

Changing Face of Corporate Governance in India

Efficient, Transparent, and Impeccable Corporate Governance is vital for stability, profitability, and desired growth of the business of any organization. The importance of such corporate governance has now become more intensified, owing to ever-growing competition and rivalry in the businesses of almost all economic sectors, both at the national and international levels. Therefore, the new Indian Companies Act of 2013 has rightly introduced some new refining and innovative things, to make corporate governance in India optimally progressive, transparent, and beneficial to all the concerned people. Corporate Governance is basically an approach of managing efficiently and prudently all the activities of a company, in order to make the business stable and secure, growth-oriented, maximally profitable to its shareholders, and highly reputed and reliable among all customers and clients concerned. The Board Structure and Top Management are directly and exclusively responsible for such governance. For these purposes, the top management of must have flawless and effective control over all affairs of the organization, regular monitoring of all business activities and transactions, proper care and concern for the interest and benefits of the shareholders, and strict compliances to regulatory and governmental bodies. Thus, corporate governance is strict and efficient application of all best management practices, and corporate & legal compliances, amid the contemporary and continually changing business scenarios.

Improvements to Corporate Governance Introduced by CA-2013

Before the introduction of the Companies Act of 2013, the corporate governance was mainly being guided by the Clause 49 of the Listing Agreement. Now, in light of the new provisions and regulations introduced by the Companies Act of 2013 for corporate governance, SEBI has also approved some significant amendments in the Listing Agreement, in order to improve transactional transparency of the listed companies, and offer greater power to the minority shareholders in influencing management decisions. These approved series of amendments in the Listing Agreement are notified through the circular dated April 17, 2014; and will be effective from October 1, 2014.

New Provisions for Stakeholders and Directors

- Appointment of one or more Woman Directors is recommended to certain prescribed classes of companies.
- Every company in India must have a Resident Director, who stayed anywhere in India for a time-period not less than 182 days in the preceding calendar year under CA - 2013.



- As per CA 2013, the maximal number of permissible Directors in a public limited company shall not exceed 15. However, some more directors can also be appointed with proper approval of shareholders by passing a Special Resolution.
- Introduced newly is the concept of the Independent Directors in the listed public companies under CA, 2013. Detailed rules and provisions for mandatory appointment, tenure, meetings, etc., of such independent directors are also provided. The Nominee Directors are not included in the category of the Independent Directors.
- The CA 2013 prescribes a Code of conduct and other functions and duties which raise the bar of standards and performances of independent directors. The duties include constructive attendance in all board/general meetings, reporting unethical practices, fraud and violation of law, retaining any confidential information etc.
- The Independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management. All the independent directors of the company shall strive to be present at such meeting.
- As per CA 2013, every company shall, at the first AGM appoint an individual or firm as an auditor who shall hold the office from the conclusion of this meeting till the conclusion of its sixth AGM and thereafter till the conclusion of every sixth meeting.
- The role and responsibilities of Audit Committee has been eventually increased.
- Disclosure & filing requirement with Registrar of Companies, has significantly increased.
- The top management must duly recognize the legitimate rights of the shareholders, and encourage perennially strong and sound co-operation between the company and its shareholders.
- Every company must ensure punctual and accurate disclosure on all material matters, inevitably including the current financial situation, performance, ownership, and governance.
- The Board of Directors of every listed company and certain class of Public Companies shall lawfully constitute the Nomination and Remuneration Committees.
- The Companies Act of 2013 urges companies to conduct a strict performance evaluation of all directors on their respective boards, including the independent directors.

Related Party Transactions

A Related Party Transaction (RPT) is a significant transfer of resources, services, facilities, or obligations, between a company and any specified related party, with or without a monetary price. It is responsibility of a company to devise policies on the materiality of such related party transactions, and also on the dealing with these. Such policies must be disclosed and displayed on the website of the company, and also in the annual report. The following points are prescribed by the CA-2013, in connection with the related party transactions:

- All such transactions shall necessarily need prior approval of the Audit Committee.



- All material related party transactions shall be duly approved and escorted by a special resolution of the shareholders; and the related parties shall abstain from voting on such resolutions. Explicit information about all material related party transactions shall be presented quarterly, along with the carefully drafted compliance report on corporate government.
- As per the new SEBI norms, the key managerial personnel of the parent company are also likely to be regarded as the related parties; so is the case of the joint ventures, co-ventures, or co-associates.

Changes in Clause 35B of the Equity Listing Agreement

The issuer is legally bound to provide convenient e-voting facility to its shareholders, in connection with all resolutions to be made on behalf of the shareholders. This e-voting could be performed at the general meetings or through postal ballot; the issuer can also utilize services of any agency for e-voting platform, but strictly as per the rules of MCA. Such e-voting process shall be maintained open for a period specified in the Companies (Management and Administration) Rules of 2014, for enabling the shareholders to forward their respective and precious assent or dissent to the specified resolution. Noteworthy, here, also is the initiative of the Ministry of Corporate Affairs (MCA), Government of India, to hold meeting of board of directors, and meeting of shareholders, through Video Conferencing.

Corporate Social Responsibility (CSR) – Due Contribution towards Society

The Corporate Social Responsibility (CSR) is the name given to the responsibility of corporate towards the societies or communities. It is advocated as these corporate bodies draw their necessary resources from society; these are ethically expected to return something creative and beneficial back to the society, the value of which is manifold. Thus, the concept of corporate social responsibility boosts the vision and policies of the sustainable development. The new Indian Companies Act of 2013 also puts emphasis on this CSR, to promote social development along with progress of corporates in the country.

Whistle Blower Policy – A Mandatory Provision by SEBI

- The companies shall utilize a censorious and punctilious vigil mechanism, to report about wrong or unethical conduct or behaviour of any director or employee of the company, actual or suspected fraud or violation of the code of conduct or ethics of the company, etc.



- Such mechanism will also safeguard any directors/employees against victimization of them, and will also enable the concerned people for meeting directly the Chairman of the Audit Committee, in some exceptional cases.
- Detailed information regarding the establishment of any such vigil mechanism shall be disclosed overtly by a company on its website, and also in the Board's report.

Conclusion

Thus, the new Indian Companies Act of 2013 has introduced many intelligent and innovative measures and provisions for betterment in the corporate governance in all economic sectors of India. These corrective and prudent rules, regulations, and provisions of the CA-2013 seek to enhance active involvement of the shareholders in efficient and transparent corporate governance, place top responsibilities on entrusted and considerate management personnel, safeguard interests of shareholders and the society, and equip the corporate world of India for progressing fast at par with the roaring economies of the world.

DISCLAIMER: This document has been prepared by Sarthi Capital Advisors (P) Ltd as a part of research only. In rendering this information, we assume and relied upon without independent verification, the accuracy and completeness of all information that was publicly available to us the information has been obtained from the sources we believe to be reliable as to the accuracy or completeness. This document should not be construed as an offer to sell or solicitation to by the securities and the information contained hear in is meant exclusively for the recipient and its not for circulation, publication or reproduction in any manner what so ever. This information is given in good faith and we make no representations or warranties, express or implied as to the accuracy or completeness of the information and the expectation of income and capital appreciation and shall have no liability to you or your representatives resulting from use of this information. We shall not be liable for any direct or indirect losses, loss of profits, hardships, inconveniences arising from the use thereof and accept no responsibility for statements made and information provided and you would be relying on this document at your own risk.



S A R T H I
Bridging the Gap

Mumbai

159/11, Amar Brass Compound,
Vidya Nagari Marg,
Kalina, Santacruz (E),
Mumbai - 400098
Landline: 022-26528671-72
Fax: 022-26528673

New Delhi

Anthem House,
E-360, 1st Floor,
Nirman Vihar, Delhi - 110092
Landline: 011-22449817,
011-22449815
Fax: 011-22439816

CONTACT US

Please write to us with your feedback,
suggestion or query at smelisting@sarthiwm.in
www.sarthiwm.in | www.smelisting.net

Sarthi Capital Advisors Pvt Ltd
SEBI Registered Category I Merchant Banker
SEBI Registration No: INM000012011