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Corporate governance- A Tool for Accountability and Responsibility

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Introduction:

In the current scenario of corporate scams and scandals which is effecting the growth of the organization and as well economy of the country, corporate governance can be used as a tool to bring accountability in the corporate world. Corporate governance would focus on the internal structure and the rules and regulations of board of directors, creation of independent audit committees, rules for disclosure of information to shareholders, creditors and control of the management. All the rule, policies and laws are created by the board of directors in order to run the organization smoothly, maximization of the wealth of the Shareholders funds, to reduce agency problem and to eliminate miss-governance. Corporate governance principles and codes have been developed in different countries and issued from stock exchanges, corporations, institutional investors, or associations (institutes) of directors and managers with the support of governments and international organizations. As a rule, compliance with these governance recommendations is not mandated by law, although the codes linked to stock exchange listing requirements may have a coercive effect. The creator of the rules and policies and laws need to follow them and implement them so that rest of the people in the organizations follows them. This corporate governance should create accountability and responsibility among the board of directors first. Satyam computer is the biggest example where chairman board of directors Ramalingam Raju failed to adhere to the corporate governance. This paper will focus on the how corporate governance has been miss- used by the policy makers time and again and their effect on organization and economic growth of the country at large. Its high time that Corporate governance should be taken as a tool for creating accountability and responsibility among the policy makers and the corporates. It also focuses on the role of regulatory authorities.

Corporate governance is seen as one that addresses “the problems that result from the separation of ownership and control” viewed from this perspective, corporate governance focuses on some structure and mechanism that would ensure the proper internal structure and rules of the board of directors, creation of independent committees, rules for disclosure of information to shareholders and creditors, transparency of operations and an impeccable process of decision-making and control of management. Corporate governance deals with the way in which suppliers of finance to corporations assure themselves of getting a return on their investment. How do they get managers to return some of the profit to them and to make sure that managers do not steal the capital they supply or invest it in bad projects? How do the suppliers of finance control managers?” from this view point corporate governance tends to focus on a simple model where:

1) Shareholders elect directors who represent them.
2) Directors vote on key matters and adapt the majority decision.
3) Decisions are made in a transparent manner so that shareholders and others can hold directors responsible and accountable.
4) The company adopts accounting standards to generate the information necessary for directors, investors and other stakeholders to make decisions.

5) The company's policies and practices adhere to applicable national, state and local laws.

Managers' accountability to shareholders and corporations' responsibility to society are two important objectives of corporate governance who are accountable to shareholders at the same time responsible to society's interest. But loosening this accountability leaves managers free to serve themselves, thereby increasing agency costs. Corporate governance principles and codes have been developed in different countries and issued from stock exchanges, corporations, institutional investors, or associations (institutes) of directors and managers with the support of governments and international organizations. As a rule, compliance with these governance recommendations is not mandated by law, although the codes linked to stock exchange listing requirements may have a coercive effect.

History of Corporate scams in India:

The corporate scams and scandals can be viewed back in independent India. Haridas Mundhra was a Calcutta-based industrialist and stock speculator who was found guilty and imprisoned in the first big financial scandal of free India in the 1950s. Led to the resignation of India's then finance minister T. T. Krishnamachari. In 1957, Mundhra got the government-owned Life Insurance Corporation (LIC) to invest Rs. 1.24 crores (about USD 3.2 million at the time) in the shares of six troubled companies belonging to Mundhra: Richardson Cruddas, Jessops & Company, Smith Stanistreet, Osler Lamps, Agnelo Brothers and British India Corporation. The investment was done under governmental pressure and bypassed the LIC's investment committee, which was informed of this decision only after the deal had gone through. In the event, LIC lost most of the money.

The Anti -corruption movement led by Feroz Gandhi in the year 1956 resulted in imprisonment of one of India's wealthiest men, Ram Kishan Dalmia, for defrauding his life insurance company. The year1960's and *70's w*itness the oil scandal worth Rs 2.2 crores to teja loan scandal worth Rs22 cr where in the year 1987s major scam was that of bofors which was like a vicious cycle involving people from defense to politician worth 1,500 cr of rupees. The year 1990 to 2000 was the mother of all the scams and scandals. It all started with the "big bull" the harshad Mehta involving 5,000 crores of rupees which gave a blow to the regulatory authorities where in SEBI under took lot of changes in terms security of the shareholders, strengthen capital market and banking industry also done a lot of reforms to protect investors. But al;l went in vain, this decade had and unending list of corporate scams and scandals involving every field of life like oils, airbus, arms , forest, preferential allotments, fodder, telecom etc The Last decade i.e 2000 to 2010 the major scam which rocked India was that of satyam computers to the tune of whopping sum of 7000 cores plus amount this decade also witness the scams involving state in India that is from Kashmir to kanya kumari, corporate high profile people and all most every field of business. Hence all these recorded and unrecorded scams effected millions of people in India at the same time effected the economy of the country .

Literature review:

According to Larry E. Ribstein - Managers' accountability to shareholders and corporations' responsibility to society are two important objectives of corporate governance who are

accountable to shareholders at the same time responsible to society's interest. But loosening this accountability leaves managers free to serve themselves, thereby increasing agency costs. It shows how modern markets cause managers who are accountable to shareholders also to attend to society's interests. Second, it shows that the debate is actually less important than it might first appear because the logistics of publicly held corporations substantially free managers from accountability to shareholders irrespective of whether society's needs should compel that freedom. Third, the paper shows that the debate may be joined over whether partnership-type devices compelling distributions and allowing owner cash-out should be imported into publicly held firms. These devices would provide for more managerial accountability to shareholders, and therefore less flexibility to serve society's interests, than standard corporate governance mechanisms.

The CII Task Force Report

Good corporate governance involves a commitment of a company to run its businesses in a legal, ethical and transparent manner - a dedication that must come from the very top and permeate throughout the organization. That being so, much of what constitutes good corporate governance has to be voluntary. Law and regulations can, at best, define the basic framework - boundary conditions that cannot be crossed. CII has always held the view that while law may need to be strengthened when occasions so demand, there are fundamental limits to using legislative and regulatory instruments to enforce better corporate governance. The thrust of this report, therefore, is to suggest certain volunteer The report is structured according to the different elements of corporate governance:

According to Jayanth Rama Varma

The nascent debate on corporate governance in India has tended to draw heavily on the large Anglo-American literature on the subject. This paper argues however that the corporate governance problems in India are very different. The governance issue in the US or the UK is essentially that of disciplining the management who have ceased to be effectively accountable to the owners. The problem in the Indian corporate sector (be it the public sector, the multinationals or the Indian private sector) is that of disciplining the dominant shareholder and protecting the minority s Shareholders. Clearly, the problem of corporate governance abuses by the dominant shareholder can be solved only by forces outside the company itself.

Research Methodology:

The problem and justification of the study:

Daily newspapers report one or the other scam, which has become a walk of the life for common men. A decade back it was a sham full act but now it has become a scam next door, India is living with it now. This is affecting common men well as the country to the tune of millions of rupees which has jolted the economy of the country a decade low. Public sector companies whose owners are scattered and the day to day work of the organization is managed by the agents that is managers , who are accountable to the shareholders and responsible to the society. The directors and the managers decisions and actions should be controlled so they t do not cross the limitation. Corporate governance operates on the premise that it ensures the accountability of a firm's management through regulations that alleviate

the principal-agent predicament. Another arena of corporate governance focuses on its impact in economic efficiency, primarily keeping in mind the shareholders' welfare.

Objective of the study:

a) To study the agent –principal relation and its impact on the shareholders
b) To determine corporate governance as a tool for creating accountability and responsibility among managers (agents).

Type of research: this paper is purely a descriptive research the data has been collected through secondary sources.

Findings and Discussions:

In Recent years we have seen a rapid increase in accountability and responsibility pressures on particularly large global companies. There is increased call for transparency between the decision makers and the investors. In India majority of the share holders are not interested in knowing what the decision makers are doing with the money they have invested and trusted the board of directors and managers they simply invest and wait for their money to grow.

Indian model of Corporate governance is the ones were both management and the board of directors would have same persons managing thinks at both the ends in other words decision makers and implementation of these decisions are the one and the same persons . This create rift between the owners and the management. CG model should separate decision makers and decision implementers and give more importance to accountability to shareholders and responsibility towards society and above all these accountability and responsibility should supported by the laws that is the rules and regulation or corporate code of conduct should be backed by law.

1) Agent –principal relation and its impact on the shareholders:

The shareholders are the owners of any joint stock company with limited liability and are the principals of the same. By the virtue of their ownership, the principals define the objectives of a company. The management, directly or indirectly selected by the shareholders to pursue such objectives, is the agents. While the principals generally assumes that the agents would invariably carryout their objectives, it is often not so.

In many instances the objectives of the managers are at variance from those of the shareholder's. For example the chief executive may want to increase his managerial empire and personal stature by using company funds to finance an unrelated diversification, which could reduce the long-term shareholders value. The shareholders and the other stakeholders of the company may not be able to counteract this because of inadequate disclosure of the information and decisions as well as the principals are too scattered and or not motivated to block such a move effectively. Such a mismatch of the objectives is called as agency problem. The cost inflicted by such a dissonance is known as agency cost.

The core of the CG here is to designing and putting in place disclosures, monitoring, "oversight" and corrective systems that can align the objectives of the two set of players as closely as possible and hence , minimize agency Cost. Beside the agency cost and the

problem shareholders rarely have accurate information about the decision, exact target returns. In terms of control investors hardly have sanctions over the board.

The two mechanism that help reduce agency cost and improve corporate performance through better governance are:

1) Fair and accurate financial disclosures: financial and non financial disclosure is related with the role of the independent, statutory auditors appointed by the shareholders to audit a company's Accounts and present a fair and true financial health of the corporate.
2) Efficient and independent board of directors: independent board of directors are appointed by the shareholders to supervise management and ensure the it does all that is necessary by legal and ethical means to make the business grow and maximize the long-term corporate value.

2) _Accountability and responsibility:

Separation of the Role of Chairman and the CEO:

The composition of the board is a major issue in the CG as the board acts as the link between the shareholders and the management and its decision affect the performance of the company. The practice of combining the role of chairperson and the CEO leads to conflicts in decision-making and too much concentration of powering one person results in unsavory consequences.

The role of CEO is to lead the senior management team in managing the enterprise, while the role of chairperson is to lead the board and one important responsibility of the board is to evaluate the performance of the senior executives including CEO therefore combining the role of CEO and the chairperson removes an important check on senior management's activities.

The role of chairman and CEO is one and the same in most of the countries including India. one person can't carry out two such increasingly difficult jobs.

Separating them frees the CEO to focus on running the business and the chairman to discharge the board's expanding responsibilities. Separating these roles is therefore essentially a check on the CEO's power, but it also tempers the risk that the CEO will focus on shorter-term goals, particularly when evaluations and rewards are geared to achieving them. A separate, independent chairman can help maintain a longer-term perspective. Furthermore, the separation of roles makes it clear that the board's principal function is to govern—that is, to oversee the company's management and hence to protect the shareholders' interests—while the CEO's is to manage the company activities.

The appointment of a lead director may be a useful transitional measure for companies preparing to separate the two roles but is ultimately unsatisfactory—the CEO is still the boss. To be effective, the lead director must have as much authority as a separate chairman, thus reducing the need for the CEO to combine the two jobs.

Some companies with a separate chairman and CEO have failed miserably to carry out their oversight functions. What's more, a chairman without a commitment to the job isn't likely to put independence to good use. sThe separation of roles must therefore be complemented by, for example, a dynamic boardroom culture (which allows the chairman and other board

members to challenge the CEO without fear of giving offense) and good selection processes for hiring the chairman. The ideal candidate must have enough time to devote to the job, a good knowledge of the industry, and a willingness to play a behind-the-scenes role. The best candidate is often an independent director who has served on the board for several years. It shouldn't be the current CEO or another executive, who might be less willing to take a back seat and, naturally, would be less likely to conduct an objective assessment of existing policies and strategies.

Role of Auditors

Auditors of the Company play an important role in all the aforementioned aspects of Governance primarily through its provisions from Section 224 to 233 of the Companies Act which seek to regulate the audit of company's accounts and its external auditors. Herein before auditors act as eyes and ears of the shareholders and prospective investors, thus to instill confidence in market and to provide a true and fair account of the company the role of an unbiased objective auditor is an undeniable necessity. All most all the scams and debacles in Indian business is due to the unbiased and unfair disclosure of the accounts by the auditors. Further the law courts are to be urged to consider that auditors owe a fiduciary duty towards the company and thus will be liable for breach of such fiduciary duty for fraudulent misrepresentation and not just institutional repercussion in form of blacklisting etc. by ICAI, there has to be a healthy debate to ensure that no veil of standard of care and skill obscure the duties of auditors, the researchers would like to draw a parallel between professionals in medical and auditing sector and show that courts have diverged on the standard of skill required, this is a disturbing trend as the statutory duty of care is same in both the cases. The researchers would conclude by a critique of the proposed superstructure in auditing field, the notion has been an unsuccessful attempt in USA, a micro supervision would be much effective and fruitful with representatives from interested groups like shareholders etc. but from a different company in different field working in tandem in a loose advisory role with the auditors group is bound to check any mis-alliance between management and auditors.

Conclusion:

In western countries law for insider trading is very rigid and punishable for life imprisonment, but the law in India is reluctant in this matter, that the major reason why Ram lingam raju declared his bankruptcy in India and not in America.

Corporate governance would focus on the internal structure and the rules and regulations of board of directors, creation of independent audit committees, rules for disclosure of information to shareholders, creditors and control of the management. All the rule, policies and laws are created by the board of directors in order to run the organization smoothly, maximization of the wealth of the Shareholders funds, to reduce agency problem and to eliminate miss-governance. Corporate governance should be made powerful by the regulatory authority it should be supported by law violation of the same should be made punishable then only we can see a sense of accountability and responsibility among the industry in India. Above all there is a need to create awareness among the investors and stack holders make them participate in all the company affairs on the other hand they should create forum to protect the interest of the investors and the government has a major role to play in the same.

Suggestions

- The basic CG model in India should be changed where the role of chairman and CEO should be separated in other words it should be managed by two different people
- It's the responsibility of the government to protect the interest of the shareholders, where they should protect the same by strengthening the law.
- Law for insiders trading should be rigid in India otherwise the scams will never stop.
- Shareholders and other stack holders should take personal interest in the company affairs.
- Recommendation given by various committees should be implemented and supported by the law.
- Independent director should take more interest in the board meeting and other company affairs on the day to day basis.
- As the auditors play a vital role in all the financial activities of the company. Hence the law for handling these auditors and their firms should be rigid.

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