



Confederation of Indian Industry

Business and Beyond

125 Years: 1895-2020

GUIDELINES ON
**INTEGRITY AND
TRANSPARENCY IN
GOVERNANCE AND
RESPONSIBLE
CODE OF CONDUCT**

THE CII CODE 2020

FEBRUARY 2020



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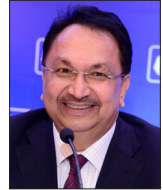
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Message

Corporate governance is often looked upon as a means to measure how well companies are run.



Corporate Governance Codes are essential tools for enhancing corporate governance practices at the national level. Their primary role is to raise standards and to drive reform efforts. Many developed and developing countries have adopted Corporate Governance Codes of best practice to restore and sustain investor confidence in the wake of a financial crisis or corporate scandals. Corporate Governance Codes also serve as benchmarks for monitoring and implementing corporate practices and policies at the company level. Against this background, we are happy to release CII Guidelines on Integrity and Transparency in Governance and Responsible Code of Conduct.

In terms of norms, guidelines and standards set in many areas, Indian corporate governance standards are comparable to the best in the world, and CII is privileged to be a part of this evolving journey.

CII considers ethical practices in business dealings to be critical for the development and growth of the industry in the country. CII believes that one of the first things which a company must prioritise is to be compliant with the laws of the land in true letter and spirit. CII has been engaging with the Government and regulatory authorities to create a conducive environment towards strengthening corporate governance through sustained dialogue and has been advocating the need for creating a facilitative, streamlined and harmonised regulatory environment that promotes voluntary adoption of best practices and self-regulation by corporates so that regulation remains facilitative.

CII advocates caution against over-regulation. It needs to be recognised that while the super-structure of corporate governance is built on laws and regulations, these cannot be anything more than a basic framework. Much of best-in-class corporate governance is voluntary – of companies taking conscious decisions of going beyond the mere letter of law. The spirit is to encourage better practices through voluntary adoption – based on a firm conviction that good corporate governance not only comes

from within, but also generates significantly greater reputational and stakeholder value when perceived to go beyond the rubric of law.

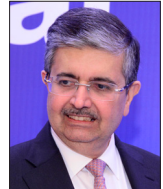
As India aspires to its rightful position as a global leader, the focus will be on Corporate India and on Indian markets. Corporate India has a key role in nation building and corporate governance is an integral part of the broader governance of the country. I am confident that the Guidelines will surely help in this journey.

Vikram S Kirloskar

President, CII and Chairman and MD, Kirloskar Systems Ltd and
Vice Chairman, Toyota Kirloskar Motor

A Note

I want to take this opportunity to congratulate CII for an outstanding CII Guidelines which is about Integrity and Transparency in Governance and Responsible Code of Conduct. I am sure this will be a great facilitator in our journey to build trust, to increase India's potential growth rate by increasing each of us as savers and taking more risks with our money because we trust people who will take care of it.



What India needs now for growth is risk capital. We need savers not only from across the world, from within India to be putting money into risk assets and this is where I think we should start thinking of corporate governance not only from the lens of what we need to do to improve corporate governance but from an output and outcome orientation – from the perspective of the consequences of lack of corporate governance.

Getting the saver to participate in risk capital and capital formation of the country, there is a heightened responsibility of society, regulators and all fiduciaries to ensure that this money is well taken care of. Against this background, one must figure out and mitigate the reason for any kind of risk aversion. Lack of trust amongst stakeholders may lead to an outcome of risk aversion.

Thus, the most important aspect of corporate governance we need to focus on is building trust in the mind of any lender, saver, investor that his or her money is safe and will produce returns which are justifiably theirs and not be taken away or stolen away by poor governance at the company level. If India wants to increase its growth rate from the current around 5% to higher numbers, there is no alternative but building the trust and that trust will be built only through better governance - risk capital and building the trust bridge is core to our future.

We also need to develop and encourage private equity industry from domestic savers and in the context, push startups and growth of SMEs. Governance issue is not just about public companies or larger unlisted companies taking private equity; it is also about MSMEs, which is also aptly covered in the CII Guidelines.

Uday Kotak

President-Designate, CII and Managing Director & CEO
Kotak Mahindra Bank Limited

Foreword

In 1998, the Confederation of Indian Industry (CII) took a special initiative to come out with the “Desirable Corporate Governance: A Code” – the first institutional initiative for Indian industry. This initiative by CII flowed from public concerns regarding the protection of investor interest, especially the small investor; the promotion of transparency within business and industry; the need to move towards international standards in terms of disclosure of information by the corporate sector, and through all of this, to develop a high level of public confidence in business and industry.



The CII Code was subsequently incorporated in SEBI’s Kumar Mangalam Birla Committee Report and thereafter in Clause 49 of the Equity Listing Agreement.

CII also set up a Task Force under Ambassador Naresh Chandra in February 2009 to recommend ways of further improving corporate governance standards and practices both in true letter and spirit. The Task Force Report enumerated a set of voluntary recommendations “CII Corporate Governance Recommendations for Voluntary Adoption” with an objective to establish higher standards of probity and corporate governance in the country.

Since then, and keeping pace with the global governance standards, the regulatory landscape in the country has evolved. The Ministry of Corporate Affairs (MCA) also came out with the “Corporate Governance Voluntary Guidelines” in 2009. In March 2012, MCA constituted an expert committee under the Chairmanship of the then CII President Mr. Adi Godrej, and its report formed the base for enhancing governance standards in the country.

The Report of the Committee on Corporate Governance (under the leadership of Mr. Uday Kotak) was released in October 2017 by SEBI, and proposed a slew of suggestions to help Indian Industry adhere to better corporate governance, compliance and disclosures practices.

At CII, we feel that given the constant evolution of global practices, business and corporate actions and behaviour, a Code of Corporate Governance cannot be static. It must be reviewed in time to keep pace with the changing regulatory scenario. We feel this is time again for CII to review the earlier Desirable Corporate Governance

Code 1998 and recommend updated CII Guidelines on Integrity and Transparency in Governance and Responsible Code of Conduct for sustained trust for industry.

The Voluntary Guidelines would serve as the base for corporates (large and small; listed and unlisted) to redesign their governance strategies in the face of ever-changing business and regulatory environment. These Guidelines are a combination of global practices; existing legal provisions; good-to-have principles; regulatory policy suggestions and forward-looking concepts – aimed at enhancing the overall governance standards of companies in India by encouraging voluntary adherence to the Guidelines, in letter and in spirit.

Chandrajit Banerjee

Director General
Confederation of Indian Industry (CII)

Introduction

There are many global trends in corporate governance that have emerged over the last few years. These include increasing expectations around the oversight role of the Board, stakeholder engagement and enhanced disclosures. There is continued focus on the composition of the Board, directors' skill profiles, diversity and the making of a robust mechanism of Board functioning that goes beyond the box ticking exercise.



There is no unique structure of “corporate governance” in the developed world; nor is one particular type unambiguously better than others. Thus, one cannot design a code of corporate governance for Indian companies by mechanically importing one form or another.

Indian companies, banks and financial institutions can no longer afford to ignore better corporate practices. As India gets integrated in the world market, Indian as well as international investors will demand greater disclosure, more transparent explanation for major decisions and better shareholder value.

Corporate governance goes far beyond the provisions of company law and SEBI Regulations. The quantity, quality and frequency of financial and managerial disclosure, the extent to which the board of directors exercise their fiduciary responsibilities towards shareholders, the quality of information that management shares with the Board, and the commitment to run transparent companies that maximise long term shareholder value cannot be legislated at any level of detail. Instead, these evolve due to the catalytic role played by the more progressive elements within the corporate sector and, thus, enhance corporate transparency and responsibility.

Corporate governance in India is going through a transformation. Boards are getting better equipped and engaged while the right balance between regulation and voluntary action is being practiced. Good governance will lead to better ethics and excellence.

Corporate governance is often looked upon as a means to measure how well companies are run. Investors use corporate governance as an indicator to judge the quality of a company's management and the effectiveness of its Board. It is now widely accepted

by companies that sound principles of governance are a necessary tool for their long-term development and sustainability.

Corporate governance deals with laws, procedures, practices and implicit rules that determine a company's ability to take managerial decisions vis-à-vis its stakeholders—in particular, its shareholders, investors, creditors, customers, government and employees. There is a global consensus about the objective of 'good' corporate governance: maximising long-term shareholder value. Since shareholders are residual claimants, this objective follows from a premise that, in well performing capital and financial markets, whatever maximises shareholder value must necessarily maximise corporate prosperity, and best satisfy the claims of creditors, employees, shareholders, and the State.

Keeping in mind the leadership position that Indian industry is aiming; companies have to continue to work towards ensuring that business priorities are complemented with responsible governance initiatives and ethical actions. Self-regulation has to usher in greater responsibility, greater integrity, greater accountability and larger role for the leadership. There is a need for Guidelines that companies can adhere to voluntarily towards ethics and integrity in governance for responsible conduct for building, rebuilding and sustaining trust.

Keki Mistry

Chairman, CII National Council on Corporate Governance and
Vice Chairman and CEO, HDFC Limited

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Recommendations

1. Integrity, Ethics and Governance

Ethics, integrity and corporate governance practices have shifted as mainstream business considerations about competitive advantage and financial performance. The implications of this shift and its evolving application will be of fundamental importance - not just to the adopting corporate but also to the future of national development and global economic integration.

The top management, the corporate environment, culture and values within which governance occurs, is the most important factor contributing to the integrity of the process. Consequently, one of the most important factors in ensuring that a Board functions effectively, is getting the right leadership of the corporation. The tone at the top translates and permeates into every relationship of a corporation, whether it is the relationship with investors, employees, customers, suppliers, regulators, local communities or with other constituents. If the leadership is not personally committed to high ethical standards, no amount of Board process or corporate compliance programs will serve their true purpose – as has been seen in many governance failures that took place over the last few years.

Recommendation 1:

- (a) The organisation will document its culture and values, including its commitment to integrity, fairness, honesty, transparency and ethical conduct; the organisation will periodically evaluate the policy document and update it in light of recent developments. This will be a priority for the Boards along with establishing a culture of responsibility synergised with accountability. Adherence to accountability mechanisms may be reviewed at regular intervals.
- (b) The Board will also put in place a mechanism for the company's employees to understand and assimilate its culture. Such a mechanism can include video training modules and case studies embodying real life examples (where the employees will obtain self-certification on completion of training) as well as periodic training by experienced trainers/professionals that should be mandatory for employees to complete. Employees should be mandated to: (i) complete the training modules at the time of joining; and (ii) revisit the training modules or undertake refresher training (as may be defined by the organisation) at periodic, pre-defined intervals.



2. Responsible Governance and Citizenship

It is imperative to document, formalise and institutionalise commitment to ESG (environmental, social and governance) principles within organisations to ensure that a corporate fulfills its duty of being a responsible corporate citizen. Additionally, an important consideration here is for organisations to work in a transparent and ethical manner, putting in place clear policies and practices for zero tolerance for bribery and corruption, and take steps to curb any attempt to engage in money laundering involving or using the company's resources or assets. The legal responsibilities on corporates, their directors and their senior officials, have also increased pursuant to recent amendments to the Prevention of Corruption Act, 1988 and Prevention of Money Laundering Act, 2002 – and the preventive steps taken by organisations (in terms of robust policies and practices and their complete implementation) would help mitigate risks for organisations, their directors and members of their senior management. As a part of the focus on restricting corrupt practices, policies and procedures should also be put in place to prevent anti-competitive practices, and (by organisations whose securities are listed) to prevent market manipulation and insider trading. Corporate responsibility needs to be imbibed in all processes of an organisation – and the tone must flow from the top. Leadership and Board members must understand and acknowledge this demand and work on the strong correlation between corporate competitiveness, corporate governance and corporate citizenship. These need to form core of a corporate Board decision-making.

Recommendation 2:

- (a) As a responsible corporate citizen, the organisation will integrate ESG (environmental, social and governance) principles in business.
- (b) The organisation will establish a clear policy and systems, for organisations to conform to the highest standards of moral, ethical, transparent and fair conduct, encourage fair and equitable treatment of all stakeholders, and to avoid practices like bribery (including receiving bribes), corruption, insider trading, market manipulation and anti-competitive practices.
- (c) The organisation shall put in place policies and procedures to comply with applicable laws and regulations

- (d) Anti-money laundering steps and precautions will form part of the organisational work plan essential to protect the integrity of markets and the global financial framework.
- (e) Organisations are encouraged to extend their sustainability principles, ethics practices and Code of Conduct to their supply chain and sourcing partners.

3. Role of High performing Board

For a high performing Board, there is a need to align the organisational strategy and build relevant capabilities to become a truly effective Board. Understanding stakeholder pulse to guide and driving transformation and recognising the changing nature of risks and managing them effectively is imperative.

Two fundamental roles are of prime importance at the Board level. The supervisory role of the Board includes appointments, strategy, plans, overseeing risk, compliance, succession planning and other relevant areas. The stewardship role of the Board involves steering the issues revolving around ESG principles, talent management, culture of the organisation and other related matters. Additionally, while decision making would be by majority, there has to be space in the board room for dissenting views. These roles would have to be balanced, if required, through constitution of duly empowered committees to focus on any specific areas (that is, committees other than those mandated by law).

Board effectiveness should be measured against key result areas that the Board sets for itself – and the way to achieve those can be by way of an annual or other periodic calendar of activities – whose relationship with periodic objectives (and the ultimate key result area) is clearly defined.

In recent years, various new skill sets have emerged such as digital technology and innovation as critical capabilities to complement the traditional requirements of finance, legal and industry experience. While globally such disclosures are still gathering momentum, and listed Indian entities are mandated to make certain disclosures on skill/expertise/competencies required by (and available with) the Board, it will also be important in the medium term to articulate in annual reports on how this skill matrix will be used to further improve the performance of the company in terms of key result areas targeted by the company. The optimum number of boards for an individual to be on remains a matter of ongoing regulatory action and debate.



Information acquisition and quality is another area of importance. The decision-making of the Board is subject to the information available with it. Independent directors need to be clear about the role they play and also be suitably armed to be able to effectively undertake the same – and management would need to make requisite efforts to provide the same. Information provided by management forms a basis for Board decision making. In the current dynamic environment, many developments take place between two board meetings and hence the management must endeavour to provide a detailed report of the key developments between two board meetings along with the information relating to the agenda items.

Training for the members of the Board (in relation to the company's operations, and specialised third party coaches/industry experts) ought to be conducted as required, to enable members of the Board to continue performing their role effectively.

The importance of appropriate insurance arrangements for directors (especially independent directors) is apparent – and appropriate insurance ought to be obtained by the company to protect them from liabilities. As an additional matter, the insurance policy(ies) should also cover former directors, as (in many cases) proceedings are initiated against former directors after their resignation.

Currently, it is not mandatory for an organisation to implement group governance policies. Group governance policies are desirable in entities with conglomerate structure involving several different businesses, and each group may adopt such governance policies as may be appropriate given size, nature and specific circumstances of such group. The monitoring at group level may be done by a board committee of the ultimate holding entity.

Recommendation 3:

- (a) The Board will strike a balance between its supervisory role and stewardship role. In addition to Board Committees required by the law, suitably empowered committees may be constituted for specific areas, actions and initiatives.
- (b) Board room atmosphere to allow for dissenting views and Directors need to be encouraged to bring in varied perspectives to the board room discussions wherein constructive debate facilitates more effective decision making.

- (c) To promote board effectiveness, the Board will set out Key Result Areas and develop an annual (or other periodic): (i) calendar of activities that the Board intends to undertake; and (ii) periodic objectives that the Board intends to achieve as a result (setting forth its relationship with the identified key result areas, unless the objective itself is the key result area). The Board will also develop a balanced scorecard to track and improve the organisation's various business functions. This can be amended based on business changes and regularly monitored. Along with this, another key step will be to have skills and competencies of the directors aligned to the company's strategic needs. Effectiveness of the Board can be measured based on its ability to achieve its key result areas, encouraging effective monitoring of steps required to achieve the same
- (d) The management will make a concerted effort to upgrade the information available to the Board for decision making, including third party reports and stakeholder views, for better decision making. Further, the management should develop a mechanism to inform the Board members of key developments between board meetings apart from circulating information related to the agenda items.
- (e) While directors and officers ("D&O") Liability Insurance is mandatory for the Top 500 entities by market cap as per the SEBI LODR Regulations, it would be advisable for all listed entities (to start with) to consider this protection for their Directors – especially independent directors. Further, it is recommended that organisations may include clarity on D&O liability even after resignation as a director. Also, action taken in good faith needs to be protected with clear understanding of when liability actually arises, and the difference between civil and criminal liability.
- (f) Board through the Nomination and Remuneration Committee may choose global coaches / industry experts to be able to apprise and train members on issues relevant for the company.
- (g) Regular Board training / management conversations / visit to units / external coaching and expert talks to give perspectives about the industry(ies) that the company belongs to and key technology(ies) used by the company may be facilitated. Directors may be provided with a detailed handbook on the company and its governance process.



- (h) Organisations are encouraged to develop group governance policies. Such policies will apply to all the entities that are determined by the organisation to be “group entities” – the constitution of the “group” may be determined by each organisation based on their group structure. These are desirable for organisations with conglomerate structures, although the nature and extent of these policies may be decided by each group based on their specific circumstances. Organisations should monitor the governance of their group entities through a board committee at the ultimate holding entity (and, where applicable, intermediate listed entities).
- (i) Organisations are also encouraged to: (i) have an enhanced focus on related party transactions, including having in place sufficient safeguards towards such transactions being in the interest of the organisation and its stakeholders; and (ii) develop an intra group confidentiality policy, including sharing of confidential information on a ‘need to know’ basis and establishing a mechanism for protection of secrecy of internal information.

4. Balancing Interests of Stakeholders

Conflict of interest goes beyond mere pecuniary interest, and the best way to address the same is to mandate disclosure based on principle of there being a conflict (in addition to prescribing quantitative criteria). There are several legally mandated disclosures for conflict of interest and related party transactions under the Companies Act and SEBI LODR Regulations – however, organisations should put in place clear policies and practices to ensure disclosure of potential conflict situations, which should not be restricted only to the mandatory requirements of law, but also other relevant matters as well (including those based on the organisation and its business). Matters relating to conflict of interest, in addition to legal and financial implications, can also have reputational implications. Collective commitment and discussions around this at the Board level may help. This is fundamentally driven by the personal value system. In light of recent events, it has become essential for directors to disclose their interests to organisations. Where such disclosures have been found to be inadequate or delayed in past instances, it has caused not just reputational loss but also loss of confidence of investors and other stakeholders in addition to possible regulatory proceedings.

With the Board collectively owing the duty of skill and care to the company, individual directors need to balance the conflicting interest of stakeholders.

The Board, being in a trusteeship role, should balance the conflicting interests of stakeholders and avoid unfair discrimination. Being a subjective matter and being open to multiple interpretations, the Board must also focus on displaying how competing interests are believed to have been balanced. As a part of its trusteeship role, the Board should take precautions that the organisation does not engage in anti-competitive behaviour and restrictive or unfair trade practices.

Recommendation 4:

- (a) Directors, senior management and employees will disclose potential or actual conflict of interest with the company to avoid personal enrichment. The organisation should put in place clear policies and practices to ensure disclosure of actual or potential conflicts of interest, which should not only cover the mandatory requirements of law but other relevant matters as well.
- (b) Organisations and their personnel should be cognizant that inadequate or delayed disclosures have not just potential regulatory implications but also reputational implications and loss of confidence of investors (including minority shareholders) and other stakeholders.
- (c) The organisation shall not engage in any anti-competitive, restrictive or unfair trade practices.
- (d) The Board shall take into consideration the interest of shareholders (taken as a whole) and all other stakeholders while undertaking its corporate activities.

5. Independent Directors and Women Directors

Independence must be measured in the context of the concerned individual's own standing, ability to bring out issues and suggestions in a constructive manner and look at achieving collective success for the Board.

The Board should be diverse, and gender diversity is an important component of overall Board diversity.

The process of selecting independent directors is extremely critical. They provide vital perspective and genuine feedback on external perception of the organisation

which can greatly help Board strategy and function. Relevant experience is an important criterion for appointment of independent directors -- however, nature and size of the organisation and credentials of the proposed appointee are also important. As an example, the Board of a start-up would have different requirements and expectations as opposed to a large mature market leading company, and independent directors should be selected based on requirements of an organisation, and not on pre-set criteria (like a certain number of years of experience). Independent directors should have relevant qualifications and experience particularly if they are serving on the Audit Committee or Risk Management Committee.

An independent director should allocate sufficient time to the organisation's affairs, and be fully cognizant of his/her rights and responsibilities as a director and independent director. He/she should independently review the information provided, and challenge the management/significant shareholders (in the organisation's interest) if he/she does not agree with their assessment.

Where a lead independent director has been appointed, the organisation should facilitate him in performing his role effectively. Additionally, organisation should also facilitate the lead independent director's meetings with other independent directors, and meetings of independent directors with external stakeholders and senior employees (at least those one level below the management).

From the organisational perspective, it should be committed to facilitating the role of independent directors to challenge the assumptions and the business scenarios that are being discussed in the board meetings, and free and frank discussions should be encouraged at the Board. The Chairman should have an ongoing dialogue with independent directors outside the board room.

Recommendation 5:

- (a) While constituting and reconstituting the Board, it will be ensured that one or two independent directors compulsorily have industry expertise in which the company operates, to be able to contribute positively in providing advice to the management on operational matters as well. In fact for listed entities, it is a requirement to state not just the relevant expertise or experience while proposing to appoint an independent director, but also the skills/expertise/competence required by the listed entity, and those available with its board members.

- (b) As has been established, women directors add a different perspective to the Board. This has been established by many successful women directors who are making notable contribution to corporate Boards. Given their competence and expertise, all entities should strive to improve gender diversity at the board by inducting more women directors.
- (c) Independent directors should be fully cognizant of their role and responsibilities; they should allocate sufficient time to the organisation's Board and spend it productively; challenging management and significant owners; Board evaluation; management representations made to external stakeholders etc. As an independent fiduciary, independent directors should address their role and responsibilities with prudence and care.
- (d) It may be considered (for other than listed entities for whom it is a requirement) to hold at least one meeting in a year, of only the independent directors (where there are more than one independent director(s)), where the independent directors may discuss such matters as they deem fit, including review of the quality, quantity, timeliness and sufficiency of information flow between the management and the board of directors.
- (e) If a lead independent director has been appointed, the organisation will facilitate the lead independent director in aiding interaction among other independent directors in context of the company's matters and communicating their collective view to the Chairman and management as appropriate.
- (f) The organisation shall also facilitate the interactions of independent directors with key external stakeholders like auditors, and employees that are one level below the management.
- (g) The Chairman will speak to independent directors and gather their views outside the board room. This will ensure everyone gets to express their views frankly while helping the Board achieve its aim efficiently.



6. Safe Harbours for Independent Directors: Easier settlement norms and amnesty provisions

When there are concerns that arise in relation to any company's operations or financial statements, or when there are regulatory inquiries/prosecution, it often involves all directors (including independent directors), irrespective of their involvement in the same. As per a newspaper article¹, 291 independent directors of companies in the Nifty 500 index resigned between April and September 2019, compared to 126 independent directors a year ago. This has led to a shortage of quality independent directors (especially for listed entities), as individuals are concerned about their legal liabilities and reputation.

Hence, it is important to put clear safe harbours in place for independent directors – proceedings against independent directors should be initiated only once there is prima facie evidence of their possible involvement in the matter, rather than as a matter of course. Establishing clear safe harbours will go a long way towards addressing concerns of talented individuals wishing to join company Boards as independent directors.

An example of process safeguards is the circular issued by the Ministry of Corporate Affairs on July 29, 2011 (under the Companies Act, 1956) setting forth certain guidelines to field offices, incorporating safeguards relating to initiating penal action against independent directors. This circular has not been re-issued under the Companies Act, 2013. The Report of the Company Law Committee of February 2016 had recommended re-issuing the said circular under the Companies Act, 2013, taking into account changes made under the Companies Act.

In addition to the above, ability for corporates (and their relevant officers/directors) to settle non-serious offences (including without admission or denial of guilt) may be introduced for a broader set of laws; and ability to compound offences (or claim amnesty for non-serious offences) be made a part of the legal framework. This will enable ease of doing business, where procedural and non-serious matters can be settled without prosecution or adverse reputational implication. De-criminalisation of business laws should be continued on an ongoing basis, and clear and transparent settlement mechanisms should be put in place for non-serious offences, to enable further ease of doing business.

1

<https://economictimes.indiatimes.com/news/company/corporate-trends/worried-independent-directors-no-longer-keen-to-hold-board-seats/articleshow/72135108.cms>

These guidelines seek to achieve further integrity and transparency amongst corporates – however, an important element of integrity and transparency is the ability to protect independent directors, and address non-serious offences through mechanisms other than prosecution.

Recommendation 6:

- (a) It is recommended that regulatory authorities and enforcement agencies ought to put in place clear safe harbours (by way of legal provisions, processes and guidelines to officers) whereby, if an independent director has done their duty, then no one can hold him/her personally liable, and proceedings against independent directors ought to be initiated only once there is prima facie evidence of their possible involvement. Proceedings against independent directors for alleged acts of company/promoters should not be launched as a matter of course. Independent directors ought to be prosecuted only where their culpability can be reasonably apprehended in order for safe harbour provisions to meet their objective.
- (b) While laws (like the Companies Act) do have certain safe harbours, they should also be strengthened, not just in terms of legal protection, but also procedural safeguards.
- (c) As a step towards ease of doing business, to avoid protracted litigation and adverse cost and reputational implications for all parties concerned, it is recommended that the legal framework be amended to provide for (and actively push for) means other than prosecution in relation to non-serious offences. Ability for corporates (and their relevant officers/directors) to settle non-serious offences (including without admission or denial of guilt) may be introduced for a broader set of laws. and ability to compound offences (or claim amnesty for non-serious offences) be made a part of the general legal framework. Additionally, compliance requirements for MSMEs and start-ups may be examined afresh.
- (d) Continuing de-criminalisation of business laws, introduction of safe harbours and clear and transparent settlement mechanism for non-serious offences would be important components for further ease of doing business.



7. Risk Management

The recent developments caution of continuing challenges that organisations face in addition to the perpetual global economic gloom and uncertainty. Domestically, such warnings alert the Government which takes up measures to ensure regulatory deterrence to such happenings. Under the circumstances, responsibility for identification of risks that may threaten the existence of the organisation as well as development and implementation of a risk management policy are vital imperatives. Boards have to adopt a strategy that is operationally driven yet risk management for survival in these uncertain times. SEBI LODR Regulations also requires larger listed entities to establish a risk management committee to undertake this function.

Additionally, business in the current scenario is heavily dependent on information technology tools. Applying new science and technology in building the system is helping improve openness and innovation of the system. Ideally, business process re-engineering, digital transformation and innovation should be part of overall business strategy given the dynamic technological and artificial intelligence environment.

However, the downside of technology is risks of breakdown, including by rampant criminal activity, which can lead to system collapse and is a huge challenge. Strong cyber security and monitoring of IT risks is an urgent and immediate demand for corporate India. Most countries internationally are urging governments and institutions to take it as a priority task.

Recommendation 7:

- (a) Whether or not constitution of Risk Management Committee is legally mandatory, it is an essential facet of risk management for any company. Review of the risks faced by a dedicated committee of senior-level experts is crucial to continued existence and growth, given the consistently volatile external environment for businesses.
- (b) The Risk Management Committee should also oversee the IT (information technology) framework of the company, including vulnerabilities and safety mechanisms. Risk Management Committee may also engage competent third party professionals to assist them in this review.

- (c) The Board should, on a periodic basis, focus on the various risks faced by the organisation, including physical, technological, financial, business and cyber risks.
- (d) The Board/Risk Management Committee should design a comprehensive risk management policy, and crisis management strategy(ies), including fallback mechanism(s).
- (e) Periodic reports on the various risks faced, the mitigation measures put in place may be presented at Board meetings and deliberated in the requisite level of detail.
- (f) The Board composition should (to the extent practicable) provide for skill sets at identifying and monitoring technological disruptions and cyber security.
- (g) Considering the extensive use of third parties and vendors in business operations, it is encouraged to cover key partners to assess their risk profile, exposures and vulnerabilities that can impact the organization adversely.
- (h) Boards should ask managements to conduct impact of wider fourth industrial revolution and technological disruption risks on the business model.

8. Succession Planning

The Board has an important role on the matter of succession planning where it needs to be proactive. The Nomination and Remuneration Committee, where required and constituted, should proactively lead the succession planning process not just for the executive directors (MD/CEO), but also members of senior management/key management personnel.

Recommendation 8:

- (a) Succession planning (including proactive identification and monitoring of possible successor(s)) should be a part of the long-term vision of the Board/Nomination and Remuneration Committee, with clear plans and processes in place to minimise disruption and ensure smooth succession (whenever the need may arise).



- (b) Succession plans and processes should cover not only the Chairman and Managing Director but also members of senior management/ key management personnel who are actually the day-to-day drivers of strategy, planning, operations and growth.
- (c) Adequate precautions should be taken to keep succession plans and processes confidential.
- (d) Succession plans and processes should be reviewed periodically (with every company deciding their own frequency based on their circumstances), with the recommendation being for review at least once in 3 years.

9. Role of the Audit Committee

Integrity of financial statements is the bedrock of trust of stakeholders (internal and external) on a company. Shareholders, lenders/other creditors, employees, government authorities, among others, consider the company's financial statements as an important factor in deciding their association with the company.

Audit Committee effectiveness clearly hinges on some fundamentals, including the right committee composition and dynamics; an up-to-date charter (terms of reference) with well-defined responsibilities; a risk-based approach to setting the committee's agenda; an understanding of current and emerging issues; clear expectations on reporting issues to the Board and proactive, engaged oversight beyond the board room. Paying particular attention to potential risks posed by tone at the top, culture, and incentives should be considered vital.

Recommendation 9:

- (a) The Audit Committee (where required to be constituted) is an important gatekeeper, and should spend sufficient time and effort in its key focus areas – including (but not limited to) integrity of financial statements, internal controls, scrutiny of related party transactions, matters relating to appointment of (internal and external) auditors and chief financial officer, (internal and external) audit process and findings, scrutiny of significant financial transactions and inter corporate loans and investments, valuation of assets (where necessary) in addition to matters like appropriately handling whistle blower complaints and reviewing findings of internal investigations for suspected frauds/irregularities/material failure of internal control systems.

- (b) Audit Committee briefing to the Board to be formalized and expectations on reporting clearly articulated on what, when, how the matters will be reported. This can also be part of Board calendar.
- (c) With fraud reporting by Auditors mandated as per the Companies Act, 2013, the Audit Committee should work closely with the Board and other relevant committees (like Risk Management Committee) and key members of senior management to establish an early detection system of frauds as a part of fraud management and fraud response plan.
- (d) The composition and terms of reference of the Audit Committee should be adequate to enable it to perform its role and responsibilities.
- (e) In addition to reviewing the financial statements/transactions and interactions with auditors, the Audit Committee ought to develop a risk-based approach to its role involving proactive, engaged oversight beyond the board room and understanding issues (including those relating to culture, tone at the top and incentives).
- (f) Audit Committee members may also, depending on size and nature of subsidiaries and transactions with (or involving subsidiaries), exercise a level of oversight in relation to subsidiaries. If required in the facts and circumstances, this may also include discussions with key members of subsidiary management team.

10. Improving audit quality, and enhancing accountability of third parties who play a fiduciary role

Improving audit quality in the backdrop of enhanced legal and compliance risks from misstatements in financial statements and stepped-up enforcement efforts globally is an important focus area.

Requisite steps should also be taken to continue enhancing accountability of third parties who play a fiduciary role, like credit rating agencies.

Recommendation 10:

- (a) Managements and Audit Committees/ Boards should work closely with auditors to understand the audit process, and the implications on the financial statements.



- (b) Audit Committees should proactively understand the use by the auditors of analytics and analytical tools and their use in the audit process of the entity.
- (c) Audit Committees and management should ensure that the internal audit plan, communications and reports (including communication with the Audit Committees by the internal auditors) is made available to the Auditors. Audit Committees should also understand how the work of the Internal auditor is considered by the auditor in the formulation of his plan and in the execution of the audit.
- (d) The Audit Committees must engage with the auditors periodically to understand their observations and the status of the audit engagement. Audit Committees are encouraged to understand the difficulties faced by auditors (as and when made aware), and engage with management to address these in an appropriate manner.
- (e) The Audit Committee/the Board should work closely with the statutory auditor and internal auditors to overcome the identified internal control deficiencies in the organisation. Further, the Audit Committee / Board should communicate with the auditors regarding their findings and recommendations and implement the same at the earliest.
- (f) Organisations (based on their respective circumstances) may consider adopting processes that at periodic intervals evaluates the performance of the internal audit function (whether in relation to financial statements or other matters), including periodic rotation of personnel involved so as to retain objectivity.
- (g) Managements and Audit Committees/ Boards should take requisite steps to continue enhancing accountability of all third parties who play a fiduciary role, like credit rating agencies. Company management should ensure that they provide timely and accurate information to such third parties which allows them to perform their fiduciary role.

11. Disclosure and transparency related issues

Matters relating to disclosure and transparency are an important area of focus, especially for listed entities – although they impact all organisations to varying degrees. Special steps need to be taken while sharing information on social media, and where organisations are listed in multiple jurisdictions.

Recommendation 11:

- (a) The organisation will have a Social Media policy focusing on how information is to be dealt with responsibly. This is especially important for all listed entities, as the SEBI LODR Regulations provide that any unpublished price sensitive information needs to be disclosed first to the stock exchanges where the company is listed and only then on any other forums.
- (b) For organisations listed in multiple jurisdictions, there will be documented clarity on compliance with particular governance norms being followed by the organisation including specific disclosure of deviations. Also, organisations ought to ensure that all disclosures made in other jurisdictions where the company is listed, are made in India in parallel.

12. Vigil Mechanism

Vigil mechanism is an important contributor towards better corporate governance. It helps create an environment of high ethical standards, professionalism and honesty. In this regard, whistle blowing can be explained (in simple terms) as the disclosure of an alleged illegal or illegitimate practices in an organisation by a person associated with the organisation (whether as current or former employee, vendor etc.) for the benefit of the company, stakeholders and society at large. In India, the regulatory framework prescribes designing of a vigil mechanism for certain classes of companies. There is a need for effective implementation of whistle blower policies with the growing number of scams related to corrupt practices in corporate India.

However, caution needs to be exercised and whistle blowing needs to be introduced with sufficient checks and balances in the system to ensure avoidance of mala fide intentions and frivolous initiatives.

Recommendation 12:

- (a) The Board may formulate a whistle blowing mechanism (including keeping in mind legal requirements) embedding principles of internal implementation viz. criteria for review by identified senior employees / Audit Committee / Board and precautions to protect the identity of whistle blower(s) and avoid conflict of interest among other matters.



- (b) The Board may be periodically updated in relation to whistle blower complaints received, and how they have been dealt with. The manner and frequency of these updates may be in line with a policy to be established by the Board.
- (c) The action taken upon investigation should be commensurate with the findings of the investigation.
- (d) The policy and its implementation may be designed in a manner that while providing inbuilt safeguards to the process of whistle blowing, it should not encourage frivolous accusations. The policy may (if deemed fit by the Board) also provide for consequences for frivolous or motivated accusations. Where legally required, suitable public disclosures should be made. As a good practice, the policy should be disclosed on the website of the organisation.

13. Stakeholder, Vendor and Customer Governance

Corporate governance being about relationships and structures, the relationship between a company's management, its Board of directors, its auditors, its shareholders, its creditors and other stakeholders – including vendors and customers is of utmost importance. In the recent case, it was the governance of the customer which led to the scam.

Recommendation 13:

- (a) The organisation will extend the concept and principles of governance to a larger number of stakeholders, including bankers; lenders; creditors, employees, customers; joint venture and business partners, value-chain partners, suppliers; service providers, distributors, sales representatives, contractors, channel partners, consultants, intermediaries and agents; local community; environment and Government.
- (b) Special focus will be laid on preparing a gifts policy; non-political alignment; demonstration of highest ethical standards by stakeholders; managing conflict of interest, performance, risk and compliance processes across stakeholder networks with complete transparency and accountability.

- (c) Segregation of duties and layering of approvals in stakeholder management and business dealings will be designed, implemented and monitored at regular intervals.

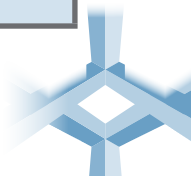
14. Investor Activism

Worldwide, annual shareholders' meetings have, in the last few years, seen heightened level of investor activity. There are instances where activist-investors pressurised a corporate Board to dismiss the CEO for lying on his resume; openly challenged a Board for re-election in connection with an alleged bribery scandal and voted down hefty pay packages. There are numerous cases where shareholders have turned down management proposals. Stakeholder engagement has also helped spur action on corporate sustainability challenges involving environment; social and governance changes. Each segment of stakeholders has a significant role to play in the governance and performance in investee entities.

The regulatory framework also gives much power to not just big institutional investors, but even minority shareholders – who are now turning increasingly assertive to influence corporate decision-making. This is the right time for corporates and other organisations in India to look inward and improve its own corporate governance, moving it beyond regulatory compliances to better oversight.

Recommendation 14:

- (a) The organisation will proactively address the governance concerns of investors, including institutional investors, and help them leverage information to become effective agents to drive better corporate governance practices in entities in which they invest.
- (b) Regulatory mechanism may ensure that there is adequate balance between flexibility to management to implement their programmes and policies while giving external stakeholders the ability to raise questions, when required.
- (c) An important part of stakeholder engagement is to educate the stakeholders (creditors, debtors, shareholders, etc.) about their rights, responsibilities and encourage shareholders especially, to come out and exercise their vote on all matters - especially those relating to their interests.



15. Start-ups and MSMEs

Start-ups and Micro, Small and Medium Enterprises (“MSMEs”) are vital for economic growth, foreign direct investment, innovation, creation of employment opportunities and social integration. Implementation of good governance practices has multiple advantages for start-ups and MSMEs, such as better access to finance from investors and banks, reduced reliance on promoters, effective organisational structures and improved chances of long-term survival of the business.

While focussing on growth, profitability and other business metrics, Boards and managements of start-ups and MSMEs should also focus on good governance – it is an important ingredient for the success of start-ups and MSMEs, and early adoption leads to benefits (both tangible and intangible) for the organisation.

Recommendation 15:

- (a) Boards of start-ups and MSMEs should proactively adopt good governance requirements as a complement to their business growth – including identifying and proactively addressing key compliance risks will formulate a compliance program after understanding the compliance requirements and the risks of non-compliance to the business.
- (b) Start-ups and MSMEs should appoint non-executive directors with skill-sets that may not be available with the founders or other directors on the Board.
- (c) Given their generally lean structure, start-ups and MSMEs should clearly define the role and responsibilities of the individual members of the Board.

In Conclusion

A majority of Indian companies are fully aware that sound principles of corporate governance are a necessary tool for their development and sustainability. Value driven governance increases the worth of these companies as they want to distinguish themselves from their competitors.

Most Indian companies have done rather well over the years in terms of maintaining governance standards and many have done so voluntarily, driven by internal policies and the desire to do the right thing.

There is recognition in India that companies committed to good governance have a distinct competitive advantage along with enhanced reputation and investor trust. Global investors are extremely cautious in identifying the companies where they invest. One of their main focus areas is good governance. Global investors are willing to pay a premium to companies where governance practices are perceived to be strong.

As a result, a majority of Indian companies are aware that robust governance has a premium and if their policies and practices fail to meet high ethical standards, they will be exposed to serious reputational risks.

No doubt, we have had corporate governance setbacks in recent years. However, there are also several examples of leading corporate houses that have stood the test of time, created wealth, diversified their businesses, haven't compromised on their core values and have preserved a culture of accountability.

There is always scope to improve and some companies in their desire to gain global recognition are striving to further enhance their level of governance.

One has to compliment several Indian companies who have tried to imbibe international best practices in corporate governance. It is important to recognise that each country has to evolve governance norms that suit them best culturally.

In conclusion, India Inc. is proceeding on the right path in establishing best practices in governance. At the same time, governance in India has a unique flavour and the government and the regulators are taking this into consideration while framing the laws.

The bar continues to rise for Indian Boards, which are beginning to face increasing pressure from shareholders; proxy firms and regulators. Boards are beginning to use

robust assessment practices to ensure that they measure up to the evolving standards of governance, have the right composition and follow best practices so to be effective stewards of the business.

The Guidelines on Integrity and Transparency in Governance and Responsible Code of Conduct have been framed keeping the above in perspective.

Annexures

CII Model Code of Conduct

About Model Code of Conduct

The Confederation of Indian Industry considers "Ethical Practices in Business Dealings" to be critical for the development and growth of the industry in our country.

The CII Task Force on Integrity and Transparency in Governance has comprehensive guidelines for a "Model Code of Conduct for Business Ethics", and CII is hopeful that all members including the SME's would feel comfortable about adopting these guidelines.

The enclosed Code of conduct contains the basic principles of doing business ethically, which involves adoption of policies and procedures intended to achieve ethical business practices. CII sees the adoption of this simplified code as a landmark step in inculcating a culture of ethics and good practices in corporates.

A separate focus is to keep working with the Government to remove discretion in decision making and ambiguity in notifications such that opportunity for ethical conflict is minimised.

CII recognizes that all our members are, at different points in this journey and each company will proceed down this journey at its own pace.

Members could confirm their adoption of the CII Model Code of Conduct by using the link below:

<https://fs9.formsite.com/CIITN/form302/index.html>

To inspire all to join the journey towards adopting the Model Code of Conduct in Business Practices, we will add the name of the companies that have adopted the Code on our website.

Ethical Business Practices

Ethical Business Practices are a Journey. All Member companies should adopt policies



and procedures intended to achieve the following in its business practices:

Accurate Books and Record

The Company will maintain accurate accounts and records which reflect the true and fair picture of the company's affairs in compliance with accepted accounting principles and standards for financial reporting

Bribery and Corruption

The Company will prohibit bribery in any form in all its business dealings and will maintain strong controls to prevent and detect improper payments.

The Company shall comply with anti-money laundering and terrorist financing laws and report unaccounted cash or suspicious transactions.

Fair and Equitable Treatment

The Company shall not unfairly discriminate on the basis of race, caste, religion, color, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability.

The Company shall not tolerate harassment, whether sexual, verbal, physical or psychological against any employee.

Health and Safety

The Company shall provide a safe, clean and healthy work environment.

Quality of Goods and Services

The Company shall strive to ensure that its products and services meet the legally required safety and quality standards.

Environment and Society

The Company shall strive to be a good corporate citizen by promoting social welfare activities, promoting sustainability and minimizing the adverse impact of company operations on the environment.

Business Courtesies - Industry Guidelines

Corruption, bribery and improper payments continue to be high compliance risks in the country. Trends have emerged which show that bribery and improper payments have taken various forms other than a simple exchange of cash. In India, the Prevention of Corruption Act (POCA) expressly prohibits government officials to accept remuneration, financial or non-financial advantage of any kind other than the legal remuneration for the services rendered by them. Further, the Prevention of Corruption (Amendment) Act, 2018, makes giving of bribe by individuals and commercial organizations to public servants a specific offence.

In the private sector also, companies want to ensure that business decisions are made in an objective, unbiased manner, without any apparent or perceived conflict of interest or with a view to obtain improper business advantage.

However, interactions in the usual course of business are inevitable and may require basic courtesies to be provided. These are relevant also in the cultural context in India, where basic courtesies and giving of gifts to business partners is seen as a sign of respect and maybe customary.

Various government, public and private sector enterprises have their own codes of conduct for their employees.

In absence of a common guidance on what business courtesies can be provided during business interactions, CII seeks to provide industry guidelines that CII member companies can consider to assist them to understand the business courtesies and create a reference for their organizations and employees.

The guidelines herein can be adopted by companies as follows:

- For companies which currently do not have any specific guidelines on business courtesies, may adopt these guidelines and/or modify certain industry specific practices for their operations
- For companies with a similar existing policies related to business courtesies, these guidelines can act as reference document. Such organizations may ensure that they have also implemented appropriate monitoring and tracking mechanisms of such courtesies as per guidance set forth in the document.



Guidelines

A. Need for an industry wide guidance

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B. Common areas of interactions

Some of the common areas of interaction, where business courtesies are given or expected to be given are:

- Customer meetings or visits held at Company site or outside venue
- Inspection, audits, on-site investigations by government agencies
- Pre and ongoing project discussions (e.g. technical discussions)
- Visits to manufacturing facilities by government officials or regulator
- Interactions during festive season or occasions like weddings, etc.
- Company sponsored training or visits to Company facilities

C. Definition of "Business Courtesy"

A business courtesy is any gift given or hospitality extended with the intent of building and maintaining relationships with commercial counterparts or as a cultural expectation or in the course of etiquette in the ordinary course of business. Business courtesies are sometimes referred to as "gratuities."

D. The "Reasonability" Test of business courtesies

In general, business courtesies:

- Must not be given in exchange for any favor or business advantage or for any favorable treatment;
- Must be infrequent and reasonable in amount, under the concerned circumstances.
- Permitted under the rules of the recipient's employer
- Permitted under the giver's and recipient's internal policies
- Should not involve adult entertainment
- Should not be monetary in nature (cash or equivalents e.g. cheques, loans, shares etc.)
- Should be properly recorded/ expensed in Company's books and records. Must be recorded accurately in the books of the Company to track for subsequent financial and compliance audit purposes
- Timing and context surrounding the business courtesy must be weighed in order to assess, whether any particular courtesy could objectively be perceived to be a bribe.
- Should be avoided in circumstances wherein a bid, deal, approval or decision that involves, impacts or benefits the company is pending with a customer/regulator/government agency and the recipient is involved in the decision making process

Broad Guidance for Common Types of Business Courtesies

1. Gifts & Entertainment:

- Gifts should be of nominal value
- Gifts to be in nature of consumables e.g. flowers, food, fruits etc.
- Gifts should be preferably company monogrammed.

- Gifts should not include cash or cash equivalents, adult entertainment, jewelry, ornaments or artwork etc.
- Gifts to family members should be avoided
- For festive occasions or weddings, gifts of nominal value, such as, flower bouquets, box of sweets can be given

2. Transportation:

- Casual lift, ground transportation to and from the company office/facility can be provided in the ordinary course of business. These should be limited to customers/government officials or regulators for this specific purpose.
- Should not be provided to their friends and/or family members
- Mode of transportation should be reasonable and not extravagant. Air fare/Rail fare should be avoided unless mandatory per contractual arrangement

3. Meals/Snacks/Refreshments:

- Meals must only be offered as a casual social hospitality
- Casual meals like lunch or tea and light refreshments during business meetings can be provided at company premises
- Lavish or extravagant meals, meals at venues that do not have a positive reputation or are associates with illegitimate activities should be avoided

E. Awareness and Monitoring Mechanisms

Companies are advised to form written policies, regarding extending as well as receiving of business courtesies. Company should ensure ongoing education and awareness of the policy to employees at all levels, as well as targeted communication with employees in functions, where probability of such interactions is high, for example, sales, sourcing and commercial. Company should set up a process to track business courtesies which can reflect the purpose of interactions, actual gift and/or courtesy provided and government officials to whom the courtesies were extended. This will enable an effective management oversight and auditability. Companies should conduct periodic internal audits to ensure that the policies/guidelines are followed and necessary approvals are obtained.

CII Advisory on Business and Human Rights

Commitment

The Confederation of Indian Industry (CII) reaffirms its commitment to the ‘fundamental rights and directive principles’ on human rights enshrined in the ‘Constitution of India’, ‘Universal Declaration on Human Rights’, ‘UN Guiding Principles on Human Rights’ and to the Government of India’s ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business’. These recognize:

- The state’s obligation to respect, protect and fulfil human rights and fundamental freedoms;
- The role of business as a specialized organ of society performing specialized functions, which require compliance with all applicable laws and respect for human rights;
- The need for rights and obligations to be matched to appropriate and effective remedies when breached.

Objective

To guide Industries on respecting and promoting human rights in business.

To share and showcase ‘best practices’ to both - increase awareness of the subject, as well as encourage companies to move in the direction of deeper compliance over a period of time.

General Principles

The responsibility to respect and promote human rights requires that companies “know and show” the human rights-risks related to their business, and how these risks are being addressed and reduced. CII encourages its members to work on the following important areas:

- Start with a ‘public commitment’ to respect human rights. Over time, this commitment needs to be embedded into the company’s culture;
- Initiate the process of ‘human rights due-diligence’. By doing this, the company assesses risks to human rights, integrates the findings into its decision-making and into actions that mitigate the risks, tracks the effectiveness of these measures, and communicates its efforts – both internally, and externally.

- Develop processes to help provide ‘remedy’ to those who may be harmed because of the company’s actions or decisions.

Recommended Actions:

In terms of specific steps, companies are advised to do the following:

1. Action: Prepare and publish ‘Human Rights’ policy statement.

As a clear demonstration of their intent to respect human rights, companies should express their commitment to meet this responsibility through a statement of policy that incorporates (at a bare minimum) a clear ‘non-discrimination’ statement, as well as a commitment to ‘human health and safety’ standards necessary for that sector/industry, that:

- a. Is approved at the highest level of the business enterprise;
- b. Is informed by relevant internal and/or external expertise
- c. Stipulates the company’s human rights expectations from its personnel, business partners and other parties directly linked to its operations, products or services;
- d. Is publicly available, and is communicated (internally and externally) to its personnel, business partners and other relevant parties;

(Over a period of time, this commitment would also need to be reflected in operational policies and procedures necessary to embed it throughout the business enterprise).

2. Action: Companies should, within their sphere of influence, begin and promote the awareness and realization of human rights across their value chain/ecosystem.

This would be a phase of socializing ‘human rights’ principles, and generating a level of common understanding of its role and its value to business, and to the nation.

Companies may, for example, socialize their ‘Human Rights’ policy through internal house magazines, Open Houses, Town hall meetings or undertake awareness drives, conduct orientation / training sessions etc. These socializing drives could cover employees of departments such as Human Resources, Contract Cell, Purchase/Supply Chain, Security, etc., as well as external stakeholders such as vendors/suppliers, distributors/dealers, neighborhood communities, etc.

3. Action: Companies should carry out ‘Human Rights due-diligence’ to first identify and prevent, and over time, mitigate and account the company’s salient, or most severe, risks to human rights

Companies should base-line their position on the human rights ‘maturity curve’ by undertaking ‘Human Rights due-diligence’.

The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how these impacts are addressed.

The ‘Human Rights due-diligence’ process:

- a. Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
- b. Would vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
- c. Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.

In order to gauge human rights risks, companies should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities, or as a result of their business relationships. This process should:

- a. Draw on internal and/or independent external human rights expertise;
- b. Involve meaningful consultation with potentially affected groups and other relevant stakeholders, appropriate to the size of the business enterprise, and the nature and context of the operation.

4. Action: Companies should systematically address their salient, or most severe, risks to human rights

In order to prevent and mitigate adverse human rights impacts, companies should integrate the findings from their impact assessments across relevant internal functions and processes and take appropriate action.

- a. Effective integration requires that:
 - i. Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;
 - ii. Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.
- b. Appropriate action will vary according to:
 - i. Whether the company causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
 - ii. The extent of its leverage in addressing the adverse impact.

5. Action: Companies should take steps to provide an effective ‘remedy’ for human rights harms

Where Companies identify that they have caused or contributed to adverse impacts, they should provide for, or co-operate in impact-remediation through legitimate processes.

To make it possible for grievances to be addressed early and remediated directly, companies should establish or participate in effective operational-level grievance mechanisms for individuals and communities that may have been adversely impacted.

References:

- ‘Guiding Principles on Business and Human Rights’ by United Nations Human Rights Office of the High Commissioner
- ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business’ by Government of India

Policy statement on Human Rights

A policy commitment refers to any one or more publicly available statements (and not internal policies) of the company’s responsibilities, commitments or expectations regarding respect for human rights across its activities and business relationships.

The policy statement should highlight a particular human right for attention (e.g., whether the commitment is limited to a particular set of rights, encompasses all

internationally recognized human rights, or encompasses all internationally recognized human rights but highlights some as needing particular attention).

The statement should clarify whether the scope covers all individuals and groups who may be impacted by the company's activities or through its business relationships, or whether it relates to certain, specific groups and, if so, which ones and why.

The statement should clarify whether the commitment relates solely to the company's own activities or includes the company's expectations of other organizations with which it has business relationships (e.g., first-tier suppliers, suppliers beyond the first tier, contractors, entities in the downstream value chain, joint venture partners, governments or government agencies).

It may also contain:

- An overview of the steps taken to develop the policy
- Information on the company's key human rights priority areas
- A description of how the company will deal with conflicts between international human rights principles and applicable host-government legal requirements
- A commitment by the company to "support" (i.e. contribute to the positive realization of) human rights
- A summary of those human rights (including labour rights and others) that the business recognizes as likely to be the most salient for its operations and information on how it will account for its actions to meet its responsibility to respect human rights



Charting the Evolution of Corporate Governance in India

- CII Desirable Corporate Governance: A Code: 1998
- Kumar Mangalam Birla Committee Report on Corporate Governance: 2000
- Department of Company Affairs (DCA) modified the Companies Act, 1956: 2000
- Department of Company Affairs (DCA) modified certain accounting standards to further improve financial disclosures relating to disclosure of related party transactions, disclosure of segment income: revenues, profits and capital employed, deferred tax liabilities or assets, consolidation of accounts: 2001-02
- Department of Company Affairs (DCA) set up two Committees headed by Ambassador Naresh Chandra: 2002 and 2003
- SEBI Committee on Corporate Governance under the Chairmanship of Mr. N. R. Narayana Murthy, to look into the corporate governance issues / review Clause 49: 2003
- Dr. J J Irani Committee Report on Company Law: 2005
- General Guidelines on Corporate Governance for Central Public Sector Enterprises (CPSEs): 2007
- CII Report of a Special Task Force on Corporate Governance set up under the Chairmanship of Ambassador Naresh Chandra: 2009
- Corporate Governance Voluntary Guidelines issued by the Ministry of Corporate Affairs (MCA): 2009
- Guidelines on Corporate Governance for Central Public Sector Enterprises (CPSEs): 2010
- Mr. Adi Godrej Committee on Corporate Governance constituted by MCA to formulate policy document on Corporate Governance: 2012
- Companies Act, 2013, and the amendments thereof
- SEBI Listing Obligations and Disclosure Requirements (LODR) Regulations: 2015
- SEBI Committee on Corporate Governance constituted under the Chairmanship

of Mr. Uday Kotak: Kotak Committee Report: 2017

- SEBI Notification dated 9 May 2018 to SEBI (LODR) Regulations, 2015; Circular dated 10 May 2018 and Notification dated 10 January 2020 pursuant to recommendations of the SEBI Kotak Committee Report on Corporate Governance





Confederation of Indian Industry

Business and Beyond

125 Years: 1895-2020

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the development of India, partnering industry, Government, and civil society, through advisory and consultative processes.

CII is a non-government, not-for-profit, industry-led and industry-managed organization, playing a proactive role in India's development process. Founded in 1895 and celebrating 125 years in 2020, India's premier business association has more than 9100 members, from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 300,000 enterprises from 291 national and regional sectoral industry bodies.

CII charts change by working closely with Government on policy issues, interfacing with thought leaders, and enhancing efficiency, competitiveness and business opportunities for industry through a range of specialized services and strategic global linkages. It also provides a platform for consensus-building and networking on key issues.

Extending its agenda beyond business, CII assists industry to identify and execute corporate citizenship programmes. Partnerships with civil society organizations carry forward corporate initiatives for integrated and inclusive development across diverse domains including affirmative action, healthcare, education, livelihood, diversity management, skill development, empowerment of women, and water, to name a few.

India is now set to become a US\$ 5 trillion economy in the next five years and Indian industry will remain the principal growth engine for achieving this target. With the theme for 2019-20 as 'Competitiveness of India Inc - India@75: Forging Ahead', CII will focus on five priority areas which would enable the country to stay on a solid growth track. These are - employment generation, rural-urban connect, energy security, environmental sustainability and governance.

With 68 offices, including 9 Centres of Excellence, in India, and 11 overseas offices in Australia, China, Egypt, France, Germany, Indonesia, Singapore, South Africa, UAE, UK, and USA, as well as institutional partnerships with 394 counterpart organizations in 133 countries, CII serves as a reference point for Indian industry and the international business community.

Confederation of Indian Industry

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