.2.2016</td>
<td><a href="https://www.icsi.edu/Portals/29/Activity%20Report%20March%202016.pdf">link</a></td>
</tr>
<tr>
<td>Budget Talk-Union Budget-2016 held on 03.3.2016</td>
<td><a href="https://www.icsi.edu/Portals/29/Activity%20Report%20March%202016.pdf">link</a></td>
</tr>
<tr>
<td>Women’s Day “Colors of Life” on 08.3.2016</td>
<td><a href="https://www.icsi.edu/Portals/29/Activity%20Report%20March%202016.pdf">link</a></td>
</tr>
<tr>
<td>ICSI-BSE Joint Seminar on Listing Regulations on 12.3.2016</td>
<td><a href="https://www.icsi.edu/Portals/29/Activity%20Report%20March%202016.pdf">link</a></td>
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</table>

### PUNE CHAPTER

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two Days Conference on “Critical Issues In Corporate Laws” Held on 18 and 19.3.2016</td>
<td><a href="http://www.icsi.edu/portals/32/CHARTERED_SECRETARY_DATA_11-20_03_2016.pdf">link</a></td>
</tr>
<tr>
<td>Celebration of 43rd Foundation Day of the Chapter</td>
<td><a href="http://www.icsi.edu/portals/32/CHARTERED_SECRETARY_DATA_11-20_03_2016.pdf">link</a></td>
</tr>
<tr>
<td>Full Day Seminar on “All About ESOP” held on 26.3.2016</td>
<td><a href="http://www.icsi.edu/portals/32/CHARTERED_SECRETARY_DATA_11-20_03_2016.pdf">link</a></td>
</tr>
<tr>
<td>Study Circle Meeting on Tricky Issues of Companies Act, 2013 held on 30.03.2016</td>
<td><a href="http://www.icsi.edu/portals/32/CHARTERED_SECRETARY_DATA_11-20_03_2016.pdf">link</a></td>
</tr>
<tr>
<td>Full Day Workshop on “Year End Compliances Under Companies Act, 2013 and Fema”</td>
<td><a href="https://drive.google.com/file/d/0B2dWXeR28yZFZiZmRWQWM/view?usp=sharing">link</a></td>
</tr>
<tr>
<td>Full Day Seminar on “Sebi Compliances Clodr, Takeover Code and Insider Trading”</td>
<td><a href="https://drive.google.com/file/d/0B2dWXeR28yZFZiZmRWQWM/view?usp=sharing">link</a></td>
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### BHAYANDAR CHAPTER

<table>
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<tr>
<th>Name of the programme</th>
<th>website link</th>
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**RAIPUR CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Woman's day celebration on 12.3.2016</td>
<td><a href="http://www.icsi.edu/raipur/NewsEvent.aspx">http://www.icsi.edu/raipur/NewsEvent.aspx</a></td>
</tr>
<tr>
<td>Study Circle Meeting on Union Budget 2016-17 held on 12.3.2016</td>
<td><a href="http://www.icsi.edu/raipur/NewsEvent.aspx">http://www.icsi.edu/raipur/NewsEvent.aspx</a></td>
</tr>
<tr>
<td>Study Circle Meeting held on 19.3.2016</td>
<td></td>
</tr>
<tr>
<td>Sports Event held on 20.3.2016</td>
<td></td>
</tr>
<tr>
<td>Inauguration of new Study Center at Rungta College, Bhilai on 09.2.2016</td>
<td></td>
</tr>
<tr>
<td>Woman's day celebration held on 12.3.2016</td>
<td></td>
</tr>
<tr>
<td>Study Circle Meeting on Union Budget 2016-17 held on 12.3.2016</td>
<td></td>
</tr>
<tr>
<td>Study Circle Meeting held on 19.3.2016</td>
<td></td>
</tr>
<tr>
<td>Sports Event held on 20.3.2016</td>
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**RAJKOT CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Celebration of Women’s day on 8.3.2016 on Enriching Empoweredness</td>
<td>N.A.</td>
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**SURAT CHAPTER**

<table>
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<tr>
<th>Name of the programme</th>
<th>website link</th>
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**THANE CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd Lecture of Four lecture Series Company Law held on 5.3.2016</td>
<td><a href="http://www.icsi.edu/thane/NewsEvents.aspx">http://www.icsi.edu/thane/NewsEvents.aspx</a></td>
</tr>
<tr>
<td>Seminar on Union Budget 2016 held on 13.3.2016</td>
<td></td>
</tr>
<tr>
<td>3rd Lecture of Four lecture series on Company Law held on 19.3.2016</td>
<td></td>
</tr>
<tr>
<td>4th Lecture of Four lecture series on Company Law held on 26.3.2016</td>
<td></td>
</tr>
<tr>
<td>3 Days E-Governance program on held 21 to 23.3.2016</td>
<td></td>
</tr>
<tr>
<td>First Lecture of Four Lecture Series on Company Law held on 27.02.2016</td>
<td><a href="http://www.icsi.edu/thane/NewsEvents.aspx">http://www.icsi.edu/thane/NewsEvents.aspx</a></td>
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**VADODARA CHAPTER**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programme on Union Budget 2016-17 held on 05.3.2016</td>
<td><a href="http://www.icsi/Portals/37/Write-up_05032016.pdf">http://www.icsi/Portals/37/Write-up_05032016.pdf</a></td>
</tr>
<tr>
<td>Lecture Meeting held on 12.3.2016</td>
<td><a href="http://www.icsi/Portals/37/Write-up_12032016.pdf">http://www.icsi/Portals/37/Write-up_12032016.pdf</a></td>
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**ICSI –CCGRT**

<table>
<thead>
<tr>
<th>Name of the programme</th>
<th>website link</th>
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</thead>
<tbody>
<tr>
<td>Research Circle Brain Storming on Indian Company Law - Decoding Unsolved Mysteries (A Three Days of Aficionados Congregation) – held from 25 to 27.3.2016. The seminar was divided into four moves- Research Circle Formation &amp; Gearing up session; Inter Research Circle Hoop- Debate &amp; Discussion; Intra Research Hoop- Debate &amp; Discussion and Validation. CS N.R.Sridharan, Former ROC, Chennai graced the inaugural session of the seminar in the capacity of Chief Guest.</td>
<td>N.A.</td>
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**DESTINATION KASAULI**

17th National Conference of Practising Company Secretaries

Dates: August 12-13, 2016
Venue: Kasauli, Himachal Pradesh

The PCS Conference details would be communicated through Brochure, Chartered Secretary, email and Website of the Institute shortly.

You are cordially invited to participate in this annual mega event of the Institute. Kindly block these dates in your diary and join us to rediscover professional synergies and togetherness. Further August 14-15, 2016 being holidays, members may also explore the opportunity of witnessing the scenic beauty of the foothills of the Shivaliks or plan trips to Shimla.
COMPANY SECRETARIES BENEVOLENT FUND

The Company Secretaries Benevolent Fund (CSBF) provides safety net to Company Secretaries who are members of the Fund and their family members in distress.

CSBF
- Registered under the Societies Registration Act, 1860
- Recognised under Section 12A of the Income Tax Act, 1961
- Subscription / Contribution to Fund qualifies for the deduction under section 80G of the Income Tax Act, 1961
- Has a membership of about 10,000

Eligibility
A member of the Institute of Company Secretaries of India is eligible for the membership of the CSBF.

How to join
- By making an application in Form A (available at www.icsi.edu/csbf) along with one time subscription of ₹ 7,500/-. 
- One can submit Form A and also the subscription amount of ₹ 7500 ONLINE through Institute’s web portal: www.icsi.edu. Alternatively, he can submit Form A, along with a Demand Draft or Cheque for ₹ 7500 drawn in favour of ‘Company Secretaries Benevolent Fund’, at any of the Offices of the Institute/ Regional Offices/Chapters.

Benefits
- ₹ 5,00,000 in the event of death of a member under the age of 60 years
- Upto ₹ 2,00,000 in the event of death of a member above the age of 60 years
- Upto ₹ 40,000 per child (upto two children) for education of minor children of a deceased member in deserving cases
- Upto ₹ 60,000 for medical expenses in deserving cases
- Limited benefits for Company Secretaries who are not members of the CSBF

Contact
For further information/clarification, please write at email id csbf@icsi.edu or contact Mr. Saurabh Bansal, Executive on telephone no.011-45341088.

For more details please visit www.icsi.edu/csbf
First and Second Schedule to the Company Secretaries Act, 1980 (The Act) contains provisions relating to professional and other misconduct in relation to Company Secretaries. The expression “professional and other misconduct” is defined in Section 22 of the Act.

First Schedule is divided into four parts.

Second Schedule is divided into three parts.

Part I of the First Schedule of the Act contains 11 items and Part I of the Second Schedule which contains 10 items on professional misconduct applicable to Company Secretaries in Practice.

Part II of the First Schedule of the Act contains 2 items on professional misconduct applicable to members of the Institute in service.

Part III of the First Schedule of the Act contains 3 items and Part II of the Second Schedule which contains 4 items on professional misconduct applicable to members of the Institute generally.

Part IV of First Schedule and Part III of the Second Schedule of the Act deals with other misconduct in relation to members of the Institute generally.

This write-up elaborates item no. (1) to (11) of Part I of the First Schedule in relation to Company Secretaries in Practice as under:

A Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he—

(1) “allows any person to practice in his name as a Company Secretary unless such person is also a Company Secretary in practice and is in partnership with or employed by him.”

This clause restricts a Company Secretary in Practice to allow any person to practice in his name as a Company Secretary, unless such person is also a Company Secretary in Practice and is in partnership with or employed by him.

This item protects the public interest and of clients against unqualified Company Secretaries under the cover of qualified Company Secretaries.

(2) “pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having such qualifications as may be prescribed for the purpose of rendering such professional services from time to time in or outside India.

Explanation.—In this item, “partner” includes a person residing outside India with whom a Company Secretary in practice has entered into partnership which is not in contravention of item (4) of this Part.”

This item restricts a Company Secretary in Practice to pay or allow or agree to pay or allow, any share, commission or brokerage in the fees or profits of his professional business to any person who is not a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner.

Such paying or allowing or sharing is also permissible with a member of any other professional body or with such other persons having qualifications as may be prescribed for the purpose of rendering such professional services from time to time in or outside India.

The Council has prescribed in terms of the Regulation 168A of the Company Secretaries Regulations, 1982 (the ‘Regulations’), the “Other Professional bodies” as under:

(1) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, a person has to be member of any of the following, namely:-

(a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No.38 of 1949);

(b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No. 23 of 1959);

(c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);

(d) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);

(e) The Institute of Actuaries of India established under the Actuaries Act, 2006 (No. 35 of 2006);

(f) the membership of the professional bodies or institutions whose qualifications relating to Company Secretaryship are recognized by the Council under Sub-section (2) of Section 38 of the Act.

(2) For the purposes of clauses (2), (3) and (5) of Part I of the First Schedule to the Act, the following shall be the persons qualified in India, namely :-

(a) Chartered Accountant within the meaning of the Chartered Accountants Act, 1949;

(b) Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;

(c) Actuary within the meaning of the Actuaries Act, 2006;

(d) Bachelor in Engineering from a University established by law or an institution recognized by law;

(e) Bachelor in Technology from a University established by law or an institution recognized by law;

(f) Bachelor in Architecture from a University established by law or an institution recognized by law;

(g) Bachelor of Law from a University established by law.
or an institution recognized by law;

(h) Master in Business Administration from Universities established by Law or Technical Institutions recognized by All India Council for Technical Education.

(3) “accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the Institute;

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications, as is referred to in item (2) of this part.”

This item prohibits accepting or agreeing to accept any part of the profits of the professional work of a person who is not a member of the Institute. However, a member is allowed to enter into profit sharing or other similar arrangement with a member of such professional body or other person having qualifications as may be prescribed for the purpose of rendering such professional services from time to time in or outside India.

The “Other Professional bodies”, as provided in Regulation 168A of the Regulations, are stated above.

(4) “enters into partnership, in or outside India, with any person other than a Company Secretary in practice or such other person who is a member of any other professional body having such qualifications as may be prescribed, including a resident who but for his residence abroad would be entitled to be registered as a member under clause (e) of sub-section (1) of section 4 or whose qualifications are recognized by the Central Government or the Council for the purpose of permitting such partnerships.”

This item prohibits a Company Secretary in Practice from entering into partnership, whether in or outside India, with any person other than a Company Secretary in Practice or a member of any other professional body having such qualifications as may be prescribed.

Also entering into partnership with any other person residing outside India, who possess such qualifications as recognized by the Central Government or the Council for the purpose of such partnership is permitted. It includes a person who is a resident but for his resident abroad would be entitled to be registered as a member of the Institute under Section 4(1)(e) of the Act.

The purpose item (4) is that a Company Secretary in Practice should not enter into partnership with any non-recognised professionals.

The Council has prescribed in terms of the Regulation 168B of the Regulations, the “Membership of Professional body for Partnership” as under:

(1) For the purposes of entering into partnership under clauses (4) and (5) of Part I of the First Schedule to the Act, a person shall be a member of any of the following professional bodies, namely:-

(a) The Institute of Chartered Accountants of India established under the Chartered Accountants Act, 1949 (No. 38 of 1949);

(b) The Institute of Cost and Works Accountants of India established under the Cost and Works Accountants Act, 1959 (No.23 of 1959);

(c) Bar Council of India established under the Advocates Act, 1961 (No. 25 of 1961);

(d) The Institute of Engineers or Engineering from a University established by law or an institution recognized by law;

(e) The Indian Institute of Architects established under the Architects Act, 1972 (No. 20 of 1972);

(f) The Institute of Actuaries of India established, under the Actuaries Act, 2006 (No. 35 of 2006);

(g) Professional bodies or institutions outside India whose qualifications relating to Company Secretary recognized by the Council under Sub-section (2) of Section 38 of the Act.

(5) “secures, either through the services of a person who is not an employee of such company secretary or who is not his partner or by means which are not open to a Company Secretary, any professional business;

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part.”

This item prohibits a Company Secretary in Practice to secure professional work by unethical means and by means which are not open to a Company Secretary.

A Company Secretary in Practice can issue advertisement or launch own website only within the parameters of the ‘Guidelines for Advertisement by PCS’ issued by the Council of the Institute or any other guidelines issued by the Council from time to time and such acts shall not be treated as contravention of the items (5) as well as of the item (6) of the Part I of the First Schedule to the Act.

However, any act of omission or commission beyond the permitted methods as per the guidelines would amount to misconduct.

(6) “solicits clients or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;

Provided that nothing herein contained shall be construed as preventing or prohibiting–

(i) any company secretary from applying or requesting for or inviting or securing professional work from another company secretary in practice; or

(ii) a member from responding to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence.”

This clause reinforces the above clause (5) of the Part I of the First Schedule to the Act of securing any professional work.
As regards the ban on the advertisement of professional work or both by a Company Secretary in Practice, either directly or indirectly, through circular, advertisement, personal communication/interview or by any other means are prohibited. However, a Company Secretary in Practice can apply or request or invite or secure professional work from another Company Secretary in Practice. A Company Secretary in Practice is also allowed to secure professional work as a result of responding to tenders or enquiries issued by various users of professional services or organizations from time to time.

Some of the illustrative examples where the Council was of the opinion that the same amounts to solicitation of work and this item may get attracted are:

a) Circular or advertisement in newspaper indicating the range of services offered by him;

b) A circular letter offering secretarial services and professional work;

c) Communicating or describing himself as a ‘specialist’ in any branch of law/work or knowingly permitting himself to be so described;

d) Requesting his client (s) to recommend his /their acquaintances to him for professional work;

e) Sending his profile to persons/companies/firms without any requisition for the same;

f) Including names of other professionals in his profile circulated to various persons; etc.

(7) “advertises his professional attainments or services, or uses any designation or expressions other than Company Secretary on professional documents, visiting cards, letterheads or sign boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Company Secretaries of India or of any other institution that has been recognized by the Central Government or may be recognized by the Council;

Provided that a member in practice may advertise through a write up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council.”

This item covers two aspects- (i) advertisement of professional attainments or services by a Company Secretary in Practice and (ii) using the designation ‘Company Secretary’.

As regards the ban on the advertisement of professional attainments or services, this item prohibits a Company Secretary in Practice to advertise his professional attainments of services except through a write up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council from time to time.

Further, this item also prohibits a Company Secretary in Practice to use any designation or expression other than ‘Company Secretary’ on professional documents, visiting cards, letterheads or sign boards. This requirement fortifies the requirement under section 7 of the Company Secretaries Act, 1980 which requires the members to use the designation ‘Company Secretary’. Use of degree of University established by law in India or recognized by the Central Government is allowed. Use of a title indicating the membership of the Institute of Company Secretaries of India or any other institution recognized by the Central Government or recognized by the Council is allowed. Designations like Company law Consultant, Income Tax Consultant, Corporate Adviser, Investment Adviser, Management Consultant etc. are prohibited. The use of designation ‘Practising Company Secretary’, ‘Company Secretary in whole-time practice’, etc. is not in violation of this item.

(8) “accepts a position as a Company Secretary in practice previously held by another Company Secretary in practice without first communicating with him in writing.”

This item requires prior communication in writing with the previous incumbent. Intent behind is professional courtesy. This item is not intended to prevent any client from changing over to another Company Secretary in Practice. Seeking no objection or consent of the previous incumbent is not a prerequisite of accepting any assignment under this clause.

In order to have effective communication it is desirable to communicate in writing with the previous incumbent through a registered post/speed post or by hand with acknowledgement, in order to have a positive evidence of having a complete and effective communication. Mere posting of letter is not sufficient to comply with the requirements of this item, but acknowledgment by the addressee of the same is essential.

(9) “charges or offers to charge, accepts or offers to accept, in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings, or result of such employment, except as permitted under any regulation made under this Act.”

This item prohibits a Company Secretary in Practice to charge his remuneration based on the final results of any assignment. A Company Secretary in Practice, in respect of any professional employment is not allowed to charge or offers to charge or accept or offers to accept, fees based on percentage of profits, or which are contingent upon the findings or result of such employment, except as permitted under any regulations made under the Act.

For instance, if a Company Secretary in Practice were to quote remuneration in an Excise Refund case, as a percentage of the final amount of refund that may be ordered by an appellate authority, would hit this item. The fundamental is that the fee should be more related to the expertise required and the time spent on a particular case without in any way linking the fee with the final results.

(10) “engages in any business or occupation other than the profession of Company Secretary unless permitted by the Council so to engage;

Provided that nothing contained herein shall disentitle a Company Secretary from being a director of a company except as provided in the Companies Act, 1956.”

A Company Secretary in practice is prohibited from engaging in any business or occupation other that the profession of Company Secretary unless permitted by the Council (refer regulation 168 of the Regulations).
However, a Company Secretary can be a director of a company unless he is disentitled under the Companies Act, 1956 or the Companies Act, 2013.

Pursuant to Regulation 168 (1) of the Regulations, the Council has passed resolution permitting a Company Secretary in Practice to engage in the following other business or occupation under Regulation 168 of the Company Secretaries Regulations, 1982:

**Permission granted generally**

a) Private tutorship.

b) Authorship of books and articles.

c) Holding of Life Insurance Agency Licence for the limited purpose of getting renewal commission.

d) Holding of public elective offices such as M.P., M.L.A., M.L.C.

e) Honorary office-bearership of charitable, educational or other non-commercial organisations.

f) Acting as Justice of Peace, Special Executive Magistrate and the like.

g) Teaching assignment under the Coaching Organisation of the Institute or any other organisation, so long as the hours during which a member in practice is so engaged in teaching do not exceed average four hours in a day irrespective of the manner in which such assignment is described or the remuneration is receivable (whether by way of fixed amount or on the basis of any time scale of pay or in any other manner) by the member in practice for such assignment.

h) Valuation of papers, acting as a paper-setter, head examiner or a moderator, for any examination.

i) Editorship of professional journals.

j) Acting as ISO lead auditor.

k) Providing Risk Management Services for non-life insurance policies except marketing or procuring of policies.

l) Acting as Recovery Consultant in the Banking Sector.

m) Becoming non-executive director/promoter/promoter director/subscriber to the Memorandum and Articles of Association of a company the objects of which include areas, which fall within the scope of the profession of Company Secretaries irrespective of whether or not the practising member holds substantial interest in that company.

n) Becoming non-executive director/promoter/promoter director/subscriber to the Memorandum and Articles of Association of a company which is engaged in any other business or occupation provided that the practising member does not hold substantial interest in the company.

**Permission to be granted specifically**

Members of the Institute in practice may engage in the following categories of business or occupation, after obtaining the specific and prior approval of the Executive Committee of the Council in each case:

a) Interest or association in family business concerns provided that the member does not hold substantial interest in such concerns.

b) Interest in agricultural and allied activities carried on with the help, if required, of hired labour.

c) Editorship of journals other than professional journals.

However, in cases of permission to be granted specifically, the Council may refuse permission in individual cases.

Regulation 168 (2) of the Regulations provides that a Company Secretary may act as a secretary, trustee, executor, administrator, arbitrator, receiver, appraiser, valuer, internal auditor, management auditor, management consultant or as a representative on financial matters including taxation and may take up an appointment that may be made by the Central or any State Government, Court of Law, Labour Tribunals, or any other statutory authority. From the reading of Regulation 168, it is clear that the various occupations provided in sub-regulation (2) thereof do not require a specific resolution to be passed by the Council.

(11) “allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, anything which he is required to certify as a Company Secretary, or any other statements relating thereto.”

This item reinforces item (1) as above of Part I of the First Schedule to the Act and prohibits a Company Secretary in Practice from allowing a person who is not a Company Secretary in Practice or a member who is not his partner, to sign anything on his behalf or on behalf of his firm, which he is required to certify as a Company Secretary, or any other statements relating to it. For example, the annual return has to be certified by a Company Secretary himself. It is not possible to have certification done by a Company Secretary, say, through a power of attorney holder, employee (of the Company Secretary) who has been associated with the checking up of various details furnished in the Annual Return.

PCS who is not a partner of another PCS cannot sign on behalf of such other PCS on Annual Returns or any other certificates.

This write-up has been prepared and published for the reference of the members of the Institute. FAQs on the same will be published in the next issue of the Journal.

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**CORRIGENDUM**

In the March 2016 issue of Chartered Secretary in the article titled “Enhanced role and responsibilities of the Board of Directors under the Companies Act, 2013” on page 22 under the heading Board Composition, the first bullet be read as - Every Company having a Net Worth of rupees five hundred Crore or more instead of rupees five Crore or more.

The inadvertent error is regretted.
ETHICS AND SUSTAINABILITY

(Contributed by Brahma Kumaris)

Ethics and spirituality, the pillars for sustainability have not occupied a prominent place in the development agenda of recent decades. However, with basic human needs remaining unfulfilled for so many children, women and men, it must no longer escape our attention that the failure to provide for other members of the human family around the world is directly connected to humanity’s collective spiritual amnesia and the erosion of moral values.

For material development to be sustainable, spiritual advancement must be seen as an integral part of the human development algorithm. Our societies are human nature writ large; therefore, we believe that the solution to society’s current chaos lies in the spiritual transformation of each one of us. The choice we face is between conscious change and chaotic annihilation. We believe that the most important eco-spirituality struggles will be won or lost during this decade. While policymakers and governments can play their respective roles, each one of us has to do our part by consciously adopting spirituality and sustainability as a way of life. Only an individual life rooted in the continuous harmony with nature – a life based on moral and spiritual awareness – can preserve the sanctity of the planet.

When the spiritual dimension of our being is underdeveloped, we turn into pleasure-seeking automaton, plundering the planet in a mindless race called progress. This makes us self-centered and greedy for material wealth which leads to social disharmony and over-exploitation of natural resources. When we live a life of greater self-awareness, we tend to consume less and, more so, less mindlessly. With this understanding comes the liberating realization that there is no sustainability without spirituality.

If development concerns the relationship between people and people on the one hand and people and nature on the other, then sustainable development, that sustains people and respects nature, requires that such relationships be based on and guided by fundamental human values and a spiritual perspective of life. The best known definition of sustainability is the one stated in Our Common Future, more commonly known as the Brundtland Report: “….meeting the needs of the present without compromising the ability of future generations to meet their needs.”

A world without poverty, a world that is equitable, a world that respects the dignity of all living beings, and the sacredness of the natural world, a world where we recognize the mutual care and deep regard required for us to act in ways that will genuinely reduce poverty, and protect Earth’s natural resources, a world that is environmentally, socially and economically sustainable, where the challenges such as climate change, loss of biodiversity and social inequity have been successfully addressed.

The unbridled pursuit of economic development in the recent years has on the one hand contributed to environmental imbalances and has also resulted in unfair situations in the society whereby large sections of humanity is unable to meet even the basic human needs whereas other sections have much more than they need. There is thus an urgent need to restore the balance, and ensure that there is fair and efficient use of resources for the benefit of the present generation and also for the future generations. The ideal of development as a continuing process of growth, creation, improvement and positive change has yielded to a reality more frequently marked by destruction, division, deprivation and depletion. The difference between the cherished ideal and the cruel reality finds its roots in a poverty of values and spirituality. That poverty, hunger and other deprivations persist in an age of global plenty is not an issue of logistics, technology or financing so much as a question of values and morality. Setting a clear and defined course of action that we all agree on with regard to the development agenda is important but we must not forget that the world cannot be changed with words and plans alone: it can only change when our values, attitudes and actions change. The crisis of the non-implementation of action plans is itself a crisis of values, and ethical behaviour. Governments and Central Banks around the Globe have been promoting economic activity with the object of lifting millions out of abject poverty and for them to be able to have a dignified existence. This determined pursuit of economic activity while it has pulled out the masses from crippling poverty and yet has resulted in severe imbalances due to excessive exploitation of natural resources and its adverse outcome in the form of climate change. Thus, while the needs of a large number may have been met, however, the very existence of the future generations has been called into question. The exploitation of resources should be targeted to achieve the basic human needs and thus Governments, Corporations, Organisations, Citizens need to realign their activities, accordingly.

This is not to decry the important achievements that have been made in recent years in areas such as health, life expectancy and the reduction of poverty. Nevertheless, our world remains under the dark cloud of an excessively materialistic paradigm one of the consequences of which is that development is too often a narrow concept largely understood only in economic terms. This narrow concept of development can find its roots in a narrow concept of the self that neglects the larger reality of heart and soul, dims the inner light of the spirit and values and forgets the essential one-ness of the human family. Lasting development within society will not happen without development of the individual. We need to move from an overly materialistic approach to one that includes the broader and deeper realities of human life and experience: the inner world of our thoughts and values and the innate spirituality on which our worth and dignity are based. We will not be able to get the outer world in order until we have first learned to get our inner world in order and transcend short-term selfishness, consumerism, disregard for others and a corruption of values. We will not see the changes we look for in the world around us – such as the elimination of poverty, violence and injustice – until we first bring about those changes in ourselves. A strong and healthy society is the primary desired outcome of sustainability. The needs of its population are met and society’s ethical obligations to future generations are met through a careful examination of the society’s consumption of resources, pace of its populations growth, its generation of waste, the role of technology in the society, the behavior of the economic system, and the protection of environmental services and amenity.

Spirituality lends itself to a holistic perspective in which both spirit and matter, soul and body, are real. Among its many rich fruits, spirituality offers us a methodology to deepen our awareness of our inner being. From this awareness may follow steps to develop or change the self in ways that are conducive to the kind of world society we want.

The human worth and its sustainability is not derived from matter and material possessions or measured in consuming, having and doing. We then see poverty not just as relating to a material state; in fact the near-bankruptcy of values such as honesty, love, respect, care and compassion is the greatest poverty afflicting the world today as well as itself causing material poverty. Ethics and spirituality then are at the heart not just of who we are but also of the political, social, economic and environmental issues we are facing. It is also they, rather than words and numbers, that constitute the foundations of the world we are seeking to build.

At a time of the dehumanising of the individual, it is spirituality that gives
worth and dignity back to the individual, and with that, the capacity to discern what is needed and make choices based on notions such as the sacredness of life, respect for others and care for the natural world. Nature is not just a resource to be exploited, a potential source of economic growth, but a sustaining and sacred presence to be treated with respect and care. In a world of social disintegration and individual loss of meaning, spirituality offers us a sense of self and purpose and the ability to reconcile the tensions that challenge our being and living together as we strive for that which is good, meaningful and positive.

Helping us to recognize the common identity we share with fellow members of the human family, spirituality’s concept of power is one of sovereignty over the self rather than of controlling others. Distinguishable from religion, and possible doctrinal divergence, spirituality is concerned with the primary challenge of putting our inner house in order. It is not antithetical to material progress but believes that such progress yields a bitter fruit and carries within itself the seeds of its own demise if values such as responsibility, justice, honesty, sharing and respect are not its guiding polestar. It also provides the emerging global ethic with the deep, sustaining foundation that it needs if it is to find its way into our hearts and ways of living.

As development efforts shift their focus to include the human dimension, attention needs to be paid to ascertaining what is it that sustains the human being. Social improvement is inextricably linked with economic growth and material sufficiency but our struggle for development cannot rely on technological revolution alone or be judged in economic terms without also taking account of fundamental human values and the spiritual dimension of the individual. There is a crying need for people’s rights to proper water, health care, education, food and a life-supporting environment to be met. But human beings do not live by bread alone and development is to sustain people and life rather than being an end in itself. It is also apparent that securing access to basic human needs itself depends on the presence of values and that values that sustain people – such as respect, care, sharing, responsibility, honesty and love – are also values that sustain development. The inculcation of these values needs to be incorporated into the daily lives of people, for attainment of a balanced, sustainable existence for the universe, and can be realized only through attainment of peace, happiness, bliss, contentment by each and every individual. This change of course can only be achieved by encouraging the daily practice of spirituality by the individual. Spirituality would inculcate qualities such as love, compassion, patience, tolerance, forgiveness, contentment, responsibility, harmony, and a concern for others and would make adoption of sustainable development as being natural and easy.

It is clear, therefore, that sustainable development, and development that sustains all people, depends at least as much on inner transformation and growth as on material progress and prosperity. The role of education in this regard cannot be overestimated as it is education that has the potential for changing the way we think and act, physically forming or realigning the connections within our brains, and changing the nature of the whole person, body, mind and spirit. But to effect the move to a just, sustainable and peaceful world society, it is not just more education that is required but education to develop values, attitudes and ways of thinking that foster constructive human interaction and behaviour. We need to ask ourselves what are the values and principles that underlie our practices and that we would like to be the guiding force in our choices and decisions. Transcending notions of materialism and material gratification as being the essence of life, we may come to higher purposes of developing the inner self, inculcating moral values and expressing our skills and talents in service of others.

Achieving the environmental, economic, and social goals associated with sustainability requires worldwide collaboration, which is not possible without shared values. Action with regard to such personal and spiritual capacity-building is required within every sector and level of society as both formal education at school but also at home, in the community and workplace. Such education, as a creative and transformational process, will touch the heart as well as the mind and give shape to good governance and policies on crucial areas such as the use of resources, healthcare, industrialization, economic activity and technology.

The Brahma Kumaris therefore believe that achieving the goals of sustainable development requires that we place a high priority on learning and education that is not only functional, practical and relevant in content but which also has spiritual and moral principles and ethics values at its heart and the overall development of the whole person and society as its aim. This is the truly indispensable basic foundation of education.
The Companies Law Committee in its Report dated February 01, 2016 noted that after the Honourable Supreme Court’s Order of May, 2015, the Government had initiated the process of constituting the ‘National Company Law Tribunal’ and the ‘National Company Law Appellate Tribunal’. The Committee felt that changes in the Companies Act, 2013, in Sections 409(3)(a) & (e), 411(3) and 412(2), as directed by the Honourable Supreme Court, should be included in the Act. Accordingly the Companies (Amendment) Bill 2016 proposes amendments in Section 409, Section 411 and Section 412 of Companies Act 2013 with respect to the following:-

a. Qualification of technical member of NCLT

b. Constitution of selection committee with respect to selection of members of tribunal and appellate tribunal

Amendments proposed in Section 409(Clause 78)

In section 409 of the principal Act, in sub-section (3),—
(i) in clause (a), for the words "out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service", the words "and has been holding the rank of Secretary or Additional Secretary to the Government of India" shall be substituted;

(ii) for clause (e) the following clause shall be substituted namely:—“(e) is a person of proven ability, integrity and standing having special knowledge and professional experience of not less than fifteen years in industrial finance, industrial management, industrial reconstruction, investment and accountancy.”.

Amendments proposed in Section 411(Clause 79)

In section 411 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— "(3) A technical member shall be a person of proven ability, integrity and standing having special knowledge and professional experience of not less than twenty-five years in industrial finance, industrial management, industrial reconstruction, investment and accountancy.”.

Amendments proposed in Section 412(Clause 80)

In section 412 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:— "(2) The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of—

(a) Chief Justice of India or his nominee - Chairperson;
(b) a senior Judge of the Supreme Court or Chief Justice of High Court - Member;
(c) Secretary in the Ministry of Corporate Affairs - Member; and
(d) Secretary in the Ministry of Law and Justice - Member.

(2A) Where in a meeting of the Selection Committee, there is equality of votes on any matter, the Chairperson shall have a casting vote.”.

OBITUARIES

“Chartered Secretary” deeply regrets to record the sad demise of the following Members:

CS G Chakravarthi (31.07.1934 – 09.04.2015), a Fellow Member of the Institute from Thane.

CS Prem Rajan Guha (01.08.1929 – 14.02.2016), an Associate Member of the Institute from Kolkata.

CS B S Srinivas (28.04.1956 – 06.01.2016), an Associate Member of the Institute from Bangalore.

CS R M Satal (27.03.1944 – 16.08.2014), an Associate Member of the Institute from Ujjain.

CS K Ramananda Pai(09.04.1965 – 16.02.2016), an Associate Member of the Institute from Bangalore.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.
**DEVELOPMENTS – MARCH 2016**

- **Johannesburg – King IV report launched for public comment**
  
  The Institute of Directors in Southern Africa (IoDSA) launched a draft report of King IV – the new code on corporate governance – for public comment on 15th March 2016.

  The 75 principles that applied under King III have been reduced to 16 and it is expected that King IV will have wider application to non-listed entities, such as state-owned enterprises and non-profit organisations.

  King IV advocates a “stakeholder inclusive” approach. This recognises that companies are integral parts of societies – as taxpayers, investment vehicles, job creators and talent developers – but also that companies rely on society and the environment in which they operate for growth and sustainability. The final King IV Report will be released on November 1, 2016.


- **Kuala Lumpur: Changes to Bursa rules**
  
  On 25th March 2016, Bursa Malaysia has issued various amendments to the Listing Requirements for the Main and Ace markets to raise standards of disclosure and corporate governance practices. Some of the major changes are:

  - Enhancement to the integrity of financial statements and transparency on significant matters highlighted in the auditor’s report.
  - Immediate and periodic disclosures on key audit matters and matters related to going concern, and strengthening the role of the audit committee in reviewing financial statements are among the amended requirements.
  - Corporate governance practices of listed issuers enhanced by mandating poll voting for all resolutions set out in the notice of any general meeting, or in any notice of resolution.
  - Transparency and shareholder engagement improved by requiring posting of a summary of key matters discussed at annual general meetings, on the listed issuer’s website.
  - The amendments would be implemented on a staggered basis, starting April 30, 2016.


### Remember!!

| April 2 | World Autism Awareness Day |
| April 4 | International Day for Mine Awareness and Assistance in Mine Action |
| April 6 | International Day of Sport for Development and Peace |
| April 7 | World Health Day |
| April 7 | International Day of Reflection on the Genocide in Rwanda |
| April 12 | International Day of Human Space Flight |
| April 17 | World Hemophilia Day |
| April 18 | World Heritage Day |
| April 22 | Earth Day |
| April 23 | World Book and Copyright Day |
| April 23 | English Language Day |
| April 25 | World Malaria Day |
| April 26 | World Intellectual Property Day |
| April 28 | World Day for Safety and Health at Work |
| April 29 | Day of Remembrance for all Victims of Chemical Warfare |
| April 30 | International Jazz Day |

### FEEDBACK & SUGGESTIONS

Readers may give their feedback and suggestions on this page to Ms. Banu Dandona, Joint Director, ICSI (banu.dandona@icsi.edu)

 Disclaimer:

The contents under ‘Corporate Governance Corner’ have been collated from different sources. Readers are advised to cross check from original sources.

### Congratulations

Adesh Tandon, FCS, on being co-opted as a member in the Council of Merchants’ Chamber of Uttar Pradesh w.e.f. 12.10.2015 and being nominated as the Vice Chairman of the Legal Committee of the Chamber.

Pramod Kumar Singh, FCS on being appointed as CEO of Adityapur Auto Cluster, w.e.f. 1.10.2015. Adityapur Auto Cluster is a Public Limited Company Registered under Section 25 of the Companies Act, 1956 as SPV of Government of India, Government of Jharkhand, AIADA and Local Industries to implement the IIUS Scheme of Govt. of India.
IDBI Asset Management Limited, Investment Manager to IDBI Mutual Fund, invites applications from candidates for the post of **Company Secretary** at its Corporate office at Mumbai. The candidate should be a graduate from a recognized University and an Associate/Fellow Member of the Institute of Company Secretaries of India. Additional qualification of LLB/CA/ICWA/FRM/MBA is desirable. The candidate should possess a minimum of 8-10 years of experience post qualification. Candidates with experience in Mutual Funds/Insurance will be preferred.

The position is in middle management cadre. Salary is negotiable.

Please send your CV by email to [hr@idbimutual.co.in](mailto:hr@idbimutual.co.in) and/or by courier addressed to Mr S N Krishnamoorthy, AVP(HR), IDBI Asset Management Limited, Corporate Office, 5th Floor, Mafatlal Centre, Nariman Point, Mumbai – 400021.

For any further information, please contact Mr S N Krishnamoorthy: Tele - 022 66442825.

The last date for receipt of application along with CV is 2nd May, 2016.
Corporate Professionals is a group of seasoned and young professionals offering multi-disciplinary legal, financial and business advisory services. We have successfully executed over 3000 assignments of more than 1000 corporates, domestic as well as international, across industries. Aiming to become a one-stop-shop offering integrated legal and financial solutions, we have distinctively positioned ourselves as SEBI Registered (Category-I) Merchant Banker with Boutique Investment Banking & Transaction Advisory services. Our services include Merger & Acquisitions, Corporate Affairs & Compliances, Capital Market & Stock Exchange, Securities Law & Transaction Advisory; and Valuation & Biz Modelling. At Corporate Professionals, you will find yourself in a challenging environment that recognizes and rewards outstanding performance. To serve our growing clientele, we are looking to recruit individuals for the following positions:

<table>
<thead>
<tr>
<th>Position (1 each)</th>
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<th>Job Description / Requirement</th>
<th>Qualification, Experience and Expectations</th>
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<tbody>
<tr>
<td>Assistant Manager</td>
<td>Merger &amp; Acquisitions</td>
<td>Be a part of the merger, demerger, and corporate restructuring team involved in financial analysis, planning and preparation of M&amp;A process management as well management presentation.</td>
<td>CA/CS/MBA &lt;br&gt;Around 3 years of experience in consultancy environment. Interest in M&amp;As with good interpretation, analytical and writing skills and understanding of corporate, business and taxation laws and valuation. &lt;br&gt;CTC: Around 6 Lacs p.a.</td>
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<tr>
<td>Senior Manager</td>
<td>Corporate Affairs and Compliances</td>
<td>Handling Retainership clients. Role and responsibilities will include direct client coordination, ensuring compliances, answering to queries, vetting of documents etc. Challenging job and exposure to wide array of laws including Company law, Securities law and FEMA.</td>
<td>ACS/FCS with LL. B degree, possessing around 7-8 years of experience in consultancy environment or should have worked at least for four years in a listed company. &lt;br&gt;CTC: Around 12 Lacs p.a.</td>
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</table>
| Associate        | Corporate Affairs and Compliances | Assisting the team leader in executing works of retainership clients. Work profile, role and responsibilities will include audits, ensuring compliances, preparing replies to queries, monthly visits to clients etc. | ACS  
Around 3–4 years of experience in consultancy environment or should have worked at least for 2 years in a listed company.  
CTC: Around 4-4.8 Lacs p.a. |
| Associate        | Capital Market and Stock Exchange Services | Working closely with Stock Exchanges; Analysis and knowledge of Listing Regulations, Takeover Code, Insider Trading Regulations etc. | ACS with one-two years of experience in a listed company/consultancy firm dealing with listed companies.  
CTC: Around Rs. 4-4.5 Lacs p.a. |
| Associate        | Transaction Documentations and Commercial Agreements | Proficiency in drafting legal documents, legal contracts, business and commercial agreements etc. | Advocate with 2-3 years of experience in dealing with Joint Ventures, Acquisitions etc. and having proficiency in drafting and vetting of commercial agreements. Applicant holding CS qualification would be preferred.  
CTC: Around Rs.4-4.8 Lacs p.a. |
| Associate        | RBI & FEMA Laws | Expertise in FEMA and other related laws, RBI and SEBI regulations with exposure in dealing with authorities. | Advocate possessing at least 2-3 years of experience dealing with FEMA and RBI laws with proficiency in interpretation of statutes and having experience in appearance before Regulators / Tribunals/Appellate authorities etc. Applicant possessing CS qualification would be preferred.  
CTC: Around Rs. 4-4.8 Lacs p.a. |
| Associate        | Valuation & Biz Modelling | Working on Financial Models, Valuation Models and preparation of Valuation reports, Valuation Research of Deals taking place in market and Industry Research. | Any professional/semi-professional with work experience of 2 years in Equity research, Equity valuation and biz modelling. Candidate with research orientation and possessing good presentation skills would be preferred.  
CTC: Around Rs. 4.4 Lacs p.a. |

Practicing CS and CA with minimum two years experience are also required for empanelment. Interested candidates with good drafting and communication skills may post their resume online at [www.corporateprofessionals.com/careers](http://www.corporateprofessionals.com/careers)

Contact Persons: Mr. Vivek Vijay, Land Line No. 011- 40622257, Mob. No. +91 8802346238  
Ms. Shruti Nair, Land Line No. 011- 40622210
Somebody has rightly termed Company Secretaries as ‘Sutradhar’ (trouble shooters or problem solvers) to the modern day Arjuna of India Inc. Boards. The functioning of most of the boards of large corporates are generally governed by the prescribed laws, rules, regulations, guidelines etc. as well as some self-defined standards and procedures set by companies on their own. The major functions of a Board definitely hover around its business, from broad business strategy formulation to setting up objectives and their monitoring. It is important for any Board to devote its substantial time in strategic processes that ensure sustained operation and progress of the Company in the best interest of all the stakeholders. In this scenario, the position of Company Secretaries is gaining significance as they hold a vital position in the governance structure of the Companies. They not only undertake responsibility of running one of the major functions of an organisation but also aid and advise the Board/Directors in discharging their onerous responsibilities. No doubt, the law has rightly recognised the Company Secretary as a “Key Managerial Personnel”.

In the Indian Automobile sector, Maruti Suzuki India Ltd. (Maruti) is undoubtedly the most popular name which comes in our minds. Like in most of the large and reputed companies, our members are making a difference in Maruti too. We are delighted to share the views of Mr. S. Ravi Aiyar, Executive Director – Legal and Company Secretary of Maruti Suzuki India Limited. He was interviewed by Dr. Harpreet Raman Bahl and CS Deepa Khatri from ICSI team who found his values and beliefs inspiring especially for budding Company Secretaries. ICSI team found him to be possessing a fine blend of knowledge, skills, maturity, flexibility, business acumen and above all pragmatism which helps him to provide effective leadership to steer large corporates towards sustained growth and success. For the year 2015-16 he drew a compensation of about Rs 1.80 Crores. The excerpts of the interview are hereunder:

- **Interviewer:** Sir, thank you very much for sparing your precious time, can we start with your background and your current work profile?

  S. Ravi Aiyar: I am about 58, brought up and educated throughout in Delhi. I have graduated in Commerce with Honours from Shri Ram College of Commerce and pursued my Company Secretarieship. Besides, I also did Law from Campus Law Centre, University of Delhi and am also a qualified Cost Accountant.

  I kick-started my career in May 1981 with a reputed firm of Cost Accountants and thereafter, worked in different capacities in the areas of Accounts, Finance, Legal and Corporate Affairs with well-known corporates such as Samtel, Dabur, Maruti Suzuki India Limited and Unitech, before returning to Maruti Suzuki Group as its Chief Legal Officer and Company Secretary. Since last four years I am serving as Executive Director – Legal & Company Secretary and reporting to MD & CEO as well as to the Board.

- **Interviewer:** Working with Maruti, what do you like most about your Company?

  S. Ravi Aiyar: I started working with Maruti way back in the year 1999. Though, initially I was hesitant to take this offer, but later accepting the same I realized it proved to be a gratifying decision. This is so because, though the concept of Corporate Governance has become the buzz word in the last few years in India Inc., I found Maruti following the principles of high Corporate Governance as part of its DNA even in those years. During my interview for the position in 1999, I remember the panel discussing with me the concept of Corporate Governance quite elaborately. Though I possessed about 18 years of work experience and believed myself to be quite proficient, but Maruti presented a great platform for me to display and enhance my competence horizontally and vertically. In the course of my interaction with the Indian and Japanese officials at various levels while discussing business matters, I found that we thoroughly examined the intricacies/ nuances of the law and the issues at hand and then apply them in such a manner keeping best interest of all the stakeholders.

- **Interviewer:** What are your views on the performance evaluation of directors forming part of Companies Act, 2013? Has it started in your company?

  S. Ravi Aiyar: This is a new and welcome concept. While the manner of performance evaluation of the Board, its Committees and the Directors is not specified under the Companies Act, 2013, each and every company will have to devise its own process. Maruti is a fine blend of an Indian and Japanese management practices. In Japanese corporate culture, lot of emphasis is given to group excellence rather than individual excellence. The same holds true across the organisation including the Board, its Committees and the Directors. Based on this culture which has brought enormous success to the company, the company has a tailor made evaluation process of the Board, its Committees and the Directors.

- **Interviewer:** Board processes are integral part for any corporate in making the strategies and for achieving the growth of any company. How do you think Company Secretary can influence the Boardroom processes?

  S. Ravi Aiyar: Maruti’s Board has four Independent Directors who possess rich experience and come from varied backgrounds. As they are not closely associated with the day to day affairs of the Company, it is the Company Secretary who assists them with certain critical issues which form part of the agenda. In conjunction with the various functional heads, the Company Secretary helps in drafting agenda papers which are comprehensive but not verbose. This calls for a fair understanding of the business affairs of the Company including matters of strategy and execution within the framework of law. Should the Company Secretary possess in depth understanding of not only the laws but also intricacies and undercurrents of the business of the company and at the same time has the ability to effectively communicate the same, both in speech and writing, the Board develops great confidence while taking decisions. This enables the Company Secretary to ensure that the executive management and the Board works in close harmony in achieving
• Interviewer: What are your views with regard to provisions of Corporate Social Responsibility? How your company is implementing the same?

S. Ravi Aiyar: Maruti has aligned its CSR agenda with requirements of the Companies Act, 2013. It has set up a CSR Committee of the Board and formulated its own CSR Policy as per the projects mentioned in schedule VII. In 2015-16, the Company has spent more than two percent of its average net profits. The three main CSR areas are: Development of villages around Company’s facilities, Skill Development at National level and Road Safety. The Company is supporting 126 ITIs across the nation skilling over 14,000 students annually. It has trained over 2.8 million people in safe driving since the inception of the programme in 2000. Its sanitation initiatives have benefitted over 1.5 lakh people in Manesar, Haryana. In my opinion, while undertaking CSR activities companies must align their efforts in such a manner that while benefitting the society at large it also simultaneously complement the Objects of the Company.

• Interviewer: Companies Act, 2013 has enhanced the transparency level. Do you agree?

S. Ravi Aiyar: The new Companies Act has introduced numerous and extensive changes relating to governance, transparency, disclosures, responsibilities of directors, etc. However, whether the Act will augment the extent of transparency will to a large extent depend upon the extent of transparency already prevailing at the time of the implementation of the Act. Those companies whose levels of governance werelower will nowbe constrained to be more transparent. However, at Maruti since high governance standards and transparency were already ingrained across the business spectrum, we don’t see any significant effect on the Company.

• Interviewer: What are the reactions of the management on Secretarial Audit?

S. Ravi Aiyar: As a conscious and vigilant organization, our company had instituted a periodical audit of Legal & Secretarial functions as part of internal audit program. Ours is a system and processes driven company and forms an integral part of the Company’s internal governance structure. The Company fosters a culture in which high standards of ethical behaviour, individual accountability and transparent disclosures are ingrained in all its business dealings and shared by its Board of Directors, management, and its employees. The Company has established systems and procedures to ensure that its Board is well informed and well equipped to fulfill its overall responsibilities and to provide the management with the strategic direction needed to create the long term and sustainable shareholders value. After Secretarial Audit has become mandatory we get the audit done by a firm of Company Secretaries in Practice. The Board and the Management has welcomed this development as this report is addressed to the shareholders of the company which leads to transparency and confidence amongst the stakeholders.

• Interviewer: Besides professional skills in young Company Secretaries, what is the importance of acquiring soft skills?

S. Ravi Aiyar: My advice to young Company Secretaries is that apart from robust knowledge of the subjects they should constantly develop their soft skills with a view to effectively transmit their knowledge to both the management and the Board. Felicity of expression both in writing as well as speech is paramount and can be developed steadily by building a strong vocabulary base. This could be acquired by constant reading of standard text books, journals and other literary work of high order. Further, young Company Secretaries should periodically meet amongst themselves and also senior members and interact with them to boost their knowledge, skills and above all confidence.

• Interviewer: How do you maintain a work life balance in Maruti?

S. Ravi Aiyar: Foremost, we make people to feel at home in Maruti. How we do it is by way of practising an open office culture, very little hierarchical hindrances, easy approachability of senior management, same uniform culture and common lunch room and constant encouragement to give ideas for continuous improvement. The Company provides in-house gym and recreational facilities and has recently shifted to a five days week. Also well-known speakers from all walks of life are invited to share their wisdom for attaining equilibrium in all aspects of life.

• Interviewer: What are your views about Chartered Secretary?

S. Ravi Aiyar: The style and the contents of the Chartered Secretary journal are marvellous and contain very useful information by way of varied articles and government notifications and digest of legal cases all at one place. It is a great medium of communication between the Institute on one hand and the members/students on the other.

• Interviewer: What are your favourite avocations?

S. Ravi Aiyar: Over the years I have developed spirituality and I like to start my day by showing respect and love to the five Gods who fill my day with sprightliness. I am always very open to learn from others who have excelled in their life such as Amitabh Bachchan. I am inspired by his ‘Never Say Die’ attitude in reel as well as real life. Similarly, I watch sports and learnt ‘Haaranahihai, Jeetnahai’ attitude. I always admired cricketer SunilGavaskar facing hostile fast bowlers of his era without even wearing a helmet and playing sustained long innings. Besides, I like reading self-development and also management related books.

• Interviewer: what are your three most primary strengths?

S. Ravi Aiyar: 1) Discipline in thoughts, words and deeds (my mother instilled that in me from childhood itself and made me to wake up by 5.30 am), 2) Credibility (whatever I commit, I execute) and 3) Being indefatigable (fatigue should not overtake you).

• Interviewer: Your advice to young CS Students and Members.

S. Ravi Aiyar: The essence of my long experience in the profession is as under:-

• A single professional course like the Company Secretaryship pursued intensively would help you attain great heights provided you are also open to learning things and matters which are not part of curriculum.

• You have to put in sustained and dedicated work in small measure every day, day after day. Towards achieving this, discipline is the key in your personal life. Set in writing your short term and medium term goals and measure your achievements against them periodically and reset the same from time to time.

• Company Secretary should not only constantly develop their core competencies but also develop comprehensive business sense so as to bring significant and visible value to the corporates they work for or render services.
ATTENTION MEMBERS

17th National Conference of Practising Company Secretaries
August 12-13, 2016 at Kasauli, Himachal Pradesh

The Institute is organising the 17th National Conference of Practising Company Secretaries on August 12-13, 2016 at Kasauli, Himachal Pradesh. The detailed brochure containing theme and sub themes and other information will be uploaded on the website of the Institute shortly.

With a view to commemorate the occasion, the Institute has decided to bring out a publication showcasing the reach and strength of the profession of company secretaries. In this connection, it has been decided to publish the following details in the proposed publication,

The profiles of first 10 ACS, first 10 FCS, first 10 CP holders and first 10 CSBF Members
The profile and journey of company secretaries having 3 or more members in their families
The profile of members who have achieved recognition in a field other than as company secretaries such as Limca Book Award/Padma Awards/Participation in National Sports Events/the recognition in the area of music/art/cultural activities/Member of Parliament/Member of Legislative Assembly or any other recognition of National Importance

We invite the members to send their profiles/bio data (single space – Font : Verdana 10 point) in the following format latest by July 15, 2016 at devender.kapoor@icsi.edu with the subject “17 PCS – Profiles”.

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<th>SL. No.</th>
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We look forward to receiving your profile at the earliest.

Members whose bio data was published in the 16th National Conference of Practising Company Secretaries “Udan” last year, need not to send bio data again unless any other achievement obtained during the year.

ICSI is celebrating April, 2016 as ‘OUTREACH’ Month to acknowledge and reiterate our association and bond with our precious MOU (Memorandum of Understanding) partners.

ICSI extends sincere thanks to MOU partners for continuous patronage extended to The Institute of Company Secretaries of India.

We, as institutions, keep pace with the dynamic corporate, economic and social environment by not only capitalising on our inherent strengths but also by synergizing efforts and are confident that ICSI Outreach Month shall further the cause of the MOU in the real sense.

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