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## Clause-by-Clause Analysis of Kotak Committee's recommendation on Corporate Governance



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### Introduction

1. SEBI Committee on Corporate Governance was formed on June 2, 2017 under the Chairmanship of Uday Kotak with the aim of improving standards of corporate governance of listed companies in India. The Committee submitted its Report on October 5, 2017.

SEBI Board<sup>1</sup>, at its meeting held on March 28, 2018, accepted several recommendations of the Committee without any modifications, and certain recommendations were accepted with certain modifications. SEBI Board decided to refer certain recommendations to various agencies (i.e., Govt., other regulators, professional bodies, etc.). This table will help one understand the status of the recommendations made by the Uday Kotak Committee on Corporate Governance *vis-à-vis* the decision taken by the SEBI Board:

### 2. Table

<i>Sr. No.</i>	<i>Key Points</i>	<i>Summary of changes recommended by Uday Kotak Committee</i>	<i>Decision of the SEBI Board</i>
<b>CHAPTER I - COMPOSITION AND ROLE OF THE BOARD OF DIRECTORS</b>			
1	Minimum No. of Directors on Board	Minimum 6 directors on the Board of listed entity.	<i>In Top 1000 listed entities by market capitalization by April 1, 2019 and in Top 2000 listed entities, by April 1, 2020.</i>
2	Gender Diversity	At least one independent woman director on its board of directors	<i>In Top 500 listed entities by market capitalization by</i>

*April 1, 2019 and  
in Top 1,000 listed  
entities, by April  
1, 2020.*

<b>3</b>	Attendance of Directors	If a director does not attend at least half of the total number of board meetings over 2 Financial Years on a rolling basis, his/her continuance on the board should be ratified by the shareholders at the next Annual General Meeting.	---
<b>4</b>	Disclosure of Expertise/Skills of Directors	<ul style="list-style-type: none"> <li>◆ Board of directors of every listed entity should be required to list the competencies/expertise that it believes its directors should possess.</li> <li>◆ It should also be required to disclose the list of competencies/expertise that its board members actually possess.</li> </ul>	<i>Recommendation accepted without any modification</i>
<b>5</b>	Approval for Non-executive Directors on Attaining a Certain Age	<ul style="list-style-type: none"> <li>◆ A provision requiring a Special Resolution on a similar basis should be inserted for listed entities for the appointment/continuation of Non-Executive Directors on attaining the age of 75 years for the relevant term.</li> <li>◆ All shareholders should be permitted to vote on such a resolution.</li> </ul>	---
<b>6</b>	Minimum Number of Board Meetings	Minimum number of meetings of board of directors be increased to five every year.	---
<b>7</b>	Updation of Knowledge of the Board Members	Aspects like Strategy, Succession Planning, Budgets, Risk Management, ESG (environment, sustainability and governance) and board evaluation are critical to the medium-term and long-term future of a listed entity. Committee recommended that, at least once a year the said aspects should be specifically discussed by the board.	---
<b>8</b>	Updation of Knowledge of the Board Members	At least once every year, the board of directors should be updated on regulatory and compliance changes.	---
<b>9</b>	NED Engagement with the Management	Interaction between Non-Executive Directors and the management is critical for a better understanding by NEDs of the company's business and of the managerial capacity and capability of the company.	---
		At least once every year, an interaction should take place between the NEDs and senior management.	

<b>10</b>	Quorum for Board Meetings	Quorum should be of a minimum of 3 directors or 1/3rd of the total strength of the board of directors, whichever is higher, including at least 1 independent director.	<i>In Top 1,000 listed entities by market capitalization by April 1, 2019 and in Top 2000 listed entities, by April 1, 2020.</i>
<b>11</b>	Separation of the Roles of Non-executive Chairperson & Managing Director/CEO	<ul style="list-style-type: none"> <li>◆ Separation of powers of the Chairperson (i.e., the leader of the board) and CEO/MD (i.e., the leader of the management) is seen to provide a better and more balanced governance structure by enabling better and more effective supervision of the management.</li> <li>◆ Listed entities with more than 40% public shareholding should separate the roles of Chairperson and MD/CEO w.e.f. April 1, 2020. <i>After 2020, SEBI may examine extending the requirement to all listed entities with effect from April 1, 2022.</i></li> </ul>	<i>To be initially made applicable to Top 500 listed entities by Market Capitalization w.e.f. April 1, 2020</i>
<b>12</b>	Matrix Reporting Structure	Confirmation can be provided by the board of a listed entity as a part of Corporate Governance Report that it has been responsible for the business and overall affairs of the listed entity in the relevant Financial Year and that the reporting structures of listed entity, formal and informal, are consistent.	---
<b>13</b>	Maximum Number Directorships	<p>Maximum number of directorships in listed entities should be reduced to 7 (Irrespective of whether the person is appointed as an independent director or not).</p> <p><i>However, in the interest of providing adequate transition time, the Committee recommends that the maximum number of listed entity directorships held by a person be brought down to 8 by April 1, 2019 and to 7 by April 1, 2020.</i></p>	<i>Recommendation accepted without any modification</i>

## CHAPTER II - THE INSTITUTION OF INDEPENDENT DIRECTORS

<b>14</b>	Minimum Number of Independent Directors (IDs')	Every listed entity, irrespective of whether the Chairperson is executive or non-executive, may be required to have at least half of its total number of directors as IDs.	---
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*Committee recommends that this be applicable to top 500 listed companies by market capitalization by April 1, 2019 and to the rest of listed companies by April 1, 2020.*

<b>15</b>	Eligibility Criteria for IDs	<p>Committee recommends revision of eligibility criteria for a director to be an "Independent Director" to also include the following:</p> <ul style="list-style-type: none"> <li>(i) Specifically exclude persons who constitute the 'promoter group' of a listed entity;</li> <li>(ii) Requirement of an undertaking from the ID that such a director is not aware of any circumstance or situation, which exists or may be reasonably anticipated, that could impair or impact his/her ability to discharge his/her duties with objective independent judgements and without any external influence;</li> <li>(iii) Board to take on record the said undertaking after due assessment of veracity of such undertaking;</li> <li>(iv) Exclude "board inter-locks" arising due to common Non-Independent Directors on boards of listed entities.</li> </ul> <p>Board of Directors as a part of the board evaluation process may be required to certify every year that each of its IDs fulfils the conditions specified in the SEBI LODR Regulations and is independent of the management.</p>	<i>Recommendation accepted without any modification</i>
<b>16</b>	Minimum Compensation to IDs	<p>Committee has recommended minimum total remuneration (where the listed entity has profits or has inadequate profits), minimum sitting fees for every board meeting/Audit Committee Meeting/every other Board Committee Meeting - depending on the market capitalization.</p>	---
<b>17</b>	Disclosures on Resignation of Independent Directors	<p>Listed entities should disclose detailed reasons for resignation of IDs (as provided by such IDs) along with the Notification of their resignation to the stock exchanges, and subsequently as part of the Corporate Governance Report.</p> <p>As part of such disclosure, the Listed Entity should include a confirmation as received from the</p>	---

director that there are no other material reasons other than those set out therein.

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| <b>18</b> | Directors & Officers Insurance for IDs            | It may initially be mandatory for Top 500 Cos. by Market Capitalization to undertake D&O insurance for its IDs, w.e.f. Oct. 1, 2018, which may be subsequently extended to all listed entities. However, it may be left to the board of directors of the listed entities to determine the quantum and type of risks covered under such insurance.  | --- |
| <b>19</b> | Induction & Training of IDs                       | <ul style="list-style-type: none"> <li>◆ Formal induction should be mandatory for every new ID appointed to the board; and</li> <li>◆ Formal training, whether external/internal, especially with respect to governance aspects, should be the requirement for every ID once every 5 years, the onus of which shall be on the director.</li> </ul> | --- |
| <b>20</b> | Alternate Directors for IDs                       | Considering the fact that IDs are elected to the board for their skills, experience, acumen, network and objectivity and the presence of directors via video-conferencing/audio-visual means, Committee recommends that appointment of alternate director for ID should not be permitted.  | --- |
| <b>21</b> | Lead ID in Cos. with Non- independent Chairperson | Appointment of Lead ID may facilitate better engagement of, and by, the IDs. The Lead ID is expected to assist in co-ordinating the activities and decisions of the other non-executive and/or IDs to chair the meetings of the IDs. The position of Lead ID becomes especially crucial where the chairperson is non-independent.                  | --- |
| <b>22</b> | Exclusive Meeting of IDs                          | Committee recommends that such meetings may be held more than once at the discretion of the IDs  | --- |
| <b>23</b> | Casual Vacancy of Office of ID                    | Any appointment to fill up a casual vacancy of office of any ID should also be approved by the shareholders at the next general meeting  | --- |

### **CHAPTER III - BOARD COMMITTEES**

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|-----------|--------------------------------------|--|-----|
| <b>24</b> | Minimum Number of Committee Meetings | Minimum number of Audit Committee meetings be increased to 5 every year. | --- |
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All other mandatory board committees should necessarily meet at least once in a year.

<b>25</b>	Role of Audit Committee	Audit Committee should be required to 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	<i>Enhanced Role of Committee (Recommendation accepted without any modification)</i>
<b>26</b>	Composition of Nomination & Remuneration Committee	Requirement of having at least 1/3rd of its members as IDs may be required for NRC as well, in line with the requirement for the Audit Committee.	---
<b>27</b>	Role of Nomination and Remuneration Committee	Senior Management should include all members of management one level below the Chief Executive Officer/Managing Director/Whole Time Director/Manager (including CEO/manager, in case CEO/manager is not part of the board) and shall specifically include Company Secretary and Chief Financial Officer.	<i>Enhanced Role of Committee (Recommendation accepted without any modification)</i>
		As per extant provisions of LODR Regulations, all payments made to senior management, in whatever form, shall be recommended by the NRC to the board of the listed entity. Committee recommends that payments to be made to the senior management, irrespective of existing contracts, unless the same has been approved earlier through this process.	
<b>28</b>	Composition and Role of Stakeholders Relationship Committee	In addition to the existing role of resolving the grievances of the security holders of the listed entity including complaints related to transfer/transmission of shares, non-receipt of annual report and non- receipt of declared dividends, Committee recommended that the role of Stakeholders Relationship Committee be widened.	---
<b>29</b>	Quorum for Committee Meetings	For meetings of each Committee of the board, the composition of which statutorily requires at least 1 ID, the presence of at least 1 ID may be made mandatory for attaining quorum for such meetings ( <i>apart from the audit committee where the quorum requirement remains unchanged</i> )	---
<b>30</b>	Applicability and Role of	Committee recommended extending the	<i>Enhanced Role of</i>

Risk Management Committee	requirement of Risk Management Committee to the Top 500 listed entities by market capitalization (As against current applicability to Top 100 listed entities). Committee recommended that, in view of the increasing relevance of cyber security and related risks, the role of Risk Management Committee specifically cover this aspect.	<i>Committee (Recommendation accepted without any modification)</i>
<b>31</b> Membership and Chairpersonship Limit	In addition to recommending higher number of IDs as part of constitution of Nomination and Remuneration Committee ('NRC'), in determining the maximum number of committees of which a director can be a member/Chairperson, NRC should also be included and be treated at par with the Audit Committee and Stakeholders Relationship Committee.	---
<b>32</b> Information Technology Committee	Listed entities may constitute an Information Technology Committee which, in addition to the Risk Management Committee, will focus on digital and other technological aspects	---

#### **CHAPTER IV - ENHANCED MONITORING OF GROUP ENTITIES**

<b>33</b> Obligation on the Board of the Listed Entity with Respect to Subsidiaries	Currently, SEBI LODR Regulations require that at least 1 ID on Board of Directors of listed entity shall be a director on the board of directors of an unlisted material subsidiary, incorporated in India. Corporate Governance Committee recommended that the same may be extended to unlisted foreign material subsidiaries as well.	<i>Recommendation accepted without any modification</i>
<b>34</b> Obligation on the Board of the Listed Entity with Respect to Subsidiaries	Definition of the term "material subsidiary" be revised to mean a subsidiary whose income or net worth exceeds 10% (from the current 20%) of the consolidated income or net worth, respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year, other than for requirement of appointment of independent directors on the boards of material subsidiaries (where the threshold of 20% continues)	<i>Recommendation accepted without any modification</i>
<b>35</b> Group Governance Unit / Committee & Policy	In order to improve monitoring of group entities, Committee recommended that where a listed entity has a large number of unlisted subsidiaries:  (a) Listed entity may monitor their governance through a dedicated group	---

governance unit or Governance Committee comprising the members of the board of the listed entity.

- (b) Strong and effective group governance policy may be established by the entity.
- (c) However, the decision of setting-up of such a unit/committee and having such a group governance policy may be left to the board of the listed entity.

### 36 Secretarial Audit

- ◆ Secretarial Audit may be made compulsory for all listed entities under the SEBI LODR Regulations in line with the provisions of the Companies Act; *Recommendation accepted without any modification*
- ◆ Secretarial Audit may also be extended to all material unlisted Indian subsidiaries.

## CHAPTER V - PROMOTERS/CONTROLLING SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

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| <b>37</b> | Sharing of Information with Controlling Promoters/Shareholders with Nominee Directors | Regulatory Framework should be amended to provide an enabling transparent framework regulating the information rights of certain promoters (including promoters of the promoter) and significant shareholders to reduce subjectivity and provide clarity for ease of doing business, along with appropriate and adequate checks and balances to prevent any abuse and unlawful exchange of UPSI, i.e., to ensure information moves from one known safe container to another. The Committee recommends that this framework be optional at initial stage. In addition, this framework will not impact the applicability of the SEBI PIT Regulations other than as specified. | --- |
| <b>38</b> | Re-classification of Promoters/Classification of Entities as Professionally Managed   | Where there is no identifiable promoter/promoter group, the 1% threshold to be able to classify the entity as professionally managed is too low and merits an increase to 10%.<br><br>In case of multiple and distinct parties classified as 'Promoters', and one of them wishes to be reclassified, Committee opined that there ought to be a mechanism to enable such reclassification, to ensure that persons who may have been promoters but are no longer in day-to-day control and management and have a low shareholding, should  | --- |

have an "opt-out" option from being classified as "promoters".

<b>39</b> Disclosure of Related Party Transactions	<p>Committee has recommended following:</p> <p>(a) Half yearly disclosure of RPTs on a consolidated basis, in the disclosure format required for RPT in the Annual Accounts as per Accounting Standards, on the website of the listed entity within 30 days of publication of the half yearly financial results.</p> <p>(b) Strict penalties may be imposed by the SEBI for failing to make requisite disclosures of RPTs.</p>	<i>Recommendation accepted without any modification</i>
<b>40</b> Disclosure of Related Party Transactions	All promoters/promoter group entities that hold 20% or above in a listed company to be considered "related parties" for the purposes of the SEBI LODR Regulations	<i>Recommendation accepted without any modification</i>
<b>41</b> Disclosure of Related Party Transactions	Disclosures of transactions with promoters/promoter group entities holding 10% or more shareholding be made annually and on half yearly basis (even if not classified as related parties)	<i>Recommendation accepted without any modification</i>
<b>42</b> Approval of Related Party Transactions	Committee is of the view that similar to the Cos. Act, the SEBI LODR Regulations may be amended to allow related parties to cast a negative vote, as such voting cannot be considered to be in conflict of interest.	<i>Recommendation accepted without any modification</i>
<b>43</b> Royalty and Brand Payments to Related Parties	Committee recommended that payments made by listed entities with respect to brands usage/royalty amounting to more than 5% of consolidated turnover of the listed entity may require prior approval from the shareholders on a "majority of minority" basis. This sub-limit of 5% will be considered within the overall 10% limit to determine 'Material Related Party Transactions'.	<p><i>Shareholder approval (majority of minority) for Royalty/brand payments to related party exceeding 2% of consolidated turnover (instead of the proposed 5%).</i></p> <p><i>Recommendation accepted with modification.</i></p>
<b>44</b> Remuneration to Executive Promoter Directors	Shareholder approval by Special Resolution should be required if the total remuneration paid:	---

- (a) To a single executive promoter-director exceeds Rs. 5 crore or 2.5% of the net profit, whichever is higher; or
- (b) To all executive promoter-directors exceeds 5% of the net profits.

<b>45</b>	Remuneration of Non-executive Directors	In case the remuneration of a single non-executive director exceeds 50% of the pool being distributed to the non-executive directors as a whole, shareholder approval should be required. However, it is clarified that the promoter should also be allowed to vote.	---
<b>46</b>	Materiality Policy	Materiality policy should be reviewed and updated at least once every 3 years.	---

#### **CHAPTER VI - DISCLOSURES & TRANSPARENCY**

<b>47</b>	Submission of Annual Reports	Only soft copy of the annual report should be given to all shareholders who have registered their email addresses either with the company or with the depository, unless the shareholder specifically asks for a physical copy. Only in case the shareholder has not provided his/her e-mail address, should he/she be sent a hard copy.	---
<b>48</b>	Submission of Annual Reports	Annual Report may be disclosed by the listed entity to Stock Exchanges and on the website in the prescribed manner.	---
<b>49</b>	Disclosures Pertaining to Holders of Depository Receipts	<ul style="list-style-type: none"> <li>◆ Indian listed entity should obtain details of holders of any Global Depository Receipts issued by such entity from the Overseas Depository at least on a monthly basis.</li> <li>◆ Based on the information shared by the Overseas Depository, the listed entity shall disclose details of such holders of Global Depository Receipts who hold more than 1% shareholding of the entity to the stock exchange as a part of the disclosure on shareholding pattern on a quarterly basis.</li> </ul>	---
<b>50</b>	Disclosures Pertaining to Credit Rating	Listed entity may be required to disclose all Credit Ratings obtained by the entity for all its outstanding instruments annually to stock exchanges and also on its website which shall be updated on a regular basis as and when there is any change.	---

In addition, SEBI may require the Credit Rating Agencies and the stock exchanges to set-up a mechanism by which the ratings may be sent directly from the credit rating agencies to the stock exchanges.

<b>51</b>	Searchable Formats of Disclosures	All the disclosures made by the listed entity on its website and submitted to the stock exchanges should be in a searchable format that allows users to find relevant information easily.  Committee recommended that all disclosures made to the stock exchanges by listed entities should be in XBRL format.	---
<b>52</b>	Harmonization of Disclosures	Committee recommended that: <ul style="list-style-type: none"> <li>◆ Stock exchanges shall collectively harmonise the formats of the disclosures made by the listed entities on their respective websites not later than April 1, 2018;</li> <li>◆ Stock exchanges shall move disclosures made by listed entities on exchange platforms in XBRL format in latest available taxonomy not later than April 1, 2018;</li> <li>◆ Further, a common filing platform may be devised on which a listed entity may submit all filings, which could then be disseminated to all exchanges simultaneously. The exchanges shall introduce such a platform in consultation with the SEBI by April 1, 2018.</li> <li>◆ The disclosures filed with the exchanges may, as far as possible, be harmonized with the filings made to MCA.</li> </ul>	---
<b>53</b>	Disclosures Pertaining to Analyst/Institutional Investor Meets	Committee recommended that the disclosure of schedules of analyst/institutional investor meetings may not be required.	---
<b>54</b>	Disclosures of Key Changes in Financial Indicators	All listed entities may be required to disclose in the section on MD&A in the Annual report, certain key financial ratios (or sector-specific equivalent ratios), as applicable, wherever there is a change of 25% or more in a particular financial year, along with detailed explanations thereof.	---

Committee recommended that listed entity shall disclose any change in Return on Net Worth along with a detailed explanation thereof irrespective of the percentage of change in the financial year under the same section.

<b>55</b> Utilization of Proceeds of Preferential Issue & Qualified Institutional Placement	For better transparency, appropriate disclosures may be required on utilisation of proceeds of preferential issues and QIPs till the time such proceeds are utilized.	<i>Recommendation accepted without any modification</i>
<b>56</b> Disclosures in Valuation Reports in Schemes of Arrangement	<ul style="list-style-type: none"> <li>◆ SEBI may consider issuing guidelines for overall improvement in standards of information in the valuation reports that are included as part of schemes of arrangement disclosures.</li> <li>◆ Specific disclosures on assets, liabilities and turnover of the entities involved should be disclosed in the valuation reports on schemes of arrangement.</li> </ul>	---
<b>57</b> Disclosures Pertaining to Directors	Disclosures on details of directorships of a director as included in the Corporate Governance section of the Annual Report may additionally include details of directorships (e.g., Independent/executive) in other listed entities	---
<b>58</b> Disclosures Pertaining to Disqualification of Directors	Committee felt that investors are often unaware whether the directors of the Co. have been debarred from acting as directors of Co. Therefore, it recommended that disclosures on this basis be made in the annual report as certified by a Practising Company Secretary.	---
<b>59</b> Disclosures on Website	The Committee recommended that companies shall maintain a separate section for investors on its website and provide all the information mandated under Regulation 46 of the SEBI LODR Regulations in a separate section, to ensure ease of availability and access of pertinent information in one place to investors and regulators alike. ---	---
<b>60</b> Disclosures of Subsidiary Accounts	Listed entity required to have audited financial statements for relevant Financial Year of each of its subsidiaries available on its website at least 21 days before the date of AGM. ---	---
<b>61</b> Disclosures on Long-term and Medium-term	Committee recommended that in order to provide disclosures pertaining to strategy of the	---

## Strategies

entity, especially medium-term and long-term strategies, a guidance may be issued by SEBI to listed entities to disclose their medium and long-term strategies in their annual reports under the MD&A section.

In addition, entities should articulate a clear set of long-term metrics specific to the company's long-term strategy to allow for appropriate measurement of progress.

However, each entity may define its own time frame with respect to medium and long-term since it would vary across entities/sectors.

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| <b>62</b> | Prior Intimation of Board Meeting to Discuss Bonus Issue   | Committee felt that in view of the price sensitive nature of bonus issues, advance notice for consideration of bonus issue by the Board should be submitted to stock exchanges. Accordingly, Committee recommended that the proviso to Reg. 29 in SEBI LODR Regulations may be dropped.  | --- |
| <b>63</b> | Views of Committees Not Accepted by the Board of Directors | If the board of directors chooses not to accept the recommendations of the statutory committees of the board, the same should be disclosed to shareholders on an annual basis.   | --- |
|           |  | <i>Disclosure requirement pertains to matters which require a recommendation of the Committee for the approval of the board (or submission by the committee for approval of the board), and will not affect matters that require prior approval of the relevant committee (for e.g., approval of related party transactions by the audit committee).</i> |     |
| <b>64</b> | Commodity Risk Disclosures                                 | Listed Cos. should disclose their risk management activities during the year, including their commodity hedging positions in a more transparent, detailed and uniform manner for easy understanding and appreciation by the shareholders.  | --- |
|           |  | <i>Detailed reporting format along with the periodicity of the disclosures may be outlined by SEBI which would depict the commodity risks they face, how these are managed and also Policy for hedging commodity risk, etc., followed by the Co. for the purpose of disclosures in Annual Report.</i>  |     |

## CHAPTER VII - ACCOUNTING AND AUDIT RELATED ISSUES

<b>65</b>	Audit Qualifications	A move may be made to strengthen disclosures by requiring quantification of Audit Qualifications to be mandatory, with the exception being only for matters like going concern or sub-judice matters. In such an instance, the management will be required to provide reasons, which will be reviewed by the auditors and reported accordingly.	---
<b>66</b>	Independent External Opinion by Auditors	SEBI LODR Regulations should be amended, providing a clear right to an auditor to independently obtain external opinions from experts ---	---
<b>67</b>	Group Audits	It is recommended that for listed entities in India, the auditor of the Holding Co. should be made responsible for the audit opinion of all material unlisted subsidiaries.	---
<b>68</b>	Quarterly Financial Disclosures	<ul style="list-style-type: none"> <li>◆ Disclosure of consolidated financial statements should be made mandatory for all listed entities on a quarterly basis;</li> <li>◆ Publishing a cash flow statement on a half-yearly basis should be made mandatory for all listed entities.</li> </ul>	<p style="text-align: center;"><i>Mandatory disclosure of consolidated quarterly results with effect from FY 2019-20</i></p> <p style="text-align: center;"><i>Recommendation accepted without any modification</i></p>
<b>69</b>	Audit/Limited Review of Quarterly Financial Results	All listed entities, for every quarter, financial information of the group, accounting for at least 80% of each of the consolidated revenue, assets and profits, respectively, should have undergone limited review/audit	---
<b>70</b>	Last quarter financial results	Committee believes that any material adjustments made in the results of the last quarter which pertain to earlier periods should be disclosed by the listed entity as a note in the financial results.	---
<b>71</b>	Internal Financial Controls	Internal Financial Controls ('IFC') reporting requirements be made applicable to the entire operations of the group and not just to the Indian operations. <i>However, the Committee recognizes that cos. may require adequate transition time and in this regard, recommends that IFC reporting requirements for entire operations initially be only applicable to listed entities with Networth of Rs. 1000 crore and above.</i>	<p style="text-align: center;"><i>SEBI Board resolved to refer this recommendation to an appropriate agency before taking final decision.</i></p>

72 Disclosure of Reasons of Resignation of Auditors	Committee stated that it is important for Cos. to disclose the reasons for the resignation of its audit firm. Moreover, audit firms too must be encouraged to truthfully disclose the reasons for their resignation as audit firms must see this disclosure as part of their fiduciary responsibility towards the shareholders.	<i>Recommendation accepted without any modification</i>
73 Disclosures on Audit and Non- audit Services Rendered by the Auditor	Total fee paid to auditor and all entities on the network firms/network entity of which the auditor is a part shall be disclosed by the listed entity in its annual report on a consolidated basis (i.e., paid by the listed entity and its subsidiaries).	---
74 Audit Quality Indicators	<p>Quality of audit/auditors can be judged through various indicators such as workforce metrics, skill-development and training of audit team, quality metrics such as audit restatements, trends in audit metrics such as billable hours and audit fines, legal actions and fines against the firm, independence metrics such as client and group concentration, use of technology, etc.</p> <p>Committee noted that many of the aforesaid indicators are already a part of ICAI's peer review system.</p>	---
75 Disclosures of Credentials and Audit Fee of Auditors	<p>Committee recommended that Explanatory Statement in relation to the item on appointment/re-appointment of auditor(s) in relevant notice calling an AGM, should include following disclosures:</p> <p>(a) Basis of recommendation for appointment including the details in relation to and credentials of the auditor(s) proposed to be appointed; and</p> <p>(b) Proposed fees payable to the auditor(s) along with terms of appointment and in case of a new auditor, any material change in the fee payable to such auditor from that paid to the outgoing auditor and the rationale for such change.</p>	<i>Recommendation accepted without any modification</i>
76 IND-AS Adoption	Committee recommended full implementation of IND-AS as currently scheduled without extension, for all listed entities including banks, NBFCs and insurance Cos.	<i>SEBI Board resolved to refer this recommendation to an appropriate agency before</i>

*taking final decision.*

77 Strengthening Monitoring, Oversight and Enforcement by SEBI	Committee opined that any audit qualification needs detailed scrutiny and, therefore, the Qualified Audit report Review Committee mechanism may be revived or any other similar mechanism may be devised wherein audit qualifications are examined in greater detail.	---
78 Powers of SEBI with Respect to Auditors and Other Statutory Third Party Fiduciaries for Listed Entities	<ul style="list-style-type: none"> <li>◆ Committee recommended that SEBI should have clear powers to act against auditors and other third party fiduciaries with statutory duties under securities law, subject to appropriate safeguards;</li> <li>◆ This power ought to extend to act against the impugned individual(s), as well as against the firm in question with respect to their functions concerning listed entities;</li> <li>◆ This power should be provided in case of gross negligence as well, and not just in case of fraud/connivance;</li> <li>◆ This recommendation may be implemented after due consultation with the relevant stakeholders, including the relevant professional services regulators/institutions.</li> </ul>	---
79 Strengthening the Role of ICAI	<p>In the interest of enhancing governance of listed entities, Committee recommends that ICAI may be given powers to increase the scope of punishment as well as the penalty amount as follows:</p> <ul style="list-style-type: none"> <li>◆ On the member - penalty of up to Rs. 1 crore;</li> <li>◆ On the audit firm- punishment or impose penalties of up to Rs. 5 crore in case of repeated violations (that is, where the number of violations exceeds 3).</li> </ul>	<p><i>SEBI Board resolved to refer this recommendation to an appropriate agency before taking final decision.</i></p>
80 Strengthening the Independent Functioning of Quality Review Board	<ul style="list-style-type: none"> <li>◆ QRB should be further strengthened to meet the independence criteria laid down by the International Forum of Independent Audit Regulators (IFIAR) and should become a member of IFIAR at the earliest. In this regard, QRB may also be provided requisite financial resources as well as staffed with</li> </ul>	---

adequate full time personnel to be able to effectively carry out its mandate;

- ◆ Reasons for disagreement between the ICAI and the QRB should be recorded in writing and communicated to QRB for improving transparency in functioning.

## CHAPTER VIII - INVESTOR PARTICIPATION IN MEETINGS OF LISTED ENTITIES

<b>81</b>	Timeline for Annual General Meetings of Listed Entities	<ul style="list-style-type: none"> <li>◆ Top 100 listed entities by market capitalization (as at the end of the previous FY) may be required to hold AGMs by August 31, 2018, i.e., within 5 months from the end of the next financial year. The same may be extended to other entities in a phased manner based on the experience gained;</li> <li>◆ Over time, the target may be to reduce the timeline to four months from the end of the financial year</li> </ul>	<p><i>Top 100 entities to hold AGMs within 5 months after the end of FY 2018-19, i.e., by August 31, 2019</i></p> <p><i>(Recommendation accepted with modification)</i></p>
<b>82</b>	E-voting and Webcast of Proceedings of the Meeting	<ul style="list-style-type: none"> <li>◆ Live one-way webcasts of all shareholder meetings may be introduced for top 100 listed entities on a trial basis. Based on the feedback and the experience, the same may subsequently be extended to other listed entities.;</li> <li>◆ E-voting should be kept open till midnight (i.e., 11:59 p.m.) on the day of the general meeting. The current requirement of not permitting modification of votes cast through e-voting may continue.</li> </ul>	<p><i>Webcast of AGMs will be compulsory for top 100 entities by market capitalization w.e.f. FY 2018-19</i></p> <p><i>(Recommendation accepted with modification).</i></p>
<b>83</b>	Stewardship Code	<p>Since SEBI is the capital market regulator and the Code applies to investments in the capital market, the common Stewardship Code may be introduced by SEBI for investments by institutional investors in Indian capital markets.</p>	---
<b>84</b>	Treasury Stock	<p>Committee recommended that a sunset clause may be imposed requiring all existing treasury stock in listed entities to not carry voting rights after 3 years.</p>	<p><i>SEBI Board resolved to refer this recommendation to an appropriate agency before taking final decision.</i></p>
<b>85</b>	Resolutions sent to Shareholders without	<ul style="list-style-type: none"> <li>◆ In the usual course, the resolution placed before shareholders should be</li> </ul>	---

## Board's Recommendation

recommended by the board of directors. Placing a resolution before the shareholders without a board recommendation should be used sparingly and on rare occasions;

- ◆ However, in exceptional circumstances, a listed entity may issue a notice of a general meeting, which may include one or more resolutions for consideration by shareholders without such resolution having been recommended by the board. In such cases, an explanatory statement for such a resolution must disclose the board's deliberated views to the shareholders.

## CHAPTER IX - GOVERNANCE ASPECTS OF PUBLIC SECTOR ENTERPRISES

### 86 Governance aspects of Public Sector Enterprises

- ◆ Listed PSEs fully comply with the provisions of SEBI LODR Regulations and the same be suitably enforced;
- ◆ Additionally, Govt. should assess and examine the broader issues referenced above, *inter alia*, concerning ownership structure for the government stake, removal of conflicts and creating a more autonomous environment for PSEs to function in the best interest of all stakeholders;
- ◆ Committee believes that this will significantly enhance value of the national assets. This should be done in a time-bound manner.

*SEBI Board resolved to refer this recommendation to an appropriate agency before taking final decision.*

## CHAPTER X - LENIENCY MECHANISM

### 87 Leniency Mechanism

- ◆ Leniency Programme creates structural incentives for persons connected with the commission of an infringement to come forward and disclose such violations and assist the regulatory authorities by receiving lenient treatment and protection against victimization;
- ◆ Currently, CCI has powers to grant leniency to cartel members in case they disclose true, full and vital information;
- ◆ Committee felt that a leniency programme would improve effective

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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 a case by case basis.

## **CHAPTER XI - CAPACITY BUILDING IN SEBI FOR ENHANCING CORPORATE GOVERNANCE IN LISTED ENTITIES**

<b>88</b> Capacity Building In SEBI for enhancing Corporate Governance in Listed Entities	Committee recommended enhancing SEBI's capacity in line with global best practices, as follows: <ul style="list-style-type: none"> <li>◆ Enhance the number and skill-sets of its human resources;</li> <li>◆ Exploit the power of data science and technology; and</li> <li>◆ Strategically work with other agencies, especially for monitoring and enforcement.</li> </ul>	---
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In the SEBI Press Release<sup>2</sup>, there is no specific reference to the rejection of recommendation made by Uday Kotak Committee. The response of the SEBI Board to the recommendations is in 3 forms: (i) Accepted without any modification, (ii) Accepted with modification, (iii) Referring the recommendations to various agencies. The decisions taken by SEBI Board will be effective after SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 are amended. The amendments to the Regulations will take place in a phased manner.

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1. SEBI Press Release No. 9/2018 dated March 28, 2018.

2. SEBI Press Release No. 9/2018 dated March 28, 2018.