S&V INSIGHT NEWSLETTER
CHARTERED ACCOUNTANTS
FOR PRIVATE CIRCULATION ONLY
AUGUST 2018
Volume-3 Issue-3
sarathyandvasu.com

Corporate Governance in India

Introduction

Corporate governance is set of principles or guidelines on which a company is governed. It ensures that the corporate works in a way it supposed to work to achieve the desired goals. It makes the corporations accountable to each stakeholder including, directors, shareholders, employees, customers etc. The term governance itself explains the meaning that it is an act of managing a corporate entity. The entity of a corporation is separate from its officials which makes corporate governance an important subject to study. Corporate governance plays an important role to protect the rights of thousands of shareholders, who have ownership in the company but do not play an active role in governing day to day business activities.

Corporate governance is a part of Indian corporate sector since the beginning but corporate governance failure and fraud of Satyam Computer Services Limited increased the concerns about corporate governance in India.

The need for Corporate Governance in India

In the last decade, corporate fraud and governance failure is occurring frequently which is why we require good corporate governance in the country. India provides proper norms and laws aligned with international requirements to govern a corporate. Some of the important reasons are discussed below which raised the need for corporate governance in India.

1. A corporate has a lot of shareholders with different attitudes towards corporate affairs, corporate governance protects the shareholder democracy by implementing it through its code of conduct.
2. Large corporate investors are becoming a challenge to the management of the company because they are influencing the decision of the company. Corporate governance set the code to deal with such situations.
3. Corporate governance is necessary to build public confidence in the corporation which was shaken due to numerous corporate fraud in recent years. It is important for reviving the confidence of investors.
4. Society having greater expectations from corporate, they expect that corporates take care of the environment, pollution, quality of goods and services, sustainable development etc. code to conduct corporate is important to fulfil all these expectations. Takeovers of the corporate entity created lots of problems in the past. It affects the right of various stakeholders in the company. This factor also pushes the need of corporate governance in the country.
5. Globalization made the communication and transport between countries easy and frequent, so many Indian companies are listed with international stock exchange which also triggers the need for corporate governance in India.
6. The huge flow of international capital in Indian companies are also affecting the management of Indian Corporates which require a code of corporate conduct.

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EDITORS NOTE

Dear Reader, this edition features an overview on Corporate Governance and Effective Audit Committee along with general updates. Awaiting your feedback.

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TAX DUE DATES - AUGUST 2018

Monthly Compliance

Sl. No	Particulars	Due Dates
1	DUE DATE FOR FURNISHING OF CHALLAN C UM STATEMENT IN RESPECT OF TAX DEDUCTED UNDER SECTION 194-IA FOR THE MONTH OF JULY 2018	30.08.2018
2	DUE DATE FOR FURNISHING OF CHALLAN C UM STATEMENT IN RESPECT OF TAX DEDUCTED UNDER SECTION 194-IB FOR THE MONTH OF JULY 2018	30.08.2018
3	DUE DATE FOR FILING GSTR 3B FOR MONTH OF JULY 2018	24.08.2018

Yearly Compliance

Sl. No	Particulars	Due Dates
1	DUE DATE FOR FILING INCOME TAX RETURN FOR AY 2018-19	31.08.2018

Principles of Corporate Governance

Corporate governance has evolved around certain key principles, which form the base of rules and guidelines set for the corporate.

Tax base starets to widen:

Tranarencysp
Disclosure of the relevant information about corporate in timely and accurate manner is necessary. It helps stakeholder to know their rights and day to day activity of the corporate.

Accountability
It ensures the liability of the person who takes decision for the interest of the others. Hence persons like managers, chairmen, directors and other officers should be accountable to other stakeholders of the corporate.

Independence
Independence of top manager is important for smooth functioning of the corporate. Board of Director must work without the interference of any interested party in the corporate.

Corporate Governance Framework in India

The Indian framework on Corporate Governance has been vastly in sync with the international standards. Broadly, it can be described in the following:

1. The Companies Acts 2013 has provisions concerning Independent Directors, Board Constitution, General meetings, Board meetings, Board processes, Related Party Transactions, Audit Committees, etc.

2. SEBI (Securities and Exchange Board of India) Guidelines ensure the protection of investors and have mandated the companies to adhere to the best practices mentioned in the guidelines.

3. Accounting Standards issued by the ICAI (Institute of Chartered Accountants of India) wherein the ICAI is an autonomous body and issues accounting standards. The disclosure of financial statements is also made mandatory by the ICAI backed by the Companies Act 2013, Sec. 129.

4. Standard Listing Agreement of Stock Exchanges applies to the companies whose shares are listed on various stock exchanges.

5. Secretarial Standards Issued by the ICSI (Institute of Company Secretaries of India) issues standards on 'Meetings of the board of Directors', General Meetings', etc.. The companies Act 2013 empowers this autonomous body to provide standards which each and every company is required to adhere to so that they are not punished under the Companies Act itself.

Issues in Corporate Governance in India

Although there exist many issues in the field of Corporate Governance especially in India, an effort has been made to highlight only the major ones here:

Board performance

The requirement of at least one woman director is necessary, and also the balance of executive and non-executive directors are not maintained. Evaluation is not performed from time to time and transparency is lost somewhere. The performance is not result oriented. These requirements are not always met with.

Independent Directors

Independent directors are appointed for a reason which does not seem to be fulfilled in the current scenario. Even after SEBI guidelines being issued to the corporates, for the appointment of an audit committee or giving of a comprehensive definition of the independent directors, the actual situation appears to be worse.

Accountability to Stakeholders

The accountability is not restricted to that of the shareholders or the company, it is for the society at large and also the environment. The directors are not to keep in mind their own interests but also the interests of the community.

Risk Management

The risk management techniques are to be mandatorily be undertaken by the directors as per the Company Laws and they have to mention in their report to shareholders as well. This is not being done in the most sincere manners required for the job.

Privacy and Data Protection

This is an important governance issue. Cybersecurity has evolved to be the most important aspect of modern governance. Good governance can only be achieved once the directors and other leaders in the company are well known about the hazards in this field.

Corporate Social Responsibility (CSR)

Being among the few countries to legislate on CSR, it is mandatory for companies to invest minimum 2% of the profits in the last 3 years for CSR activities. Otherwise proper reasons should be mentioned in the reports in case of failure. The companies seem to be reluctant towards making such investments.

Conclusion

The more the level of corporate governance, the stronger is the company in the eyes of the shareholders of the company. The independent and the active directors are the ones who infuse and contribute towards displaying the corporate as that of having a positive outlook. When it comes to investment, the investors also seek to find the companies with stronger corporate governance in them. The corporate governance requirements in India deliberate the companies to audit their working culture and give the shareholders community a more positive outlook as their actions have moral and legal implications. The new norms after the Companies Act 2013 came into the picture, are very balanced and innovative. They have helped reformed the growth of Indian companies as per international standards. Shareholders are involved in the decision making of the companies and various safeguards have been put in order so that the interests of the shareholders and the society as a whole is not sidelined. Corporate Governance imbibes the much-required transparency in the corporates. Therefore, it pushes India ahead in the race of emerging economies of the world.

Effective Audit Committee:

The audit committee is seen as a key fulcrum of any company. Being mandatory under Clause 49 of listing agreement with stock exchanges and Section 292A of the Companies Act, the audit committee can be of great help to the board in establishing, implementing, monitoring and sustaining good corporate governance practices for the benefit of the company and its stakeholders. The responsibility for assessing effectiveness of the audit committee is thus assuming more and more importance.

The assessment of performance and effectiveness of the audit committee is best accomplished through a self-assessment process, and a subsequent report thereon to the board of directors. This should be done bi-annually, or at least annually.

The board of directors also has responsibilities in this area. It must clearly enunciate in the board charter that it expects its committees to evaluate their effectiveness. The approach used by the board committees should, of course, be agreed among the board and the audit committee.

In assessing their performance, audit committees should address two fundamental questions:

Is the committee satisfied that it has effectively discharged its responsibilities as set out in its charter?

How can the committee improve its operating efficiency and effectiveness?

The factors that ensure an audit committee's effectiveness are its ability to:

Do the right things. A well-defined written charter spells out the role, duties and responsibilities of audit committee and the authority it derives from the law and board of directors. A mandate and charter helps audit committees keep a sharp focus on the most important corporate reporting issues and business risks, set their priorities clearly and know what they want to accomplish.

The audit committee should review and assess:

- The appropriateness of its charter annually, and recommend to the board of directors any changes that the committee determines to be appropriate
- The performance of the committee based on compliance of the audit committee with its charter

Have the right people. Audit committees comprise a chairman and group of directors (at least three directors, two thirds of whom are independent as required by Clause 49 II (A) of listing agreement with stock exchanges) with the requisite business experience, knowledge and financial expertise that are commensurate with the critical issues facing the company's business and corporate reporting.

Industry and other specialized experience. In some circumstances, it may be desirable and prudent for one or two members of the audit committee to have industry or other specialized experience (for example, a company heavily engaged in international financing may wish to have this kind of experience represented on the audit committee). As a rule, however, we do not advocate this as a requirement for audit committee membership.

What is important, though, is that audit committee members have the capability of understanding the accounting they are being asked to approve, whatever the business of the company. Because audit committee members should never sign off on anything they do not understand, there is a clear benefit to them having a solid understanding of the business in which the company is engaged. Also, Clause 49 II (A) mandates that all members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

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The Audit Committee should review and assess the performance of its members periodically.

Manage critical relationships.

Audit committees, led by their chairmen, need to manage a complex set of relationships, including those with the board of directors, the external auditor, management (including internal audit) and other parties, such as outside corporate counsel.

Do the right things right.

It takes more than a well thought out mandate, good people and the ability to build and manage key relationships to make an audit committee effective. Audit committees also need to establish the right processes to guide their meetings and discussions. The chairman must be a strong leader who knows what information and assurances the committee needs to discharge its responsibilities - and ensures this information is provided on a timely basis and in appropriate detail.

Ask right questions.

The importance of being prepared to ask questions cannot be stressed too strongly. Management always possesses more information than the directors will ever have and, therefore, it is important to have a diligent process for questioning management on a variety of matters. No audit committee member should be afraid to ask a question that he or she feels may betray a lack of understanding of an issue. If a member does not understand something, the smart - indeed, prudent - thing to do is to ask. The failure to ask a question in such circumstances, which we call the "fear of looking stupid syndrome," can seriously cripple a board member's effectiveness, and every audit committee member is strongly cautioned not to succumb to it.

Board members who are members of audit committee must have the courage, discipline and authority (force of personality and credentials) to ask demanding questions of both management and the external auditor, and to expect and get appropriate answers. Their mind-set should be one of constructive scepticism.

Strive for continuous improvement.

Audit committees must be accountable for their actions, and should report regularly through the chairman to the board of directors. They must also continually assess their performance and improve their effectiveness. Directors also have an obligation to devote the time required to carry out their duties at meetings, prepare for meetings and, if required, work between meetings.

In summary, the key to being a successful audit committee member is to:

- Devote the time
- Educate yourselves
- Be demanding
- Be diligent; and
- Insist on timely and appropriate briefings and responses both from management and the external auditor

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