

ICGN

Global Governance Principles: Indian Scenario and Learning for betterment



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

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PREFACE

“Effective governance is less about boards and bookkeeping than it is about changing attitudes and behaviors for good.”

Corporate governance offers a comprehensive, interdisciplinary approach to the management and control of companies. Corporate professionals of today and tomorrow must imbibe in themselves the evolving principles of good corporate governance across the globe on a continual basis. The corporate world looks upon professionals especially Company Secretaries to provide impetus, guidance and direction for achieving world-class corporate governance.

As far as the global scenario is concerned, one of the major players is the International Corporate Governance Network (ICGN) whose core mission is to promote effective standards of corporate governance to advance efficient markets and sustainable economies world-wide. In the Indian context, wherein on one hand the Companies Act, 2013 put in place by the Ministry of Corporate Affairs serves as a holistic guide for the entire Indian corporate zone, the listed entities, on the other hand, are governed by the Regulations mandated by the Securities and Exchange Board of India.

As a nation which is constantly striving towards promoting good governance and more so as an organization ourselves whose vision and mission boast of our dedication towards promoting good corporate governance, it seems apt that a comparative study may be conducted to understand the reliability of principles by mapping of the Indian laws with the globally metted out principles. The ICGN Global Governance come across as the perfect benchmarks to map and correlate the provisions Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the SEBI (Prohibition of Insider Trading) Regulations, 2015 so as to gauge the Indian governance scenario with the global one.

I am confident that this publication titled **ICGN Global Governance Principles: Indian Scenario and learning for betterment** will prove to be of immense benefit to the companies, professionals as well as the regulatory bodies alike.

I place on record my sincere thanks to Mr. Avinash Kharkar, Former Head-Listing Compliance, NSE Ltd. for his valuable inputs in finalizing this hand book. I commend the dedicated efforts put in by CA Hema Babbar, Assistant Director and CS Disha Kant, Assistant Director under the guidance of CS Banu

Dandona, Joint Director, Directorate of Corporate Laws and Governance under the overall stewardship of CS Ashok Kumar Dixit, Officiating Secretary in preparing this book.

In any publication, there is always scope for further improvement. I would appreciate the readers for offering their suggestions/comments for further improvement.

Place: Mumbai

Date: January 10, 2019

CS Makarand Lele

President, The ICSI

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INTRODUCTION

Corporate governance is set of principles or guidelines on which a company is governed. It ensures that the corporate works in a way it supposed to work to achieve the desired goals. It makes the corporations accountable to each stakeholder including, directors, shareholders, employees, customers etc. The term governance itself explains the meaning that it is an act of managing a corporate entity. The entity of a corporation is separate from its officials which makes corporate governance an important subject to study. Corporate governance plays an important role to protect the rights of shareholders, who have ownership in the company but do not play an active role in governing day to day business activities.

The more the level of corporate governance, the stronger is the company in the eyes of the shareholders of the company. The independent and the active directors are the ones who infuse and contribute towards displaying the corporate as that of having a positive outlook. When it comes to investment, the investors also seek to find the companies with stronger corporate governance in them. The corporate governance requirements in India deliberate the companies to audit their working culture and give the shareholders community a more positive outlook as their actions have moral and legal implications.

There is a greater onus upon the directors of the companies to adapt standards and best practices provided in various laws and guidelines, other than the laws and norms prescribed by various institutions from time to time, the companies are also expected to act responsibly towards the society as a whole because the corporate are so huge in the current times, that they affect each and every individual citizen of the country.

The aim of this publication is to familiarize the corporate and the professionals with one such set of global best practices recommended by the International Corporate Governance Network (ICGN) which has presence in over 50 countries. A comparison of the ICGN Global Governance Principles with the Indian legislation/regulations is also given to offer a better understanding and application. From each comparison there is a key takeaway which should be adopted by the corporate and the professionals to achieve the desired level of corporate governance in India.

Present Corporate Governance Framework in India:

The concept of good governance is very old in India dating back to third

century B.C. where Chanakya (Vazir of Parliputra) elaborated fourfold duties of a king viz. Raksha, Vriddhi, Palana and Yogakshema. Substituting the king of the State with the Company CEO or Board of Directors the principles of Corporate Governance refers to protecting shareholders wealth (Raksha), enhancing the wealth by proper utilization of assets (Vriddhi), maintenance of wealth through profitable ventures (Palana) and above all safeguarding the interests of the shareholders (Yogakshema or safeguard). Corporate Governance was not in agenda of Indian Companies until early 1990s and no one would find much reference to this subject in book of law till then. In India, weakness in the system such as undesirable stock market practices, boards of directors without adequate fiduciary responsibilities, poor disclosure practices, lack of transparency and chronic capitalism were all crying for reforms and improved governance. The fiscal crisis of 1991 and resulting need to approach the IMF induced the Government to adopt reformative actions for economic stabilization through liberalization. The momentum gathered albeit slowly once the economy was pushed open and the liberalization process got initiated in early 1990s. As a part of liberalization process, in 1999 the Government amended the Companies Act, 1956. Further amendments have followed subsequently in the year 2000, 2002 and 2003. The major corporate governance initiatives launched in India since the mid 1990s. There are various reforms which were channelled through a number of different paths with both the Security and Exchange Board of India (SEBI) and the Ministry of Corporate Affairs, Government of India (MCA) playing important roles.

Ever since India's biggest-ever corporate fraud and governance failure unearthed at Satyam Computer Services Limited, the concerns about good Corporate Governance have increased phenomenally.

The new norms introduced in the Companies Act 2013 are focused towards the enhanced governance by the Companies and also defined the roles and responsibilities of the Directors and various Committees to enhance the corporate governance.. They have helped reformed the growth of Indian companies as per international standards. Shareholders are involved in the decision making of the companies and various safeguards have been put in place so that the interests of the shareholders and the society as a whole is not compromised Corporate Governance imbibes the much-required transparency in the corporate. Therefore, it pushes India ahead in the race of emerging economies of the world.

Generally, Corporate Governance refers to practices by which organisations are controlled, directed and governed. The fundamental concern of Corporate Governance is to ensure the conditions whereby organisation's directors and managers act in the interest of the organisation and its stakeholders and to ensure the means by which managers are held accountable to capital providers for the use of assets.

To achieve the objectives of ensuring fair corporate governance, the Government of India has put in place a statutory framework.

The Indian statutory framework has, by and large, been in consonance with the international best practices of corporate governance. Broadly speaking, the corporate governance mechanism for companies in India is enumerated in the following enactments/ regulations/ standards:

1. **The Companies Acts 2013** has provisions concerning Independent Directors, Board Constitution, General meetings, Board meetings, Board processes, Related Party Transactions, Audit Committees, etc.
2. **SEBI (Listing obligations and Disclosure Requirements) Regulations** ensure the protection of investors, composition and roles and responsibility of board of directors, committee and have mandated the companies to adhere to the best practices mentioned in the regulations.
3. **Accounting Standards issued by the ICAI** (Institute of Chartered Accountants of India) wherein the ICAI issues accounting standards providing guidelines for disclosures of financial information.
4. **Secretarial Standards Issued by the ICSI** (Institute of Company Secretaries of India) issues secretarial standards in terms of the provisions of the Companies Act.

About ICGN Global Governance Principles

International Corporate Governance Network (ICGN) is an investor-led organization established in 1995 in London with a mission to promote effective standards of corporate governance to advance efficient markets and sustainable economies world-wide. ICGN offers an important investor perspective on corporate governance to help inform public policy development and the encouragement of good practices by capital market participants.

ICGN Global Governance Principles were first published in 2003. The ICGN Global Governance Principles (GGP) serve as ICGN's primary standard for well-governed companies, and have been developed in consultation with ICGN Members which includes investors responsible for assets under management in excess of \$US26 trillion.

The GGP is focused around company governance and how board of directors should promote successful companies, thereby creating sustainable value creation for investors while having regard to other stakeholders.

In the principles role of both non-executive and independent non-executive directors (also known as 'outside directors') are emphasised. This recognises the

different approaches to board composition in various markets regarding the role of executive officers, non-executive directors and independent nonexecutive directors. The latter refers to directors who are free from any external relationships which may influence the directors' judgement.

ICGN notes that in controlled companies (where there is a dominant shareholder or block such that they ultimately have the majority power) the governance considerations are primarily concerned with protecting the interests of minority shareholders. In this regard, many of the recommendations in the GGP will apply but others may be less relevant.

The GGP are intended to be of general application, irrespective of national legislative frameworks or listing rules. As global recommendations, they should be read with an understanding that local rules and cultural norms may lead to different approaches to governance practices. National codes reflect local standards and explanation is encouraged where there is divergence from the GGP against this framework.

ICGN Principles and Guidance also serve as an international source of best practice which influences corporate governance regulatory developments and standard setting around the world.

ICGN GLOBAL GOVERNANCE PRINCIPLES VIS-A-VIS PROVISIONS IN INDIAN LEGISLATIONS

PRINCIPLE 1 BOARD ROLE AND RESPONSIBILITIES

The board should act on an informed basis and in the best long-term interests of the company with good faith, care and diligence, for the benefit of shareholders, while having regard to relevant stakeholders, including creditors.

The principle has been explained by further classifying it in 8 guidance points. A point wise comparison of the principle with the Indian legislation is given below :

S. No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
1.	Board Role and Responsibilities		
1.1	Responsibilities		
	<p>The board is accountable to shareholders and relevant stakeholders and responsible for preserving and enhancing sustainable value over the long-term. In fulfilling their role effectively, board members should:</p> <p>a) guide, review and approve the company's mission and purpose, its corporate strategy and financial planning, including major capital expenditures, acquisitions and divestments;</p> <p>b) monitor the effectiveness of the company's governance, environmental policies, and social practices, and adhere to applicable laws;</p> <p>c) embody high standards of business ethics and oversee the implementation of codes of conduct that engender a corporate culture of integrity;</p> <p>d) oversee the management of potential conflicts of interest, such as those which may arise around related party transactions;</p>	<p>Companies Act,2013 imposes the following duties on the directors of the companies under Section 166 :</p> <ul style="list-style-type: none"> • A director of a company shall act in accordance with the Articles of Association (AOA) of the company. • A director of the company shall act in good faith, in order to promote the objects of the company, for the benefits of the company as a whole, and in the best interests of the stakeholders of the company. • A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment. 	<p>As per Regulation 4 of SEBI (LODR) Regulations The Board of Directors (BoDs) of the listed entity are assigned with following responsibilities:</p> <ul style="list-style-type: none"> • Disclosure of Information : The regulation requires that disclosure of any material interest by the BoDs or KMPs in any transaction or matter directly affecting the listed entity; BODs and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster culture of good decision-making. • Key functions of the board of directors The regulation provides that the BoDs shall review and guide corporate strategy, major plans of

	<p>e) oversee the integrity of the company's accounting and reporting systems, compliance with internationally accepted accounting standards, the effectiveness of systems of internal control, and the independence of the external audit process;</p> <p>f) oversee the implementation of effective risk management and proactively review the risk management approach and policies annually or with any significant business change;</p> <p>g) ensure a formal, fair and transparent process for nomination, election and evaluation of directors;</p> <p>h) appoint and if necessary remove, the chief executive officer (CEO) and develop a CEO succession plan which should be regularly reviewed;</p> <p>i) align CEO and senior management remuneration against appropriate performance criteria with the longer term interests of the company; and</p> <p>j) conduct an objective board evaluation on a regular basis, consistently seeking to enhance board effectiveness including an external review once every three years.</p>	<ul style="list-style-type: none"> • A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company. • A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company. • A director of a company shall not assign his office and any assignment so made shall be void. • If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one Lakh Rupees but which may extend to five Lac Rupees. 	<p>actions, risk policy, annual budgets, business plans, performance objectives, corporate performance, overseeing major capital expenditure, acquisitions and disinvestment.</p> <p>Monitoring the effectiveness of the listed entity's governance practices and making changes as needed. Further the BoDs shall oversee the process of disclosure and communication and Monitor and review evaluation framework.</p> <p>Apart from the above the BoDs have been assigned with the responsibility of providing strategic guidance to the listed entity and ensuring effective monitoring of the management and shall be accountable to the listed entity and the shareholders.</p> <p>The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave. Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders. The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders, etc.</p>
1.2	Dialogue		
	<p>The board, particularly non-executive directors, should make available communication channels for meaningful dialogue on governance matters with shareholders, creditors and other stakeholders as appropriate. Boards should clearly explain such procedures to shareholders,</p>	<p>As per Schedule IV - Code For Independent Directors of Companies Act, 2013 it is the function of an Independent Director to safeguard the interests of all stakeholders, particularly the minority shareholders.</p>	<p>Under SEBI (LODR), 2015 The listed entity shall ensure that the stakeholders have the opportunity to obtain effective redress for violation of their rights. Further listed entity shall ensure stakeholders shall have access to</p>

	including how they assess stakeholder input, and provide guidance relating to compliance with disclosure and other relevant market rules.		relevant, sufficient and reliable information on a timely and regular basis to enable them to participate in corporate governance process.
1.3	Commitment		
	The board should meet regularly to discharge its duties and directors should allocate adequate time to board meeting preparation and attendance. Board members should know the business, its operations and senior management well enough to contribute effectively to board discussions and decisions.	<ul style="list-style-type: none"> • Section 173 of the Act requires that the first Board meeting should be held within 30 days of the date of incorporation. Thereafter there shall be minimum four Board meetings every year and not more than 120 days shall intervene between two consecutive Board meetings. • Also in this context Secretarial Standard on Board Meetings (SS-1) issued by ICSI clarifies that the Board shall meet at least once in every calendar quarter, with a maximum interval of 120 days between any two consecutive meetings of the Board. • Further in Schedule IV of the Act, Code for Independent Directors requires independent director to: Devote sufficient time and attention to his professional obligations for informed and balanced decision making 	<p>Regulation 17(2) of the SEBI (LODR) Regulations requires :</p> <ul style="list-style-type: none"> • The Board of directors shall meet at least four times a year, with a maximum time gap of 120 days between any two meetings. • It is the responsibility of Members of the board of directors to be able to commit themselves effectively to their responsibilities. <p>As per Regulation 4(2)(f) (iii) other responsibilities of the BODs of the company inter alia include :</p> <p>Members of the board of directors shall be able to commit themselves effectively to their responsibilities.</p>
1.4	Directorships		
	The number, and nature, of board appointments an individual director holds (particularly the chair and executive directors) should be carefully considered and reviewed on a regular basis and the degree to which	<ul style="list-style-type: none"> • Section 165 of Companies Act, 2013 has set the cap of maximum 20 companies in which a person can be a director at any point with a sub limit of 10 public companies. 	<p>As per Regulation 17A of SEBI (LODR) Regulations :</p> <ul style="list-style-type: none"> • A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more

	<p>each individual director has the capacity to undertake multiple directorships should be clearly disclosed. This consideration should reflect the nature of existing board commitments, as well as any commitments relating to foundations or charities. While ICGN generally seeks to avoid prescriptive caps, normally, an individual director should not hold more than 3 or 4 directorships of any sort, and this should be substantially less for a director with executive responsibilities, as well as for the board chairman and key committee chairs.</p>	<ul style="list-style-type: none"> • Therefore a person can be a director in maximum 20 companies at a time out of which his directorship in public companies would be restricted to maximum 10 companies. • For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included. 	<p>than seven listed entities with effect from April 1, 2020:</p> <ul style="list-style-type: none"> • In case of independent directors it is provided that a person shall not serve as an independent director in more than seven listed entities. • Any person who is serving as a whole time director /managing director in any listed entity shall serve as an independent director in not more than three listed entities. <p>For the purpose, the count for the number of listed entities on which a person is a director/ independent director shall be only those whose equity shares are listed on a stock exchange.</p>
1.5	Induction		
	<p>The board should have in place a formal process of induction for all new directors so that they are well-informed about the company as soon as possible after their appointment. This includes building an understanding of its strategy, business operations, regulatory obligations and other fundamental business drivers.</p> <p>Directors should regularly refresh their skills and knowledge, through training as required, to discharge their responsibilities.</p>	<p>Schedule IV of the Act specifies that Independent Directors shall undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company.</p>	<p>Regulation 25 of the SEBI (LODR) Regulations requires :</p> <ul style="list-style-type: none"> • The listed entity shall familiarize the independent directors with the listed entity, their roles, rights, responsibilities in the listed entity, nature of industry in which the listed entity operates, business model of the listed entity etc. • The details of such familiarization programme shall be disclosed on listed entity website and a web link thereto shall also be given in the Annual Report. <p>Under Regulations 4 : Other Responsibilities include:</p>

			<ul style="list-style-type: none"> The Board of Directors shall encourage continuing directors training to ensure that the members of the Board of Directors are kept upto date.
1.6	Committees		
	<p>The board should establish committees to deliberate on issues such as audit, executive and non-executive director remuneration and director nomination.</p> <p>Where the board chooses not to establish such committees, the board should disclose this and the procedures it employs to discharge its responsibilities effectively in an independent manner.</p> <p>The duties and membership of such committees should be fully disclosed.</p>	<p>The Companies Act, 2013 mandates the constitution of Audit committee, Nomination & Remuneration Committee by every public listed company and other companies as may be prescribed. Companies having more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year are also required to constitute Shareholder Grievance Redressal Committee.</p>	<p>SEBI (LODR) regulations mandate the constitution of Audit Committee, Nomination & Remuneration Committee, Stakeholders Relationship Committee, Risk Management Committee.</p>
1.7	Advice		
	<p>The board should receive advice on its responsibilities under relevant law and regulation, usually from the company secretary or an in-house general counsel.</p> <p>In addition, the board should have access to independent advice as appropriate and at the company's expense.</p>	<p>Section 205 read with Rule 10 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 requires the Company Secretary to :</p> <ul style="list-style-type: none"> provide to the directors of the company, collectively and individually, such guidance as they may require, with regard to their duties, responsibilities and powers; assist and advise the Board in ensuring good corporate governance and in complying with the corporate governance requirements and best practices; <p>Schedule IV of the Act specifies that Independent Directors shall seek appropriate clarification</p>	<p>Under Regulation 4(2)(f)(iii) of SEBI (LODR) Regulation, Other Responsibilities include:</p> <p>In order to fulfil their responsibilities, members of the board of directors shall have access to accurate, relevant and timely information.</p>

		or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company.	
1.8	Access to management		
	The board should have a process where directors, including independent non executive independent directors, can have access to a company's executive management and other relevant senior management.	Schedule IV of the Act provides that ID shall seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;	Regulation 4(f)(iii) of SEBI (LODR) stipulates : <ul style="list-style-type: none"> • In order to fulfil their responsibilities, members of the board of directors shall have access to accurate, relevant and timely information. • The board of directors and senior management shall facilitate the independent directors to perform their role effectively as a member of the board of directors and also a member of a committee of board of directors.

Takeaway

From the above comparison of the Principles with Indian legislative provisions, we may come to a conclusion that with the introduction of Companies Act, 2013 and SEBI (LODR) Regulations, there has been a wide coverage of corporate governance provisions in context of Indian corporate. Following Corporate governance measures are recommended for the corporate with respect to the Board Role and Responsibilities which are not specifically covered in Indian context:

- Board should make available proper communication channels for meaningful dialogue on governance matters with shareholders, creditors and other stakeholders.
- Board should have induction/familiarization programme for all new directors so that they are well informed about the company as soon as possible after their appointment. Presently this provision is applicable to independent directors only.
- Board should have a proper system in place where directors, including independent non-executive independent directors can have access to a company's executive management and other relevant senior management. It is expressly not mentioned this is assumed that the board will have power to seek information from management.

PRINCIPLE 2 LEADERSHIP AND INDEPENDENCE

Board leadership calls for clarity and balance in board and executive roles and an integrity of process to protect the interests of minority investors and promote success of the company as a whole.

The principle has been explained by further classifying it in 7 guidance points. A point wise comparison of the principle with the Indian legislation is given below:

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
2	Leadership and Independence		
2.1	Chair and CEO		
	<p>The board should be chaired by an independent non-executive director.</p> <p>There should be a clear division of responsibilities between the role of the chair of the board and executive management. The chair should be independent on the date of appointment.</p>	<p>Section 149(4) provides that every public listed company shall have at least one third of total number of directors as independent directors and Central Government may further prescribe minimum number of independent directors in any class or classes of company.</p> <p>Rule 4 of the Companies (Appointment and Qualification of Directors) Rules,2014 prescribes that the following class or classes of companies shall have at least two independent directors:</p> <ul style="list-style-type: none"> • Public Companies having paid-up share capital of 10 crore rupees or more; • Public companies having turnover of 100 crore rupees or more; • Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding 50 crore rupees 	<p>Regulation 17(1) of SEBI (LODR) Regulations requires :</p> <ul style="list-style-type: none"> • Board of Directors shall have an optimum combination of executive and non-executive directors with at least one woman director • Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and Top 1000 listed entities shall have at least one independent woman director by April 1, 2020 • At least 50% of the board of directors shall comprise of non-executive directors • If the chairperson of the board of directors is a non-executive director, at least 1/3rd of the board of directors shall comprise of independent directors

			<ul style="list-style-type: none"> • If the chairperson of the board of directors is not a non-executive director, at least 50% of the board of directors shall comprise of independent directors • If the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least 50% of the board of directors shall comprise of independent directors • With effect from April 1, 2020, the top 500 listed entities shall ensure that the Chairperson of the Board of such listed entity shall be a non-executive director, who is not related to the MD or the CEO as per the definition of the term 'relative' defined under the Companies Act, 2013 • The board of directors of the top 1000 listed entities (with effect from April 1, 2019) and the top 2000 listed entities (with effect from April 1, 2020) shall comprise of not less than six directors.
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2.2	Lead Independent Director		
	<p>The board should appoint a Lead Independent Director (sometimes referred to as Senior Independent Director), even when the company chair is independent.</p> <p>The Lead Independent Director provides shareholders and directors with a valuable channel of communication should they wish to discuss concerns relating to the chair. The board should explain the reasons why its leadership structure is in the best interests of the company in the annual report and keep the structure under review.</p>		
2.3	CEO succession to Chair		
	<p>The practice of a company's retiring CEO remaining on the board as a director should be discouraged, regardless of any cooling off period, or in the event this practice does take place, the retiring CEO should not serve on board committees that require independent representation. If, exceptionally, the board decides that a retiring CEO should succeed to become chair, the board should communicate appropriately with shareholders in advance setting out a convincing rationale and provide detailed explanation in the annual report. Unless extraordinary circumstances exist there should be a break in service between the roles (e.g. a period of at least two years).</p>		

2.4	Constructive Dialogue		
	<p>The chair is responsible for leadership of the board and ensuring its effectiveness.</p> <p>The chair should ensure a culture of openness and constructive dialogue that allows a range of views to be expressed. This includes setting an appropriate board agenda and ensuring adequate time is available for discussion of all agenda items. There should also be opportunities for the board to hear from an appropriate range of senior management.</p>		
2.5	Independence		
	<p>The board of a widely-held company should comprise a majority of independent non-executive directors.</p> <p>Controlled companies should preferably have a majority of independent non-executive directors, or at least, three (or one-third) independent directors, on the board.</p>	<p>Section 149(4) of the Act as explained in point 2.1 above</p>	<p>Regulation 17(1) of SEBI (LODR) Regulations as explained in point 2.1 above</p>
2.6	Independence Criteria		
	<p>The board should identify in the annual report the names of the directors considered by the board to be independent and who are able to exercise independent judgement free from any external influence. The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:</p>	<p>As per Section 149 (6) of the Act read with Rule 5 of Companies (Appointment and qualification of Directors) Rules, 2014 :</p> <p>An independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director, –</p> <p>(a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;</p>	<p>SEBI (LODR) Regulation 16 :</p> <p>“independent director” means a non-executive director, other than a nominee director of the listed entity:</p> <p>(i) who, in the opinion of the board of directors, is a person of integrity and possesses relevant expertise and experience;</p> <p>(ii) who is or was not a promoter of the listed entity or its holding, subsidiary or associate company or member of the promoter group of the listed entity</p>

	<p>a) is or has been employed in an executive capacity by the company or a subsidiary and there has not been an appropriate period between ceasing such employment and serving on the board;</p> <p>b) is or has within an appropriate period been a partner, director or senior employee of a provider of material professional or contractual services to the company or any of its subsidiaries;</p> <p>c) receives or has received additional remuneration from the company apart from a director's fee, participates in the company's share option plan or a performance-related pay scheme, or is a member of the company's pension scheme;</p> <p>d) has or had close family ties with any of the company's advisers, directors or senior management;</p> <p>e) holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;</p> <p>f) is a significant shareholder of the company, or an officer of, or otherwise associated with, a significant shareholder of the company;</p> <p>g) is or has been a nominee director as a representative of controlling shareholders or the state;</p> <p>h) has been a director of the company for such a period that his or her independence.</p>	<p>(b) (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;</p> <p>(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;</p> <p>(c) who has or had no pecuniary relationship, other than remuneration as such director or having transaction not exceeding 10% of his total income or such amount as may be prescribed, with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;</p> <p>(d) none of whose relatives –</p> <p>(i) is holding any security of or interest in the company, its holding, subsidiary or associate company during the two immediately preceding financial years or during the current financial year:</p> <p>Provided that the relative may hold security or interest in the company of face value not</p>	<p>(iii) who is not related to promoters or directors in the listed entity, its holding, subsidiary or associate company;</p> <p>(iv) who, apart from receiving director's remuneration, has or had no material pecuniary relationship with the listed entity, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;</p> <p>(v) none of whose relatives has or had pecuniary relationship or transaction with the listed entity, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed from time to time, whichever is lower, during the two immediately preceding financial years or during the current financial year;</p> <p>(vi) who, neither himself, nor whose relative(s) –</p>
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	<p>may have become compromised. There is no fixed date that automatically triggers lack of independence; the norm can differ in varying jurisdictions between 8-12 years after which a non-executive director may no longer be deemed independent. Companies should be guided by local norms, and directors with longer tenure should not be classified as independent in terms of committee appointments or other board functions requiring independence</p>	<p>exceeding fifty lakh rupees or two per cent. of the paid-up capital of the company, its holding, subsidiary or associate company or such higher sum as may be prescribed;</p> <p>(ii) is indebted to the company, its holding, subsidiary or associate company or their promoters, or directors, in excess of such amount as may be prescribed during the two immediately preceding financial years or during the current financial year;</p> <p>(iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, its holding, subsidiary or associate company or their promoters, or directors of such holding company, for such amount as may be prescribed during the two immediately preceding financial years or during the current financial year; or</p> <p>(iv) has any other pecuniary transaction or relationship with the company, or its subsidiary, or its holding or associate company amounting to two per cent. or more of its gross</p>	<p>(A) holds or has held the position of a key managerial personnel or is or has been an employee of the listed entity or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;</p> <p>(B) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of —</p> <p>(1) a firm of auditors or company secretaries in practice or cost auditors of the listed entity or its holding, subsidiary or associate company; or</p> <p>(2) any legal or a consulting firm that has or had any transaction with the listed entity, its holding, subsidiary or associate company amounting to ten per cent or more of the gross turnover of such firm;</p> <p>(C) holds together with his relatives two per cent or more of the total voting power of the listed entity; or</p>
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		<p>turnover or total income singly or in combination with the transactions referred to in sub-clause (i), (ii) or (iii);]</p> <p>(e) who, neither himself nor any of his relatives –</p> <p>(i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;</p> <p>Provided that in case of a relative who is an employee, the restriction under this clause shall not apply for his employment during preceding three financial years.</p> <p>(ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—</p> <p>(A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or</p>	<p>(D) is a chief executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent or more of its receipts or corpus from the listed entity, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent or more of the total voting power of the listed entity;</p> <p>(E) is a material supplier, service provider or customer or a lessor or lessee of the listed entity;</p> <p>(vii) who is not less than 21 years of age.</p> <p>(viii) who is not a non-independent director of another company on the board of which any non-independent director of the listed entity is an independent director</p>
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		<p>(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;</p> <p>(iii) holds together with his relatives two per cent. or more of the total voting power of the company; or</p> <p>(iv) is a Chief Executive or director, by whatever name called, of any non profit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or</p> <p>(f) who possesses such other qualifications as prescribed below:</p> <p>An independent director shall possess appropriate balance of skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business.</p>	
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2.7	Independent meetings		
	<p>The chair should regularly hold meetings with the non-executive directors without executive directors present. In addition, the non-executive directors (led by the lead independent director) should meet as appropriate, and at least annually, without the chair present.</p>	<p>As per Section 149 read with schedule IV of the Act :</p> <ul style="list-style-type: none"> • The independent directors of the company shall hold at least one meeting in a financial year, without the attendance of non-independent directors and members of management; • All the independent directors of the company shall strive to be present at such meeting; • The meeting shall: <ul style="list-style-type: none"> (a) review the performance of non-independent directors and the Board as a Whole (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors; (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties. 	<p>Regulation 25 of SEBI (LODR) Regulations requires :</p> <p>The Independent Directors shall hold at least one meeting in a year, without the attendance of non independent directors and members of management.</p> <p>All the independent directors of the listed entity shall strive to be present at such meeting.</p>

Takeaway

The following takeaway points are suggested for the Indian corporate to be implemented for achieving high standards of governance w.r.t. Leadership and Independence of the Board :

- Chairman of the Board should be independent.

- The board should appoint a Lead Independent Director who may co-ordinate the activities of other independent directors and perform such other duties and responsibilities as the BODs may determine. They can support effective shareholder communication by being the contact person for shareholders.
- It should be ensured that company's retiring/resigning CEO remaining on the board as a director should be discouraged, regardless of any cooling off period, or in the event this practice does take place, the retiring CEO should not serve on board committees that require independent representation.

PRINCIPLE 3 COMPOSITION AND APPOINTMENT

There should be a sufficient mix of directors with relevant knowledge, independence, competence, industry experience and diversity of perspectives to generate effective challenge, discussion and objective decision-making.

The principle has been explained by further classifying it in 7 guidance points. A point wise comparison of the principle with the Indian legislation is given below:

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
3	Composition and appointment		
3.1	Diversity		
	<p>The board should disclose the company's policy on diversity (including gender, ethnicity, cognitive and social) in relation to its senior management and board (both executive and non-executive).</p> <p>Companies should report on current board diversity, measurable targets and progress made in achieving such targets. This should include reference to how diversity is being achieved through appropriate succession planning in the executive and board levels.</p>	<p>Section 149(1) read with Rule 3 of the of the Companies (Appointment and Qualification of Directors)Rules,2014 provides that:</p> <p>(i) every listed company;</p> <p>(ii) every other public company having -</p> <p>(a) paid-up share capital of one 100 crore rupees or more; or</p> <p>(b) turnover of 300 crore rupees or more shall appoint at least one woman director.</p>	<p>Regulation 17(1)(a) of SEBI (LODR) Regulations requires :</p> <p>The Board of Directors of listed entity shall have at least one woman director.</p> <p>Independent woman director :</p> <p>BODs of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the BODs of top 1000 listed entities shall have at least one independent woman director by April 1, 2019.</p> <p>Part II of Schedule II of SEBI (LODR) Regulations : the nomination and remuneration Committee of the company shall devise</p>

			<p>a policy on diversity of board of directors.</p> <p>Schedule V of SEBI (LODR) stipulates :</p> <p>Following disclosures shall be made in the section on the corporate governance of the annual report:</p> <p>A chart or a matrix setting out the skills/expertise/competence of the board of directors specifying the following: (i) With effect from the financial year ending March 31, 2019, the list of core skills/expertise/competencies identified by the board of directors as required in the context of its business(es) and sector(s) for it to function effectively and those actually available with the board; and (ii) With effect from the financial year ended March 31, 2020, the names of directors who have such skills / expertise / competence (i) confirmation that in the opinion of the board, the independent directors fulfill the conditions specified in these regulations and are independent of the management. (j) detailed reasons for the resignation of an independent director who resigns before the expiry of his tenure along with a confirmation by such director that there are no other material reasons other than those provided.</p>
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3.2	Tenure		
	<p>Non-executive directors should serve for an appropriate length of time to ensure they bring an objective perspective to the board without compromising the independence of the board. The length of tenure of each director should be reviewed regularly by the nomination committee to allow for board refreshment</p> <p>and diversity and retention of corporate knowledge.</p>	<p>Section 149(10) of the Act provides that:</p> <p>Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.</p>	<p>According to Regulation 25(1) of SEBI (LODR) Regulations :</p> <p>Maximum tenure of independent directors shall be in accordance with the Companies Act, 2013 and rules made thereunder, in this regard, from time to time.</p>
3.3	Director nomination disclosure		
	<p>The board should disclose the process for director nomination and election / re-election along with information about board candidates which includes:</p> <ul style="list-style-type: none"> a) board member identities and rationale for appointment; b) core competencies, qualifications, and professional background; c) recent and current board and management mandates at other companies, as well as significant roles on non-profit / charitable organisations; d) factors affecting independence, including relationship/s with controlling shareholders; e) length of tenure; f) board and committee meeting attendance; and g) any shareholdings in the company. 		<p>Regulation 36(3) of SEBI (LODR) provides that in case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information: (a) a brief resume of the director; (b) nature of his expertise in specific functional areas; (c) disclosure of relationships between directors inter-se; (d) names of listed entities in which the person also holds the directorship and the membership of Committees of the board; and (e) shareholding of non-executive directors.</p>

	<p>Consolidating this disclosure in a skills matrix can be an efficient way to identify how key skills are accounted for within the board as a whole. Company disclosure could provide information on the board recruitment process, including on the use of external advisors, search and selection criteria and diversity.</p>		
<p>3.4</p>	<p>Shareholder nominated directors</p>		
	<p>The board should ensure that shareholders are able to nominate candidates for board appointment, subject to an appropriate threshold of share ownership. Such candidacies should be proposed to the appropriate board committee and, subject to an appropriate nomination threshold, be nominated directly on the company's proxy.</p>	<p>As per Section 151 read with Rule 7 of the Act :</p> <p>Every listed company may have one director elected by "small shareholders". For the purpose of this section, "small shareholder" means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be prescribed.</p> <p>A listed company, may upon notice of not less than 1000 or one-tenth of the total number of small shareholders, whichever is lower, have a Small Shareholders' Director elected by the small shareholders. A listed company may suo moto (on its own accord) opt to have a director representing small shareholders. Thus the Small Shareholder's Director's appointment is optional and made available to listed companies.</p>	<p>Regulation 4(2)(a)(v) of LODR:</p> <p>The listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:</p> <p>"(v) Effective shareholder participation in key corporate governance decisions, such as the nomination and election of members of board of directors."</p>

3.5	Elections		
	<p>Accountability mechanisms may require directors to stand for election on an annual basis or stand for election at least once every three years, with annual elections recognised as best practice. Shareholders should have a separate vote on the election of each director, with each candidate approved by a simple majority of shares voted.</p>	<p>As per Section 152(6) of the Act, in case of a public company:</p> <ul style="list-style-type: none"> • Unless the article provide for the retirement of all the directors at every annual general meeting • Not less than 2/3rd (two-third) of the total number of directors shall be person whose period of office is liable to determination by retirement of directors by rotation. • It is clear that, a public company is free to incorporate in its Articles, that all the directors of the company would retire at every annual general meeting. If nothing mentioned in articles relating to rotation of director then Not less than 2/3rd (two-third) of the total number of directors of a public company shall, be person whose period of office is liable to determination by retirement of directors by rotation <p>Section 162 of the Act states that :</p> <ul style="list-style-type: none"> • Appointment of the directors are to be voted individually. 	

		<ul style="list-style-type: none"> At the AGM of the company, a motion for appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it. 	
<p>3.6</p>	<p>Evaluation</p>		
	<p>The board should rigorously evaluate the performance of itself (as a collective body), the company secretary (where such a position exists), the board's committees and individual directors prior to being proposed for re-election. The board should also periodically (preferably every three years) engage an independent outside consultant to undertake such evaluations. The non-executive directors, led by the lead independent director, should be responsible for performance evaluation of the chair, taking into account the views of executive officers. The board should disclose the process for evaluation and, as far as reasonably possible, any material issues of relevance arising from the conclusions and any action taken as a consequence. Extending a director's tenure for additional terms should be premised on satisfactory evaluations of his/her contribution.</p>	<p>As per Section 134 (3) of the Act :</p> <ul style="list-style-type: none"> In case of a listed company and every other public company having such paid-up share capital as may be prescribed, in the Board's Report a statement has to be given indicating the manner in which formal annual evaluation of the performance of the Board, its committees and of individual directors has been made. <p>As per Section 178 of the Act :</p> <ul style="list-style-type: none"> The Nomination and Remuneration Committee shall identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and 	<p>As per Regulation 17 and Schedule V of the SEBI (LODR) Regulations :</p> <p>Evaluation of independent directors shall be done by the entire board of directors which shall include :</p> <ul style="list-style-type: none"> Performance of the directors; and Fulfillment of the independence criteria as specified in these regulations and their independence from the management. <p>In this evaluation, the directors who are subject to evaluation shall not participate.</p> <p>In annual report in the section on corporate governance, there shall be disclosed :</p> <ul style="list-style-type: none"> Performance evaluation criteria for independent directors by the Nomination and Remuneration committee <p>SEBI in this context has issued Guidance on Board Evaluation for the companies to follow for the purpose of evaluation</p>

		removal and shall carry out evaluation of every director's performance.	of directors, committees, independent directors, Board as a whole.
3.7	Nomination Committee		
	<p>The board should establish a nomination committee comprised of a majority of independent non-executive directors. The main role and responsibilities of the nomination committee should be described in the committee's terms of reference. This includes:</p> <p>a) evaluating the composition of the board taking into account the board diversity policy;</p> <p>b) developing a skills matrix, by preparing a description of the desired roles, experience and capabilities required for each appointment;</p> <p>c) leading the process for board appointments and putting forward recommendations to shareholders on directors to be elected and re-elected;</p> <p>d) upholding the principle of director independence by addressing conflicts of interest (and potential conflicts of interest) among committee members and between the committee and its advisors during the nomination process;</p> <p>e) considering and being responsible for the appointment of independent consultants for recruitment or evaluation including their selection and terms of engagement and publically disclosing their identity and consulting fees; and</p>	<p>As per Section 178 read with Rule 6 of Companies (Meetings of Board and its Powers) Rules, 2014 :</p> <p>The Board of directors of every listed public company and such other class or classes of companies, as may be prescribed under Rule 6, shall constitute a Nomination and Remuneration committee of the Board consisting of 3 or more non-executive directors out of which not less than ½ shall be independent.</p> <p>The Nomination and Remuneration committee shall-</p> <ul style="list-style-type: none"> Identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal, carry out evaluation of every director's performance. Formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, 	<p>Regulation 19 of the SEBI (LODR) Regulations require:</p> <p>The listed entity through its BODs shall constitute the Nomination and Remuneration committee which shall comprise at least 3 directors, all of whom shall be non-executive directors and at least ½ shall be independent.</p> <p>Chairperson of the N&R committee shall be an independent director. Provided that the chairperson of the listed entity (whether executive or non-executive) may be appointed as a member of the committee but shall not chair such committee.</p> <p>The role of the committee shall, inter-alia, include the following :</p> <ul style="list-style-type: none"> Formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration of the directors, KMP and other employees. Formulation of criteria for evaluation of IDs and the Board. Identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to Board their appointment and removal.

	<p>f) entering into dialogue with shareholders on the subject of board nominations either directly or via the board; and</p> <p>g) proactively leading and being accountable for the development, implementation and continual review of director succession planning.</p>	<p>relating to the remuneration for the directors, KMP and other employees.</p> <p>While formulating the policy the N&R committee shall ensure that:</p> <ul style="list-style-type: none"> • level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully; • Relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and • Remuneration to directors, KMPs and senior management involves a balance between fixed and incentive pay reflecting short and long term performance objectives appropriate to the working of the company and its goals; <p>The policy shall be disclosed in the Board's report.</p>	<ul style="list-style-type: none"> • The listed entity shall disclose the remuneration policy and the evaluation criteria in its Annual Report.
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Takeaway

From the above comparison we may come to a conclusion that with respect to Board's composition, there are sufficient checks included in the Companies Act as well as SEBI (LODR) Regulations, to ensure quality and independence of the board. In addition to the same following takeaway points may be suggested :

1. In addition to gender diversity in the board, diversity in ethnicity, cognition and social diversity should also be considered by the Nomination and Remuneration committee of the board.
2. Nomination and Remuneration committee may consider hiring of an independent outside consultant for Board evaluation.

PRINCIPLE 4 CORPORATE CULTURE

The board should adopt high standards of business ethics, ensuring that its vision, mission and objectives are sound and demonstrative of its values. Codes of ethical conduct should be effectively communicated and integrated into the company's strategy and operations, including risk management systems and remuneration structures.

The principle has been explained in 6 guidance points. A point wise comparison of the principle with the Indian legislation is given below:

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
4	Corporate Culture		
4.1	Anti-corruption		
	The board should ensure that management has implemented appropriately stringent policies and procedures to mitigate the risk of bribery and corruption or other malfeasance. Such policies and procedures should be communicated to shareholders and other interested parties.	<ul style="list-style-type: none"> • Section 177(9) of the Companies Act provides for the establishment of a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed. • Section 177(10) also provides that there shall be safeguards against victimisation of persons who use the vigil mechanism. 	<p>Regulation 22 of the SEBI (LODR) Regulations provides:</p> <ul style="list-style-type: none"> • The listed entity shall formulate a vigil mechanism for directors and employees to report genuine concerns. • The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases.

4.2	Whistleblowing		
	<p>The board should ensure that the company has in place an independent, confidential mechanism whereby an employee, supplier or other stakeholder can (without fear of retribution) raise issues of particular concern with regard to potential or suspected breaches of a company's code of ethics or local law.</p>	<p>Section 177(9) of the Companies Act, 2013 and Rule 7 of the Companies (Meetings of Board and its Powers) Rules, 2014 requires:</p> <p>Every listed company, companies which accept deposits from the public and companies which have borrowed money from banks and public financial institutions in excess of fifty crore rupees to establish a vigil mechanism for Directors and Employees to report their genuine concerns and grievances.</p>	<p>Regulation 22 of the SEBI (LODR) Regulations provides :</p> <ul style="list-style-type: none"> • The listed entity shall formulate a vigil mechanism for directors and employees to report genuine concerns. • The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases. <p>Regulation 4(2)(d) of the SEBI (LODR) Regulations provides :</p> <ul style="list-style-type: none"> • The listed entity shall devise an effective whistle blower mechanism enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices. <p>Regulation 46(2) (e) requires that :</p> <ul style="list-style-type: none"> • The listed entity shall disseminate the information about the details of establishment of vigil mechanism/ Whistle Blower policy on its website.

4.3	Political lobbying	<ul style="list-style-type: none"> • Section 182(1) of Companies Act, 2013 provides that neither government companies nor companies that have been in existence for more than three years are permitted to make political contributions. 	
4.4	Employee share dealing		<p>Regulation 4 of the SEBI (Prohibition of Insider Trading) Regulations, 2015 provides :</p> <ul style="list-style-type: none"> • No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information. • When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. The reasons for which he trades or the purposes to which he applies the proceeds of the transactions are not intended to be relevant for determining whether a person has violated the regulation. He traded when in possession of unpublished price sensitive information is what would need to be demonstrated at the outset to bring a charge. Once this is established, it would

			<p>be open to the insider to prove his innocence by demonstrating the circumstances mentioned in the proviso, failing which he would have violated the prohibition.</p> <ul style="list-style-type: none"> • In the case of connected persons the onus of establishing, that they were not in possession of unpublished price sensitive information, shall be on such connected persons and in other cases, the onus would be on the Board. • The Board may specify such standards and requirements, from time to time, as it may deem necessary for the purpose of these regulations. • Under SEBI (LODR) • Independent directors shall not be entitled to any stock option.
4.5	Behaviour and conduct		
	<p>The board should foster a corporate culture which ensures that employees understand their responsibility for appropriate behaviour. There should be appropriate board level and staff training in all aspects relating to corporate culture and ethics. Due diligence and monitoring programmes should be in place to enable staff to understand relevant codes of conduct and apply them effectively to avoid company involvement in inappropriate behaviour.</p>		<p>Under SEBI (LODR), 2015 the board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity. In general practice it has been observed that the Code of Conduct is applicable to all the employees of the company.</p> <p>Other than this SEBI (Prohibition of Insider Trading) Regulations, 2015 is also applicable to listed companies.</p>

4.6	Reincorporation		
	Boards should carefully assess a range of impacts if considering reincorporation or related corporate transformations. These include specific governance and investor protections, as well as broader systemic issues relating to tax, financial markets and economic impact.		

Takeaway

From the above comparison, following takeaway are suggested for corporate for achieving high standards of good corporate culture:

1. Corporate should formulate and implement specific policies for mitigating the risk of bribery and corruption by the officials of the company.
2. There should be proper training programs for the staff in all aspects relating to corporate culture and ethics. Due diligence and monitoring programs should be in place to enable staff to understand relevant codes of conduct and apply them effectively to avoid company involvement in inappropriate behaviour. Boards should carefully assess a range of impacts if considering reincorporation or related corporate transformations.

PRINCIPLE 5 RISK OVERSIGHT

The board should proactively oversee, review and approve the approach to risk management regularly or with any significant business change and satisfy itself that the approach is functioning effectively.

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
5	Risk oversight		
5.1	Proactive oversight		
	Strategy and risk are inseparable and should permeate all board discussions and, as such, the board should consider a range of plausible outcomes that could result from its decision-making and actions needed to manage those outcomes.		Regulation 4(2)(f) of SEBI (LODR) regulations : Key functions of the board of directors include Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestments.
5.2	Comprehensive approach		
	The board should adopt a comprehensive approach to the oversight of risk which includes material financial, strategic, operational, environmental, and social risks (including political and legal ramifications of such risks), as well as any reputational consequences. Fundamental to this is the board's agreement on its risk appetite, and the board should seek to publicly communicate this in basic terms.		

5.3	Risk culture		
	The board should lead by example and foster an effective risk culture that encourages openness and constructive challenge of judgements and assumptions. The company's culture with regard to risk and the process by which issues are escalated and de-escalated within the company should be evaluated periodically.		
5.4	Dynamic process	<p>Section 134 of the Act requires that:</p> <p>The board of directors report must include a statement indicating development and implementation of a risk management policy for the company including identification of elements of risk, if any, which in the opinion of the board may threaten the existence of the company.</p> <p>Under Section 177(4): Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include, –</p> <p>(vii) evaluation of internal financial controls and risk management systems.</p> <p>As per Schedule IV of the Act, the role of an independent director shall inter-alia include :</p> <ul style="list-style-type: none"> • help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct; 	<p>Regulation 17 of the SEBI (LODR) Regulations provides :</p> <ul style="list-style-type: none"> • The listed entity shall lay down procedures to inform members of board of directors about risk assessment and minimization procedures. • The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the listed entity.

		satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible.	
5.5	Risk committee		
	<p>While ultimate responsibility for a company's risk management approach rests with the full board, having a risk committee (be it a stand-alone risk committee, a combined risk committee with nomination and governance, strategy, audit or other) can be an effective mechanism to bring the transparency, focus and independent judgement needed to oversee the company's risk management approach.</p>		<p>Regulation 21 of the SEBI (LODR) Regulations provides :</p> <ul style="list-style-type: none"> • The board of directors shall constitute a Risk Management Committee. • The majority of members of Risk Management Committee shall consist of members of the board of directors. • The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee. • The risk management committee shall meet at least once in a year. • The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit. • The provisions of this regulation shall be applicable to top 500 listed entities, determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

Takeaway

Following points are suggested over and above the compliance of regulatory requirements, for managing risk within the company:

1. Strategy and risk are inseparable and should permeate all board discussions.
2. The board should lead by example and foster an effective risk culture that encourages openness and constructive challenge of judgments and assumptions.
3. The board should adopt a comprehensive approach to the oversight of risk which includes material financial, strategic, operational, environmental, and social risks (including political and legal ramifications of such risks), as well as any reputational consequences.
4. The board should ensure that risk is appropriately reflected in the company's strategy and capital allocation.

PRINCIPLE 6 REMUNERATION

Remuneration should be designed to effectively align the interests of the CEO and executive officers with those of the company and its shareholders to help ensure long-term performance and sustainable value creation. The board should also ensure that aggregate remuneration is appropriately balanced with the needs to pay dividends to shareholders and retain capital for future investment.

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act, 2013	Corresponding provision in SEBI Regulations
6	Remuneration		
6.1	Level		
	The board is responsible for ensuring that remuneration is reasonable and equitable in both structure and quantum, and is determined within the context of a company's values, internal reward structures and competitive drivers while being sensitive to the expectations of stakeholders and societal norms.	As per Section 197 and Schedule V of the Act : Total managerial remuneration payable by a public company, to its directors, including MD and WTD and manager in any financial year shall not exceed 11% of the net profit of the company for that financial year (computed as per section 198). However, a company may authorize the payment of remuneration exceeding 11% of the net profits in general meeting and subject to provisions of Schedule V.	Regulation 17(6) of SEBI (LODR) Regulations : (a) The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting. (e) The fees or compensation payable to executive directors who are promoters or members of the promoter group, shall

		<p>Also, except with the approval of the company in general meeting by a special resolution –</p> <ul style="list-style-type: none"> the remuneration payable to any one MD or WTD or manager shall not exceed 5% of the net profits of the company and if there is more than one such director, remuneration shall not exceed 10% of the net profits to all such directors and manager taken together; the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,– (A) 1% of the net profits of the company, if there is a managing or whole-time director or manager; (B) 3% of the net profits in any other case. 	<p>be subject to the approval of the shareholders by special resolution in general meeting, if-</p> <p>(i) the annual remuneration payable to such executive director exceeds rupees 5 crore or 2.5 per cent of the net profits of the listed entity, whichever is higher; or</p> <p>(ii) where there is more than one such director, the aggregate annual remuneration to such directors exceeds 5 per cent of the net profits of the listed entity:</p> <p>Provided that the approval of the shareholders under this provision shall be valid only till the expiry of the term of such director.</p> <p><i>Explanation:</i> For the purposes of this clause, net profits shall be calculated as per section 198 of the Companies Act, 2013.</p>
<p>6.2</p>	<p>Structure</p>		
	<p>Remuneration should be structured in a simple manner and balance salary levels appropriately in comparison with the level of benefits such as bonuses, deferred stock options or long-term incentive plans (LTIPs). The use of restricted stock with long-term vesting and holding periods brings the benefit of simplicity compared with metric-based performance awards (such as LTIPs). Remuneration Committees are encouraged to consider whether restricted stock could be introduced</p>	<p>As per Section 197 (6) of the Act :</p> <p>A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.</p>	<p>Under SEBI (LODR) Rgulations, Independent directors are not entitled to any stock option</p>

	alongside, or as an alternative to LTIPs, as long as their use is consistent with the company's capital allocation model, and provided that award size is reduced materially to take account of the greater certainty of vesting due to absence of performance hurdles.		
6.3	Performance		
	<p>Performance related elements (such as LTIPs) should integrate risk considerations so that there are no rewards for taking inappropriate risks at the expense of the company and its shareholders. Performance related elements should be rigorous and measured over timescales, and with methodologies, which help ensure that performance pay is directly correlated with sustained value creation.</p> <p>Companies should include provisions in their incentive plans that enable the company to withhold the payment of any sum ('malus'), or recover sums paid ('clawback'), in the event of serious misconduct or a material misstatement in the company's financial statements.</p>		
6.4	Disclosure		
	<p>The board should disclose clear and understandable remuneration policies and reports which are aligned with the company's long-term strategic objectives. Such disclosure should facilitate comparability and accountability, and include reference to how awards were deemed appropriate in the context of the company's underlying</p>	<p>Section 197(12) of the Act requires :</p> <p>Every listed company shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details as may be prescribed.</p> <p>As per Section 178(3) & (4) :</p>	<p>Schedule V of the SEBI (LODR) Regulations requires: following disclosures w.r.t. remuneration, in the CG report of the company -</p> <p>a) all pecuniary relationship or transactions of the non-executive directors vis-à-vis the listed entity</p>

	<p>performance and long term strategic objectives. It should also indicate whether remuneration consultants were involved in the process. Disclosure should refer to executive officers, directors and the CEO, and be reported on an individual basis, whilst also taking into account the company's overall approach to human resource strategy. This extends to non-cash items such as director and officer insurance, pension provisions, fringe benefits and terms of severance packages if any.</p>	<ul style="list-style-type: none"> • The Nomination and Remuneration Committee shall to the Board a policy, relating to the remuneration for the directors, KMP and other employees. • Such policy shall be placed on the website of the company, if any, and the salient features of the policy and changes therein, if any, along with the web address of the policy, if any, shall be disclosed in the Board's report. <p>As per Rule 5 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 :</p> <p>Every listed company shall disclose in the Board's report –</p> <ul style="list-style-type: none"> • the ratio of the remuneration of each director to the median remuneration of the employees of the company for the financial year; • the percentage increase in remuneration of each director, Chief Financial Officer, Chief Executive Officer, Company Secretary or Manager, if any, in the financial year; • the percentage increase in the median remuneration of employees in the financial year; • the number of permanent employees on the rolls of company; 	<ul style="list-style-type: none"> b) criteria of making payments to non-executive directors. alternatively, this may be disseminated on the listed entity's website and reference drawn thereto in the annual report; c) disclosures with respect to remuneration: in addition to disclosures required under the Companies Act, 2013, the following disclosures shall be made: <ul style="list-style-type: none"> (i) all elements of remuneration package of individual directors summarized under major groups, such as salary, benefits, bonuses, stock options, pension etc; (ii) details of fixed component and performance linked incentives, along with the performance criteria; (iii). service contracts, notice period, severance fees; (iv). stock option details, if any and whether issued at a discount as well as the period over which accrued and over which exercisable.
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6.5	Share Ownership		
	<p>The board should disclose the company policy concerning ownership of shares by the CEO, non-executive directors and executive officers. This should include the company policy as to how share ownership requirements are to be achieved and for how long they are to be retained. The use of derivatives or other structures that enable the hedging of an individual's exposure to the company's shares should be discouraged.</p>		
6.6	Remuneration Policy		
	<p>Shareholders should have an opportunity, where a jurisdiction allows, to a binding vote on executive remuneration policies (usually every three years), particularly where significant change to remuneration structure is proposed.</p>		

6.7	Annual remuneration report		
	Shareholders should have an advisory vote on the annual remuneration report. In the absence of local legal requirements for a binding vote or equivalent, and in cases where a significant minority of shareholders (e.g. 25%) vote against a report, a binding vote should be triggered the following year.		
6.8	Employee incentives		
	The board should ensure that the development of remuneration structures for company employees reinforce, and do not undermine, sustained value creation. Performance-based remuneration for staff should incorporate risk, including measuring risk-adjusted returns, to help ensure that no inappropriate or unintended risks are being incentivised. While a major component of most employee incentive remuneration is likely to be cash-based, these programmes should be designed and implemented in a manner consistent with the company's long-term performance drivers.		
6.9	Non-executive director pay		
	The board should ensure that pay for a non-executive director and/or a non-executive chair is structured in a way which ensures independence, objectivity and alignment with shareholders' interests. Performance-based pay should not be granted to non-executive directors and non-executive chairs.		<p>As per Regulation 17(6) of the SEBI (LODR) Regulations:</p> <ul style="list-style-type: none"> • The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting

			<ul style="list-style-type: none"> • The approval of shareholders shall specify the limits for the maximum number of stock options that may be granted to non-executive directors, in any financial year and in aggregate. • The approval of shareholders by special resolution shall be obtained every year, in which the annual remuneration payable to a single non-executive director exceeds fifty per cent of the total annual remuneration payable to all non-executive directors, giving details of the remuneration thereof • Independent directors shall not be entitled to any stock option.
6.10	Remuneration committee		
	<p>The board should establish a remuneration committee comprised of a majority of independent non-executive directors. The main role and responsibilities of the remuneration committee should be described in the committee terms of reference. This includes:</p> <p>a) determining and recommending to the board the company's remuneration philosophy and policy which should take into account pay and employment conditions within the context of the company as a whole and its human resource strategy;</p>	<p>As per Section 178 read with Rule 6 of Companies (Meetings of Board and its Powers) Rules, 2014:</p> <p>The Board of directors of every listed public company and such other class or classes of companies, as may be prescribed under Rule 6, shall constitute a Nomination and Remuneration committee of the Board consisting of 3 or more non-executive directors out of which not less than ½ shall be independent.</p> <p>The Nomination and Remuneration committee shall-</p>	<p>Regulation 19 of the SEBI (LODR) Regulations require:</p> <p>The listed entity through its BODs shall constitute the Nomination and Remuneration committee which shall comprise at least 3 directors, all of whom shall be non-executive directors and at least ½ shall be independent.</p> <p>Chairperson of the N&R committee shall be an independent director. Provided that the chairperson of the listed entity (whether executive or non-executive) may be appointed as a member of the committee but shall not chair such committee.</p> <p>The role of the committee shall, inter-alia, include the following :</p>

	<p>b) designing, implementing, monitoring and evaluating short-term and long-term share-based incentives and other benefits schemes including pension arrangements, for all executive officers, directors and the CEO;</p> <p>c) ensuring that conflicts of interest among committee members and between the committee and its advisors are identified and avoided;</p> <p>d) appointing any independent remuneration consultant including their selection and terms of engagement and disclosing their identity and consulting fees; and</p> <p>e) maintaining appropriate communication with shareholders on the subject of remuneration either directly or via the board.</p>	<ul style="list-style-type: none"> • Identify persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, recommend to the Board their appointment and removal, carry out evaluation of every director's performance. • Formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, KMP and other employees. <p>While formulating the policy the N&R committee shall ensure that :</p> <ul style="list-style-type: none"> • level and composition of remuneration is reasonable and sufficient to attract, retain and motivate directors of the quality required to run the company successfully; • Relationship of remuneration to performance is clear and meets appropriate performance benchmarks; and • Remuneration to directors, KMPs and senior management involves a balance between fixed and incentive pay reflecting short and long term performance objectives appropriate to the working of the company and its goals; <p>The policy shall be disclosed in the Board's report.</p>	<ul style="list-style-type: none"> • Formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration of the directors, KMP and other employees. • Formulation of criteria for evaluation of IDs and the Board. • devising a policy on diversity of board of directors; • Identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to Board their appointment and removal. • whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors. <p>The listed entity shall disclose the remuneration policy and the evaluation criteria in its Annual Report.</p>
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Takeaway

Following points are suggested w.r.t. payment of remuneration to directors, KMP and employees of the company :

1. Companies should include provisions in their incentive plans that enable the company to withhold the payment of any sum or recover sums paid, in the event of serious misconduct or a material misstatement in the company's financial statements.
2. The board should disclose the company policy concerning ownership of shares by the CEO, non-executive directors and executive officers.
3. Companies should consider to give shareholders an opportunity, where jurisdiction allows, to a binding vote on executive remuneration policies.
4. Performance-based remuneration for staff should incorporate risk, including measuring risk-adjusted returns, to help ensure that no inappropriate or unintended risks are being incentivised.

PRINCIPLE 7 REPORTING AND AUDIT

Boards should oversee timely and high quality company disclosures for investors and other stakeholders relating to financial statements, strategic and operational performance, corporate governance and material environmental and social factors. A robust audit practice is critical for necessary quality standards.

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
7	Reporting and audit		
7.1	Comprehensive disclosure		
	The board should present a balanced and understandable assessment of the company's position and prospects in the annual report and accounts in order for shareholders and other stakeholders to be able to assess the company's financial performance, business model, strategy and long-term prospects. While shareholders are a primary audience for company reporting it is also of relevance to creditors who provide risk capital and bear the residual risk of the company	Under Section 134 of the Act, few of the disclosures in Board's report that relate to financial performance of the company include : <ul style="list-style-type: none"> • Particulars of loans, guarantees or investments under Section 186 • Particulars of contracts or arrangements with related parties • State of company's affair • Amount proposed to carry to any reserves 	Regulation 34 of SEBI (LODR) states that : The annual report shall contain the following: (a) audited financial statements (b) consolidated financial statements audited by its statutory auditors; (c) cash flow statement (d) directors report; (e) management discussion and analysis report

		<ul style="list-style-type: none"> • Amount recommended to be paid by way of dividend • Material changes and commitments affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of report • Conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed • A statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the board may threaten the existence of the company. 	<p>(f) business responsibility report for the top five hundred listed entities based on market capitalization</p> <p>Schedule V of SEBI (LODR) contains disclosures requirements w.r.t. A) Related Party B) management discussion and analysis and C) Corporate Governance Report.</p>
<p>7.2</p>	<p>Materiality</p>		
	<p>The board should disclose relevant and material information on a timely basis so as to allow shareholders to take into account information which assists in identifying risks and sources of wealth creation. Issues material to shareholders should be set out succinctly in the annual report, or equivalent disclosures, and approved by the board itself.</p>	<p>As per Section 134(3)(f) of the Act :</p> <p>Material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report.</p>	<p>Regulation 30 of SEBI (LODR) Regulations states:</p> <p>Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.</p> <p>Events specified in Part A of Schedule III, are deemed to be material events and listed entity shall make disclosure of such events.</p>

7.3	Affirmation		
	<p>The board should affirm that the company's annual report and accounts present a true and fair view of the company's position and prospects. As appropriate, taking into account statutory and regulatory obligations in each jurisdiction, the information provided in the annual report and accounts should:</p> <p>a) be relevant to investment decisions, enabling shareholders to evaluate risks, past and present performance, and to draw inferences regarding future performance;</p> <p>b) enable investors, who put up the risk capital, to fulfil their stewardship responsibilities to assess company management and the strategies adopted;</p> <p>c) be a faithful representation of the events it purports to represent;</p> <p>d) generally be neutral and report activity in a fair and unbiased way except where there is uncertainty. Prudence should prevail such that assets and income are not overstated and liabilities and expenses are not understated. There should be substance over form. Any off-balance sheet items should be appropriately disclosed;</p> <p>e) be verifiable so that when a systematic approach and methodology is used</p>	<p>As per Section 129 of the Act :</p> <ul style="list-style-type: none"> • The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III. • At every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year. 	<p>As per Regulation 17 of SEBI (LODR) Regulations :the chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.</p> <p>Compliance certificate by CEO/CFO to the effect that they have reviewed financial/cash flow statements, no transaction in violation of code of conduct, establishment of internal controls etc. is additionally provided under Regulations.</p> <p>As per Regulation 27 of SEBI (LODR) Regulations : the listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognised stock exchange(s) within fifteen days from close of the quarter.</p>

	<p>the same conclusion is reached;</p> <p>f) be presented in a way that enables comparisons to be drawn of both the entity's performance over time and against other entities; and</p> <p>g) recognise the 'matching principle' which requires that expenses are matched with revenues.</p>		
7.4	Solvency risk		
	<p>The board should confirm in the annual report that it has carried out a robust assessment of the state of affairs of the company and any material risks, including to its solvency and liquidity that would threaten its viability. The board should state whether, in its opinion, the company will be able to meet its liabilities as they fall due and continue in operation for the foreseeable future, explaining any supporting assumptions and risks or uncertainties relevant to that and how they are being managed. In particular, disclosure on risk should include a description of:</p> <p>a) risk in the context of the company's strategy;</p> <p>b) risk to returns expected by shareholders with a focus on key consequences;</p> <p>c) risk oversight approach and processes;</p> <p>d) how lessons learned have been applied to improve future outcomes;and</p>	<p>As per Section 134 (3)(n) of the Act :</p> <p>Board's report shall include a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company.</p>	<p>As per Regulation 21 of SEBI (LODR) Regulations :</p> <p>The board of directors of top 500 listed entities shall constitute a Risk Management Committee.</p>

	e) the principal risks to the company's business model and the achievement of its strategic objectives, including risks that could threaten its viability.		
7.5	Integrated reporting		
	<p>The board should provide an integrated report that puts historical performance into context, and portrays the risks, opportunities and prospects for the company in the future, helping shareholders and stakeholders understand a company's strategic objectives and its progress towards sustainable value creation. Such disclosures should:</p> <ul style="list-style-type: none"> a) be linked to the company's business model; b) be genuinely informative and include forward-looking elements where this will enhance understanding; c) describe the company's strategy, and associated risks and opportunities, and explain the board's role in assessing and overseeing strategy and the management of risks and opportunities; d) be accessible and appropriately integrated with other information, for example remuneration, that enables shareholders to obtain a picture of the whole company; 		<p>SEBI vide circular SEBI/HO/CFD/CMD/CIR/P/2017/10 has advised the top 500 companies which are required to prepare BRR to adopt integrated reporting on a voluntary basis from financial year 2017-18.</p> <p>The information related to Integrated Reporting may be provided in the annual report separately or by incorporating in Management Discussion & Analysis or by preparing a separate report (annual report prepared as per IR framework).</p>

	<p>e) include information around risks and opportunities associated with environmental, social and governance matters which are material to the company's strategy and performance;</p> <p>f) use key performance indicators that are linked to strategy and facilitate comparisons;</p> <p>g) use objective metrics from external standard setters to allow for comparisons between companies or apply evidence-based estimates where external metrics do not exist; and</p> <p>h) be strengthened where possible by independent assurance that is carried out annually having regard to established disclosure standards.</p>		
<p>7.6</p>	<p>Internal controls</p>		
	<p>The board should oversee the establishment and maintenance of an effective system of internal control which should be measured against internationally accepted standards of internal audit and tested periodically for its adequacy. Where an internal audit function has not been established, full reasons for this should be disclosed in the annual report, as well as an explanation of how adequate assurance of the effectiveness of the system of internal controls has been obtained.</p>	<p>Section 134(5) of the Act enumerates that :</p> <p>The Directors Responsibility Statement shall include a declaration from Director of listed company that internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.</p> <p>As per Section 143: The auditor's report should also state whether the company has adequate IFC with reference to financial statements in place and the operating effectiveness of such controls.</p>	<p>As per Regulation 17(8) of the SEBI (LODR) Regulations :</p> <p>The CEO and CFO shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II, which inter-alia requires that :</p> <p>They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the listed entity pertaining to financial reporting and they have disclosed to</p>

		<p>As per Section 177 :</p> <p>Audit committee may call for comments of auditors about internal control system before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.</p> <p>Audit committee should act in accordance with the terms of reference specified in writing by the board, which should, inter alia, include evaluation of internal financial control and risk management systems.</p> <p>Schedule IV : The independent directors should satisfy themselves on the integrity of financial information and ensure that financial controls and systems of risk management are robust and defensible.</p>	<p>the auditors and the audit committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.</p> <p>SCHEDULE II Part C of Regulation 18(3) specifies the role of Audit Committee including the following:</p> <ul style="list-style-type: none"> • evaluation of internal financial controls and risk management systems; • reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems; • reviewing the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure coverage and frequency of internal audit; • discussion with internal auditors of any significant findings and follow up there on; • reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the board.
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7.7	Independent external audit		
	<p>The board should publish the report from the external auditor which should provide an independent and objective opinion whether the accounts give a true and fair view of the financial position and performance of the company.</p>	<p>As per Section 139(1) of the Act:</p> <p>Every company shall at First Annual General meeting (AGM) appoint an individual or firm as an Auditor to hold office from the conclusion of that meeting till the conclusion of the sixth (6th) Annual General Meeting (AGM).</p> <p>As per Section 143(2) :</p> <p>The auditor shall make a report to the members of the company on the accounts examined by him and on every financial statements which are required by or under this Act to be laid before the company in general meeting and the report shall after taking into account the provisions of Companies Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act or any rules made thereunder or under any order made by the Central Govt. under subsection (11) and to the best of his information and knowledge, the said accounts, financial statements give a true and fair view of the state of the company's affairs as at the end of its financial year and profit or loss and cash flow for the year and such other matters as may be prescribed.</p>	

7.8	Audit rotation		
	<p>The engagement partner should be named in the audit report and audit rotation should be promoted at appropriate intervals both at the audit partner and firm level. The company should publish its policy on audit firm rotation. If the auditor resigns then the reasons for the resignation should be publicly disclosed by the resigning auditor.</p>	<p>As per Section 139 (2) of the Act and Rule 5 of the Companies (Audit and Auditors) Rules, 2014 :</p> <ul style="list-style-type: none"> i) A listed company or ii) All unlisted public companies having paid up share capital of Rs. 10 crore or more; iii) All private limited companies having paid up share capital of Rs. 50 crore or more; iv) All companies having paid up share capital of below threshold limit mentioned in (ii) and (iii) above, but having public borrowings from financial institutions, banks or public deposits of Rs. 50 crores or more <p>Shall not appoint or re-appoint</p> <ul style="list-style-type: none"> a. an individual as auditor for more than one term of 5 consecutive years; and b. an audit firm as auditor for more than two terms of 5 consecutive years. 	
7.9	Shareholder approval of auditor appointment		
	<p>The selection of the external auditor should be subject to shareholder approval and the board should consider and report to shareholders on the independence of the auditor on an annual basis.</p>	<p>As per Section 139(1) of the Act:</p> <p>Every company shall appoint at its 1st annual general meeting an individual or a firm as an auditor of the company who shall hold office who shall hold office from the conclusion of that meeting till the conclusion of its sixth annual general meeting and thereafter till the conclusion of every sixth meeting.</p>	<p>As per Regulation 36 (5) of SEBI (LODR) the notice being sent to shareholders for an annual general meeting, where the statutory auditor(s) is/are proposed to be appointed/ re-appointed shall include the following disclosures as a part of the explanatory statement to the notice:</p> <ul style="list-style-type: none"> (a) Proposed fees payable to the statutory auditor(s) along with

			<p>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 along with the rationale for such change;</p> <p>(b) Basis of recommendation for appointment including the details in relation to and credentials of the statutory auditor(s) proposed to be appointed.</p>
7.10	Auditor Communications		
	<p>The audit committee should engage with the company's auditor to discuss any risks or other concerns that were significant to the audit process, including any significant questions or disputes regarding accounting practices. The audit committee report should include a summary of its discussions with auditors, including how any major concerns were addressed, to enhance investor confidence in the audit process.</p>	<p>As per Section 177(5),(6),(7) of the Act:</p> <ul style="list-style-type: none"> • The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company. • The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote. 	<p>Schedule II Part C of Regulation 18(3) of SEBI (LODR) Regulations states the role of the audit committee.</p>
7.11	Non-audit fees		
	<p>The audit committee should, as far as practicable, approve any non-audit services and related fees provided by the external auditor to ensure that they do not compromise auditor independence. The non-audit fees should</p>	<p>As per Section 144 of the Act :</p> <p>Auditors cannot provide following services "directly or indirectly" to the company or its holding company or subsidiary company, namely:—</p>	

	<p>be disclosed in the annual report with explanations where appropriate. Non-audit fees should normally be less than the audit fee and, if not, there should be a clear explanation as to why it was necessary for the auditor to provide these services and how the independence and objectivity of the audit was assured.</p>	<p>(a) accounting and book keeping services;</p> <p>(b) internal audit;</p> <p>(c) design and implementation of any financial information system;</p> <p>(d) actuarial services;</p> <p>(e) investment advisory services;</p> <p>(f) investment banking services;</p> <p>(g) rendering of outsourced financial services;</p> <p>(h) management services; and</p> <p>(i) any other kind of services as may be prescribed.</p> <p>Under Section 177 of the Act, the role of Audit Committee shall inter-alia include review and monitor the auditor's independence and performance, and effectiveness of audit process.</p>	
7.12	Audit committee		
	<p>The board should establish an audit committee comprised entirely of independent non-executive directors. At least one member of the audit committee should have recent and relevant financial expertise. The chair of the board should not be the chair of the audit committee, other than in exceptional circumstances which should be explained in the annual report. The main role and responsibilities of the audit committee should be described in the committee's terms of reference. This includes:</p>	<p>Section 177 read with Rule 6 of Companies (Meeting of Board and in its Powers) Rules, 2014 states that :</p> <p>Board of directors of every listed public company and such class of companies as prescribed under Rule 6, shall constitute an Audit Committee.</p> <p>The Audit Committee shall consist of minimum 3 directors with independent directors forming a majority provided that majority of members of audit committee including its chairperson shall be person with ability to read and understand the financial statement.</p>	<p>As per Regulation 18 of SEBI (LODR) Regulations :</p> <p>The listed entity shall set up a qualified and independent audit committee, giving the terms of reference subject to the following :</p> <ul style="list-style-type: none"> • The audit committee shall have minimum three directors as members. Two-thirds of the members of audit committee shall be independent directors. • All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

	<p>a) monitoring the integrity of the accounts and any formal announcements relating to the company's financial performance, and reviewing significant financial reporting judgements contained in them;</p> <p>b) maintaining oversight of key accounting policies and accounting judgements which should be in accordance with generally accepted international accounting standards, and disclosing such policies in the notes to the company's accounts;</p> <p>c) agreeing the minimum scope of the audit as prescribed by applicable law and any further assurance that the company needs. Shareholders (who satisfy a reasonable threshold of shareholding) should have the opportunity to discuss the results of the completed audit should they wish to;</p> <p>d) assuring itself of the quality of the audit carried out by the external auditors and assessing the effectiveness and independence of 'the auditor each year. This includes overseeing the appointment, reappointment and, if necessary, the removal of the external auditor and the remuneration of the auditor. There should be transparency</p>	<p>Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include,—</p> <p>(i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;</p> <p>(ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;</p> <p>(iii) examination of the financial statement and the auditors' report thereon;</p> <p>(iv) approval or any subsequent modification of transactions of the company with related parties;</p> <p>(v) scrutiny of inter-corporate loans and investments;</p> <p>(vi) valuation of undertakings or assets of the company, wherever it is necessary;</p> <p>(vii) evaluation of internal financial controls and risk management systems;</p> <p>(viii) monitoring the end use of funds raised through public offers and related matters.</p>	<ul style="list-style-type: none"> • The chairperson of the audit committee shall be an independent director. <p>The role of the audit committee and the information to be reviewed by the audit committee is specified in SEBI LODR.</p>
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	<p>in advance when the audit is to be tendered so that shareholders can engage with the company in relation to the process should they so wish;</p> <p>e) ensuring that contracts with the auditors do not contain specific limits to the auditor's liability to the company for consequential damages or require the company to use alternative dispute resolution;</p> <p>f) assuring that a robust system of internal financial controls is in place to provide for reliable financial and operational information;</p> <p>g) engaging, when appropriate, new audit firms to improve market competition and broaden the pool of credible audit service providers;</p> <p>h) having appropriate dialogue with the external auditor without management present and overseeing the interaction between management and the external auditor, including reviewing the management letter provided by the external auditors and overseeing management's response; and</p> <p>i) reporting on its work and conclusions in the annual report.</p>		
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Takeaway

Following takeaway points are suggested for better reporting :

1. The board should provide an integrated report which should describe company's strategy and associated risks. Objective metrics from external standard setters should be used to allow for comparisons between companies.
2. Company should compulsorily include the assessment of following risks in its annual report :
 - risk in the context of the company's strategy;
 - risk to returns expected by shareholders with a focus on key consequences;
 - risk oversight approach and processes;
 - how lessons learned have been applied to improve future outcomes;and
 - the principal risks to the company's business model and the achievement of its strategic objectives, including risks that could threaten its viability.

PRINCIPLE 8: SHAREHOLDER RIGHTS

Rights of all shareholders should be equal and must be protected. Fundamental to this protection is ensuring that a shareholder's voting rights are directly linked to the shareholder's economic stake, and that minority shareholders have voting rights on key decisions or transactions which affect their interest in the company.

The principle has been explained in 6 guidance points. A point wise comparison of the principle with the Indian legislation is given below:

Principle No.	ICGN Global Governance Principle	Corresponding provision in Companies Act,2013	Corresponding provision in SEBI Regulations
8	Corporate Culture		
8.1	Share classes		
	Ordinary or common shares should feature one vote for each share. Divergence from a 'one-share, one-vote' standard, which gives certain shareholders power or control disproportionate to their economic interests, should be avoided.	Section 43 of Companies Act, 2013 provides that the share capital of a company limited by shares shall be of two kinds: (a) equity share capital— (i) with voting right ; or	Application for Listing of Equity Shares with Differential Rights without making IPO can be made under rule 19(7) of the Securities Contract (Regulations) Rules, 1957 (SCRR), subject to the following conditions:

	<p>In the event of the existence of such classes, they should be disclosed and explained and sunset mechanisms should be put into place. Dual class share structures should be discouraged, and, where they are in place, kept under review and should be accompanied by commensurate extra protections for minority shareholders, particularly in the event of a takeover bid. The board should disclose sufficient information about the material attributes of all of the company's classes and series of shares on a timely basis.</p>	<p>(ii) with differential rights as to dividend, voting or otherwise in accordance with rule 4 of the Companies (Share Capital and Debentures) Rules, 2014;</p> <p>(b) preference share capital.</p> <p>A public limited company shall issue equity shares with differential rights by complying with the conditions mentioned in Rule 4. Few of the conditions are stated below:</p> <p>(a) the articles of association of the company authorizes the issue of shares with differential rights;</p> <p>(b) the issue of shares is authorized by an ordinary resolution. Where the equity shares of a company are listed on a recognized stock exchange, the issue of such shares shall be approved by the shareholders through postal ballot ;</p> <p>(c) the shares with differential rights shall not exceed twenty-six percent of the total post-issue paid up equity share capital including equity shares with differential rights issued at any point of time;</p> <p>(d) the company having consistent track record of distributable profits for the last three years;</p> <p>(e) the company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares;</p>	<ul style="list-style-type: none"> • Such equity shares are issued to all existing shareholders as on record date by way of rights or bonus issue. • Regulation 38 of the Listing Regulations on minimum public shareholding requirements have to be complied with. • Regulation 31 on disclosure of shareholding pattern will have to be complied with. • Regulation 41 (3) regarding superior voting rights
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8.2	Major decisions		
	<p>The board should ensure that shareholders have the right to vote on major decisions which may change the nature of the company in which they have invested. Such rights should be clearly described in the company's governing documents and include shareholder approval to authorise:</p> <ul style="list-style-type: none"> a) appointment or removal of a director, with or without cause, by a majority of votes cast; b) amendments to governing documents of the company such as articles or by-laws; c) company share repurchases (buybacks); d) issuance of additional shares, noting the board should be mindful of dilution of existing shareholders and provide full explanations where pre-emption rights are not offered; e) shareholder rights plans ('poison pills') or other structures that act as anti-takeover mechanisms. Only non-conflicted shareholders should be entitled to vote on such plans and the vote should be binding. Plans should be time limited and put periodically to shareholders for re-approval; f) proposals to change the voting rights of different series and classes of shares; and 	<p>Few Matters Requiring Shareholder's approval by Ordinary Resolution as per Company Act, 2013 are listed below:</p> <ul style="list-style-type: none"> • Section 61- Alteration of Memorandum of Association (Increase /Consolidate/ sub-divide/ convert/ cancellation of Share Capital) • Section 161 - Appointment of Alternate Director • Section 169 - Removal of Director before expiry of term except Director appointed by Company Law Tribunal/ Board • Section 196 - Appointment of Managing Director, Whole Time Director, Manager, subject to provision of Section 197 <p>Few Matters Requiring Shareholder's approval by Special Resolution as per Company Act, 2013 are listed below:</p> <ul style="list-style-type: none"> • Section 13 - For Alteration of Memorandum of Association of the Company • Section 14- For Alteration of Article of Association of the Company • Section 62- For Increasing the subscribed capital by the issue of further shares • Section 66 - Reduction of Share Capital • Section 68 - Buy Back of Shares 	<p>Few instances under SEBI (LODR) Regulations requiring shareholder's approval:</p> <ul style="list-style-type: none"> • Regulation 17 (6) (a) stipulates that the board of directors shall recommend all fees or compensation, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting. • Regulation 23 (4) All material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not. • Regulation 31A (5) When a new promoter replaces the previous promoter subsequent to an open offer or in any other manner, re-classification may be permitted subject to approval of shareholders in the general meeting.

	<p>g) material and extraordinary transactions such as mergers and acquisitions.</p>	<ul style="list-style-type: none"> • Section 262- Approval of Scheme of Merger and Amalgamation 	
8.3	Conflicts of interest		
	<p>The board should ensure that policies and procedures on conflicts of interest are established, understood and implemented by directors, management, employees and other relevant parties.</p> <p>If a director has an interest in a matter under consideration by the board, then the director should promptly declare such an interest and be precluded from voting on the subject or exerting influence.</p> <p>The use of relationship agreements with controlling shareholders is encouraged to ensure that real or potential conflicts of interest are avoided or mitigated.</p>	<p>Section 166 (2) provides that a director shall act in good faith. This, apparently, is a subjective matter. What is termed as good faith would be difficult to define but it should be judged from the view and actions of a reasonable, prudent and ordinary man in the best interests of the company with no ulterior or mala fide motive to harm the company or take undue benefits from it.</p> <ul style="list-style-type: none"> • Section 166 (4) stipulates that a director shall avoid conflict of interest. This means that he should not be involved in a situation in which he may have a direct or indirect interest which conflicts, or possibly may conflict, with the interest of the company. • Section 166 (5) stipulates that in addition to the fiduciary duty of a director not to have any conflict of interest with that of the company, he shall also not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates. <p>Section 184 of the Companies Act, 2013 deals with the disclosure of interest by a director. It provides that every director shall at the first</p>	<p>Regulation 4 of the SEBI (LODR) Regulations provides the Responsibilities of the board of directors:</p> <p>The board of directors of the listed entity shall have the following responsibilities:</p> <p>(i) Disclosure of information:</p> <p>(1) Members of board of directors and key managerial personnel shall disclose to the board of directors whether they, directly, indirectly, or on behalf of third parties, have a material interest in any transaction or matter directly affecting the listed entity.</p> <p>(2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.</p>

		<p>meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern of interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed.</p> <p>According to section 184(2) of the Companies Act, 2013 every director of a company must disclose the nature of his concern or interest if he is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—</p> <p>(a) with a body corporate in which such director or such director in association with any other director, holds more than 2% shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or</p> <p>(b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be.</p>	
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8.4	Related party transactions		
	<p>The board should disclose the process for approving, reviewing and monitoring related party transactions (RPTs) and any inherent conflicts of interest which, for significant transactions, includes establishing a committee of independent directors. This can be a separate committee or an existing committee comprised of independent directors, for example the audit committee. The committee should review significant RPTs to determine whether they are in the best interests of the company and, if so, to determine what terms are fair and reasonable. The conclusion of committee deliberations on significant RPTs should be disclosed in the company's annual report to shareholders.</p>	<p>As per Section 188 of the Companies Act, 2013 every company irrespective of its capital needs to seek the approval of board of directors before entering into any related party transactions. It is necessary that such a resolution is obtained at a meeting conducted by the board of directors. As per rule 15 of Companies (meeting of board and its powers) Rules 2014, a director who has `an interest` in the contract or arrangement with such related party must not be present at the meeting during the discussions pertaining to the subject matter of the contract or arrangement.</p> <p>In addition to the approval of board of directors, prior approval of shareholders by a resolution must be sought before entering into related party transaction, for certain transactions as specified under Rule 15 of the Companies (Meeting of Board and its Powers) Rules, 2014.</p> <p>Section 177 specifies the terms of reference of Audit Committee which include approval or any subsequent modification of transactions of the company with related party.</p> <p>In case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such</p>	<p>SEBI (LODR) Regulations on Related Party Transaction provides:</p> <p>Regulation 23 (2) All related party transactions shall require prior approval of the audit committee.</p> <p>Regulation 23 (3) Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to certain prescribed conditions.</p> <p>Regulation 23 (4) All material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not.</p> <p>Regulation 23 (7) For the purpose of this regulation, all entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not.</p> <p>Regulation 23 (9) The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website.</p>

		<p>transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it.</p>	<p>Regulation 53 The annual report of the listed entity shall contain related party disclosures as specified in Para A of schedule V.</p>
8.5	Shareholder approval of RPTs		
	<p>Shareholders should have the right to approve significant RPTs above an appropriate materiality threshold, and this should be based on the approval of a majority of disinterested shareholders.</p> <p>The board should submit the transaction for shareholder approval in the notice of the meeting and disclose (both before concluding the transaction and in the company's annual report):</p> <ul style="list-style-type: none"> a) the identity of the ultimate beneficiaries including, any controlling owner and any party affiliated with the controlling owner with any direct/indirect ownership interest in the company; b) other businesses in which the controlling shareholder has a significant interest; and c) shareholder agreements (e.g. commitments to related party payments such as licence fees, service agreements and loans). 	<p>Section 188 read with Rule 15 of the Companies (Meeting of Board and its Powers) Rules, 2014 provides that in addition to the approval of board of directors, prior approval of shareholders by a resolution must be sought before entering into related party transaction.</p> <p>As per Rule 15(3) for the purposes of first proviso to sub-section (1) of section 188, except with the prior approval of the company by a resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into,-</p> <ul style="list-style-type: none"> (a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mention below- <ul style="list-style-type: none"> (i) sale, purchase or supply of any goods or material, directly or through appointment of agent, amounting to ten percent or more of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188; 	<p>Regulation 23 (1) The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly.</p> <p><i>Explanation.-</i> A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.</p> <p>Regulation 23 (2) & (3) All related party transactions shall require prior approval of the audit committee.</p> <p>Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the certain conditions.</p>

		<p>(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, amounting to ten percent or more of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(iii) leasing of property any kind 4[amounting to ten percent or more] of the net worth of company or ten per cent or more of turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;</p> <p>(iv) availing or rendering of any services, directly or through appointment of agent, amounting to ten percent or more of the turnover of the company or rupees fifty crore, whichever is lower as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188;</p> <p>(b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and a half lakh rupees as mentioned in clause (f) of sub-section (1) of section 188.</p>	<p>Regulation 23 (4) SEBI (LODR) Regulations specifies that all material related party transactions shall require approval of the shareholders through resolution and the related parties shall abstain from voting on such resolutions whether the entity is a related party to the particular transaction or not.</p>
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		(c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one percent of the net worth as mentioned in clause (g) of sub-section (1) of section 188.	
8.6	Shareholder questions		
	<p>The board should allow a reasonable opportunity for shareholders at a general meeting to ask questions about or make comments on the management of the company, and to ask the external auditor questions related to the audit.</p>	<p>The Companies Act 2013 does not debar a shareholder from speaking or asking questions at the general meeting.</p> <p>However section 105 of the said act specifies that a proxy can attend and vote but shall not have the right to speak at a general meeting</p> <p>The Secretarial Standard on General Meetings (SS-2) in paragraph 13 specifies that the qualifications, observations or comments or other remarks on the financial transactions or other matters mentioned in the Auditor's Report or Secretarial Audit Report shall be read at the Annual General Meeting and attention of Members present shall be drawn to the explanations / comments given by the Board of Directors in their report.</p>	<p>Regulation 4 (2) of SEBI (LODR) Regulations mentions the following:</p> <p>(a) The rights of shareholders: The listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:</p> <ul style="list-style-type: none"> (i) right to participate in, and to be sufficiently informed of, decisions concerning fundamental corporate changes. (ii) opportunity to participate effectively and vote in general shareholder meetings. (iii) being informed of the rules, including voting procedures that govern general shareholder meetings. (iv) opportunity to ask questions to the board of directors, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations. (v) Effective shareholder participation in key corporate governance decisions, such as the nomination and election of members of board of directors.

			<p>(vi) exercise of ownership rights by all shareholders, including institutional investors.</p> <p>(vii) adequate mechanism to address the grievances of the shareholders.</p> <p>(viii) protection of minority shareholders from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and effective means of redress.</p> <p>Regulation 18 (1)(d) The chairperson of the audit committee shall be an independent director and he shall be present at Annual general meeting to answer shareholder queries.</p> <p>Regulation 19 (3) The Chairperson of the nomination and remuneration committee may be present at the annual general meeting, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries.</p> <p>Regulation 20 (3) The Chairperson of the Stakeholders Relationship Committee shall be present at the annual general meetings to answer queries of the security holders.</p>
8.7	Shareholder resolutions		
	<p>The board should ensure that shareholders have the right to place items on the agenda of general meetings, and to propose resolutions subject to reasonable limitations. Shareholders should be enabled to work together to make such a proposal.</p>	<p>As per Section 100 of the Companies Act, 2013 a general meeting may be called at the requisition of the members.</p> <p>The requisition made under sub-section (2) shall set out the matters for the consideration of which the meeting is to be called</p>	

		and shall be signed by the requisitionists and sent to the registered office of the company.	
8.8	Shareholder meetings		
	<p>The board should ensure that shareholders, of a specified portion of its outstanding shares or a specified number of shareholders, have the right to call a meeting of shareholders for the purpose of transacting the legitimate business of the company.</p>	<p>As per Section 100 of the Companies Act, 2013 and Rule 17 of Companies (Management and Administration) Rules, 2014 a general meeting may be called at the requisition of the members.</p> <p>The Board shall, on the requisition of Members who hold, as on the date of the receipt of a valid requisition, (a) in the case of company having a share capital, not less than one-tenth of the paid-up share capital carrying Voting</p> <p>Rights or (b) in the case of a company not having share capital, not less than one tenth of total voting power of the company, call an Extra-ordinary General Meeting of the company.</p> <p>If, on receipt of a valid requisition having been made in this behalf, the Board, within twenty-one days from the date of such receipt, fails to call a Meeting on any day within forty-five days from the date of receipt of such requisition, the requisitionists may themselves call and hold the Meeting within three months from the date of requisition, in the same manner in which the Board should have called and held the Meeting.</p>	<p>Regulation 4(2)(a) Rights of shareholders including opportunity to ask questions to the board of directors, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.</p>

8.9	Thresholds		
	Any threshold associated with shareholder resolutions, shareholder proposals or other such participation, should ensure the matter under consideration is likely to be of importance to all shareholders. The threshold should take into consideration the degree of ownership concentration in order to ensure minority shareholders are not prevented from putting items on the agenda.		
8.10	Equality and redress		
	The board should ensure that shareholders of the same series or class are treated equally and afforded protection against misuse or misappropriation of the capital they provide due to conduct by the company's board, its management or controlling shareholder, including market manipulation, false or misleading information, material omissions and insider trading. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress. Proper remedies and procedural rules should be put in place to make the protection effective and affordable. Where national legal remedies are not afforded, the board is encouraged to ensure that sufficient shareholder protections are provided in the company's bylaws.	Under Section 151 of the Companies Act, 2013, listed companies are required to appoint directors who are elected by the small shareholders. The relief from the oppression and mismanagement has been provided under Section 241-246 where the relief can be sought from the tribunal in case of mismanagement and oppression through section 244(1) which provides the right to apply to tribunal. Further, under the Section 245 , Companies Act, 2013, the concept of class action has been introduced wherein it provides for class action suits to be instituted against the company as well as against the auditors of the company.	Regulation 4 (2) (a) of SEBI (LODR) Regulations specifies the rights of shareholders which the listed entity shall seek to protect. One of those rights speaks about the protection of minority shareholders specified in point no.: (viii) protection of minority shareholders from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and effective means of redress. Regulation 4(2)(c) specifies that the listed entity shall ensure equitable treatment of all shareholders, including minority and foreign shareholders.

8.11	General meetings		
	<p>Shareholder meetings should be clearly communicated in a timely way and allow for all shareholder votes to be received by proxy and counted and confirmed.</p>	<p>As per Section 101 of the Companies Act, 2013 a general meeting of a company may be called by giving not less than clear twenty-one days notice either in writing or through electronic mode. Every notice of a meeting shall specify the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.</p> <p>Any accidental omission to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.</p> <p>As per section 105 of the Companies Act, 2013 any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf.</p>	<p>Regulation 44 of SEBI (LODR) Regulations specifies that the listed entity shall provide the facility of remote e-voting facility to its shareholders, in respect of all shareholders' resolutions.</p> <p>The listed entity shall send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution.</p> <p>Regulation 4(2)(b)(c) The listed entity shall provide adequate and timely information to shareholders, including but not limited to the following:</p> <ul style="list-style-type: none"> (i) sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be discussed at the meeting. (ii) Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership. (iii) rights attached to all series and classes of shares, which shall be disclosed to investors before they acquire shares.

8.12	Shareholder identification		
	<p>The board should ensure that the company maintains a record of the registered owners of its shares or those holding voting rights over its shares. Registered shareholders, or their agents, should provide the company (where anonymity rules do not preclude this) with the identity of beneficial owners or holders of voting rights when requested in a timely manner. Shareholders should be able to review this record of registered owners of shares or those holding voting rights over shares. It is ultimately the shareholders' responsibility to identify themselves by ensuring they appear on the shareholder register directly in their own name and in any call for vote confirmation.</p>	<p>As per Section 88 of the Companies Act, 2013 every company shall maintain a register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India.</p> <p>As per section 90 of the Companies Act, 2013 every company shall maintain a register of interest declared by significant beneficial owners and changes therein which shall include the name of individual, his date of birth, address, details of ownership in the company and such other details as may be prescribed.</p>	
8.13	Notice		
	<p>The board should ensure that the general meeting agenda is posted on the company's website at least one month prior to the meeting taking place. The agenda should be clear and properly itemised and include the date and location of the meeting as well as information regarding the issues to be decided at the meeting.</p>	<p>As per Section 101 of the Companies Act, 2013 a general meeting of a company may be called by giving not less than clear twenty-one days notice.</p> <p>As per Section 102 of the Companies Act, 2013 a statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting.</p> <p>Where any item of business refers to any document, which is to be considered at the meeting, the time and place where such document can be inspected shall be specified in the statement.</p>	<p>Regulation 44 of SEBI (LODR) Regulations specifies that the listed entity shall place on its website complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc;</p> <p>Regulation 30 w.r.t. disclosure of events or information doesn't fit here, it is covered in Principle 7.2</p>

		<p>As per Section 96 every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate.</p> <p>As per Secretarial Standard On General Meetings (SS-2) In case of companies having a website, the Notice shall simultaneously be hosted on the website till the conclusion of the Meeting.</p>	
<p>8.14</p>	<p>Vote deadline</p>		
	<p>The board should clearly publicise a date by which shareholders should cast their voting instructions. The practice of share blocking or requirements for lengthy share holdings should be discontinued.</p>	<p>As per Section 107 of the Companies Act, 2013 at any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded or the voting is carried out electronically, be decided on a show of hands.</p> <p>Section 108 read with Rule 20 of the Companies (Management & Administration) Rules, 2014 every company which has listed its equity shares on a recognised stock exchange and every company having not less than one thousand members shall provide e-voting facility to its members.</p> <p>As per Secretarial Standard on General Meetings (SS-2) the facility for Remote e-voting shall remain open for not less than three days. The voting period shall close at 5 p.m. on the day preceding the date of the General Meeting.</p>	

8.15	Voting procedures		
	<p>The board should promote efficient, low-cost, timely and accessible voting procedures that allow shareholders to participate and vote in general meetings either in person or in absentia, preferably by electronic means, and should not impose unnecessary hurdles such as share-blocking. Impediments such as requiring voting by a show of hands at the general meeting should be discontinued.</p>	<p>As per Section 107 of the Companies Act, 2013 at any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded or the voting is carried out electronically, be decided on a show of hands.</p> <p>Section 108 read with Rule 20 of the Companies (Management & Administration) Rules, 2014 every company which has listed its equity shares on a recognised stock exchange and every company having not less than one thousand members shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at a general meeting by electronic means.</p> <p>Section 109 specifies that before or on the declaration of the result of the voting on any resolution on show of hands, a poll may be ordered to be taken by the Chairman of the meeting on his own motion, and shall be ordered to be taken by him on a demand made in that behalf</p>	<p>As per Regulation 44 of SEBI (LODR) Regulations the listed entity shall provide the facility of remote e-voting facility to its shareholders, in respect of all shareholders' resolutions.</p>
8.16	Vote disclosure		
	<p>The board should ensure that equal effect is given to votes whether cast in person or in absentia, and all votes should be properly counted and recorded via ballot. The outcome of the vote, the vote instruction (reported separately for, against or abstain) and voting levels for each resolution should be published promptly after the meeting on the</p>	<p>As per Section 107 the result of voting on show of hands shall be declared at the meeting by the Chairman.</p> <p>Section 108 read with Rule 20 of the Companies (Management & Administration) Rules, 2014 The Board shall appoint scrutinizer for e-voting who shall, within a period of not exceeding three working days from the</p>	<p>As per Regulation 44 of SEBI (LODR) Regulations the listed entity shall submit to the stock exchange, within forty eight hours of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board.</p>

	<p>company website. If a board-endorsed resolution has been opposed by a significant proportion of votes (e.g. 25% or more), the company should explain subsequently what actions were taken to understand and respond to the concerns that led shareholders to vote against the board's recommendation.</p>	<p>date of conclusion of e-voting period, unblock the votes in the presence of at least two witnesses not in the employment of the company and make a scrutinizer's report of the votes cast in favour or against, if any, forthwith to the Chairman;</p> <p>As per Secretarial Standard on General Meetings (SS-2) the result of the voting, with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not shall be displayed for at least three days on the Notice Board of the company at its Registered Office and its Head Office as well as Corporate Office. Further, the results of voting alongwith the scrutiner's report shall also be placed on the website of the company.</p>	
8.17	Vote confirmation		
	<p>Companies should confirm to shareholders (where the beneficial owner appears on the share register) whether or not their votes have been validly recorded and formally counted. This normally can only be provided where the institutional investors hold shares in their own names rather than through pooled or omnibus accounts which commingle the securities of multiple investors.</p>		

Takeaway

The following takeaway points are suggested for the Indian corporate to be implemented for achieving better governance and for providing protection and equality to the shareholders:

- The Board should ensure that if a resolution has been opposed by a significant proportion of votes (e.g. 25% or more), the company should

explain subsequently what actions were taken to understand and respond to the concerns that led shareholders to vote against the resolution.

- The companies should in practice inform the beneficial owners whether or not their votes have been validly recorded and formally counted.