

**HEADLINES**[CIT \(A\) can't ente](#)[COLUMNS](#) | [CORPORATE LAWS](#) | [HEADLINES](#) | [TOP STORIES](#)

Decoding impact of Corporate Governance Committee's recommendations on 'Board Committees'

October 15, 2017 11:04 am | By : Gaurav N. Pingle

Simplifying GST
Taxscan Presents
WORKSHOP ON
GST
GOODS AND SERVICES TAX

Sep 23, 2017 | **Hotel Woodies Bleisure, Calicut**

Registration Fees **3500/-**
 10% discount for early birds

For Registration Contact:
info@taxscan.in or
 09495 002 477, 08848 774 171

TAX SCAN
 SIMPLIFYING THE LAW

WWW.TAXSCAN.IN

Subscribe Our Newsletter
 Subscribe to our mailing list to get the updates to your email inbox

Go



The earlier articles, we discussed the SEBI's Corporate Governance Committee's ('Kotak Committee' / 'Kotal Panel') recommendations on [Composition & Role of Board of Directors](#) and [Independent Directors](#). This article is an analysis of Kotak Committee recommendations on the "Board Committees" – the third chapter of the exhaustive and detailed Report.

En RECENT | [L...](#)

[CIT \(A\) can't entertain an issue which](#)
 October 31, 2017

[Company Secretary Vacancy in](#)
 October 31, 2017

[Genuineness of Consignment can't be suspected merely because the Invoice contains](#)

- **Minimum Number of Committee Meetings:** With an objective of aligning with the proposal w.r.t. the number of board meetings, the Committee has recommended 5 Audit Committee Meetings. The intention of such suggestion is to allow Audit Committees requisite time and opportunity to address matters beyond the quarterly reporting;

October 31,
2017

- **Role of Audit Committee:** Kotak Committee proposes to increase the specific role and terms of reference of the Audit Committee. It proposes that the Audit Committee should also review the utilization of funds of the listed entity infused into unlisted subsidiaries including foreign subsidiaries. Therefore, the Kotak Panel recommended that the Audit Committee should scrutinize the end-utilization of funds where the total amount of loans/advances/investment from the holding company to the subsidiary exceeds Rs. 100 crore or 10% of the asset size of the subsidiary, whichever is lower. The scope of review is quite wide, as the Audit Committee of the Holding Co. would be required to scrutinize the end-utilization of funds where the total amount of loans/advances/investment from the Holding Co. to Subsidiary Co. above the prescribed limits. This review function, if codified, would be in addition to the extant terms of reference provided under Section 177 of the Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Precisely, the Audit Committee of Holding Co. (i.e. listed entity) would be required to ensure compliance of Section 185 and Section 186 of the Companies Act, 2013 of its Indian subsidiary companies. This recommendation would have been made with an intention to keep a check on siphoning of funds by subsidiaries. Also, the recommendation applies to all subsidiaries and not material subsidiaries.

IBBI seeks
Exemption
from SEBI &
October 31,
2017

Assessment
Solely on the
basis of Case
October 31,
2017

60 Law
Officer
Vacancies in
October 31,
2017

VIDEOS CORNER

[VIEW MORE](#)

- **Composition of Nomination & Remuneration Committee:** As per extant provisions of the SEBI, the Nomination & Remuneration Committee is required to have only half of its members as Independent Directors. Considering the increasing importance of Nomination & Remuneration Committee and ensuring its independence, the Kotak Panel has suggested that the Nomination and Remuneration Committee shall have at least two thirds of its members as Independent Directors. The recommendation is in line with the provisions of relating to minimum members of the Audit Committee;

All you want to know
about Fat Tax

- **Role of Nomination and Remuneration Committee:** Kotak Panel referred to the extant provisions of SEBI's Listing Regulations and noted that the role of Nomination and Remuneration Committee includes identifying persons who may be appointed in 'senior management' in

All you want to know
about Goods and
Service Tax (GST) Bill

accordance with the criteria laid down, and recommending to the board of directors their appointment and removal. However, there is no provision or clarification of persons included in the 'senior management'. Considering the anomaly, Kotak Panel has recommended 'Senior Management' should include all members of management one level below the Chief Executive Officer/Managing Director/Whole Time Director/Manager, and shall specifically include Company Secretary and Chief Financial Officer. Therefore, if the recommendation is codified, the remuneration / appointment / removal of the Company Secretary and Chief Financial Officer will be monitored by the Nomination and Remuneration Committee. Kotak Panel further proposed that all payments made to Senior Management, in whatever form, shall be recommended by Nomination and Remuneration Committee to the board of directors. It has recommended that such process of approval of payments to Senior Management be monitored by Nomination and Remuneration Committee, irrespective of existing contracts. In my view, the increase in role of Nomination and Remuneration Committee is nothing but increase in the role, functions and duties of the Independent Directors;

- Composition and Role of Stakeholders Relationship Committee:** As per the extant provisions of the Companies Act and SEBI Regulations, the role of Stakeholders Relationship Committee shall be inter alia to consider and resolve the grievances of the security holders of a listed entity including complaints related to the transfer of shares, non-receipt of annual report and non-receipt of declared dividends. Kotak Panel recommended to widen the role of Stakeholders Relationship Committee, to include: (i) Resolving security holder grievances relating to issue of new/duplicate certificates, general meetings, (ii) Proactively communicating and engaging with security holders, (iii) Reviewing measures taken for effective exercise of voting rights by shareholders, (iv) Reviewing adherence to the service standards adopted by the listed entity in respect of various services being rendered by Registrar & Share Transfer Agent, (v) Reviewing various measures and initiatives taken by the listed entity for reducing the quantum of unclaimed dividends and ensuring timely receipt of dividend warrants/annual reports/statutory notices by the security shareholders of the company. The Kotak Committee has also recommended that there be at least 3 directors as members of the Stakeholders Relationship Committee, with at least 1 being an Independent Director. It further suggested that the Chairperson of Stakeholders Relationship Committee be present in the

September 22, 2017

ICAI Appointed as Vice-Chair of Asian-Oceanic Standards-Setters Group

Govt to set up National Financial
July 24, 2017

Job Opening in Investment
June 11, 2017

Job Opening for Lawyer in a Real Estate
May 30, 2017

annual general meeting to answer queries of the security holders. Considering the importance of all stakeholders, the recommendations made by Kotak Committee are ideal. The recommendation of the Kotak Committee definitely makes the Stakeholders Relationship Committee more accountable and answerable to the stakeholders. However, in my view, in certain cases, the role proposed of the Stakeholders Relationship Committee should more elaborate e.g. reviewing measures taken for effective exercise of voting rights by shareholders, because as per statute the Companies are already providing electronic voting and postal ballot facilities.

- **Quorum for Committee Meetings:** Kotak Panel has recommended changes to the provisions relating to quorum for Stakeholders Relationship Committee and Nomination and Remuneration Committee. With an objective to protect the interest of all stakeholders, the Kotak Panel recommended that for meetings of each such Committee (i.e. Stakeholders Relationship Committee and Nomination and Remuneration Committee), the composition of which statutorily requires at least one ID, the presence of at least one Independent Director may be made mandatory for attaining quorum for such meetings. In addition to inclusion of Independent Director in the Committee, the Kotak Panel has recommended the presence of at least 1 Independent Director in the Committee meetings. However, the Kotak Committee has not recommended any change in the quorum provisions of Audit Committee of listed entity;
- **Applicability and Role of Risk Management Committee:** Considering the dynamic business environment, Kotak Committee opined that an active Risk Management Committee is imperative for identification, mitigation and resolution of risks. Kotak Panel recommended to extend the requirement of Risk Management Committee to the top 500 listed entities by market capitalization (as against current applicability to top 100 listed entities). The Panel recommended that role of Risk Management Committee should specifically cover cyber security and related risks;
- **Membership and Chairpersonship Limit:** As per extant provisions of SEBI's Listing Regulations only membership / Chairmanship of Audit Committee and Stakeholders Relationship Committee is counted for the maximum number of Committees of which a director can be a member/Chairperson. The Kotak Committee has recommended to include Nomination and Remuneration Committee, in addition to Audit Committee and Stakeholders Relationship Committee, for counting the

membership and chairpersonship limit. Considering the proposal of enhanced role of Nomination and Remuneration Committee, the Kotak Committee would have made such suggestion. However, there is no reference of inclusion or exclusion of membership / Chairmanship in the Risk Management Committee.

- **Information Technology Committee:** Kotak Panel recommends formation of 'Information Technology Committee' as a discretionary requirement under SEBI's Listing Regulations. This Committee is in addition to the Risk Management Committee.

Conclusion: In my view, there are not many significant changes in the Chapter relating to 'Board Committees'. However, the recommendations relating to Nomination and Remuneration Committee and Stakeholders Relationship Committee are quite detailed. By increasing the role of Committees and ensuring that Independent Director is part of the Committees, the role, responsibility and accountability of Independent Directors will be enhanced significantly.

Gaurav N. Pingle is a Practising Company Secretary from Pune. He handles various assignments of Secretarial Audits, Due Diligence, Quarterly compliance audit of listed companies, routine compliance (under Companies Act & FEMA) for private companies, wholly owned subsidiaries, joint venture companies. As an Author, he religiously writes articles

and columns on the current case laws, latest happenings in Corporate Laws and articulates his views, which are published in leading business and professional journals. Many of his articles have bagged the "Best Article" award. He is visiting faculty for the Company Law & Securities Laws at ILS Law College, Pune, Pune Chapter of ICSI, Thane Chapter of ICSI and also at various colleges in Pune, Mangalore, Udipi. (E): gp@csgauravpingle.com , (W): www.csgauravpingle.com .

[Click here](#) to read the Key takeaways of the Report of Committee on Corporate Governance [SEBI].

Topics:

AUDIT COMMITTEE

CORPORATE GOVERNANCE

KOTAK COMMITTEE RECOMMENDATIONS

KOTAK COMMITTEE REPORT

SEBI

RELATED STORIES

IBBI seeks Exemption from SEBI & CBDT on some rules for Insolvent Companies

Decoding Impact of Corporate Governance Committee's recommendations on

Decoding Impact of Corporate Governance Committee's recommendations on

Decoding Impact of Corporate Governance Committee's recommendations on

Govt to Make Norms & Procedures for Corporate Governance more Stringent

SAT directs Vijay Mallya to appear before SEBI within 21 days [Read Order]

0 Comments

Sort by **Oldest**



Add a comment...

[Facebook Comments Plugin](#)

About Taxscan

TaxScan Media is a online news portal for reporting all news, articles, judgments, Circulars, orders and notifications relating to Taxation Laws in India. We use the tagline 'Simplifying Tax Laws'. Our mission is to Simplify

[INTERVIEWS](#)

[COLUMNS](#)

[VIDEOS CORNER](#)

[INCOME TAX](#)

[CST & VAT / GST](#)

[SERVICE TAX](#)

[EXCISE & CUSTOMS](#)

[INTERNATIONAL TAXATION](#)

[DOMESTIC TAXATION](#)

[FINANCE ACT / BUDGET](#)

[Q & A CORNER](#)



the Tax Laws and make aware the people to their tax rights and duties and participate nation building.

[Privacy Policy](#) | [Contact](#)

© 2017 Taxscan | Simplifying Tax Laws; Developed by dewneot 