Key Takeaways of Kotak Committee Report on Corporate Governance

Gaurav N Pingle, Practising Co. Secretary, Pune.
Brief background to Corporate Governance Reforms

- Recent boardroom battles,
- Recent Corporate practices,
- IDs – Change in Role & Liabilities,
- Cos. Act, 2013 – CG provisions
Brief background of the Kotak Committee on Corporate Governance

✓ Members & their Experience,
✓ Deliberations,
✓ Outcome
Format of the Report
Terms of Reference

- Ensuring independence in spirit of Independent Directors
- ID’s active participation in functioning of the Co.

- Improving safeguards & disclosures pertaining to RPTs
- Issues in accounting & auditing practices by listed Cos.

- Improving effectiveness of Board Evaluation practices
- Addressing issues faced by investors on voting & participation in general meetings

- Disclosure and transparency related issues, if any
- Any other matter, as the Committee deems fit
## Chapter I: Composition & Role of BoD

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Chapter II: Institution of Independent Directors

- Minimum No. of IDs
- Eligibility Criteria for IDs
- Minimum Compensation to IDs
- Disclosures on Resignation of IDs
- Induction & Training of IDs
- Alternate Directors for ID
- Lead ID in Cos. with Non-independent Chairperson
- Casual Vacancy of Office of ID

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Chapter IV: Enhanced Monitoring of Group Entities

Obligation on BoD of Listed Entity w.r.t. Subsidiaries. (ICSI Report referred)

Secretarial Audit

(i) SA may be made compulsory for all listed entities under SEBI LODR Regulations in line with Cos. Act,

(ii) SA may also be extended to all material unlisted Indian subsidiaries.

This is in line with the theme of strengthening group oversight and improving compliance at a group level.
Chapter V: Promoters / Controlling shareholders

- Sharing of Info. with Controlling Promoters / Shareholders with Nominee Directors

- Re-classification of Promoters / Classification of Entities as Professionally Managed
Chapter V: Related Party Transactions

- Disclosures of RPTs
- Approval of RPT
- Materiality Policy

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Chapter VI: Disclosures & Transparency

- Submission of Annual Reports
- Searchable Formats of Disclosures
- Harmonization of Disclosures – Avoiding the risk of Disclosure arbitrage
- Disclosures Pertaining to Disqualification of Directors – Certificate of Practising CS
Certificate from Company Secretary in practice that none of the directors on the board of the company have been debarred or disqualified from being appointed or continuing as directors of the companies by the SEBI / MCA or any such authority.

What is contemplated to check:

✓ Debar or Disqualify,
✓ From being appointed or continuing as Directors
✓ SEBI / MCA or any such authority.
Accounting & Audit-related issues

Audit Qualifications

Independent External Opinion by Auditors

Quarterly Financial Disclosures

Disclosure of Reasons of Resignation of Auditors

Disclosures on Audit & Non-audit Services Rendered by Auditor

Disclosures of Credentials and Audit Fee of Auditors
Powers of ICAI vis-à-vis SEBI

Strengthening Monitoring & Enforcement by SEBI

Powers of SEBI w.r.t. Auditors & Other Statutory 3rd Party Fiduciaries for Listed Entities

Strengthening the Role of ICAI

Strengthening the Independent Functioning of Quality Review Board

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Chapter VIII: Investor Participation in Meetings of Listed Entities

Timeline for Annual General Meetings of Listed Entities

- E-voting and Webcast of Proceedings of the Meeting
- Resolutions sent to Shareholders without Board’s Recommendation
Establish a transparent mandate for PSEs and disclose its objectives & obligations;

Ensure independence of PSEs from Administrative Ministry,

Consolidate the Govt. stake in listed PSEs under holding entity structure(s)
Committee felt that Leniency Programme would improve effective detection of violations and enhance ease of investigation and enforcement, while also acting as a deterrent that could result in an increase in the overall compliance of securities regulations;

Committee felt that SEBI may be empowered to grant leniency and offer protection against victimisation to whistle-blowers in certain instances determined on case by case basis.
Committee recommended enhancing SEBI’s capacity in line with global best practices:

- Enhance No. & skill-sets of its human resources;
- Exploit power of data science & technology; and
- Strategically work with other agencies, especially for monitoring and enforcement.
Deliberation on the Key Takeaways
Q & A Session
Thank you Pune Chapter of ICSI for this wonderful opportunity!! 😊

Thank you Students & Members for active participation!! 😊

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