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Corporate Governance in India - from Policies to Reality

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Abstract-

Indian financial system is not strong enough for the overall development of the Indian Economy. There are three gateways Reserve Bank Of India (RBI), Security Exchange Board of India (SEBI) and Auditor (CA) which are responsible for the development of the Economy of India. RBI is playing a vital role when we talk about the strong banking system of our country but still there are many changes which are required to be changed, so that we should have global practices in our banking system. Auditors have also an important part which plays a crucial role when government authorities collect information about any company. SEBI is a market regulator of the secondary market. It plays a vital role for the smooth functioning of the Share market. It gives the safe passage to the investor's as there are so many instances where investors lost their money. Good Corporate Governance is an important subject among Corporate bosses. Corporate Government plays an important role for the people who carry the business on an undisputable height where Corporate can boast of their success.

There are a number of factors which are essential to be studied for a good Corporate Governance. Norms in our country are needed to be refined and redeveloped. In the present model of Corporate Governance there are number of flaw and we have to make a lot of changes to these norms to be best suited to present scenario of

business need. Corporate Governance needs a very strong system and its components especially the Gatekeepers of it.

The economic need of India demands three major Gatekeepers as:

- Reserve Bank of India (RBI)
- Security and Exchange board of India (SEBI) and
- Auditors (CA)

Each Gatekeeper plays a pivotal role for the better Corporate Governance. Our findings are totally based on financial and economic analysis of the available data. As far as the functioning of these Gatekeepers is concerned it should be strong and a lot of changes are needed.

To run the entire show smoothly, strong and reliable information is needed. There must be quality of information. Further we need reliable data of the firm and combination of system with firm. Then only each firm runs smoothly in a good system of Corporate Governance. The result of the study shows that better Corporate Governance have lesser incentives because of lower agency problem between major and minority shareholders.

This study emphasizes Corporate Governance in Indian Content. There are many issues which are to be discussed in the present business environment; the incorporation of SEBI gives a fair and smooth functioning of security market and it trying to achieve its aim but RBI could succeed for the development of banking sector in the global scenario. This study shows that how Corporate Governance is important.

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Corporate Governance Peculiarities in India

Key Issues- There are many issues in India in Corporate Governance still not solved till a great degree such as:

1. Agency Gap: In India there is problem in majority stock holders and minority stock holders. Family business firms exert more pressure because of their dominance in the corporate world. Public Sector Enterprises (PSE), Multi National Companies(MNC) and family business have their own fundamentals to run the business. PSE's are more responsible for the Government Rules and Regulations and Ministries. MNC's are concerned with Corporate Governance. Family Business exerts under control through holding company.

2. Regulatory Framework: SEBI and Stock Exchange have major stake in market regulations. Corporate Governance needs to be discussed broadly. There are no strict rules and regulations to address the issues and claims.

Evolution of Corporate Governance reforms in India

Corporate Governance plays an important role for the profitability and sustainability of the companies. It is a multi level and multi tired process to deal with. It depends on the policy and regulation of the companies how they follow the best corporate practice for the satisfaction of the employees and their overall development in the Corporate world.

At the time of Independence in 1947, India has less rules and regulations, small stock market and less developed Corporate Governance modal. From 1947 to 1951, Government followed the policies of socialist modals. Banks played an important role in the development of the market. Government agencies were evaluated by how much they have invested rather than how much profit they earned.

Public equity was made government set prices. In this environment, Corporate Governance has deteriorated but in the first phase of development little developments were made for Corporate Governance. Companies were complying very little for Corporate Governance which were given in companies Act of 1956 and the rules of ICAI. But after 1991 crisis, Indian Government reformed a lot of areas and policies. SEBI was formed in 1992. The need for capital plays an important role for the development of Corporate Governance in India.

Regulatory Framework for Corporate Governance in India and Challenges in Enforcement

As Indian Government started thinking for the development, It constituted the SEBI in 1992 to regulate the security market. Ministry of Corporate affairs plays an important role for the Companies regulation under the Companies law board.

The main purpose of the agency is to protect the investors from any fraud in the security market. SEBI's authority has also not clear and it could not successfully exercise it , authority to curb the various scams. But later on sufficient amendments were done to curb the various scams to bring the companies under the complete preview of SEBI. Now it has been granted issue of capital, transfer of Securities and other matters, later on overlap of authority between SEBI and MCA; SEBI and RBI were removed for better administration and regulation of the market. Some new amendments must be there for better implementations of the rules and regulations of the market.

Enforcement of CORORATE GOVERENNACE NORMS

Enforcement of Corporate Governance norms must be discussed in broader term and speedy delivery of justice by Indian legal system. Total 53,000 cases are pending with Supreme Court, 40, 00,000 With High courts and 27, 00,000 with various lower courts and till now new cases are being registered day by day. These cases hamper the overall growth of the economy.

In the Satyam case depositors and investors have complained against Indian law because they did not get speedy Justice for their cases in Indian court.

Key Issues in Corporate Governance in India

1. Managing the shareholders and promoters: Joint stock companies make monopoly for majority of the Company's resources to get their own needs. Global Corporate Governance norms emphasize on boards, independent directors and appointment of CEO; But in India boards are not powerful and it has to bow before the majority stakeholders.

   So there are lot of problems and issues in Corporate Governance. In public sector units board members are appointed by government and mostly are not professionally competent. Also all the major decisions are taken by the ministers of the concerned ministry which is not good in business interest. Coal India issue was having a problems for UK based investors in that regard.

   The guidelines on Corporate Governance cover following issues-

   (i) Board of Directors

   (ii) Audit Committee

(iii) Remuneration Committee

(iv) Subsidiary Committee

(v) Disclosures

(vi) Reports Compliance and schedule of implement

Multinational Companies have better Corporate Governance compliance in the prescribed form. These Companies follow the Global standard for Corporate Governance. These Companies better control its Indian subsidiaries.

But sometimes Indian subsidiaries risks the parent companies to harm the minority' shareholders for the benefits of the parent companies.

Family businesses are very complex when they follow the Corporate Governance norms. Indian family businesses are more in numbers as compare to businesses in China, UK, USA and other competitive countries.

Companies Bill 2011 and its impact on Corporate Governance in India

Government of India have made several amendments in Companies Act, 1956 and presented a new bill, 2011 that was approved by the parliament for good Corporate Governance practices in India. This bill in Corporate many changes based on the various scams which had happened in the recent past. Mainly appointments of independent Directors were made essential. And board importance was also given importance. This independent director would not be too close of promoters. Five year term is fixed for the independent directors. These directors cannot took stock option in the companies. Secondly, specified numbers of members may file case against the company in tribunal if they think that company is not doing work according to the wishes of its members. It means these new rules were giving extra protection to the investors.

Policy Formulation - Need for Robust Research to Guide Further Policy Initiatives

In the last decades the government has formulated various policies for better Corporate Governance. Government has effectively implemented these policies successfully in the various business areas and protected the interest of the investors.

Gatekeepers of Corporate Governance

The RBI, SEBI and the Auditors (CA) are the main gatekeepers of Corporate Governance .When there is a transaction in the market, companies should think that there is someone who is looking at this transaction. A combination of good regulation and better gate keeping would direct the stronger capital markets. If some gatekeepers such as Auditors, Lawyers, Rating Agencies and Analysts fail, then the role of the other gatekeepers –Government, the Judiciary happens to be important for the overall growth of the economy. SEBI, CAG, RBI and ICAI are playing a good role in maintaining the better services of Corporate Governance. These gatekeepers must work interdependently rather than independently.

Reserve Bank Of India (RBI)

Banking Sector Regulation-

Central Banks in any country are expected to be autonomous body. Their primary duty is to control inflation and maintain economic stability. In a developing market their role is more important. RBI sets a framework of interest rate, foreign exchange reserve management, setting norms for the financial sector. It also conducts periodic surveillance to implement good Corporate Governance norms in banking sector.

Framework for Corporate Governance of banks

Board for financial supervision (BFS) plays a pivotal role for the RBI to implement good Corporate Governance. CAMELS approach (Capital adequacy, asset quality, management earnings, liquidity and systems and controls) are monitored by BFS. There are three types of approaches:-

a) Disclosure and Transparency

b) Off-site Surveillance

c) Prompt Corrective Action

Observation of our analysis

85 % of the entire financial sector is made up of commercial banking sector. There should be 09 % CAR, NPA should be below 10% and ROA of 25%. All the banks have done better than the set benchmark between 2007-12 .This Sector has performed well. RBI has done a good job for the development of the banking sector. There

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are so many sectors where RBI collects the information from the various sectors, enforce checks and balances to instill good Corporate Governance.

SEBI

SEBI acts as a regulator of the capital market in India and its role is very important for good Corporate Governance. Its role extends only to listed companies and is exercised through two stock exchanges, National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE). SEBI has set some norms for good Corporate Governance which is the part of the listing agreements.

Impact of Clause 49 on firm value and Efficiency

There should be an independent director according to the clause 49 of SEBI. There is a whistle blower policy too. We studied and measured the impact of good Governance on the value of the firm for 100 companies making BSE, 100 Index over 7 year period beginning 2004-05. No positive shift in this period was seen. Many Important financial ratios such as ROA, ROE, Net

Profit, Cost Sales ratios were studied but no clear relations could be established. Perhaps Corporate Governance has not had the expected impact as yet.

The SEBI Appeal Process and consent orders

SEBI has been given quasi-judicial powers and does well to dispose any complaints which come before it as market regulator. Many complaints are related to initial public offers and share price manipulation. In the

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analysis of hundred cases only 51 % cases were given free or partial relief. In many other types of complaints SEBI took many years to solve the various cases.

We also studied and analyzed 100 cases of consent orders from May 2009 to September 2011. These orders are alternatives to long and lengthy litigation process. Our analysis shows that it is an effective measure for long pending issues. SEBI has been instrumental in starting and enforcing basic standards of Corporate Governance. Its ambit is restricted to listed companies only. The SEBI appeal process is a significant constituent of this act. It needs some tightening, which might already be taking place.

Auditors

Auditors have a role in upholding the integrity of the financial information. They are the gatekeepers of the entire security market. They are the protectors of the customers, investor's regulators and other stake holders. Independence is essential for the performance of his duties successfully. Size of the audit firm is a good proxy for quality of audit and dependability.

Quality Financial Information

In India business needs a good accounting language and IFRS as a global standard. ICAI is trying to converge Indian Standards with the IFRS.

Quality of Accounts Prepared by Companies

The quality of audit depends on quality of financial statement, since most of the companies in India are Promoter-led Companies; there are chances that right information is not passed.

Quality of enforcement

Our analysis shows that there are very less chances that there is any strict action for non- complain of companies Act. It clearly shows that our system is not adequate to control these types of frauds.

Following recommendations are suggested:

i) Audit and non- audit services should be properly divided.

ii) Public listed entities should have minimum accounts to be audited.

iii) RBI and CAG must have access to the documents of the companies so they can easily audit the various important papers.

iv)We should have a regulatory body like America's public Company accounting oversight Board.

Conclusion

Our Analysis shows that there should be a perfect system to curb the non compliance of the rules and regulation. We should make our rules and regulation as par with global standard because we are into the global business environment. Even RBI, Ministry of Company Affairs (MCI), SEBI; these regulatory bodies are working in global environment these are the main gateways for our financial strength and responsible for the development of the Indian Economy.

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So this system showed is robust and strong enough to control the entire system.

References

1. Aggarwal A and C.R. Kroeber (1996) *Firm performance and mechanism to control agency problems between managers and shareholders, Journal of Financial and Qualitative Analysis,* 31. 377-397.
2. Bhagat Sanjai and Bernard Black (1999). *The Uncertain relationship between board composition and firm performance Business Lawyer,* 54. 921-963.
3. Black Bernard, (2007) *The Corporate Governance behavior and market value of Indian Firm Emerging Market review*, 2. 89-108.
4. CBI, Deloitte and Touché (1999) *Survey of Corporate Governance in the U.K.* , Deloitte and Touché , London.

Statement of Originality and Authenticity

This Research Paper **Corporate Governance in India - from Policies to Reality** is an original and authentic piece of work by me, in the supervision of my Research Guide Dr. Neeraj Saxena, Associate Professor, Gita Ratan International Business School, Rohini, Delhi. I have fully acknowledged and referenced all material in corporate form secondary sources. It has not, in whole or part, been presented elsewhere for publishing. I have read the regulations and I am aware of the potential consequences of any breach of them