Journey of Corporate Governance

Corporate form of organisation has enabled creation of large organisations with substantial amount of capital and specialist managers run them to achieve their objectives. Corporate governance refers to the mechanisms, processes and relations by which corporations are managed to achieve their objectives. Governance identifies the distribution of rights and responsibilities among different participants in the corporation and includes the rules and procedures for making decisions in corporate affairs. Read on…

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Foreward

1. Advent of corporate form of organisation has enabled global size enterprises to come into being. This became the only form of organisation that can augment large amount of capital and specialist managers to propel the business vessel in the turbulent waters to a safe destination of slated stakeholder goals.

2. However, separation of ownership and management has thrown open certain challenges. Owners i.e. shareholders and management can have different interests. The shareholders desire enlargement of returns on their capital contribution through more profits and more dividends, while management may also be guided by other objectives like, higher remuneration conserving cashflows to minimise cost of borrowings or invest in securities to increase returns at corporate level. Corporate governance aims at adoption of set of practices that harmonise interests of the management with those of the owners.

3. Stakeholders are saviour for business, as is witnessed by times. Therefore, in this sense, the corporate

governance has to embers stakeholders' interests. Stakeholders are people interested in your company, ranging from employees to loyal customers and investors to government to general public, communities, activist groups, business support groups, and the media and so on. They broaden the pool of people who care about the well-being of the company, making it less alone in its entrepreneurial work. In current day theory, an enterprise with an engaged community of stakeholders reaps financial benefits from these relationships. At its best, the relationship between a business and its stakeholders is symbiotic and healthy. This is the current date encompass of corporate governance.

US Experience

4. US Stock market took biting on account of misreported annual accounts. Story of Enron Corporation presents a case that a Company reached dramatic heights only to face a dizzying fall. The fated company's collapse affected thousands of employees and shook Wall Street to its core. At Enron's peak, its shares were worth $90.75; just prior to declaring bankruptcy on Dec. 2, 2001, they were trading at $0.26. Enron was able to keep hundreds of millions worth of debt off its books. The shell companies, run by Enron executives, recorded fictitious revenues, essentially recording one dollar of revenue, multiple times. This practice created the appearance of incredible earnings figures.

5. The WorldCom, the USA's second largest long-distance telephone company at the relevant time. From 1999 to 2002, senior executives at WorldCom orchestrated a scheme to inflate earnings in order to maintain WorldCom's stock price. The fraud was uncovered in June 2002. Eventually, WorldCom was forced to admit that it had overstated its assets by over $11 billion. At the time, it was the largest accounting fraud in American history.

6. The reaction at US had been the Sarbanes-Oxley Act is said to have passed due to scandals such as WorldCom and Enron. This is a significant march forward towards embracing corporate governance, more emphatically, more visibly.

Other Stories

7. Bre-X Minerals, the Canadian company was involved in one of the largest stock swindles in history. Its Indonesian gold property, which was reported to contain more than 200 million ounces, was considered as the richest gold mine. The stock price skyrocketed to a high of $280 and at its peak, Bre-X had a market capitalization of $4.4 billion. The party ended in 1997, when the gold mine proved to be fraudulent, and the stock tumbled to pennies shortly after.

8. HIH Insurance had been second-largest insurance company in Australia. It was placed into provisional liquidation in March, 2001. Liquidation of HIH is the largest corporate collapse in Australia, where liquidators estimate HIH's losses totalled up to A$ 5.3 billion. Investigations into the cause of the collapse resulted in to conviction and imprisonment of a handful of members of HIH management on various charges relating to fraud.

9. In United Kingdom wallpaper brand Coloroll was owned by CWV Ltd. Developed from a family-owned wallpaper company founded in the 1970s, during the 1980s Coloroll Group became a dominant publicly listed home furnishings business, which collapsed in 1990 through excessive debt.

10. Polly Peck International (PPI) was a small British textile company which expanded rapidly in the 1980s and became a constituent of the FTSE 100 Index before collapsing in 1991 with debts of £1.3bn, eventually leading to the

flight of its CEO, Asil Nadir to Northern Cyprus in 1993.

11. Polly Peck was one of several corporate scandals that led to the reform of UK company law, resulting in the early versions of the UK Corporate Governance Code.

India Developments

12. In India, dodging tax laws and underreporting revenue is noticed on various occasions and has been brought to surface by tax departments. This has impacted shareholders wealth and stakeholder interests.

13. The biggest ever corporate scandal in India took place from one of the then most respected Corporate entity, Satyam. The Satyam founder and chairman confessed to SEBI of the manipulation done by him in the accounts of the Company. This corporate scam was carried on from 2003 till 2008. It is estimated that the fraud took place for around Rs five thousand crores of cash and bank balances as the company by falsifying revenues, margins. The stock price of Satyam fell drastically after this incident. Eventually, CBI took charge of conducting the investigation into the matter.

14. Earlier, there was a Bhansali scam. It resulted in a loss of over ₹ 1,200 crore (₹ 12 billion). He first launched the finance company CRB Capital Markets, followed by CRB Mutual Fund and CRB Share Custodial Services. He ruled like a financial wizard 1992 to 1996. The Group collecting money from the public through FDs, bonds and debentures, which money was transferred to companies that never existed. CRB Capital Markets raised a whopping ₹ 176 crore in three years. In 1994 CRB Mutual Funds raised ₹ 230 crore and ₹ 180 crore came via fixed deposits. Group also succeeded to raise about ₹ 900 crore from the markets. However, his good days did not last long, after 1995 he received several jolts. Bhansali tried borrowing more money from the market. This led to a financial crisis. It became difficult for Bhansali to sustain himself. The Reserve Bank of India (RBI) refused banking status to CRB and he was in the dock.

15. There were other numerous scams in securities market, in India. As a consolidated effect of the same, the corporate governance model got evolved in India over the period.

16. *The Godfather* is a celebrated crime novel. The novel's epigraph is: «Behind every great fortune there is a crime.» In a similar manner, it is noticed that "Behind every development in corporate governance there is a scam."

Corporate Governance

17. Corporate governance broadly refers to the mechanisms, processes and relations by which corporations are controlled and directed. Governance structure identifies the distribution of rights and responsibilities among different participants in the corporation such as the board of directors, managers, shareholders, creditors, auditors, regulators, and other stakeholders and includes the rules and procedures for making decisions in corporate affairs. Corporate governance includes the processes through which corporations' objectives are set and pursued in the context of the social, regulatory and market environment. Governance mechanisms include monitoring the actions, policies and decisions of corporations and their agents. Corporate governance practices are affected by attempts to align the interests of stakeholders.

18. The report of various committees helped a lot to streamline the corporate throughout the world. Some important Committees on governance is given under the following list:

S. No.	Committee	Country	Year
1	Cadbury	England	1992
2	King Committee	South Africa	1994 & 2002
3	CII	India	1996
4	Hampel	England	1998
5	Kumar Mangalam Birla	India	2000
6	SEBI	India	2000
7	Narayana Murty	India	2003
8	Uday Kotak	India	2017

Cadbury Report

19. "The Committee on the Financial Aspects of Corporate Governance" chaired by Adrian Cadbury has made recommendations on arrangement of company boards and accounting systems to mitigate corporate governance risks and failures. The voluntary code of the Committee Report, the Cadbury Code, recommends:

    (i) The majority of the Board be comprised of outside directors.

> "Governance mechanisms include monitoring the actions, policies and decisions of corporations and their agents. Corporate governance practices are affected by attempts to align the interests of stakeholders.

    (ii) The boards of all listed companies registered in the UK should comply with the Code of Best Practice set out in the Report.

    (iii) The board should meet regularly, retain full and effective control over the company and monitor the executive management.

    (iv) The directors should explain their responsibility for preparing the accounts next to a statement by the auditors about their reporting responsibilities.

    (v) The directors should report on the effectiveness of the company's system of internal control and report that the business is a going concern.

    (vi) It is the board's duty to present a balanced and understandable assessment of the company's position.

    (vii) The Institutional Shareholders' Committee (ISC) to represent the overwhelming majority of institutional shareholders in the UK. The ISC provides a channel of communication and forum for discussion between institutional shareholders, corporate management and others on wider issues

    (viii) The explanation of directors' responsibilities will require a relatively formal statement, which should cover the following points:

    (ix) all listed companies which have not already done so should establish an audit committee, and places great emphasis on the importance of properly constituted audit committees in raising standards of corporate governance.

    (x) The statutory responsibilities of directors and auditors relating to accounts and audit are laid down

    (xi) There be a clear division of responsibilities at the top, primarily that the position of Chairman of the Board be separated from that of Chief Executive, or that there be a strong independent element on the board;

    (xii) Remuneration committees for Board members be made up in

the majority of non-executive directors; and

(xiii) that the Board should appoint an Audit Committee including at least three non-executive directors.

20. The provisions of the Code were given statutory authority to the extent that the London Stock Exchange required listed companies to 'comply or explain'; that is, to enumerate to what extent they conform to the Code and, where they do not, state exactly to what degree and why.

King Committee

21. In South Africa, the 'King Report on Corporate Governance' presents guidelines for the governance structures and operation of companies. This Report has been cited as "the most effective summary of the best international practices in corporate governance". Four reports have bee published in a series.

22. The key principles from the first King report covered:

    (i) Board composition and mandate, including the role of non-executive directors and guidance on the categories of people who should make up the non-executive directors

    (ii) Appointments to the board and guidance on the maximum term for executive directors

    (iii) Determination and disclosure of executive and non-executive director's remuneration

    (iv) Board meeting frequency

    (v) Balanced annual reporting

    (vi) The requirement for effective auditing

    (vii) Affirmative action programs

    (viii) The company's code of ethics

23. The key principles from the first King report covered:

    (i) Board of directors' makeup and mandate, including the role of non-executive directors and guidance on the categories of people who should make up the non-executive directors

    (ii) Appointments to the board and guidance on the maximum term for executive directors

    (iii) Determination and disclosure of executive and non-executive director's remuneration

    (iv) Board meeting frequency

    (v) Balanced annual reporting

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24. King III is made applicable to all entities including, public, private and non-profit. The report incorporated a number of global emerging governance trends:

    (i) Alternative dispute resolution

    (ii) Risk-based internal audit

    (iii) Shareholder approval of non-executive directors' remuneration

    (iv) Evaluation of board and directors' performance

25. King IV assumes application of all principles, and requires entities to explain how the principles are applied – thus, apply and explain. King IV is principle- and outcomes-based rather than rules-based. It states that corporate governance should be concerned with ethical leadership, attitude, mindset and behaviour. Transparency is the hallmark. Well-considered disclosures are recommended. More prominence is on payment of remuneration, which is in line with international developments. It recognises information in isolation of technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset. There is a new

emphasis on the roles and responsibilities of stakeholders

CII

26. In 1996, CII under initiative on Corporate Governance constituted National Task Force Chaired by Rahul Bajaj, with an objective was to develop and promote a code for Corporate Governance to be adopted and followed by Indian companies, be these in the Private or Public Sector, Banks or Financial Institutions. The Task Force presented the draft guidelines and the code of Corporate Governance in April 1997.

27. The Committee noted that Corporate governance deals with laws, procedures, practices and implicit rules that determine a company's ability to take managerial decisions vis-à-vis its claimants—in particular, its shareholders, creditors, customers, the State and employees. A Desirable Code of Corporate Governance was published by the Committee.

28. Desirable Code of Corporate Governance, inter alia, provided for:

> Transparency is the hallmark. Well-considered disclosures are recommended.

(ix) In case of listed company with turnover exceeding Rs.100 crores, independent directors should consist of: (a). 30% if Chairman is non-executive director, (b).50% if Chairman & MD is the same person.

(x) No single person should hold directorships in more than 10 listed companies.

(xi) Non-executive directors should be competent and active.

(xii) Commission not exceeding 1% (3%) of net profits for a company with (out) a MD.

(xiii) Attendance record of directors should be made explicit at the time of reappointment; less than 50% no re-appointment.

(xiv) Key information that must be reported to and placed before the board.

(xv) Large listed companies should have an audit committee.

(xvi) Compliance certificate signed by CEO & CFO

Hampel

29. The Committee's agenda was to "promote high standards of corporate governance in the interests of investor protection and in order to preserve and enhance the standing of companies listed on the [London] Stock Exchange".

A In the Report, the Committee indicated its intention to produce a document containing a set of principles of corporate governance, and (ii) a code of good corporate governance practice – consisting of a combination of the Cadbury and Greenbury Codes and some Hampel Committee recommendations. The intention is that the current listing rules, which require listed UK companies to confirm their compliance with – and explain any non-conformance with – the Cadbury and Greenbury Codes, will be replaced by a rule requiring companies to disclose how they:

- apply the principles of corporate governance; and
- comply with the combined code including a requirement to justify any significant variances.

30. The Report suggested that companies should be required to include a narrative statement of how they apply a set of principles of corporate governance. The principles set out in the Report are about directors, *Directors' Remuneration, Shareholders and acountability and audit.*

Kumar Mangalam Birla

31. In early 1999, Securities and Exchange Board of

India (SEBI) had set up a committee under Shri Kumar Mangalam Birla, member SEBI Board, to promote and raise the standards of good corporate governance. The report submitted by the committee is the first formal and comprehensive attempt to evolve a 'Code of Corporate Governance', in the context of prevailing conditions of governance in Indian companies, as well as the state of capital markets.

32. The committee divided the recommendations into two categories, namely, mandatory and non- mandatory. The recommendations which are absolutely essential for corporate governance can be defined with precision and which can be enforced through the amendment of the listing agreement could be classified as mandatory.

33. Mandatory Recommendations include:

    (i) Composition of Board Of Directors – Optimum Combination Of Executive & Non-Executive Directors

    (ii) Audit committee – with 3 independent directors with one having financial and accounting knowledge.

    (iii) Remuneration committee be constituted

    (iv) Board procedures – at least 4 meetings of the board in a year with maximum gap of four months between two meetings. To review operational plans, capital budgets, quarterly results, minutes of committee's meeting, etc.

    (v) Director shall not be member of more than ten committee and shall not act as chairman of more than five committees across all companies

    (vi) Management discussion and analysis report covering industry structure, opportunities, threats, risks, outlook, internal control system

    (vii) Information sharing with shareholders

34. Other recommendations include:

    (i) Role of Chairman

    (ii) Remuneration Committee of Board

    (iii) Shareholders' right for receiving half yearly financial performance postal Ballot

    (iv) Covering Critical Matters Like Alteration in Memorandum Etc.

    (v) Sale of Whole or Substantial Part of The Undertaking

    (vi) Corporate Restructuring

    (vii) Further Issue of Capital

    (viii) Venturing in to New Businesses

Naresh Chandra Committee

35. The Ministry of Corporate Affairs had appointed a high-level committee in August 2002 to examine various corporate governance issues. The Committee's recommendations relate to:

    (i) Disqualifications for audit assignments;

    (ii) List of prohibited non-audit services;

    (iii) Independence Standards for Consulting, Other Entities that are Affiliated to Audit Firms;

    (iv) Compulsory Audit Partner Rotation;

    (v) Auditor's disclosure of contingent liabilities;

    (vi) Auditor's disclosure of qualifications and consequent action;

    (vii) Management's certification in the event of auditor's replacement;

    (viii) Auditor's annual certification of independence;

    (ix) Appointment of auditors;

    (x) Setting up of Independent Quality Review Board;

    (xi) Proposed disciplinary mechanism for auditors;

(xii) Defining an independent director;

(xiii) Percentage of independent directors;

(xiv) Minimum board size of listed companies;

36. In conclusion, one can state that the Committee has observed "Good corporate governance involves a commitment of a company to run its businesses in a legal, ethical and transparent manner - a dedication that must come from the very top and permeate throughout the organisation. That being so, much of what constitutes good corporate governance has to be voluntary. Law and regulations can, at best, define the basic framework - boundary conditions that cannot be crossed."

SEBI

37. Securities and Exchange Board of India (SEBI) was established in 1992 under an At of Parliament. It monitors and regulates corporate governance of listed companies in India through Clause 49 of the Listing Agreement. This clause is incorporated in the listing agreement of stock exchanges and it is compulsory for them to comply with its provisions. It was first introduced in the financial year 2000- 01 based on the recommendations of Kumar Mangalam Birla committee.

38. As a major step towards codifying the corporate governance norms, SEBI enshrined the Clause 49 in the Equity Listing Agreement (2000). In India, this clause serves as a standard of corporate governance. The clause requires that half the directors on a listed company's board must be Independent Directors. In the same clause, the SEBI had put forward the responsibilities of the Audit Committee, which was to have a majority Independent Directors.

39. Clause 49 of the Listing Agreement is applicable to companies which wish to get themselves listed in the stock exchanges. This clause has both mandatory and non-mandatory provisions. Key Mandatory provisions are as follows:

    (i) Composition of Board and its procedure – frequency of meeting, number of independent directors, code of conduct for Board of directors and senior management;

    (ii) Audit Committee, its composition, and role

    (iii) Provision relating to Subsidiary Companies

    (iv) Disclosure to Audit committee, Board and the Shareholders

    (v) CEO/CFO certification

    (vi) Quarterly report on corporate governance

    (vii) Annual compliance certificate

In 2014, the clause 49 was amended to include Whistle-blower policy as mandatory provision

40. Key Non-mandatory provisions include the following:

    (i) Constitution of Remuneration Committee

    (ii) Training of Board members

    (iii) Peer evaluation of Board members

41. After the Satyam Scandal, SEBI became more and more strict towards disclosure norms and implementation of Clause 49 provisions to bring about sea changes in transparency and accountability in the country. The Companies Act gave these norms a proper statutory backing.

Narayan Murthy

42. SEBI, subsequently constituted a Committee on Corporate Governance in 2002, in order to evaluate the adequacy of existing corporate governance practices and further improve these practices. It was under the Chairmanship of Shri N. R. Narayana Murthy,

43. The Committee was set up to review Clause 49, and suggest measures to improve corporate governance standards.

44. Major mandatory recommendations focused on:

    (i) Strengthening the responsibilities of audit committees;

    (ii) Improving the quality of financial disclosures, including those related to related party transactions and proceeds from initial public offerings;

    (iii) Requiring corporate executive boards to assess and disclose business risks in the annual reports of companies;

    (iv) Introducing responsibilities on boards to adopt formal codes of conduct; the position of nominee directors;

    (v) Stock holder approval and improved disclosures relating to compensation paid to nonexecutive directors.

    (vi) Non-mandatory recommendations included:

    (vii) Moving to a regime where corporate financial statements are not qualified;

    (viii) Instituting a system of training of board members; and

    (ix) Evaluation of performance of board members.

45. These recommendations codify certain standards of 'good governance' into specific requirements, since certain corporate responsibilities are too important to be left to loose concepts of fiduciary responsibility. Their implementation through SEBI's regulatory framework can strengthen existing governance practices and will provide a strong incentive to avoid corporate failures. The Committee noted that the recommendations contained in their report can be implemented by means of an amendment to the Listing Agreement, with changes made to the existing clause 49.

Uday Kotak Committee

46. One more Committee on corporate governance was formed by SEBI in 2017 under the Chairmanship of Mr. Uday Kotak. The aim was of improving standards of corporate governance of listed companies in India. A good number of recommendations have been accepted and implemented by SEBI.

47. Major suggestions can be summarised here. On composition and role of the board of directors, the Committee was of the view that the board of directors as a whole is responsible to all stakeholders for meeting the requisite standards of corporate governance in a company. Accordingly, the Committee sought to address the issues *inter alia* relating to strength of the board, its diversity, issues pertaining to independent directors and disclosure of skills / expertise of the board members.

48. Other recommendations include:

    (i) The institution of independent directors is essential to a good corporate governance framework as they are expected to bring objectivity into the functioning of the board and improve its effectiveness.

    (ii) Delegation of responsibilities to committees of the board is necessary for the effective governance of listed entities given the broad range of roles and responsibilities of the board. Committee's recommendations addressed issues pertaining to representations in the board committees, setting minimum number of meetings and quorum for each such committee and increase in the number and nature of board committees.

    (iii) Enhanced monitoring of group entities.

    (iv) To strengthen transparency on related party transactions, new regulation suggested.

    (v) Increased and better participation by investors will enhance good governance. Removing

> SEBI's regulatory framework can strengthen existing governance practices and will provide a strong incentive to avoid corporate failures.

the boundaries of physical meetings and adopting the use of technology.

49. The Kotak Committee recommendations addressed certain core issues in relation to corporate governance. These recommendations are in line with the global practices and amendments made to the SEBI LODR Regulations are a step forward in terms of achieving transparency and credibility in the corporate environment altogether.

Companies Act

50. The Companies Act, 2013 also came up with a dedicated chapter on Corporate Governance. Under this law, various provisions have been enacted under at least eleven heads viz. Composition of the Board, Woman Director, Independent Directors, Directors Training and Evaluation, Audit Committee, Nomination and Remuneration Committee, Subsidiary Companies, Internal Audit, SFIO, Risk Management Committee and Compliance to provide a rock-solid framework around Corporate Governance.

51. Making accounting standards for corporates and standards on auditing for company auditors issued by the ICAI mandatory is one singular step that has significantly contributed to the field of corporate governance. These provisions lead to transparent and comparable financial statements to be laid on the table.

52. In Companies Act, 2013 there are the important provisions under the Companies Act, 2013 (the new Act) and the Rules framed thereunder to further strengthen corporate governance.

53. Composition of the Board of Directors [Sections 149, 151]:

Minimum number of directors has been prescribed, every company shall have maximum 15 directors, for appointment of more than 15 directors after passing a special resolution, requirement to have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year.

Every listed company and large public companies are required to have at least one-third of total number of directors as independent directors. Any intermittent vacancy of an Independent Director is required to be filled up at the earliest.

Listed company and large public companies are required to appoint at least one wholetime director, a woman director.

i. **Concept of Independent Directors (Section 149 and 150):** The Concept of Independent Directors has been introduced for the first time in Company Law. The Act says that an independent director must be "a person of integrity and possess the relevant expertise and experience" in the opinion of the board.

Every listed company is required to have at least 1/3rd independent directors on its board. The term for appointment of independent directors has also been prescribed with a view to maintain independence. Independent directors shall hold office for a term up to five consecutive years and which shall not exceed for more than two consecutive terms. He is eligible for appointment in same company after cooling period of three years. Also, the company and the independent directors shall abide by the provisions of (Code of Conduct) specified in Schedule IV of the Act. The Central Government is also vested with the power to prescribe qualifications for IDs. The Act contemplates the institution of a data bank of IDs, from which persons may be chosen by companies.

ii. **Limit on Directors of a Company:** The maximum limit of directors in the Company has been increased to 15 from 12 as per Companies Act 1956 with a power to add more directors upon passing of Special Resolution. (Section 149 (1)

iii. **Restriction on number of directorship a person can hold:** A person cannot become director in more than 20 companies as against 15 in Companies Act 1956 and out of this 20, he cannot be director of more than 10 public companies. (Section 165)

iv. **Requirement of Woman Director:** In prescribed class or classes of companies, there should be at least 1 woman director. (Section 149)

v. **Concept of CSR (Section 135):** As per the Act, every company having net worth of Rs. 500 crore or more or turnover of Rs. 1000 crore or more or net profit of Rs. 5 crore or more during the immediately preceding financial year is required to have a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director for companies. The Committee to formulate and recommend to the Board, a Corporate Social Responsibility Policy:

— indicating the activities to be undertaken by the Company; and

— recommending the amount of expenditure to be incurred on the activities.

Also, the Board is required to ensure that at least 2% of average net profits may during 3 immediately preceding years spent every year on CSR and in the event of failure, Board to specify the reasons for not spending the amount, in its report made under Section 134(3).

vi. **Appointment of Internal Auditor (Section 138):** Class of companies as may be prescribed is required to appoint an internal auditor to conduct internal audit of the books of company. Internal Auditor shall be a Chartered Accountant or Cost Accountant or such other professional as may be decided by Board.

vii. **E-Governance Initiatives:** In order to give importance to Green initiatives and to make paperless office, E-Governance has been proposed for various company processes like maintenance and inspection of documents in electronic form, option of keeping of books of accounts in electronic form, circulation of financial statements electronically and to place on company's website, holding of board meetings through video conferencing/ other electronic mode; voting through electronic means, permission to pay dividend electronically.

viii. **Board's Report (Section 134):** The Board's report for every company except for One Person Company, shall have provide various types of additional information like details of web link, number of meetings of the Board, Company's policy on directors' appointment and remuneration; explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the Company Secretary in his secretarial audit report, particulars of loans, guarantees or investments etc.

The Directors Responsibility Statement in case of listed company shall also include additional statement related to internal finance control and compliance of all applicable laws.

The Report of the Board of Directors is required to include a DRS on the aspects of applicable accounting standards compliance, accounting policies as selected are consistently applied and judgments and estimates are made in a reasonable and prudent manner to ensure true and fair view of the state of affairs at the end of financial year and of the profit or loss for that period, maintenance of adequate accounting records, annual accounts prepared on a Going Concern basis, ensure compliance with the provisions of all applicable laws, etc.

(i)

(ii)

ix. In case of a listed company and every large public company the Board Report to include, inter alia, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.

x. The Act has codified duties of the directors as given below:

a) To act in accordance with the articles of the company

b) To act in good faith, promote

the corporate objects and in the best interests of all stakeholders, community, environment

c) Act with due and reasonable care, skill and diligence

d) No direct or indirect conflict of interest

e) Not to assign director's office

xi. Code on independent directors, remuneration to directors, etc. And such other disclosure provisions have also been made.

xii. Investor Protection measures

To give more protection to the money invested by the investors, the concept of class action suits has been introduced, penalty and punishment has been widened. A **suit may be filed by a person who is affected by any misleading statement** or the inclusion or omission of any matter in the Prospectus or who has invested money by fraudulent inducement.

Also an exit opportunity to dissenting shareholders on variation in terms of contract or objects in a prospectus is permitted i.e., in cases where 90% or more of the equity shareholding in a company is acquired by any person or group of persons, such a group is obliged to make an offer to buy out the shares held by the minority shareholders.

(iii)

54. It is evident from provisions of the Companies Act, 2013 that much emphasis has been placed on ensuring greater corporate governance and reporting thereon.

Audit

55. The Ministry of Corporate Affairs constituted a committee for Recommendations on Regulating Audit Firms and the Networks. The Committee has released its Findings and Recommendations. It states that auditors are to resolve agency problems. Moreover, independent audits are fundamental to taking informed and correct investment decisions. Availability of trustworthy financial information on the performance of companies is important to proper functioning of market economy. Serious concerns arise if auditors' independence is compromised or the trust reposed on them is betrayed.

56. The MCA is making consistent efforts for contributing and enhancing corporate governance.

Way Forward

57. The future of corporate governance hinges on stakeholder behaviour and regulatory responses. The managements will yield to stakeholder pressure only when non-compliant entities are ridiculed in business and compelled to trade the path of rectitude.

58. In this sense, corporate governance should become more a habit than regulatory compliance reaction. When this happens, the Companies will strive for excellence in corporate governance. This will happen only when the market recognises value of good corporate behaviour and accord premium therefor, not as a cost, but as a contribution. ■■■

"Moreover, independent audits are fundamental to taking informed and correct investment decisions. Availability of trustworthy financial information on the performance of companies is important to proper functioning of market economy.

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