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Recent trends in corporate governance and its issues

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Abstract
Corporate governance in a globalized economy has become one of the most important topics for the business environment and the governments. The proper implementation of corporate governance regulations by the companies bring out advantages for companies and the countries. High quality status of corporate governance means low capital cost, increase in financial capabilities and liquidity, ability of overcoming crises more easily and prevention of the exclusion of soundly managed companies from the capital markets. For effective corporate governance, its policies need to be such that the directors of the company should not abuse their power and instead should understand their duties and responsibilities towards the company and should act in the best interests of the company in the broadest sense. The concept of ‘corporate governance’ is not an end; it’s just a beginning towards growth of company for long term prosperity This paper aims to provide the an overview of corporate governance in India.

Keywords: Role of law, ownership structure, recent developments, top issues

Introduction
Corporate governance concept emerged in India after the second half of 1996 due to economic liberalization and deregulation of industry and business. With the changing times, there was also need for greater accountability of companies to their shareholders and customers. The report of Cadbury Committee on the financial aspects of corporate Governance in the U.K. has given rise to the debate of Corporate Governance in India.

The concern of corporate governance in India was coupled with industrial reforms in 1991. Trade and other structural reforms in the country are manifestations of desire of policymakers to put efficient allocation and use of resources at the heart of economic activity. In light of increasing globalization and openness in trade following the liberalization reform in India, initiative of good corporate governance came from the industrial association of India – the Confederation of Indian Industry (CII) which drafted the country’s first Code for Desirable Corporate Governance in 1998. Later in 2000, India’s capital market regulator, Securities of Exchange Board of India (SEBI) subsequent to the global emergence of code of best corporate governance practices (like Cadbury Greenbury and Hampel Committee reports), formulated the country’s first code of best practices in corporate governance.

The objective of corporate governance reforms in India seem to have largely relied upon the stewardship theory being the focus of such codes in the developed countries. Since 2000 there has been a series of revisions introduced in Clause 49 to incorporate the recommendations of committees such as Naresh Chandra Committee (2002) and Narayan Murthy Committee (2003). The Department of Corporate Affairs (DCA), government of India set up the Naresh Chandra Committee to examine corporate governance issues focusing on role of auditors and audit committee. In 2004, Narayan Murthy committee was constituted by SEBI to review the performance of corporate governance in the country as well as to determine the role of companies in responding to rumour and other price sensitive information circulating in the market in order to enhance the transparency and integrity of the market (SEBI 2003)

Objectives
1. Transparency and Full Disclosure
2. Accountability
3. Equitable Treatment of Shareholders

4. Self Evaluation
5. Increasing Shareholders' Wealth

Role Of Law In Corporate Governance

Law is made not to stop any act but to ensure that if you do that act, you will face such consequences i.e. good for good and bad for bad. Thus, in the same manner, role of law in corporate governance is to supplement and not to supplant. It can not be only way to govern corporate governance but instead it provides a minimum code of conduct for good corporate governance. Law provides certain ethics to govern one and all so as to have maximum satisfaction and minimum friction. It plays a complementary role. Role of law in corporate governance is in Companies Act which imposes certain restrictions on Directors so that there is no misrepresentation of documents, there is no excessive of power, so that it imposes duty not to make secret profit and make good losses due to breach of duty, negligence, etc, duty to act in the best interest of the company.

Ownership Structure in Corporate Governance

Ownership structures are of major importance in corporate governance because they affect the incentives of managers and thereby the efficiency of the firm. The ownership structure is defined by the distribution of equity with regard to votes and capital but also by the identity of the equity owners. Ownership structure can be distinguished by the level of concentration of ownership rights as well as by the identity of the owner. In general ownership structure may include inside as well as outside owners. Inside owners are managers and employees, and outside owners are individuals, organizations and state. Owners may also be distinguished as foreign and native ones.

Different ownership structures

➢ **Concentrated ownership**

Ownership by large investor prevails in the world. A reasonable explanation to this is the weakness of the legal system protecting investor rights around the world. In comparison with small investors large investors need less right to protect their interests. Large owners can be more effective in monitoring and controlling the management therefore contributing to the performance. Some recent studies point out that high concentration of ownership may lead to excessive monitoring of managers. Therefore decreasing managerial initiative to make firm- specific investments.

➢ **Manager Ownership**

More equity ownership by the manager contributes to the better alignment of monetary incentives between the manager and other owners, so that it may increase performance. On the other side more equity ownership may decrease the performance because managers can be so powerful that they do not consider other stakeholders interests. Large managerial ownership contributes to entrenchment of managers, which can be specifically costly when they have low qualification or prefer to live an easy life.

➢ **Employee Ownership**

The relationship between employee ownership and corporate performance in public companies is ambiguous. From one side the ownership in enterprise stimulates employees to work as efficient as possible, since they gain from the prosperity of enterprise. The employees may be powerful enough to influence their level of pay in the enterprise, therefore extracting short-term gain from the firm's activity. This would, in turn, worsen the long-term efficiency of enterprise.

➢ **Individual Ownership**

Individual investors usually create strong controlling mechanism, since their holding in corporation is not diversified. Its effects on company performance are similar to those described for concentrated ownership.

➢ **Organization Ownership**

Organizations, firms and institutions enhance efficiency of enterprises the most, due to their ability to better analyze 10 information, provide new technologies and capital, and create more well thought out corporate governance system. However the efficiency may be decreased due to the fact that the controlling organization may have different goals from that of profit maximization.

Major Trends in Corporate Governance in India

A few of the major trends evident in the realm of corporate governance practice are discussed below.

Separation of Chairman and CEO

Separation of Chairman and CEO are increasingly recognized as a best practice that the companies should absorb. Several companies now have separate Chairman and the CEOs. In the sample of 42 companies that this study has analysed in regard to corporate governance practices, more than half of them have chairman separate from the chief executive officer and this trend is rising in several companies.

An Independent Board

Given the importance of independence of the board, the scope of non executive directors and independent directors assume great significance. This study revealed that about 65 percent of the directors are non executive and about 46 percent are independent directors. There are three companies in which the chairman is non executive as also independent. There is a growing trend of making the board structure more independent. Companies with foreign shareholding in the pharmaceutical industry have non executive and independent directors as chairmen.

Lead Independent Directors

Big corporations are now designating lead independent directors who will coordinate the work of the independent directors as also review the progress of the company and set its business agenda. The role of the Lead Independent Director in one of the top Indian companies is defined as below

- To preside over the meetings of Independent Directors
- To ensure that there is adequate and timely flow of information to Independent Directors
- To liaise between the Chairman and Managing Director, the Management and Independent Directors
- To preside over meetings of the Board and Shareholders when the Chairman and Managing Director is not present or where he is an interested party

- To perform such other duties as may be delegated to the Lead Independent

Director by the Board/Independent Directors.

Periodic Evaluation of the Performance

Good governance requires periodic evaluation of the performance of the Board and Audit Committees by an internal process or an external agency. Though big corporations take elaborate care and processes in identification and selection of the members of the board, not all companies have a well defined process of performance evaluation. Infosys has put in place, where in an annual performance evaluation exercise; each non executive board member has to make a presentation to the Board on the major contribution made by him leading to an assessment that will determine the further scope of the members participation in the board. Such structured processes are not evident in a large number of companies.

Related Party Transactions

OECD defines related party transactions as those that involve between a parent company and subsidiary, employees, an enterprise and its principal owners, management or members of their immediate families; and affiliates (OECD Principles, IAS 24(9); FASB Statement No.57). Related party transactions can take various forms including; transfer pricing, asset stripping, inter company loans and guarantees; sale of receivables to special purpose vehicle; leasing or licensing agreement between a parent and a subsidiary.

Annual Reports

Annual Reports are important documents for assessing and analyzing the company performance in regard to corporate governance standards and compliance. There is vast improvement in the quality of content in the Annual Reports, but scope exists for presenting the data in a manner that is easy to locate and understand. Even in respect of the corporate governance reports, though the number of aspects on which information is required to be given is uniform, companies present information in documents of a number of companies.

36 different formats making it rather cumbersome for the readers who look at the

Corporate Governance Reports

Governance Reports are important part of the Annual Reports. Many companies in addition to giving the compliance on various parameters also some times discuss the philosophy and objectives of the corporate governance thus setting the background for the spirit and letter of governance that is reported.

Corporate Social Responsibility

It is also found that several leading Indian companies undertake corporate social responsibility, which they report in the annual reports in a separate section. It is interesting to note several companies taking interest in corporate social responsibility.

Statement of the Policies

Most of the disclosures that are found in the companies annual reports are mandatory in nature. Many companies tend to fulfill the regulatory or compliance norms rather than taking a proactive initiative in discussing and disclosing pertinent policies and procedures on a wide range of issues that the company deals with. For the purpose of an illustration, a global major corporate, in its corporate governance report discussed and disclosed the following. Such disclosures and discussions are however, evident only in major corporations in India.

a. Board Reserves one full day per year to discuss strategic questions
b. Average duration of the Board Meetings
c. Average attendance at the Board Meeting
d. Working of the Compensation Committee
e. Information Policy 37

Top Issues in Corporate Governance

Value based corporate culture

For any organization to run in effective way, it needs to have certain ethics, values. Long run business needs to have based corporate culture. Value based corporate culture is good practice for corporate governance. It is a set of beliefs, ethics, principles which are inviolable. It can be a motto i.e. A short phrase which is unique and helps in running organization, there can be vision i.e. dream to be fulfilled, mission and purpose, objective, goal, target.

Holistic view

This holistic view is more or less godly, religious attitude which helps in running organization. It is not easier to adopt it, it needs special efforts and once adopted it leads to developing qualities of nobility, tolerance and empathy.

Compliance with laws

Those companies which really need progress, have high ethical values and need to run long run business they abide and comply with laws of Securities Exchange Board of India (SEBI), Foreign Exchange Regulation Act, Competition Act 2002, Cyber Laws, Banking Laws etc.

Globalization helping Indian Companies to become global giants based on good governance

In today’s age of competition and due to globalization our several Indian Corporate bodies are becoming global giants which are possible only due to good corporate governance.

Lessons from Corporate Failure

Every story has a moral to learn from, every failure has success to learn from, in the same way, corporate body have certain policies which if goes as a failure they need to learn from it. Failure can be both internal as well as external whatever it may be, in good governance, corporate bodies need to learn from their failures and need to move to the path of success.

Conclusion

The concept of corporate governance hinges on total transparency, integrity and accountability of the management and the board of directors. The importance of Corporate Governance lies in its contribution both to business prosperity and to accountability. In the age of globalization, global competition, good corporate governance helps as a great tool for corporate bodies. It existed from Vedic times as the Highest standards in ArthaShastra to today’s set of ethics, principles, rules, regulations, values, morals, thinking, laws etc as good corporate governance. Corporate Governance is a means not an end, Corporate Excellence should be the end. Once, the good Corporate Governance will be achieved, the Corporate Body will shine to outshine the whole world.

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