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Empirical Study of Board and Corporate Governance Practices in Indian Corporate Sector: Analysis of CG Practices of ITC and ONGC

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Abstract

Corporate Governance is contemporary topic in business world these days. In today’s world when companies are competing on international standards, they need to be professionally run in the best interest of investors. Board of Directors (BoD) is the most important body in a company and is responsible for investors’ protection. Corporates are failing in terms of Accountability part whenever question of governance has come. Mousa F. Al Manaseer (2012) expressed that the board of directors is the primary internal governance mechanism charged with overseeing executive decisions. This research aims at studying two Indian companies namely, ITC, a leading Indian conglomerate and ONGC, a public sector undertaking, for the purpose of evaluating both with respect to compliance to SEBI’s requirement of clause 49 A and B (pertaining to disclosure, efficiency of board and representation of sufficient number of independent directors in the Board). Researchers are trying to evaluate performance of these two top market capitalization companies in terms of BoD and their governance. For this study, researchers will take secondary data from annual reports of respective companies for the financial year 2012-13 (being most recent disclosures). Several parameters which are mandatory and desired from these companies will be tested by Chi-Square test and findings will be drawn.

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1. Introduction

With the recent rise in reported cases of collusion of fraud in big corporate and of insider trading cases the trust of shareholders and investors has tremendously gone down. Public is wary of investing in the shares of various company. It is hitting our stock market also in the sense that majority of investors are FIIs only and not the retail investors. With the rising threat of competition from opening of FDI in various sectors and in-house jostling in between various domestic companies, the companies are trying their hand on by lanes of success. The amendment in Companies Act 2012, Clause 49 of listing agreement (SEBI) and Sarbanes Oxley’s (SOX) controls etc. are now becoming more important to control the mal practices, cast responsibility on the wrong doer(s) and to have strict controls in place to prevent happening of such events. The importance of whistle blowing is no being treated as a big event.

2. Literature Review

Dr. Mita and Prof. Arti (2012) in their research paper mentioned that there is wide difference in terms of the governance pattern that these companies follow. Their study revealed that when it comes to the mandatory disclosures and implementation of the norms are concerned, all corporate followed the norms, but when it comes to non-mandatory governance norms, only one or two corporate out of five have followed and implemented the CG norms with respect of Board and its governance.

Mousa F. Al Manaseer (2012) expressed that Board of Directors are most important mechanism to ensure internal control system whereby corporate governs their practices. They are the main pillars of business.

Baysinger and Butler (1985) found that companies perform better if boards include more outsiders. Here authors tried to mention that there has to be representation of independence at the Board level of corporate.

In this research paper researchers have tried to study Board and its practices of top two Indian corporate sector company having top market capitalisation.

2.1. What is Corporate Governance?

Corporate Governance is “A set of systems, processes and principles which ensure that a company is governed in the best interest of all stakeholders.” It provides a commitment of transparency and observance of ethics in code of conduct and discharge of duties by all the persons involved in the affairs of the company. It focuses on compliance of various statutes and legal requirements along with requisite disclosures so as to allow the stakeholders make an informed and appropriate opinion about the company. It shows how much information is
to be shared by the company to all its pertinent stakeholders to facilitate them to have an informed decision making.

2.2. CG is stakeholder concept and not only shareholders concept

Stakeholders do not only include the shareholders but also various other parties dealing with the company like debt providers, suppliers, customers, employees and society as well. Catering to the interest of all these parties is challenging, especially in India where most businesses are run as Family owned business houses (FOBH). Further the lack of matured markets and absence of regulatory framework covering the interest of all these parties also makes the task challenging. India needs stringent regulations and a strong enforcement of the same to prevent cases like Satyam where the Company’s funds were siphoned off by the promoter. Since the major corporate in India are being run in the form of FOBH so it leads to a weak compliance of Corporate Governance. Government is bringing amendments to put responsibility on the Board of Directors for the transparent functioning of business.

2.3. CG practices are more visible at top level among BoDs

In life to implement any rule mostly the top-down approach works. As the juniors see their bosses observing certain set of rules, then it easily trickles down in system and becomes a standard for them to follow. It is therefore responsibility of the Board of Directors who is at the helm of affairs of the company to run the business with the highest order of integrity and transparency.

2.4. BoD with BoD practices can ensure better compliance of CG

The disclosure norms and legislations are irrelevant till they are actually practiced. The goal of “Good Corporate Governance” is to ensure that the board is committed to generate maximum extensive wealth to the shareholders and other stakeholders. But to achieve this goal, they should observe a clear distinction between personal and corporate interest. They should make decisions in the best interest of all the stakeholders and both for their vested interests. If at any point of time there is a conflict of interest then they should immediately disclose that information to the stakeholders. Hence BoD should remain vigilant of their responsibilities and their practices should all time comply for the Good Corporate Governance.

2.5. BoD and its practices

BoD should ensure:

- Transparency in business transactions;
- Protection of interest of stakeholders;
- Ethics in the conduct of business;
- Effective and honest decision making;
• Statutory and legal compliances

3. Parameters for research

Research has covered various corporate governance parameters of two companies namely, ITC and ONGC.

4. Research Methodology

To evaluate the adherence to the corporate governance norms by the two companies under study, we have taken the data from the annual reports for the financial year 2012-13.

The data analysis is done with the help of certain selected parameters and corporate governance score has been allotted. This study highlights the corporate governance practices and processes followed by the Indian Corporate houses. This study focuses on assessing the quality of reporting of various corporate governance practices in annual reports. The parameters cover the statutory requirements as stipulated by the Clause 49 of the listing agreement prescribed by the Securities and Exchange Board of India (SEBI).

5. Hypothesis

- H0: There is no difference in BOD corporate governance practices in sample Indian companies and the expected standards.
- H1: There is significant difference in BOD corporate governance practices in sample Indian companies and the expected standards.

6. Limitations of Study

- The study is conducted using the secondary source of information which is annual reports of the company along with the information which is available on company’s website and from open online source.
- The study has covered period of one financial year from 1-April 2012 to 31 March 2013.
- The corporate governance study is done by score which can have a scope of further research.
- The study is limited to two companies which are lead players in their respective sectors.

7. Data Analysis

Researchers have assigned score to the answers of the question. If the parameter scores positive per the expected score; the company is given a score of “1” and if not as per the prescribed norms then “0”. Total score of the individual company has been computed to get the final score for each company.
Table 1: Data Analysis

| Sl. No. | BOD Parameter                          | ITC | ONGC |
|---------|----------------------------------------|-----|------|
| 1       | Exclusive section on CG                | 1   | 1    |
| 2       | Chairperson’s Details                 | 1   | 1    |
| 3       | Office of Chairman and CEO             | 0   | 0    |
| 4       | Independent director(s) to total director | 1   | 1    |
| 5       | Lead Senior Independent Director       | 0   | 1    |
| 6       | Women Directorship                     | 1   | 0    |
| 7       | Disclosure of nomination of ID with criteria | 1   | 1    |
| 8       | Definition of Independent Director     | 0   | 0    |
| 9       | Tenure of Independent Director         | 0   | 1    |
| 10      | Separate meeting for Independent Director (ID) | 0   | 1    |
| 11      | Orientation for BOD including ID       | 0   | 0    |
| 12      | Regular communications to non-executive directors | 1   | 1    |
| 13      | Training and workshops for BOD         | 0   | 0    |
| 14      | Affirmative statement from ID          | 1   | 1    |
| **TOTAL** |                                       | **7** | **9** |

Discussion

Clause 49 of SEBI requires the disclosures to ascertain the presence and role of independent directors. SEBI requirements are also in line with the international corporate governance practices. If the Chairman of Board is an executive director then at least half of the board should comprise of independent directors, Whereas if Chairman is a non-executive director then at least one-third of the board should comprise of the independent directors, These provisions have been brought into force to have a large representation of independent directors from various fields which help in giving a holistic approach to the company in its decision making process. Higher number of independent directors also prevents the chance of collusion of fraud by the board members.

The researchers have analysed the secondary data for these two large market cap companies. The research brings into light certain aspects like, though ONGC has appointed a lead independent director but his/her details are not provided in the board reports. Company can briefly mention the rights, duties and responsibilities of the person holding this position in the company.

It is unfortunate that in the twenty first century we do not have presence of women in the corporate board room. Even though the women form 50% of the population and are now getting education and exposure but still the presence in corporate arena is negligible. Researchers found that ITC has one woman director on board out of total 18 directors which is a grim state. On the other hand ONGC has none. Though Smt. Sushma Nath, was an independent director in ONGC board, but she resigned from the ONGC board on 21.01.2013 and thereafter no woman joined the board till 31-03-2013.

Tenure of independent directors is not specifically laid down or stated in the board report of ITC.
Separate meeting of for independent directors is required so as to ensure that they get full chance to decide and make presentation for their rights. It is imperative that they hold this meeting because it safeguards the interest of not only independent directors but also of retail investors. Such separate meeting of independent directors is conducted in ONGC but as per the records found by the researchers, no conduct of such meeting is done in case of ITC.

8. Findings and Conclusion

Researchers have found following points in their research:

As per good corporate governance norm the chairman of the board and the CEO should be different persons and both the offices should not be held by same person. Mr. Y.C. Deveshwar in case of ITC is holding both the posts of chairman of board and CEO. While in case of ONGC, there is no post of CEO but there is a post of combined chairman and M.D. which is held by Mr. Sudhir Vasudeva. Mr. RS Sharma of ONGC has demanded the creation of a separate post of CEO in public sector companies to avoid a conflict of interest arising from the responsibility being vested with the chairman. As per the corporate governance guidelines issued by the Ministry of Corporate Affairs, a committee comprising the majority of independent directors and the chairman is to determine the performance of "individual directors, as well as the board as a whole,"”In case the board is headed by the CEO (chairman also having the executive responsibility, as is the case in PSUs), a conflict of interest is inherent," he wrote to the Public Enterprises Selection Board (PESB).

None of the companies has defined who is the lead independent director in its Annual Report of 2012-2013. ONGC has shown better compliance of the parameters chosen for comparing the two sample companies.

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