



ROLE OF SEBI IN CORPORATE GOVERNANCE

Name :- KOYEL GHOSH

Student of LL.M 3rd Sem of Brainware University, Kolkata.

Email – ghoshkoyel2025@gmail.com

Phone number- 9748682227

Abstract

Several illegal tactics and practises are currently being blamed on the corporate sector around the world, and these illegal tactics and practises are a curse for the corporate sector. For a civilised society, these are bad. There are policies and procedures in place to prevent corporate entities from engaging in unethical behaviour. For corporate entities to free themselves from these, as well as for their success and long-term survival, corporate governance is one of the most useful tools and mechanisms. In this essay, an effort has been made to discuss the role that SEBI, through clauses 35B and 49 of the listing agreement, played in forcing companies to adhere to Indian corporate governance standards. Conceptual clarification, corporate governance, and legal are the sections of this article. the framework for good corporate governance in India, the foundational elements of good corporate governance, the role of SEBI under sections 35B and 49, and the conclusion and suggested actions. Corporates are forced to comply with the standards of corporate governance by SEBI through the rules and provisions in clauses 35B and 49 of the listing agreement.

Keywords: corporate , illegal tactics, directives, securities, financial

Introduction

After corporate scandals and frauds caused business entities to collapse and, in turn, the financial system of the country owing to poor governance, the necessity for excellent corporate governance became apparent. India is not an exception to the increased necessity for the observance of governance norms today to defend and safeguard the interests of stakeholders everywhere. More than at any other time in the history of corporate management, corporate governance is viewed as a key instrument for promoting sustainable business practises.

All of the company's stakeholders—shareholders, the board of directors, management, employees, investors, consumers, regulators, and suppliers—have both rights and obligations in ensuring that the companies follow

corporate governance, which reduces economic fraud, scandal, and crime committed by corporations. The legal framework governing corporate governance is essential to this project. In India, SEBI, which was established in 1992 as a regulator and watchdog, plays a crucial role in holding corporate entities accountable for following good corporate governance practices.

OBJECTIVES

1. Studying the SEBI's role in corporate governance is step one.
- 2 - To evaluate how SEBI contributes to corporate maintenance and governance

Governance

Corporate governance, which includes the rules, regulations, policies, and standards for accountability, transparency, and general corporate integrity, describes how businesses or market systems function.

Origins

In response to the Financial Services Assessment Programme, a programme created by the World Bank and International Monetary Fund that monitors and reports on international financial systems, SEBI was established after the Indian Parliament approved the Securities and Exchange Board of India Act, 1992. The Indian government sought to create a robust financial environment and securities market, as well as a regulator that would support the most recent corporate governance norms.

Pillars of Effective Corporate Governance

- Transparency
- Accountability
- Disclosure
- Equity
- Fairness
- the Rule of Law
- Participation

SEBI Role in Corporate governance

Since its founding in 1992, the SEBI has undertaken a number of initiatives, formed a number of committees, and amended Clauses 35B and 49 of the listing agreement in an effort to improve corporate governance. Here, the listing agreement's Clause 35B and Clause 49 provide two examples of how the SEBI participates in corporate governance through standards and provisions.

SEBI standards and recommendations under Clauses 35B and 49 of the listing agreement for good corporate governance:

Since its founding, SEBI has taken steps to bring Indian corporate governance procedures into line with the international norms followed by mature nations. The listing agreement's latest revisions to Clauses 35B and 49 make Governance more effective and strict in defending the interests of all stakeholders. The revised Listing Agreement Clause 49 complies with the 2013 Companies Act. According to a SEBI clarification, going forward, non-listing companies would also be subject to this rule, which currently only applies to listed corporations.

Clause 35B

In accordance with the updated clause 35B, the issuer has committed to offer shareholders the option of voting electronically or by postal vote for any shareholder resolutions that must be approved at general meetings. All members, the business's auditors, and the directors must receive meeting notices from the company via registered mail, registered email, or courier, and the notices must also be posted on the company's official website. The company should disclose in the meeting notice that it offers members the ability to cast postal ballots and electronic ballots.

Clause 49 and sub-clauses

Corporate responsibility The standards outlined in the proposed modification to Listing Agreement Clause 49 are in conformity to the corporate governance standards established by the 2013 New Companies Act. Once more, this clause includes information regarding the adherence to these standards by all listed companies. Furthermore, additional specified entities that are not corporations but are bodies corporate or are governed by other statutes are also subject to the provisions of this proposed modified paragraph (e.g. banks, financial institutions, insurance companies, etc.). The modified provisions of the corporate governance norms compliances are contained in 11 subclasses of clause 49.

Corporate governance principles [clause 49 (i)]

In this part, SEBI outlines and clarifies the duties of the board, the obligations of corporations to safeguard the interests of stakeholders, and the rights of shareholders and other stakeholder groups. According to this, disclosures must be made in a transparent manner and in line with all applicable accounting rules, both financial and non-financial.

Board of Directors [clause 49 (ii)]

The board's composition, the inclusion of independent director restrictions, the term of independent directors, the corporate code of conduct, and the whistleblowing policy are all outlined in this subclause.

Board Composition:

This sub-clause outlines the ideal composition of the Board of Directors, which must include at least one woman director and at least 50% non-executive directors. Once more, it is stated that if the Chairman is an

executive director, half of the board must be independent. The board must, however, consist of 1/3 independent directors if the chairman is a non-executive director.

Restrictions on independent directorship:

A person is only permitted to serve as an independent director of seven or fewer listed companies, in accordance with the Revised Clause. A person may not hold the position of independent director for more than three listed companies if they are also serving as a full-time director of a listed company.

According to the 2013 New Companies Act's provisions, an independent director's term will be for a period of five years.

Concerning the compensation and disclosures for non-executive directors, the proposed amendment to clause 49 of the listing agreement makes significant changes as well.

Code of conduct:

The BOD shall establish a code of conduct for all Board members and senior management of the Company, which shall be posted on the Company's official website, in accordance with the proposed revision to this clause.

Whistle blowing:

Under the updated clause 49 of the listing agreement, the whistle blowing policy will be required, which will be a significant step in preserving the norms of corporate governance. This clause's subclause offers protection to anyone who exposes wrongdoing, fraud, unlawful activity, and misappropriation within a corporation.

Audit committee [clause 49 (iii)]

This modified provision states that the audit committee must have a minimum of three members, with independent directors making up at least two-thirds of the body. Each member must have a working knowledge of finances, and one member must be a specialist in accounting or a related field of financial management. This committee must meet at least four times per year, spaced no more than four months apart from one another. The authority, function, and duties of audit committee members are defined by this amendment by SEBI.

Nomination and Remuneration committee [clause 49 (iv)]

The nomination and compensation committee should have a minimum of three members, half of whom should be independent directors and all of whom should be non-executive directors. This clause outlines the Committee's responsibilities, which include developing evaluation criteria for Independent directors, formulating board diversity policies, identifying potential directors and senior management in accordance with the established standards, and recommending to the Board remuneration policies for directors and other employees, including key managerial personnel.

Requirements W.R.T. subsidiary companies [Clause 49 (v)]

The obligations of listed holding company subsidiaries, both listed and unlisted, are laid out in this sub-clause. Provisions with regard to unlisted subsidiaries include (a) the requirement that at least one independent director of the holding company serve on the board of directors of an Indian subsidiary company that is materially unlisted and (b) the requirement that the audit committee of the listed holding review the financial statements of the subsidiary company that is materially unlisted.

Risk management [Clause 49 (vi)]

The BODs of the top 100 businesses by market capitalization are required under this clause from SEBI to establish a risk management committee, decide its role and responsibilities, and assign authority as they see fit. This committee shall be made up of Board members in accordance with SEBI standards. Senior executives are eligible to join the committee as members, although the chairman must also be on the board of directors.

Related party transactions [Clause 49 (vii)]

As a result, the companies are required to present the audit committee with a summary of all information regarding related party transactions on a regular basis.

Disclosure Norms [Clause 49 (viii)]

The proposed amendment to Article 49 of the listing agreement would make disclosure standards stricter than ever before.

The amended clause requires that a quarterly report that includes information on all relevant facts relating to parties' transactions, a compliance report on corporate governance, and a web link be made available on the company's website.

Reiterating the previous point, the annual report will include information on any changes to the accounting treatment used in financial statements, the remuneration of directors, and the directors' relationship to the company.

Certification from Chief Executive Officer (CEO) and Chief Finance Officer (CFO) [Clause 49 (ix)]

This sub clause increases the accountability and responsibility of the Board of Directors, the Chief Executive Officer, and the Chief Financial Officer. To the best of their knowledge, they must attest that they have examined the financial accounts and the cash flow statements. Then, to the best of their knowledge, they must verify that the Company hasn't engaged in any transactions that violate the Company's code of conduct or are fraudulent. Once more, it will be their responsibility to alert the auditors and the audit committee to any material modifications to internal control over financial reporting, alterations to accounting principles, or cases of material fraud that they become aware of.

Compliance Certificate on Corporate Governance [clause 49 (x) and (xi)]

SEBI mandates that corporations get the Compliance Certificate on Corporate Governance from either the Company's auditor or a Practicing Company Secretary in accordance with the listing agreement's modified clause 49. A separate component of the annual report will contain this certificate. In addition to the Annual Report, a Certificate must be presented to the stock exchange.

Conclusion

Even though SEBI is a young organisation, it has done a good job of fulfilling its role as a capital market regulator, ensuring the protection of various stakeholders, and raising involvement in capital formation. When necessary, SEBI has taken action to ensure honest trading and investor protection. SEBI is essential for corporate governance compliance. The level of confidence among the shareholders connected to a company that practises effective corporate governance is significantly higher. Share prices are influenced favourably by active and independent directors who work to improve the company's reputation on the financial market. One major factor that international institutional investors consider when selecting a firm to invest in is corporate governance.

Amendments to Clause 49 proposed by SEBI roved creative ways to properly balance statutory and regulatory reforms for the expansion of the business and to boost foreign investment. The rules and regulations are measures that improve shareholder involvement in decision-making and introduce transparency in corporate governance, which in turn protects society's and shareholders' interests. Corporate governance promotes the economic development of India in the booming economies of the world by protecting not only the management but also the interests of the stakeholders.

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