

CORPORATE GOVERNANCE AND ROLE OF CHARTERED ACCOUNTANTS

CONTENTS

Chapter No	Title	Page No
I	Introduction to corporate governance Definition Corporate Governance & Corporate Management Fundamental principles of corporate governance Need for Corporate Governance	3
II	Professional Opportunities to Chartered Accountants	6
III	Historical Perspective of Corporate Governance	7
IV	Framework of good Corporate Governance	11
V	Indian Experiences	12
VI	Listing Agreement and Requirements of Clause 49 of Listing Agreement	14
VII	Provisions under Companies Act, 1956	24
VIII	Independent Directors 8.1 Who is an Independent Director? 8.2 Attributes of an Independent director	24

	8.3 Duties & Powers 8.4 Role of Independent directors in corporate Governance	
IX	Effectiveness of Audit Committee	28
X	Whistle Blower Policy	33
XI	Rating of Corporate Governance	37
XII	Recent Corporate Governance issues - Satyam Computers and Matyas Episode	39
XIII	Knowledge Links	40
	Annexures	
1	Clause 49 with Amendments	40
2	Checklist for compliance of conditions laid down in Clause 49 with regard to corporate Governance	65
3	Specimen code of conduct	71
4	Specimen whistleblower policy	84

Chapter I

Introduction to corporate governance

Corporate Governance is generally understood as the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled in corporations.

Before going into more details let us understand some terms.

“Corporate” is the adjective meaning “of or relating to a corporation” derived from the noun corporation. A corporation is an organization created (incorporated) by a group of shareholders who have ownership of the corporation.

“Governance” has Latin origins that suggest the notion of 'steering'. It deals with the processes and systems by which an organization or society operates.

In a narrow sense, corporate governance involves a set of relationship amongst the company’s management, its board of directors, shareholders and other stakeholders. These relationships, which involve various rules and incentives, provide the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

In a broader sense, however, good corporate governance is the extent to which companies are run in an open and honest manner- is important for overall market confidence, the efficiency of international capital allocation, the renewal of countries’ industrial bases, and ultimately the nations’ overall wealth and welfare.

1.1 Definitions

Corporate Governance is a broad concept and has been defined and understood differently by different groups and at different points of time.

The earliest definition of Corporate Governance is from the Economist and Noble laureate Milton Friedman. According to him “Corporate Governance is to conduct the business in accordance with owner or shareholders’ desires, which generally will be to make as much money as possible, while conforming to the basic rules of the society embodied in law and local customs”.

The Cadbury Committee report defines it as “the system by which companies are directed and controlled”. It is generally understood as the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled in corporations.”

The Kumar Mangalam Birla Committee report defines it as “...fundamental objective of corporate governance is the ‘enhancement of the long-term shareholder value while at the same time protecting the interests of other stakeholders.”

Hence, Corporate Governance can be understood to be a systematic process by which Companies are directed & controlled to ensure that they are managed in the manner that meets stakeholders’ aspirations & societal expectation. This leads to the corporate governance philosophies of: Trusteeship; Transparency; Empowerment & Accountability; Control and Ethical Corporate Behavior

1.2 Corporate Governance & Corporate Management

Governance is different from Management. While Management runs the enterprise. Governance ensures it is being run in the right direction. That is why those charged with the governance function are called directors

Governance can be used with reference to all kind of organizational structure including:

1. NGO- not for profit organisation
2. Municipal corporation/ Gram panchayat
3. Central/ State Government

4. Partnership firm

1.3 Need for Corporate Governance

Corporate governance is important for the following reasons:

- a) It lays down the framework for creating long-term trust between companies and the external providers of capital
- b) It improves strategic thinking at the top by inducting independent directors who bring a wealth of experience, and a host of new ideas
- c) It rationalizes the management and monitoring of risk that a firm faces globally
- d) It limits the liability of top management and directors, by carefully articulating the decision making process
- e) It has long term reputational effects among key stakeholders, both internally (employees) and externally (clients, communities, political/regulatory agents)

1.4 Fundamental principles of corporate governance:

A strong system of corporate governance is usually marked by the following fundamental principles:

1. Ethical and disciplined corporate behavior
2. Independent and considered judgment
3. Parity between accountability and responsibility
4. Transparency and effective and adequate disclosures.

Success of a good governance culture depends upon the perpetual existence and effective and, most important, ethical interplay of these planks not only by themselves, but also with other variables in the social and economic environment (i.e., the stakeholders) of the company

Chapter II

Professional Opportunities for Chartered Accountants in Corporate Governance

Chartered Accountants as professionals act as catalysts in applying good principles of Corporate Governance. Some of the key roles that they can play include:

- a) Specialized guidance in designing Code of Corporate Governance
- b) Specialized guidance in designing Risk Management Framework
- c) Specialized guidance in designing Internal control framework
- d) Specialized guidance in designing Whistle blower policy
- e) Internal Audit - Compliance of clause 49
- f) Internal Audit- risk management framework
- g) Certificate u/s. VII(1) of clause 49
- h) Management Audit pertaining to various regulatory, statutory or listing requirements (Item 15 of Annex. 1A of clause 49)
- i) Effective role as chairman of audit committee
- j) Effective role as independent director [Section 1(A)(iii) meeting a-f criteria]
- k) Assessment of internal control function u/s V CEO/CFO Certification
- l) As a consultant giving specialized guidance to the management, regular and speedy updates on all applicable provisions, evaluating future growth potential and in taking proactive actions in the interests of the company.

Chapter III

Historical Perspective of Corporate Governance

The principles of Governance have been in existence for centuries. History reveals that Kautilya also called Chanakya or Vishnugupta who was Mahaamatya (equivalent to PM) in Maurya Empire in 300 BC propounded principles of good governance. In his celebrated treatise on statecraft “Arthashastra”, he provided principles of governance. He states the fourfold duty of a King as: Raksha (Protection), Vriddhi (Enhancement), Palana (Maintenance). Yogakshema – Safeguard

These four principles can be elaborated in the modern context as: Protecting shareholders wealth; Enhancing the wealth through proper utilization of assets; Maintenance of that wealth and not frittering away in unconnected and non profitable ventures or through appropriation and safeguarding the interests of the shareholders

The seeds of modern Corporate Governance were probably sown by the Watergate scandal in the United States. As a result of subsequent investigations, US regulatory and legislative bodies were able to highlight control failures that had allowed several major corporations to make illegal political contributions and to bribe government officials. This led to the development of the Foreign and Corrupt Practices Act of 1977 in USA that contained specific provisions regarding the establishment, maintenance and review of systems of internal control.

This was followed in 1979 by the Securities and Exchange Commission of USA's proposals for mandatory reporting on internal financial controls. In 1985, following a series of high profile business failures in the USA, the

most notable one of which being the Savings and Loan collapse, the Treadway Commission was formed. Its primary role was to identify the main causes of misrepresentation in financial reports and to recommend ways of reducing incidence thereof. The Treadway report published in 1987 highlighted the need for a proper control environment, independent audit committees and an objective Internal Audit function. It called for published reports on the effectiveness of internal control. It also requested the sponsoring organisations to develop an integrated set of internal control criteria to enable companies to improve their controls.

Accordingly COSO (Committee of Sponsoring Organisations) was born. The report produced by it in 1992 stipulated a control framework which has been endorsed and refined in the four subsequent UK reports: Cadbury, Ruttelman, Hampel and Turnbull. While developments in the United States stimulated debate in the UK, a spate of scandals and collapses in that country in the late 1980s and early 1990's led shareholders and banks to worry about their investments. These also led the Government in UK to recognise that the then existing legislation and self-regulation were not working.

Companies such as Polly Peck, British & Commonwealth, BCCI, and Robert Maxwell's Mirror Group News International in UK were all victims of the boom-to-bust decade of the 1980s. Several companies, which saw explosive growth in earnings, ended the decade in a memorably disastrous manner. Such spectacular corporate failures arose primarily out of poorly managed business practices.

The debate on corporate governance was driven partly by the subsequent enquiries into corporate governance (most notably the Cadbury Report) and partly by extensive changes in corporate structure. In May 1991, the London Stock Exchange set up a Committee under the chairmanship of Sir Arian Cadbury in an attempt to prevent the recurrence of such business failures. . The committee, consisting of representatives drawn from the top levels of

British industry, was given the task of drafting a code of practices to assist corporations in U.K. in defining and applying internal controls to limit their exposure to financial loss, from whatever cause.

The stated objective of the Cadbury Committee was "to help raise the standards of corporate governance and the level of confidence in financial reporting and auditing by setting out clearly what it sees as the respective responsibilities of those involved and what it believes is expected of them".

The Committee investigated accountability of the Board of Directors to shareholders and to the society. It submitted its report and associated "Code of Best Practices" in Dec 1992 wherein it spelt out the methods of governance needed to achieve a balance between the essential powers of the Board of Directors and their proper accountability

The resulting report, and associated "Code of Best Practices," published in December 1992, was generally well received. Whilst the recommendations themselves were not mandatory, the companies listed on the London Stock Exchange were required to clearly state in their accounts whether or not the code had been followed. The companies who did not comply were required to explain the reasons for that.

Subsequent to the Cadbury report, there were wide developments across the world.

The following table gives some highlights in the history of corporate governance, largely from the western world.

Year	Name of Committee/Body	Areas/Aspects Covered
1992	Sir Adrian Cadbury Committee, UK	Financial Aspects of Corporate Governance
1994	Mervyn E. King's Committee , South Africa	Corporate Governance
1995	Greenbury Committee , UK	Directors' Remuneration

1998	Hampel Committee, UK	Combined Code of Best Practices
1999	Blue Ribbon Committee, US	Improving the Effectiveness of Corporate Audit Committees
1999	OECD- Organization for Economic Co- operation and development	Principles of Corporate Governance
1999	CACG- Common Wealth Association for Corporate Governance	Principles for Corporate Governance in Commonwealth
2003	Derek Higgs Committee, UK	Review of role of effectiveness of Non- executive Directors
2003	ASX Corporate Governance Council, Australia	Principles of Good Corporate Governance and Best Practice Recommendations

Chapter IV

Framework of good Corporate Governance

Corporate governance mechanisms differ as between countries. The governance mechanism of each country is shaped by its political, economic and social history as also by its legal framework. The mechanism could also vary depending on the organization structure and the size of the organization

Corporate Governance philosophy must be based on the principles of openness, trust, integrity and Accountability. The following is an outline of a sound corporate governance framework

I. Supervisory Board/ Governing Board/ Board of Governance- At the core of any corporate governance practice should be the Supervisory Board, which should oversee how the management serves and protects the long-term interests of all the stakeholders of the company. An active, well-informed and independent Board is necessary to ensure the highest standards of corporate governance

II. Special Purpose Board Committees- The Board committee consists of Audit committee, Nomination Committee, Remuneration (Compensation) Committee, Shareholders (Investor grievance) committee

III. Internal Control system and Risk Management Framework -Internal control system and risk management system are essential not only for the existence and day-to-day functioning, but also an optimum growth and development of an organisation. The significance of internal control and risk management systems can be judged from the fact that it also has wider implications for the external reporting and audit process of the company.

IV. Strong Internal Audit system

Internal auditing helps the organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes

V. Whistle Blower Mechanism - The organization may establish a mechanism for employees to report to the management concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy. This mechanism could also provide for adequate safeguards against victimization of employees who avail of the mechanism and also provide for direct access to the Chairman of the Audit committee in exceptional cases. Once established, the existence of the mechanism may be appropriately communicated within the organization.

VI. Performance evaluation of Supervisory Board/ Governing Board/ Board of Governance

The evaluation of the performance of independent directors and supervisors should be conducted through a combination of self-review and peer review

VII. Disclosure of Information - It is important not only to adopt a good governance culture, it is equally important to apprise the stakeholders as to what the management has done towards embracing good governance practices.

VIII. Code of Conduct for all employees –The code of conduct has to be designed to assist in defining appropriate personal and professional conduct, to provide guidance in the identification and resolution of ethical issues, and to help the members of the Board, members of the Senior Management and officers of the Company to maintain the culture of honesty, integrity, transparency and accountability.

Chapter V

Indian Experiences

India has comprehensive laws governing corporate governance. The Companies Act, 1956 covers corporate governance widely through its various provisions such as inclusion of directors' responsibility statement in the directors' report under Section 217(2AA), constitution of audit committee under Section 292A fixing maximum ceiling on remuneration that can be drawn by a director under Schedule XIII, and those relating to oppression, mismanagement, etc. Further, environmental and other pieces of legislation also protect different stakeholders' interest, ensuring, in the process, good corporate governance.

As a result of the interest generated in the corporate sector by the Cadbury Committee's report, the issue of Corporate Governance was studied in depth and dealt with by the Confederation of Indian Industries (CII), the Associated

Chamber of Commerce and the Securities and Exchange Board of India (SEBI).

The Confederation of Indian Industry (CII) published India's first comprehensive code on corporate governance (Desirable Corporate Governance: A Code) in 1998. This was followed by the recommendations of the Kumar Mangalam Birla Committee on Corporate Governance. This committee was appointed by the Securities and Exchange Board of India (SEBI). The recommendations were accepted by SEBI in December 1999, and are now enshrined in Clause 49 of the Listing Agreement of every Indian stock exchange. SEBI also instituted a committee under the chairmanship of Mr. N. R. Narayana Murthy which recommended enhancements in corporate governance. SEBI has incorporated the recommendations made by the Narayana Murthy Committee on Corporate Governance in Clause 49 of the listing agreement. The revised Clause 49 has been made effective from January 1, 2006.

In addition, the Department of Company Affairs, Government of India, constituted a nine-member committee under the chairmanship of Mr. Naresh Chandra, former Indian ambassador to the U.S., to examine various corporate governance issues in 2002.

Links

1998	CII Code on corporate governance (Desirable Corporate Governance: A Code) http://www.ciionline.org/Services/68/Images/desirable%20corporate%20governance240902.pdf
1999	Report of the Kumar Mangalam Birla Committee on Corporate Governance http://www.sebi.gov.in/commreport/corpgov.html
2002	Report of the Naresh Chandra Committee (Ministry of Finance &

	Company http://finmin.nic.in/downloads/reports/chandra.pdf
2003	Report of Committee on Corporate Governance under the Chairmanship of Shri N. R. Narayana Murthy http://www.indiacorporateadvisor.com/pdf/corpgovmur.pdf

Chapter VI

Listing Agreement and Requirements of Clause 49 of Listing Agreement

Listing agreement

Listing with reference to securities means that shares which are issued to public are recorded with appropriate authority (which is stock exchange). Listing helps in free transferability, leads to transparency in disclosure of information and ensures official quotation is available. The securities may be of any public limited company, Central or State Government, quasi governmental and other financial institutions/corporations, municipalities, etc.

The Power to register has been delegated by government to stock exchange through section 9 of Securities and Contracts (Regulation) Act, 1956

The Listing agreement was first introduced by Bombay Stock Exchange and later followed by other stock exchanges. The Listing agreement contains 51 clauses

The penal provisions for non compliance of the conditions of the Listing Agreement are governed by Sec 23(2) and Sec 23E of the Securities Contracts (Regulation) Act 1956.

Clause 49 of the Listing Agreement

Clause 49 of the Listing Agreement, which deals with Corporate Governance norms that a listed entity should follow, was first introduced in the financial year 2000-01 based on recommendations of Kumar Mangalam Birla committee

Sec 23E stipulates that if a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.

Applicability of Clause 49

The provisions of the revised Clause 49 shall be applicable as follows:

- All listed entities having a paid up share capital of Rs 3 crores and above or net worth of Rs 25 crores or more at any time in the history of the company
- For other listed entities which are not companies, but body corporate (e.g. private and public sector banks, financial institutions, insurance companies etc.) incorporated under other statutes, the revised Clause 49 will apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant regulatory authorities.
- The revised Clause 49 [(which came into effect from January 1, 2006) is not applicable to Mutual Funds

SEBI circulars on Clause 49

1.	SMDRP/POLICY/CIR-10/2000	February 21, 2000
2.	SMDRP/POLICY/CIR-13/2000	March 09, 2000
3.	SMDRP/POLICY/CIR-42/2000	September 12, 2000
4.	SMDRP/POLICY/ CIR- 03/01	January 22, 2001
5.	SMDRP/POLICY/ CIR- 19/01	March 16, 2001
6.	SMDRP/POLICY/ CIR- 53/01	December 31, 2001

7.	SEBI/MRD/SE/31/2003/26/08	August 26, 2003
8.	SEBI/CFD/DIL/CG/1/2004/12/10 [replaced all the earlier Circulars]	October, 29, 2004
9.	SEBI/CFD/DIL/LA/4/2007/27/12	December, 27, 2007
10,	SEBI/CFD/DIL/CG/1/2008/08/04	April, 08, 2008
11	SEBI/CFD/DIL/CG/2/2008/23/10	October 23, 2008

Clause 49 consists of the following Annexures

Annexure I Clause 49 - Corporate Governance

Annexure I A Information to be placed before Board of Directors

Annexure I B Format of Quarterly Compliance Report on Corporate Governance

Annexure I C Suggested List of Items to Be Included in the Report on Corporate Governance in the Annual Report of Companies

Annexure I D Non-Mandatory Requirements

An outline on Annexure 1- Corporate Governance-

I. Board of Directors

- (A) Composition of Board
- (B) Non executive directors' compensation and disclosures
- (C) Other provisions as to Board and Committees
- (D) Code of Conduct

(A) Composition of Board

- Composition- Executive & non-executive
- Not less than 50% to be non-executive

- Number of independent directors:
 - when there is non-executive chairman at least 1/3rd
 - When there is executive chairman
 - at least ½ of the Board

Independent director has to be an non-executive director

Independent director

- a) Does not have any material pecuniary relationships or transactions with the company, its promoters, its senior management etc.
- b) Not related to promoters/ management at board level or at one level below the board
- c) was not an executive of the company in the immediate three financial years.
- d) Was not a partner or an executive of audit firm/ legal firms or consulting firms for last three years.
- e) not a supplier, service provider customer or lessor- lessee.
- f) not a substantial shareholder of the company holding over 2% of the share capital.
- g) is not less than 21 years of age

(B) NON-EXECUTIVE DIRECTOR- COMPENSATION AND DISCLOSURES

- Compensation/ stock options to independent directors to be approved by the board and prior approval of the shareholders is required
- A compensation philosophy and statement of entitled compensation in respect of independent directors shall be published in annual report/ web site.

- Disclosure on annual basis regarding the shares held by non-executive directors
- non-executive directors to disclose their stock holding(both held by them or on beneficial basis) prior to their appointment

(C) Other provisions as to Board and Committees

- The board shall meet at least four times a year, with a maximum time gap of four months between any two meetings.
- A director shall not be a member in more than 10 committees or act as Chairman of more than five committees across all companies in which he is a director
- mandatory annual requirement for every director to inform the company about the committee positions he occupies in other companies and notify changes as and when they take place
- An independent director who resigns or is removed from the Board of the Company shall be replaced by a new independent director within a period of not more than 180 days from the day of such resignation or removal, as the case may be:

(D) Code of Conduct

- a code of conduct shall be prepared for board members and senior management which shall be posted on the website.
- board members/ senior management to affirm compliance of the code and the annual report should contain such a declaration signed by chairman

II. Audit Committee

- (A) Qualified and Independent Audit Committee
- (B) Meeting of Audit Committee

- (C) Powers of Audit Committee
- (D) Role of Audit Committee
- (E) Review of information by Audit Committee

(A) Qualified and Independent Audit Committee

- i. Minimum three directors. Two-thirds of the members of audit committee shall be independent directors.
- ii. All members shall be financially literate and at least one member shall have accounting or related financial management expertise
- iii. Chairman to be an independent director
- iv. Chairman of Audit Committee shall be present at AGM to answer shareholder queries
- v. Finance director, head of internal audit and a representative of the statutory auditor may be present as invitees for the meetings of the audit committee
- vi. The Company Secretary shall act as the secretary to the committee

(B) Meeting of Audit Committee

- The audit committee should meet at least four times in a year with a gap of not more than four months

- The quorum shall be either two members or one third of the members of the audit committee whichever is greater, but there should be a minimum of two independent members present.

(C) Powers of Audit Committee

1. To investigate any activity within its terms of reference.
2. To seek information from any employee.
3. To obtain outside legal or other professional advice.
4. To secure attendance of outsiders with relevant expertise, if it considers necessary.

(D) Role of Audit Committee

1. Oversight of the company's financial reporting process
2. Recommending to the Board, the appointment, re-appointment and, if required, the replacement or removal of the statutory auditor and the fixation of audit fees.
3. Approval of payment to statutory auditors for any other services rendered by the statutory auditors
4. Reviewing, with the management, the annual financial statements before submission to the board for approval, with particular reference to:
 - a) Matters required to be included in the Director's Responsibility Statement to be included in the Board's report in terms of clause (2AA) of section 217 of the Companies Act, 1956
 - b) Changes, if any, in accounting policies and practices and reasons for the same
 - c) Major accounting entries involving estimates based on the exercise of judgment by management
 - d) Significant adjustments made in the financial statements arising out of audit findings
 - e) Compliance with listing and other legal requirements relating to financial statements
 - f) Disclosure of any related party transaction
 - g) Qualifications in the draft audit report
5. Reviewing, with the management, the quarterly financial statements before submission to the board for approval
6. Reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights issue, and making appropriate recommendations to the Board to take up steps in this matter

7. Reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems
8. 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
9. Discussion with internal auditors any significant findings and follow up there on
10. 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.
11. Discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern.
12. To look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non payment of declared dividends) and creditors.
13. To review the functioning of the Whistle Blower mechanism, in case the same is existing.
14. Carrying out any other function as is mentioned in the terms of reference of the audit committee.

(E) Review of information by Audit Committee

III. Subsidiary Companies

IV. Disclosures

- (A) Basis of related party transactions
- (B) Disclosure of Accounting Treatment
- (C) Board Disclosures – Risk management
- (D) Proceeds from public issues, rights issues, preferential issues etc.
- (E) Remuneration of Directors

- (F) Management
- (G) Shareholders

V. CEO/CFO certification

- a) Financial Statements
 - (i) Do not contain any materially untrue statement.
 - (ii) Present true and fair view of the state of affairs and are in compliance with AS and applicable laws..
- b) No transaction entered is fraudulent or illegal.
- c) Accepted the responsibility for establishing and maintaining Internal Controls for the purpose of financial reporting(amended on 13.1.2006)
- d) Disclosed to the auditors and Audit Committee deficiencies in the design or operation of internal control.

VI. Report on Corporate Governance

A separate section on Corporate Governance should be included in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Non-compliance of any mandatory requirement of this clause with reasons thereof and the extent to which the non-mandatory requirements have been adopted should be specifically highlighted. The suggested list of items to be included in this report is contained in Annexure- I C and list of non-mandatory requirements are contained in Annexure – I D. The companies shall submit a quarterly compliance report to the stock exchanges within 15 days from the close of quarter as per the format given in Annexure I B. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company.

The company shall also obtain a certificate on Compliance of conditions of Corporate Governance from the auditors of the company or practicing Company Secretaries. The certificate should be filed annually by annexing with the Directors' Report, which is sent annually to all the shareholders of the company. The certificate should also be filed to the Stock Exchange along with the annual returns filed by the company

VII. Compliance

Chapter VII

Provisions under Companies Act, 1956

The Companies Act, 1956 itself covers corporate governance widely through its various provisions such as inclusion of directors' responsibility statement in the directors' report under Section 217(2AA), constitution of audit committee under Section 292A, fixing maximum ceiling on remuneration that can be drawn by a director under Schedule XIII, and those relating to oppression, mismanagement, etc. Further, environmental and other pieces of legislation also protect different stakeholders' interest, ensuring, in the process, good corporate governance.

Chapter VIII

Independent Directors

8.1 Who is an Independent Director?

The Cadbury Report defines independence as: “Apart from their directors’ fees and shareholdings, they should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgment.”

As per Securities and Exchange Board of India (SEBI), the expression 'independent director' shall mean a non-executive director of the company who:

- a) apart from receiving director's remuneration, does not have any material pecuniary relationships or transactions with the company, its promoters, its directors, its senior management or its holding company, its subsidiaries and associates which may affect independence of the director;
- b) is not related to promoters or persons occupying management positions at the board level or at one level below the board;
- c) has not been an executive of the company in the immediately preceding three financial years;
- d) is not a partner or an executive or was not partner or an executive during the preceding three years, of any of the following:
 - i) The statutory audit firm or the internal audit firm that is associated with the company, and
 - ii) The legal firm(s) and consulting firm(s) that have a material association with the company.
- e) is not a material supplier, service provider or customer or a lessor or lessee of the company, which may affect independence of the director; and
- f) is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares.
- g) Is not less than twenty one years of age

Explanation

- a. Associate shall mean a company which is an "associate" as defined in Accounting Standard (AS) 23, "Accounting for Investments in Associates in Consolidated Financial Statements", issued by the Institute of Chartered Accountants of India.

- b. “senior management” shall mean personnel of the company who are members of its core management team excluding Board of Directors. Normally, this would comprise all members of management one level below the executive directors, including all functional heads.
- c. “Relative” shall mean “relative” as defined in section 2(41) and section 6 read with Schedule IA of the Companies Act, 1956..

Nominee directors appointed by an institution which has invested in or lent to the company shall be deemed to be independent directors. (“Institution’ for this purpose means a public financial institution as defined in Section 4A of the Companies Act, 1956 or a “corresponding new bank” as defined in section 2(d) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [both Acts].”

8.2 Attributes of an Independent director

Although, the level of knowledge, integrity and independence necessary to carry out the functions of a director are difficult to summarize, the behavior characteristics of a good director should include

- Ability to ask hard questions
- Ability to work well with others
- Ability to listen patiently
- Ability to contribute valuable inputs
- Awareness about Industry
- Available when needed
- Alert and Inquisitive
- Integrity
- Expertise
- Experience

The critical elements of a director being independent include:

- Independence to the management both in fact and perception by the public
- Independent in thought and action i.e. qualitatively independent.
- Ability to deal with 'conflict of interest'
- Knowledge of the Industry

8.3 Duties and Powers of Independent directors:

- 1) Reduce potential conflict between specific interests of the management and wider interests of the company and shareholder
- 2) Demand financial transparency
- 3) Specific interests of the minority shareholder, employees
- 4) Independent Assessment while evaluating investment / expenditure / business plans
- 5) Expertise – Technical / Financial / Experience
- 6) Communication between management and shareholders
- 7) Power to demand information
- 8) Power to exercise her vote
- 9) Power to govern

8.4 Role of Independent directors in corporate Governance

As per Clause 49, an independent director shall review legal compliance reports prepared by the company as well as steps taken by the company to cure any taint. In the event of any proceedings against an independent director in connection with the affairs of the company, defense shall not be permitted on the ground that the independent director was unaware of this responsibility.

Independent directors are therefore seen as a check on the management of companies, as an oversight mechanism, apart from the value addition that they bring to board deliberations. This is to ensure that action for wrongdoing by the majority stake holders, who control the management by holding a majority of their own shares, is not hampered. Independent directors are expected to improve corporate governance in a company

Chapter IX

Effectiveness of Audit Committee

An effective Audit Committee is one that ensures that corporate failures do not happen. However, evaluation of effectiveness is a complex issue. In real life, most audit committees are not put to test and so absence of disaster is not always proved. Moreover, the fact that the problems overlooked by audit committee remain unseen by the outside world makes the evaluation of effectiveness of committee further impossible. However, certain steps can ensure smooth and effective functioning of Audit Committees. Some of which are:

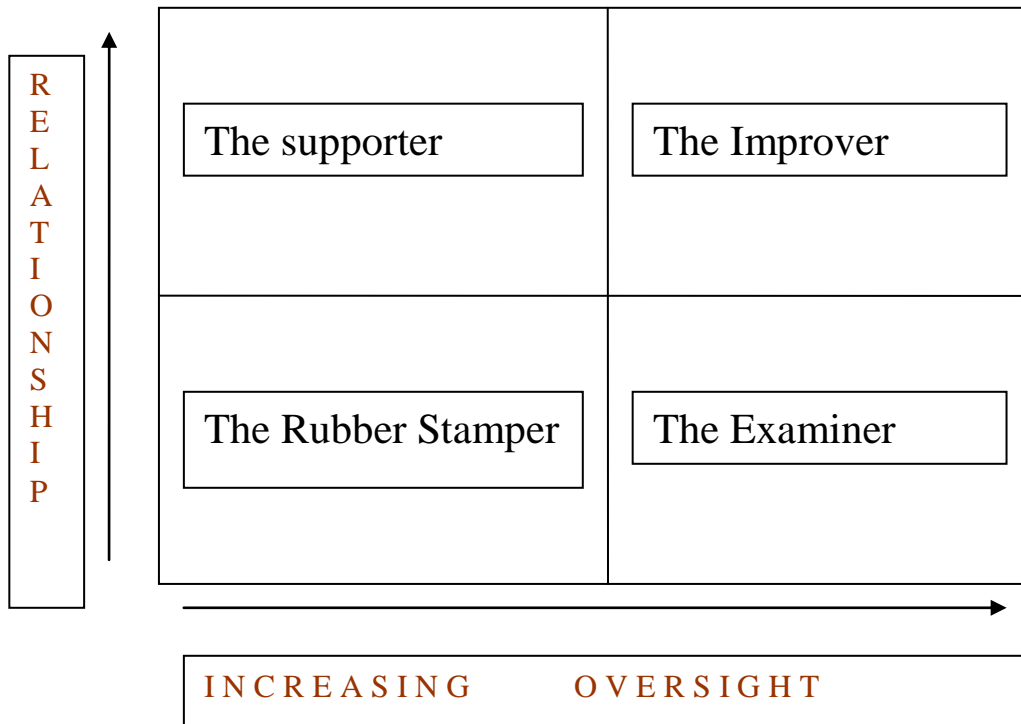
1. **Maintain an active and visible audit committee:** Companies around the world have long relied on Audit Committees to oversee financial reporting process and ensure its integrity. The importance of an effective Audit Committee cannot be overstated. Hence, it is one committee that should be active, visible and well funded.
2. **Selection of right number of members:** Generally, everywhere in world, the law states minimum number of members required to frame an Audit Committee (which is 3 in maximum cases). However, nothing is stated about maximum number of members in most of literature on Audit Committee. It is one requisite that a member of Audit Committee should be a member of Board. However, it is never recommended that whole of the board should together form Audit Committee. Ideal size of Audit Committee would depend on number of factors like the size of the organization, time each member can allot to affairs, scope of work undertaken etc.. A large committee can become bureaucratic and inefficient in making decision and review function. Whereas, a very small committee may become overwhelmed by audit and employees complaints.

3. **Formation and delegation to sub committees:** Sometimes when audit committees undertake a lot of responsibility it is a good idea to form sub committees and delegate work to them. Each sub committees should report to the Audit Committee. Such sub committees can be framed in respect of following functions:
- Handling complaints
 - Handling specific reporting issue
 - Hiring and communication with consultants
 - Report drafting
4. **Stress on financial expertise of member:** All the members of audit committee are required to able to understand and access the financial reports properly. At least one of them should be expert in accounting and finance.
5. **Create Questionnaire to measure effectiveness of audit committee:**
- Does the committee have a positive working relationship with management, the internal auditors and the independent auditors?
 - Does the committee challenge management, the internal auditors, and the independent auditors with its own view on issues?
 - Are differences of opinion on issues resolved to the satisfaction of the committee?
 - Do the members challenge the chair as appropriate?
 - Is the audit committee charter (in our case Clause 49 of listing agreement) used as a document to guide the committee in its efforts, and to help guide the committee's agenda? Is the audit committee charter matrix (in our case Clause 49 of listing agreement) used to document compliance with the precepts of the charter(in our case listing agreement)?
 - Are the members financially literate?

- Does the committee engage outside experts as appropriate?
 - Are the organization's financial reporting processes stronger as a result of management's interactions with the audit committee?
 - Is the committee cognizant of the line between oversight and management, and does it endeavor to respect that line?
6. **Documentation of proper charter:** In many countries, the companies are required to make a written charter. Such charted should contain committee's composition, purpose and role. In India Clause 49 itself is a sort of audit charter which has to be followed by all listed companies.
7. **Proper communication:** Proper communication of facts and findings between various sets of people engaged in preparation, presentation and authentication of financial statements are key to success of audit function as whole. Blue Ribbon Committee has laid down guiding principles for audit committee best practices. Independent communication and flow of information between audit committee and internal and external auditors are two main principles laid down by this committee. To encourage such communication between the committee and the internal auditors it is essential to have formal mechanism in place to facilitate confidential exchange between the two. This can be achieved by holding regular meeting, free of management or exchanging confidential memos or reports only to ac. As with internal auditor, audit committee should also conduct regular scheduled meetings with external auditor, independent of management. It is only open, regular, frank and confidential dialogue with external auditors that audit committee will be able to utilize their expertise and knowledge in assessing internal controls, the internal auditors, the management and impact of on the quality and reliability of financial statements.
8. **Relationship with internal auditors and executive management:** Measuring audit committee effectiveness is a complex thing, as

effectiveness does not come from doing more things. More importantly, it is about achieving a delicate balance between two apparently contradictory dimensions that audit committee needs to strike in its relationship with its stakeholders. One of which is need to maintain good and healthy relationship with them and other is to keep an oversight at their activities. An audit committee need not be a rubber-stamper nor should it be like a strict examiner. Its approach should be more of that of a supporter and improver.

This can be represented by following matrixes.



9. **Mechanism of whistle blowing:** There should be a safe environment for employees, accounting staff and auditors to come forward with information that affects financial statements. Audit Committee should treat no complaint as frivolous. audit committee should have procedure in place for receiving and handling complaints about company’s accounting, internal control or auditing matters. Company should keep records of how complaints are handled and audit committee should ensure that records are complete, reasonably detailed, and consistent.

10. **Effectiveness of internal control:** Internal control over financial reporting has always been a major area in the governance of an organization, and this importance has been magnified in recent years. The audit committee should ask for detailed answers and examples from the management team, including key members of the financial management team, internal auditors, and independent auditors to assure itself that the system is operating as management represents. Evaluation of the internal control structure is not a one-time, but rather a continuous event for the audit committee—the audit committee should always have its eyes and ears open for potential weaknesses in internal control, and should continually probe the responsible parties regarding the operation of the system.

11. **Sessions with Executive in audit committee meetings:** An executive session with key members of the executive management and financial management teams on a one-on-one basis is a best practice that could be employed by audit committees for any reason. During an executive session meeting, minutes are (usually) not recorded, and when meeting with members of the financial management team, anyone who is not a member of the audit committee is excluded from the meeting. The purpose is to ask questions of various members of the financial management staff in a safe environment. Executive sessions should be a matter of routine at every audit committee meeting, and not on an exception basis. Asking open-ended questions in this kind of session could be a major source of information for the audit committee

Chapter X

Whistleblower policy

A whistleblower is an employee, former employee, or member of an organization, especially a business or government agency, who reports misconduct to people or entities that have the power and presumed willingness to take corrective action. Generally the misconduct is a violation of law, rule, regulation and/or a direct threat to public interest — fraud, health, safety violations, and corruption are just a few examples. For instance, Jeffrey Wigand is well-known in the United States for exposing the Big Tobacco scandal, revealing that executives of the companies knew that cigarettes were addictive and that they added other carcinogenic ingredients to the cigarettes.

Whistle blowing is termed 'internal' when an employee airs his complaint internally and 'external' when an employee blows the whistle outside the organisation e.g. to media or a regulatory body.

The first U.S. law adopted specifically to protect whistleblowers was the Lloyd-La Follette Act of 1912. It guaranteed the right of federal employees to furnish information to Congress

In the UK, the Public Interest Disclosure Act 1998 provides a framework of legal protection for individuals who disclose information so as to expose malpractice and matters of similar concern. In the vernacular, it protects whistleblowers from victimisation and dismissal.

Origins of the term whistleblower

The term whistleblower derives from the practice of English bobbies who would blow their whistle when they noticed the commission of a crime. The blowing of

the whistle would alert both law enforcement officers and the general public of danger.

Other Famous whistleblowers

- Ingvar Bratt, a former Bofors engineer who revealed himself as the anonymous source in the Bofors Scandal about illegal weapon exports. The act that led to a new Swedish law concerning company secrets is referred to as *Lex Bratt*.

- Satyendra Dubey, who accused employer NHAI of corruption in highway construction projects in India, in letter to Prime Minister Atal Behari Vajpayee. Assassinated on November 27, 2003.

- Cynthia Cooper of Worldcom and Sherron Watkins of Enron, who exposed corporate financial scandals, and Coleen Rowley of the FBI, who later outlined the agency's slow action prior to the September 11, 2001 attacks. The three were selected as Time's People of the Year in 2002

Legal Protection

"Charles Niemer of the (United States) Public Company Accounting Oversight Board calls today's business environment 'the age of the whistleblower' – a new corporate culture in which 'informants' are more likely to be valued than harassed." This is a long way from the vilification experienced by most whistleblowers, whose reputations were often tarnished and livelihoods compromised

The United States of America incorporated provisions for protection of the whistleblower in Sarbanes Oxley to prevent discriminatory practices against employees who went against the management and reported corporate malpractices.

In India, an important step forward has been taken by SEBI through the incorporation of the whistleblower protection policy in clause 49 - Non-mandatory requirements as per Annexure ID

This requirement states that

“The company may establish a mechanism for employees to report to the management concerns about unethical behaviour, actual or suspected fraud or violation of the company’s code of conduct or ethics policy. This mechanism could also provide for adequate safeguards against victimization of employees who avail of the mechanism and also provide for direct access to the Chairman of the Audit committee in exceptional cases. Once established, the existence of the mechanism may be appropriately communicated within the organization.”

Benefits of Legal protection

1. The Whistle Blower policy would encourage elimination of malpractices in the system.

The policy would encourage all the employees to come out with their complaints regarding any kind of misuse of company’s properties, mismanagement or wrongful conduct prevailing in the company, if any.

2. Companies would enjoy stakeholder confidence and goodwill.
3. The whistleblower protection policy would enhance corporate accountability as personnel within the organization would act as watchdogs as compared to an outside agency i.e. the government regulating corporate policies.

At, the same time there is a need that frivolous complaints be discouraged.

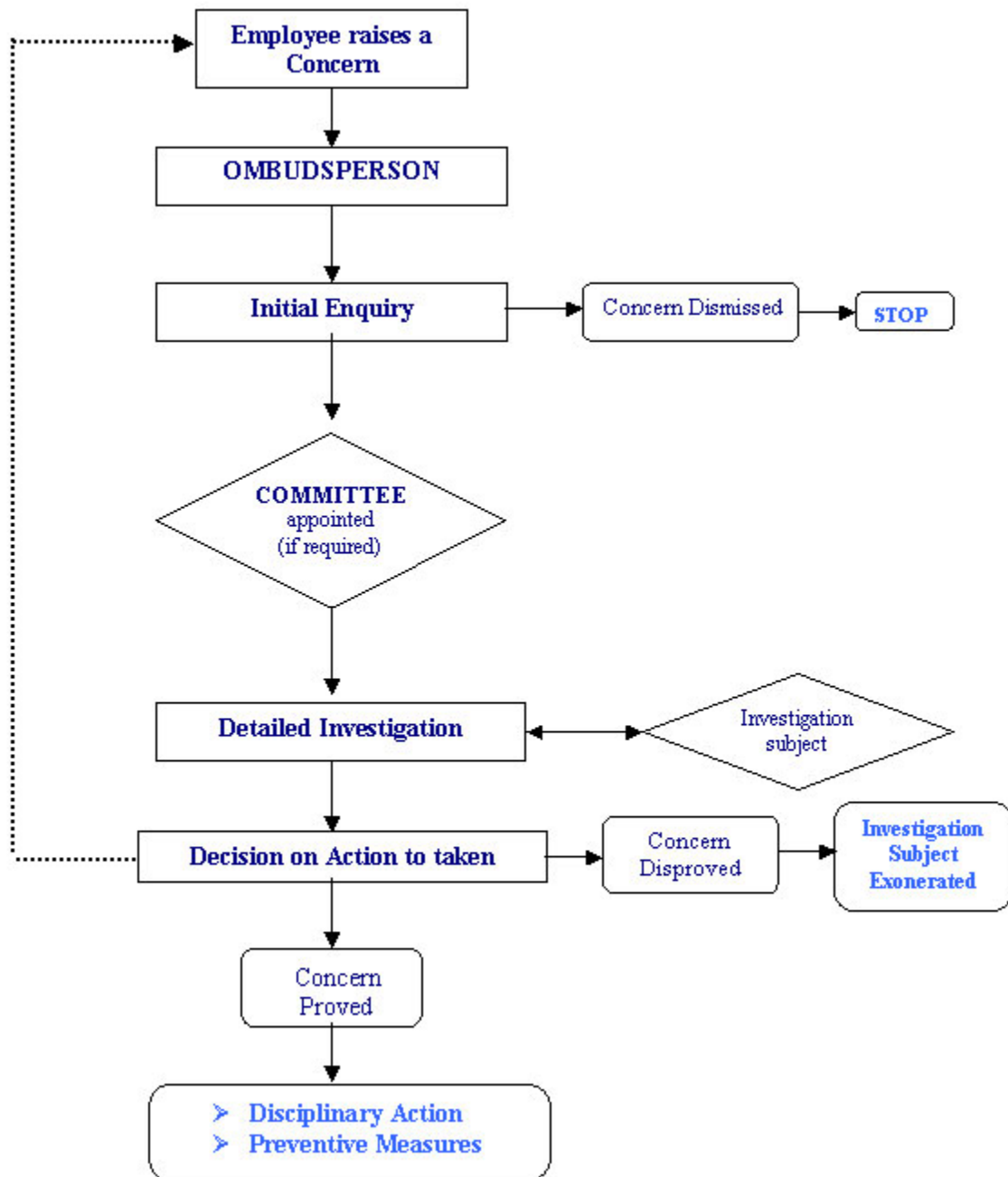
We can draw an analogy with the mechanism of public interest litigation where frivolous and malicious petitions have been made before the Apex court, and were dismissed

In *Subash Kumar v State of Bihar* AIR 1991 SC 420, the Supreme Court held that the petition was filed not in any public interest but for the petitioner's

personal interest and for these reasons directed that the petitioner shall pay Rs. 5000 as costs

In Chhetriya Pardushan Mukti Sangharsh Samiti v State of UP where the Supreme Court declared 'we must protect society from so called protectors'

Process flow



Chapter XI

Rating of Corporate Governance

The increasing focus on corporate governance has resulted in a number of rating companies publishing corporate governance scores of various types. Each company uses its own system and criteria for rating the corporate governance practices of public companies

SEBI is proposing the rating of corporate governance. The South Asian Federation of Accountants (SAFA) has already started rating of Corporate Governance by outside agencies

Some of the providers of corporate governance ratings include:

- **Board Analyst.** Among factors considered are: Board Composition, CEO Compensation, Shareholder Responsiveness, Accounting, Strategic Decision making, Litigation & Regulatory Problems and Takeover Defenses.
- **Core Ratings,** European provider of independent ratings reports on corporate governance, the environmental impact, employment practices and impact on the societies.
- **CRISIL Ltd. (India) Governance and Value Creation Ratings** reviews management capabilities, transparency, influence of major stakeholders, board composition and effectiveness.
- **Deminor Rating** helps to bridge the corporate governance expectation gap between investors and listed companies. First European corporate governance rating agency.
- **Governance Metrics International.** Bills itself as the "world's first global corporate governance ratings agency." Weighs more than 600 variables, including environmental, workplace safety, and earnings management.
- **ICRA Limited.** Provides a Corporate Governance Ratings (CGR) service for the Indian Market.

ICRA's Corporate Governance Rating (CGR) is meant to indicate the relative level to which an organisation accepts and follows the codes and guidelines of corporate governance practices. Corporate Governance practices prevalent in a company reflect the distribution of rights and responsibilities among different participants in the organisation such as the Board, management, shareholders and other financial stakeholders and the rules and procedures laid down and followed for making decisions on corporate affairs. The emphasis of ICRA rating is on corporate's business practices and quality of disclosure standards that addresses the requirements of the regulators and is fair and transparent for its financial stakeholders. The variables, which are analysed for arriving at the rating, are the shareholding structure, executive management processes, board structure and processes, stakeholder relationship, transparency and disclosures and financial discipline. Each of these variables is evaluated with respect to a set of attributes and a composite score is computed using a proprietary model developed by ICRA. The rating process also looks at compliance with statutory regulations as laid down in Clause 49 of the Listing Agreement. The focus, however, is on substance over form and compliance with regulations is only the starting point. The ICRA opinion, is , however not a certificate of statutory compliance or a comment on company's future financial performance, credit rating or stock price.

- **ISS**[Institutional Shareholder Services (ISS)] **Corporate Governance Quotient**. ISS calculates CGQs for 6,000 companies. To generate a CGQ, ISS analysts gather data on more than 61 criteria in the following categories: board, charter/bylaws, compensation, state of incorporation, executive and director compensation, qualitative factors, stock ownership, and director education. Launched in June 2002, information is primarily gathered from SEC filings.
- **Moody's Investors Service** is overhauling the corporate governance assessment in its existing ratings. The firm hired Kenneth Bertsch to serve as director of corporate governance, a position he held at TIAA-CREF.

- **Open Compliance and Ethics Group**, a nonprofit focused on providing universal guidelines (benchmarks) for integrated compliance and ethics programs.
- **Standard & Poor's**: Governance Services offers a range of products and services to evaluate the corporate governance standards of individual companies around the world. The Corporate Governance Score assesses companies' corporate governance performance for investors. The Corporate Governance Evaluation Service confidentially diagnoses corporate governance for companies. The Corporate Governance Customized Research tailors research for investors, companies, regulators, or other organizations.

Chapter XII

Recent Corporate Governance issues

Satyam Computers and Matyas Episode

Although Satyam Computer Services might have called off the deal to acquire Maytas Properties and Maytas Infra for \$1.6 billion ,the issues relating to conflict of interests, role of independent directors and due procedures in taking important measures have come to the fore,

CONTROVERSIES

- First of all, the decision was not announced taking into confidence all the stakeholders of the company.
- Secondly, the twin Maytas companies are the companies run by the family members of Ramalinga Raju only and his two sons are major interested party in the twin companies.
- Thirdly, the deal would have made the cash reach company Satyam into a debt ridden company as it's entire holding of \$1.3 billion cash would

have gone to Maytas Properties (where promoters were 100 per cent holding) and in Maytas Infrastructures.

- Fourthly, Ramalinga Raju was holding only 8.5 per cent stake of Satyam computer his decision of transferring its cash to a company owned by his son without asking the rest of the 91.5 per cent stake holders is questionable
- Fifthly, in the name of diversification from software to entirely new area of reality a relatively new company Maytas was chosen when several other big players are still there

Four independent directors have since resigned from the Board of Satyam Computers thereby raising doubts on 'fiduciary duties' of such nominees. Also in order to go ahead with the Board meeting scheduled for January 10, 2009 new independent directors have to be appointed as approved by the shareholders.

Chapter XIII

Knowledge links

- i. National Foundation for Corporate Governance -
<http://www.nfcgindia.org/>
- ii. European Corporate Governance Institute - <http://www.ecgi.org/>
- iii. World Council for Corporate Governance -<http://www.wcfcg.net>
- iv. Independent Director Initiative -
<http://www.independentdirector.co.uk/>
- v. Securities and Exchange Board of India-<http://www.sebi.gov.in/>
- vi. Bombay Stock Exchange Limited- <http://www.bseindia.com/>
- vii. International Trade Administration-
<http://www.ita.doc.gov/goodgovernance/>
- viii. Organisation for Economic Co-operation and Development-
<http://www.oecd.org/>
- ix. Corporate governance network- <http://www.corpgov.net/>

ANNEXURES

Annexure 1

CORPORATE GOVERNANCE IN LISTED COMPANIES – CLAUSE 49 OF THE LISTING AGREEMENT [including amendments till date]

SEBI Circular dated 29th October, 2004 is the Master Circular and has replaced all the earlier Circulars issued on Clause 49 of the Listing Agreement. Subsequently, amendments were made by way of the below mentioned circulars.

Note: The amendments made to Clause 49- SEBI/CFD/DIL/CG/1/2004/12/10 dated October 29, 2004 has been highlighted as under

SEBI/CFD/DIL/CG/1/2006/13/1 DATED January 13, 2006

SEBI/CFD/DIL/LA/4/2007/27/12 December 27, 2007

SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

SEBI/CFD/DIL/CG/2/2008/23/10 dated October 23, 2008

Sub: Corporate Governance in listed Companies – Clause 49 of the Listing Agreement

1. All Stock Exchanges are hereby directed to amend the Listing Agreement by replacing the existing Clause 49 of the listing agreement (issued vide circulars

dated 21st February, 2000, 9th March 2000, 12th September 2000, 22nd January,

2001, 16th March 2001 and 31st December 2001) with the revised Clause 49 given in Annexure I through I D to this circular

SEBI Circular no SEBI/MRD/SE/31/2003/ 26/08 dated August 26, 2003 (which has been since deferred) is hereby withdrawn. The revised Clause 49 also specifies the reporting requirements for a company.

2. Please note that this is a master circular which supersedes all other earlier circulars issued by SEBI on Clause 49 of the Listing Agreement.

3. The provisions of the revised Clause 49 shall be implemented as per the schedule of implementation given below:

a) For entities seeking listing for the first time, at the time of seeking in-principle approval for such listing.

b) For existing listed entities which were required to comply with Clause 49 which is being revised i.e. those having a paid up share capital of Rs. 3 crores and above or net worth of Rs. 25 crores or more at any time in the history of the company, by April 1, 2005.

Companies complying with the provisions of the existing Clause 49 at present (issued vide circulars dated 21st February, 2000, 9th March 2000, 12th September 2000, 22nd January, 2001 16th March 2001 and 31st December 2001) shall continue to do so till the revised Clause 49 of the Listing Agreement is complied with or till March 31, 2005, whichever is earlier.

4. The companies which are required to comply with the requirements of the revised Clause 49 shall submit a quarterly compliance report to the stock exchanges as per sub Clause VI (ii), of the revised Clause 49, within 15 days from the end of every quarter. The first such report would be submitted for the quarter ending June 30, 2005. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company.

5. The revised Clause 49 shall apply to all the listed companies, in accordance with the schedule of implementation given above. However, for other listed entities which are not companies, but body corporate (e.g. private and public sector banks, financial institutions, insurance companies etc.) incorporated

under other statutes, the revised Clause 49 will apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant regulatory authorities. The revised Clause 49 is not applicable to Mutual Funds.

6. The Stock Exchanges shall ensure that all provisions of the revised Clause 49 have been complied with by a company seeking listing for the first time, before granting the in-principle approval for such listing. For this purpose, it will be considered satisfactory compliance if such a company has set up its Board and constituted committees such as Audit Committee, Shareholders/ Investors Grievances Committee etc. in accordance with the revised clause before seeking in-principle approval for listing.

7. The Stock Exchanges shall set up a separate monitoring cell with identified personnel to monitor the compliance with the provisions of the revised Clause 49 on corporate governance. The cell, after receiving the quarterly compliance reports from the companies which are required to comply with the requirements of the revised Clause 49, shall submit a consolidated compliance report to SEBI within 60 days from the end of each quarter.

Yours faithfully,

Parag Basu

Encl: Annexure I, I A, I B, I C & I D

Annexure I

Clause 49 - Corporate Governance

The company agrees to comply with the following provisions:

I. Board of Directors

(A) Composition of Board

(i) The Board of directors of the company shall have an optimum combination of executive and non-executive directors with not less than fifty percent of the board of directors comprising of non-executive directors.

(ii) Where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise of independent directors and in case he is

an executive director, at least half of the Board should comprise of independent directors.

The following was inserted vide SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

“Provided that where the non-executive Chairman is a promoter of the company or is related to any promoter or person occupying management positions at the Board level or at one level below the Board, at least one-half of the Board of the company shall consist of independent directors

The following was inserted vide SEBI/CFD/DIL/CG/2/2008/23/10 dated October 23, 2008

“Explanation-For the purpose of the expression “related to any promoter” referred to in sub-clause (ii):

- a. If the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it;
- b. If the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.”

(iii) For the purpose of the sub-clause (ii), the expression ‘independent director’ shall mean a non-executive director of the company who:

- a) apart from receiving director’s remuneration, does not have any material pecuniary relationships or transactions with the company, its promoters, its directors, its senior management or its holding company, its subsidiaries and associates which may affect independence of the director;
- b) Is not related to promoters or persons occupying management positions at the board level or at one level below the board;
- c) Has not been an executive of the company in the immediately preceding three financial years;
- d) is not a partner or an executive or was not partner or an executive during the preceding three years, of any of the following:
 - i) The statutory audit firm or the internal audit firm that is associated with the company, and

ii) The legal firm(s) and consulting firm(s) that have a material association with the company.

e) Is not a material supplier, service provider or customer or a lessor or lessee of the company, which may affect independence of the director; and

f) Is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares

The following was inserted vide SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

“(g) is not less than 21 years of age.”

Explanation

For the purposes of the sub-clause (iii):

a. Associate shall mean a company which is an “associate” as defined in Accounting

Standard (AS) 23, “Accounting for Investments in Associates in Consolidated Financial Statements”, issued by the Institute of Chartered Accountants of India.

b. “senior management” shall mean personnel of the company who are members of its core management team excluding Board of Directors. Normally, this would comprise all members of management one level below the executive directors, including all functional heads.

c. “Relative” shall mean “relative” as defined in section 2(41) and section 6 read with

Schedule IA of the Companies Act, 1956..

(iv) Nominee directors appointed by an institution which has invested in or lent to the

company shall be deemed to be independent directors.

Explanation:

“Institution’ for this purpose means a public financial institution as defined in Section 4A of the Companies Act, 1956 or a “corresponding new bank” as defined in section 2(d) of the Banking Companies (Acquisition and Transfer of

Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [both Acts].”

(B) Non executive directors’ compensation and disclosures

All fees/compensation, if any paid to non-executive directors, including independent directors, shall be fixed by the Board of Directors and shall require previous approval of shareholders in general meeting. The shareholders’ resolution shall specify the limits for the maximum number of stock options that can be granted to non-executive directors, including independent directors, in any financial year and in aggregate.

The following was inserted vide SEBI/CFD/DIL/CG/1/2006/13/1DATED January 13, 2006

“Provided that the requirement of obtaining prior approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits prescribed under the Companies Act, 1956 for payment of sitting fees without approval of the Central Government.”

(C) Other provisions as to Board and Committees

(i) The board shall meet at least four times a year, with a maximum time gap of three four [Substituted vide SEBI/CFD/DIL/CG/1/2006/13/1DATED January 13, 2006] months between any two meetings. The minimum information to be made available to the board is given in Annexure– I A.

(ii) A director shall not be a member in more than 10 committees or act as Chairman of more than five committees across all companies in which he is a director. Furthermore it should be a mandatory annual requirement for every director to inform the company about the committee positions he occupies in other companies and notify changes as and when they take place.

Explanation:

1. For the purpose of considering the limit of the committees on which a director can serve, all public limited companies, whether listed or not, shall be

included and all other companies including private limited companies, foreign companies and companies under Section 25 of the Companies Act shall be excluded.

2. For the purpose of reckoning the limit under this sub-clause, Chairmanship/ membership of the Audit Committee and the Shareholders' Grievance Committee alone shall be considered.

(iii) The Board shall periodically review compliance reports of all laws applicable to the company, prepared by the company as well as steps taken by the company to rectify instances of non-compliances.

The following was inserted vide SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

“(iv) An independent director who resigns or is removed from the Board of the Company shall be replaced by a new independent director within a period of not more than 180 days from the day of such resignation or removal, as the case may be:

Provided that where the company fulfils the requirement of independent directors

in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director within the period of 180 days shall not apply.”

(D) Code of Conduct

(i) The Board shall lay down a code of conduct for all Board members and senior management of the company. The code of conduct shall be posted on the website of the company.

(ii) All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by the CEO.

Explanation: For this purpose, the term “senior management” shall mean personnel of the company who are members of its core management team excluding Board of

Directors Normally, this would comprise all members of management one level below the executive directors, including all functional heads.

II Audit Committee

(A) Qualified and Independent Audit Committee

A qualified and independent audit committee shall be set up, giving the terms of reference subject to the following:

(i) The audit committee shall have minimum three directors as members. Two-thirds of the members of audit committee shall be independent directors.

(ii) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

Explanation 1: The term “financially literate” means the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows.

Explanation 2: A member will be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual’s financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(iii) The Chairman of the Audit Committee shall be an independent director;

(iv) The Chairman of the Audit Committee shall be present at Annual General Meeting to answer shareholder queries;

(v) The audit committee may invite such of the executives, as it considers appropriate (and particularly the head of the finance function) to be present at the meetings of the committee, but on occasions it may also meet without the presence of any executives of the company. The finance director, head of internal audit and a representative of the statutory auditor may be present as invitees for the meetings of the audit committee;

(vi) The Company Secretary shall act as the secretary to the committee.

(B) Meeting of Audit Committee

The audit committee should meet at least four times in a year and not more than four months shall elapse between two meetings. The quorum shall be either two members or one third of the members of the audit committee whichever is greater, but there should be a minimum of two independent members present.

(C) Powers of Audit Committee

The audit committee shall have powers, which should include the following:

1. To investigate any activity within its terms of reference.
2. To seek information from any employee.
3. To obtain outside legal or other professional advice.
4. To secure attendance of outsiders with relevant expertise, if it considers necessary.

(D) Role of Audit Committee

The role of the audit committee shall include the following:

1. Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible.
2. Recommending to the Board, the appointment, re-appointment and, if required, the replacement or removal of the statutory auditor and the fixation of audit fees.
3. Approval of payment to statutory auditors for any other services rendered by the statutory auditors.
4. Reviewing, with the management, the annual financial statements before submission to the board for approval, with particular reference to:
 - a. Matters required being included in the Director's Responsibility Statement to be included in the Board's report in terms of clause (2AA) of section 217 of the Companies Act, 1956
 - b. Changes, if any, in accounting policies and practices and reasons for the same
 - c. Major accounting entries involving estimates based on the exercise of judgment by management
 - d. Significant adjustments made in the financial statements arising out of audit findings
 - e. Compliance with listing and other legal requirements relating to financial statements
 - f. Disclosure of any related party transactions
 - g. Qualifications in the draft audit report.

5. Reviewing, with the management, the quarterly financial statements before submission to the board for approval

The following was inserted vide SEBI/CFD/DIL/LA/4/2007/27/12 December 27, 2007

“5A. Reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights issue, and making appropriate recommendations to the Board to take up steps in this matter.”

6. Reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems.

7. 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.

8. Discussion with internal auditors any significant findings and follow up there on.

9. 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.

10. Discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern.

11. To look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non payment of declared dividends) and creditors.

12. To review the functioning of the Whistle Blower mechanism, in case the same is existing.

13. Carrying out any other function as is mentioned in the terms of reference of the Audit committee.

Explanation (i): The term "related party transactions" shall have the same meaning as contained in the Accounting Standard 18, Related Party Transactions, issued by The Institute of Chartered Accountants of India.

Explanation (ii): If the company has set up an audit committee pursuant to provision of the Companies Act, the said audit committee shall have such additional functions / features as is contained in this clause.

(E) Review of information by Audit Committee

The Audit Committee shall mandatorily review the following information:

1. Management discussion and analysis of financial condition and results of operations;
2. Statement of significant related party transactions (as defined by the audit committee), submitted by management;
3. Management letters / letters of internal control weaknesses issued by the statutory auditors;
4. Internal audit reports relating to internal control weaknesses; and
5. The appointment, removal and terms of remuneration of the Chief internal auditor shall be subject to review by the Audit Committee

III. Subsidiary Companies

- i. At least one independent director on the Board of Directors of the holding company shall be a director on the Board of Directors of a material non listed Indian subsidiary company.
- ii. The Audit Committee of the listed holding company shall also review the financial statements, in particular, the investments made by the unlisted subsidiary company.
- iii. The minutes of the Board meetings of the unlisted subsidiary company shall be placed at the Board meeting of the listed holding company. The management should periodically bring to the attention of the Board of Directors of the listed holding company, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary company.

Explanation 1: The term “material non-listed Indian subsidiary” shall mean an unlisted subsidiary, incorporated in India, whose turnover or net worth (i.e. paid up capital and free reserves) exceeds 20% of the consolidated turnover or net worth respectively, of the listed holding company and its subsidiaries in the immediately preceding accounting year.

Explanation 2: The term “significant transaction or arrangement” shall mean any individual transaction or arrangement that exceeds or is likely to exceed 10% of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the material unlisted subsidiary for the immediately preceding accounting year.

Explanation 3: Where a listed holding company has a listed subsidiary which is itself a holding company, the above provisions shall apply to the listed subsidiary insofar as its subsidiaries are concerned.

IV. Disclosures

(A) Basis of related party transactions

(i) A statement in summary form of transactions with related parties in the ordinary course of business shall be placed periodically before the audit committee.

(ii) Details of material individual transactions with related parties which are not in the normal course of business shall be placed before the audit committee.

(iii) Details of material individual transactions with related parties or others, which are not on an arm’s length basis should be placed before the audit committee, together with Management’s justification for the same..

(B) Disclosure of Accounting Treatment

Where in the preparation of financial statements, a treatment different from that prescribed in an Accounting Standard has been followed, the fact shall be disclosed in the financial statements, together with the management’s explanation as to why it believes such alternative treatment is more representative of the true and fair view of the underlying business transaction in the Corporate Governance Report.

(C) Board Disclosures – Risk management

The company shall lay down procedures to inform Board members about the risk assessment and minimization procedures. These procedures shall be periodically reviewed to ensure that executive management controls risk through means of a properly defined framework.

(D) Proceeds from public issues, rights issues, preferential issues etc.

When money is raised through an issue (public issues, rights issues, preferential issues etc.), it shall disclose to the Audit Committee, the uses / applications of funds by major category (capital expenditure, sales and marketing, working capital, etc), on a quarterly basis as a part of their quarterly declaration of financial results. Further, on an annual basis, the company shall prepare a statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice and place it before the audit committee. Such disclosure shall be made only till such time that the full money raised through the issue has been fully spent. This statement shall be certified by the statutory auditors of the company. The following was inserted vide SEBI/CFD/DIL/LA/4/2007/27/12 December 27, 2007

“Furthermore, where the company has appointed a monitoring agency to monitor the utilisation of proceeds of a public or rights issue, it shall place before the Audit Committee the monitoring report of such agency, upon receipt, without any delay.”

The audit committee shall make appropriate recommendations to the Board to take up steps in this matter.

(E) Remuneration of Directors

(i) All pecuniary relationship or transactions of the non-executive directors vis-à-vis the company shall be disclosed in the Annual Report.

(ii) Further the following disclosures on the remuneration of directors shall be made in the section on the corporate governance of the Annual Report:

(a) All elements of remuneration package of individual directors summarized under major groups, such as salary, benefits, bonuses, stock options, pension etc.

(b) Details of fixed component and performance linked incentives, along with the performance criteria.

- (c) Service contracts, notice period, severance fees.
- (d) Stock option details, if any – and whether issued at a discount as well as the period over which accrued and over which exercisable.
- (iii) The company shall publish its criteria of making payments to non-executive directors in its annual report. Alternatively, this may be put up on the company's website and reference drawn thereto in the annual report.
- (iv) The company shall disclose the number of shares and convertible instruments held by non-executive directors in the annual report.
- (v) Non-executive directors shall be required to disclose their shareholding (both own or held by / for other persons on a beneficial basis) in the listed company in which they are proposed to be appointed as directors, prior to their appointment. These details should be disclosed in the notice to the general meeting called for appointment of such director

(F) Management

- (i) As part of the directors' report or as an addition thereto, a Management Discussion and Analysis report should form part of the Annual Report to the shareholders. This Management Discussion & Analysis should include discussion on the following matters within the limits set by the company's competitive position:
 - i. Industry structure and developments.
 - ii. Opportunities and Threats.
 - iii. Segment-wise or product-wise performance.
 - iv. Outlook
 - v. Risks and concerns.
 - vi. Internal control systems and their adequacy.
 - vii. Discussion on financial performance with respect to operational performance.
 - viii. Material developments in Human Resources / Industrial Relations front, including number of people employed.
- (ii) Senior management shall make disclosures to the board relating to all material financial and commercial transactions, where they have personal interest, that may have a potential conflict with the interest of the company at

large (for e.g. dealing in company shares, commercial dealings with bodies, which have shareholding of management and their relatives etc.)

Explanation: For this purpose, the term "senior management" shall mean personnel of the company who are members of its core management team excluding the Board of Directors). This would also include all members of management one level below the executive directors including all functional heads.

(G) Shareholders

(i) 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) Names of companies in which the person also holds the directorship and the membership of Committees of the Board; and
- (d) Shareholding of non-executive directors as stated in Clause 49 (IV) (E) (v) above

The following was inserted vide SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

“(ia) Disclosure of relationships between directors inter-se shall be made in the Annual Report, notice of appointment of a director, prospectus and letter of offer for issuances and any related filings made to the stock exchanges where the company is listed.”

(ii) Quarterly results and presentations made by the company to analysts shall be put on company’s web-site, or shall be sent in such a form so as to enable the stock exchange on which the company is listed to put it on its own web-site.

(iii) A board committee under the chairmanship of a non-executive director shall be formed to specifically look into the redressal of shareholder and investors complaints like transfer of shares, non-receipt of balance sheet, non-receipt of declared dividends etc. This Committee shall be designated as ‘Shareholders/Investors Grievance Committee’.

(iv) To expedite the process of share transfers, the Board of the company shall delegate the power of share transfer to an officer or a committee or to the registrar and share transfer agents. The delegated authority shall attend to share transfer formalities at least once in a fortnight.

V. CEO/CFO certification

The CEO, i.e. the Managing Director or Manager appointed in terms of the Companies Act, 1956 and the CFO i.e. the whole-time Finance Director or any other person heading the finance function discharging that function shall certify to the Board that:

(a) They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief:

(i) These statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;

(ii) These statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations.

(b) There are, to the best of their knowledge and belief, no transactions entered into by the company during the year which are fraudulent, illegal or violative of the company's code of conduct.

(c) They accept responsibility for establishing and maintaining internal controls and that they have evaluated the effectiveness of the internal control systems of the company and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies.

The above was substituted as follows vide

SEBI/CFD/DIL/CG/1/2006/13/1 DATED January 13, 2006

“(c) 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 company pertaining to financial reporting and they have disclosed to 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.”

(d) They have indicated to the auditors and the Audit committee

(i) Significant changes in internal control during the year;

(ii) Significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and

(iii) Instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the company’s internal control system

The above was substituted as follows vide

SEBI/CFD/DIL/CG/1/2006/13/1 DATED January 13, 2006

“(d) They have indicated to the auditors and the Audit committee

(i) Significant changes in internal control over financial reporting during the year;

(ii) Significant changes in accounting policies during the year and that the same have been disclosed in the notes to the financial statements; and

(iii) Instances of significant fraud of which they have become aware and the involvement therein, if any, of the management or an employee having a significant role in the company’s internal control system over financial reporting.”

VI. Report on Corporate Governance

(i) There shall be a separate section on Corporate Governance in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Non-compliance of any mandatory requirement of this clause with reasons thereof and the extent to which the non-mandatory requirements have been adopted should be specifically highlighted. The suggested list of items to be included in this report is given in Annexure- I C and list of non-mandatory requirements is given in Annexure – I D.

(ii) The companies shall submit a quarterly compliance report to the stock exchanges within 15 days from the close of quarter as per the format given in

Annexure I B. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company

VII. Compliance

(1) The company shall obtain a certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance as stipulated in this clause and annex the certificate with the directors' report, which is sent annually to all the shareholders of the company. The same certificate shall also be sent to the Stock Exchanges along with the annual report filed by the company.

(2) The non-mandatory requirements given in Annexure – I D may be implemented as per the discretion of the company. However, the disclosures of the compliance with mandatory requirements and adoption (and compliance) / non-adoption of the non-mandatory requirements shall be made in the section on corporate governance of the Annual Report.

Annexure I A

Information to be placed before Board of Directors

1. Annual operating plans and budgets and any updates.
2. Capital budgets and any updates.
3. Quarterly results for the company and its operating divisions or business segments.
4. Minutes of meetings of audit committee and other committees of the board.
5. The information on recruitment and remuneration of senior officers just below the board level, including appointment or removal of Chief Financial Officer and the Company Secretary.
6. Show cause, demand, prosecution notices and penalty notices which are materially important
7. Fatal or serious accidents, dangerous occurrences, any material effluent or pollution problems.
8. Any material default in financial obligations to and by the company, or substantial nonpayment for goods sold by the company.
9. Any issue, which involves possible public or product liability claims of substantial nature, including any judgment or order which, may have passed

strictures on the conduct of the company or taken an adverse view regarding another enterprise that can have negative implications on the company.

10. Details of any joint venture or collaboration agreement.

11. Transactions that involve substantial payment towards goodwill, brand equity, or intellectual property.

12. Significant labour problems and their proposed solutions. Any significant development in Human Resources/ Industrial Relations front like signing of wage agreement, implementation of Voluntary Retirement Scheme etc

13. Sale of material nature, of investments, subsidiaries, assets, which is not in normal course of business.

14. Quarterly details of foreign exchange exposures and the steps taken by management to limit the risks of adverse exchange rate movement, if material.

15. Non-compliance of any regulatory, statutory or listing requirements and shareholders service such as non-payment of dividend, delay in share transfer etc.

Annexure I B

Format of Quarterly Compliance Report on Corporate Governance

Name of the Company:

Quarter ending on:

Particulars Clause of listing agreement

Compliance Status- Yes/No

Remarks

I. Board of Directors

49 I

(A)Composition of Board 49(IA)

(B)Non-executive Directors' compensation & disclosures

49 (IB)

(C)Other provisions as to Board and Committees 49 (IC)

(D)Code of Conduct 49 (ID)

II. Audit Committee

49 (II)

(A)Qualified & Independent Audit Committee 49 (IIA)

- (B) Meeting of Audit Committee 49 (IIB)
- (C) Powers of Audit Committee 49 (IIC)
- (D) Role of Audit Committee 49 II(D)
- (E) Review of Information by Audit Committee 49 (IIE)

III. III. Subsidiary Companies

49 (III)

IV. Disclosures

49 (IV)

(A) Basis of related party transactions 49 (IV A)

(B) Board Disclosures 49 (IV B)

(C) Proceeds from public issues, rights issues, preferential issues etc.

49 (IV C)

(D) Remuneration of Directors 49 (IV D)

(E) Management 49 (IV E)

(F) Shareholders 49 (IV F)

V. CEO/CFO Certification

49 (V)

VI. Report on Corporate Governance

49 (VI)

X. VII. Compliance

49 (VII)

Note:

- 1) The details under each head shall be provided to incorporate all the information required as per the provisions of the Clause 49 of the Listing Agreement.
- 2) In the column No.3, compliance or non-compliance may be indicated by Yes/No/N.A. For example, if the Board has been composed in accordance with the Clause 49 I of the Listing Agreement, "Yes" may be indicated. Similarly, in case the company has no related party transactions, the words "N.A." may be indicated against 49 (IV A).
- 3) In the remarks column, reasons for non-compliance may be indicated, for example, in case of requirement related to circulation of information to the shareholders, which would be done only in the AGM/EGM, it might be

indicated in the "Remarks" column as – “will be complied with at the AGM”. Similarly, in respect of matters which can be complied with only where the situation arises, for example, "Report on Corporate Governance" is to be a part of Annual Report only, the words "will be complied in the next Annual Report" may be indicated.

Annexure I C

Suggested List of Items to Be Included In the Report on Corporate Governance in the Annual Report of Companies

1. A brief statement on company’s philosophy on code of governance.
2. Board of Directors:
 - i. Composition and category of directors, for example, promoter, executive, non executive, independent non-executive, nominee director, which institution represented as lender or as equity investor.
 - ii. Attendance of each director at the Board meetings and the last AGM.
 - iii. Number of other Boards or Board Committees in which he/she is a member or Chairperson
 - iv. Number of Board meetings held, dates on which held.
3. Audit Committee:
 - i. Brief description of terms of reference
 - ii. Composition, name of members and Chairperson
 - iii. Meetings and attendance during the year
4. Remuneration Committee:
 - i. Brief description of terms of reference
 - ii. Composition, name of members and Chairperson
 - iii. Attendance during the year
 - iv. Remuneration policy
 - v. Details of remuneration to all the directors, as per format in main report.
5. Shareholders Committee:
 - i. Name of non-executive director heading the committee
 - ii. Name and designation of compliance officer
 - iii. Number of shareholders’ complaints received so far

- iv. Number not solved to the satisfaction of shareholders
- v. Number of pending complaints
- 6. General Body meetings:
 - i. Location and time, where last three AGMs held.
 - ii. Whether any special resolutions passed in the previous 3 AGMs
 - iii. Whether any special resolution passed last year through postal ballot – details of voting pattern
 - iv. Person who conducted the postal ballot exercise
 - v. Whether any special resolution is proposed to be conducted through postal ballot
 - vi. Procedure for postal ballot
- 7. Disclosures:
 - i. Disclosures on materially significant related party transactions that may have potential conflict with the interests of company at large.
 - ii. Details of non-compliance by the company, penalties, strictures imposed on the company by Stock Exchange or SEBI or any statutory authority, on any matter related to capital markets, during the last three years.
 - iii. Whistle Blower policy and affirmation that no personnel has been denied access to the audit committee.
 - iv. Details of compliance with mandatory requirements and adoption of the non mandatory requirements of this clause
- 8. Means of communication.
 - i. Quarterly results
 - ii. Newspapers wherein results normally published
 - iii. Any website, where displayed
 - iv. Whether it also displays official news releases; and
 - v. The presentations made to institutional investors or to the analysts.
- 9. General Shareholder information:
 - i. AGM : Date, time and venue
 - ii. Financial year
 - iii. Date of Book closure
 - iv. Dividend Payment Date

- v. Listing on Stock Exchanges
- vi. Stock Code
- vii. Market Price Data : High., Low during each month in last financial year
- viii. Performance in comparison to broad-based indices such as BSE Sensex, CRISIL index etc.
- ix. Registrar and Transfer Agents
- x. Share Transfer System
- xi. Distribution of shareholding
- xii. Dematerialization of shares and liquidity
- xiii. Outstanding GDRs /ADRs /Warrants or any Convertible instruments, conversion date and likely impact on equity
- xiv. Plant Locations
- xv. Address for correspondence

Annexure I D

Non-Mandatory Requirements

(1) The Board

A non-executive Chairman may be entitled to maintain a Chairman's office at the company's expense and also allowed reimbursement of expenses incurred in performance of his duties. Independent Directors may have a tenure not exceeding, in the aggregate, a period of nine years, on the Board of a company. The above was substituted vide SEBI/CFD/DIL/CG/1/2008/08/04 dated April 08, 2008

"1. The Board - A non-executive Chairman may be entitled to maintain a Chairman's office at the company's expense and also allowed reimbursement of expenses incurred in performance of his duties. Independent Directors may have a tenure not exceeding, in the aggregate, a period of nine years, on the Board of a company. The company may ensure that the person who is being appointed as an independent director has the requisite qualifications and experience which would be of use to the company and which, in the opinion of the company, would enable him to contribute effectively to the company in his capacity as an independent director

(2) Remuneration Committee

- i. The board may set up a remuneration committee to determine on their behalf and on behalf of the shareholders with agreed terms of reference, the company's policy on specific remuneration packages for executive directors including pension rights and any compensation payment.
- ii. To avoid conflicts of interest, the remuneration committee, which would determine the remuneration packages of the executive directors may comprise of at least three directors, all of whom should be non-executive directors, the Chairman of committee being an independent director.
- iii. All the members of the remuneration committee could be present at the meeting.
- iv. The Chairman of the remuneration committee could be present at the Annual General Meeting, to answer the shareholder queries. However, it would be up to the Chairman to decide who should answer the queries.

(3) Shareholder Rights

A half-yearly declaration of financial performance including summary of the significant events in last six-months, may be sent to each household of shareholders.

(4) Audit qualifications

Company may move towards a regime of unqualified financial statements.

(5) Training of Board Members

A company may train its Board members in the business model of the company as well as the risk profile of the business parameters of the company, their responsibilities as directors, and the best ways to discharge them.

(6) Mechanism for evaluating non-executive Board Members

The performance evaluation of non-executive directors could be done by a peer group comprising the entire Board of Directors, excluding the director being evaluated; and

Peer Group evaluation could be the mechanism to determine whether to extend continue the terms of appointment of non-executive directors.

(7) Whistle Blower Policy

The company may establish a mechanism for employees to report to the management concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy. This mechanism could also provide for adequate safeguards against victimization of employees who avail of the mechanism and also provide for direct access to the Chairman of the Audit committee in exceptional cases. Once established, the existence of the mechanism may be appropriately communicated within the organization.

Annexure 2

Checklist for compliance of conditions laid down in Clause 49 with regard to corporate Governance

Checklist for compliance of conditions laid down in Clause 49 with regard to corporate Governance

Clause 49 (VI) of the Listing Agreement stipulates that a separate section on Corporate Governance should be included in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Non-compliance of any mandatory requirement of this clause with reasons thereof and the extent to which the non-mandatory requirements have been adopted should be specifically highlighted. The suggested list of items to be included in this report is contained in Annexure- I C and list of non-mandatory requirements are contained in Annexure – I D. The companies shall submit a quarterly compliance report to the stock exchanges within 15 days from the close of quarter as per the format given in Annexure I B. The report shall be signed either by the Compliance Officer or the Chief Executive Officer of the company.

The company shall also obtain a certificate on Compliance of conditions of Corporate Governance from the auditors of the company or practicing Company Secretaries. The certificate should be filed annually by annexing with the Directors' Report, which is sent annually to all the shareholders of the company. The certificate should also be filed to the Stock Exchange along with the annual returns filed by the company

S. NO	AREAS	CHECKLIST
I	Board of Directors	
A	Composition of Board	<ul style="list-style-type: none"> ➤ Verify whether there is Optimum Composition of Executive & non-executive and Not less than 50% are non-executive ➤ Verify Number of independent directors: <ul style="list-style-type: none"> • when there is non-executive chairman at least 1/3rd • When there is executive chairman at least ½ of the Board ➤ Ensure that the independent director is an non-executive director ➤ Verify that the Independent director <ul style="list-style-type: none"> a) Does not have any material pecuniary relationships or transactions with the company, its promoters, its senior management etc. b) not related to promoters/ management at board level or at one level below the board c) Was not an executive of the company in the immediate three financial years d) Was not a partner or an executive of audit firm/ legal firms or consulting firms for last three years e) Not a supplier, service provider customer or lessor- lessee. f) not a substantial shareholder of the company holding over 2% of the share capital g) is not less than 21 years of age
B	Non executive directors' compensation and disclosures	<p>Verify whether</p> <ul style="list-style-type: none"> ➤ Compensation/ stock options to independent directors has been approved by the board and prior approval of the shareholders has been obtained ➤ A compensation philosophy and statement of entitled compensation in respect of independent directors has been published in annual report/ web site.

		<ul style="list-style-type: none"> ➤ Disclosure on annual basis regarding the shares held by non-executive directors has been made ➤ non-executive directors have disclosed their stock holding(both held by them or on beneficial basis) prior to their appointment
C	Other provisions as to Board and Committees	<p>Verify whether</p> <ul style="list-style-type: none"> ➤ The board had met at least four times in the year, with a maximum time gap of four months between any two meetings. ➤ A director is not a member in more than 10 committees or a Chairman of more than five committees across all companies in which he is a director ➤ The mandatory annual requirement for every director to inform the company about the committee positions he occupies in other companies and notify changes as and when they take place has been complied with ➤ Whether an independent director who resigns or is removed from the Board of the Company has been replaced by a new independent director within a period of not more than 180 days from the day of such resignation or removal, as the case may be:
D	Code of Conduct	<p>Verify whether</p> <ul style="list-style-type: none"> ➤ A code of conduct has been prepared for board members and senior management and the same is posted on the website. ➤ board members/ senior management affirm to compliance of the code and the annual report contains such a declaration signed by chairman
II	Audit Committee	

A	Qualified and Independent Audit Committee	<p>Verify whether the following have been complied with</p> <ul style="list-style-type: none"> vii. Minimum three directors. Two-thirds of the members of audit committee are independent directors. viii. All members are financially literate and at least one member has accounting or related financial management expertise ix. Chairman is an independent director x. Chairman of Audit Committee is present at AGM to answer shareholder queries xi. Finance director, head of internal audit and a representative of the statutory auditor may be present as invitees for the meetings of the audit committee xii. The Company Secretary acts as the secretary to the committee
B	Meeting of Audit Committee	<p>Verify whether</p> <ul style="list-style-type: none"> ➤ The audit committee met at least four times in the year with a gap of not more than four months ➤ The quorum is either two members or one third of the members of the audit committee whichever is greater, but there should be a minimum of two independent members present.
C	Powers of Audit Committee	<ul style="list-style-type: none"> ➤ Verify whether the terms of reference of the audit committee have been suitably framed mentioning powers such as <ul style="list-style-type: none"> 1. To investigate any activity within its terms of reference. 2. To seek information from any employee. 3. To obtain outside legal or other professional advice. 4. To secure attendance of outsiders

		with relevant expertise, if it considers necessary
D	Role of Audit Committee	<p>To ascertain from the minutes book of the audit committee and other sources like agenda papers, etc. whether the audit Committee has reviewed</p> <ol style="list-style-type: none"> 1. Management discussion and analysis of financial condition and results of operations; 2. Statement of significant related party transactions (as defined by the audit committee), submitted by management; 3. Management letters / letters of internal control weaknesses issued by the statutory auditors; 4. Internal audit reports relating to internal control weaknesses; 5. The appointment, removal and terms of remuneration of the Chief internal auditor shall be subject to review by the Audit Committee. 6. Reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice and the report submitted by the monitoring agency monitoring the utilisation of proceeds of a public or rights issue, and making appropriate recommendations to the Board to take up steps in this matter
III	Subsidiary companies	<p>To verify compliance of the following:</p> <ol style="list-style-type: none"> (i) At least one independent director on the Board of Directors of the holding company is a director on the Board of Directors of a material

		<p>non listed Indian subsidiary company.</p> <p>(ii) The Audit Committee of the listed holding company also reviews the financial statements, in particular, the investments made by the unlisted subsidiary company.</p> <p>(iii) The minutes of the Board meetings of the unlisted subsidiary company is placed at the Board meeting of the listed holding company. The management has periodically brought to the attention of the Board of Directors of the listed holding company, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary company.</p>
IV	Disclosures	<p>Verify the following:</p> <p>(A) Basis of related party transactions</p> <p>(B) Disclosure of Accounting Treatment</p> <p>(C) Board Disclosures – Risk management</p> <p>(D) Proceeds from public issues, rights issues, preferential issues etc.</p> <p>(E) Remuneration of Directors</p> <p>(F) Management</p> <p>(G) Shareholders</p> <p>(H) Disclosure of relationships between directors inter-se in the Annual Report, notice of appointment of a director, prospectus and letter of offer for issuances and any related filings made to the stock exchanges where the company is listed.</p>
V	CEO/CFO certification	<p>Verify :</p> <p>a) Financial Statements</p> <p>(i) Do not contain any materially untrue statement.</p> <p>(ii) Present true and fair view of the state of affairs and are in compliance with AS and applicable laws.</p>

		b) No transaction entered is fraudulent or illegal. c) Accepted the responsibility for establishing and maintaining Internal Controls for the purpose of financial reporting d) Disclosed to the auditors and Audit Committee deficiencies in the design or operation of internal control
VI	Report on Corporate Governance	<ul style="list-style-type: none"> ➤ Ascertain whether the Board of directors have included in the annual report of the company, a separate section on corporate governance with a detailed compliance report on corporate governance. ➤ Verify whether the suggested list of items to be included in this report as per Annexure - I C of Clause 49 and list of non-mandatory requirements as per Annexure - I D of Clause 49 have been incorporated in such report.

Annexure 3

Specimen code of conduct

The PQR group has a reputation for honesty and integrity in its management practices and in all its business transactions and it is imperative that each one of us who is a part of the group strive to preserve this reputation.

This code of conduct applies to all directors, officers and employees of the PQR group and its subsidiaries. It is designed to help us understand our ethical and legal obligations in handling the company's business. The guidelines set out in this code of conduct are mandatory and, must be observed by every one at all times.

The code of conduct aims to establish guidelines for code of conduct and when there is any ambiguity, please contact your supervisor, a member of senior

management, the head of the Legal Department/ Counsel or the head of the Internal Audit Department to make the appropriate decisions concerning conduct at work and in business.

Compliance with Laws

PQR group and its employees must comply with every local, state, national, international or foreign law or regulation that applies to the company's business. Ignorance of the law is generally not considered a valid defense when an infraction is committed .In case of confusion please consult your supervisor, or the head of the Legal Department/ Counsel

National interest

The PQR group and its subsidiaries should be committed in all its actions to benefit the economic development of the countries in which it operates. It shall not engage in any activity to the detriment of the nation's interests, or those that will have any adverse impact on the social and cultural life of its citizens. A PQR company shall conduct its business affairs in accordance with the economic, development and foreign policies, of the nation's government.

Financial reporting and records

A PQR company shall prepare and maintain its accounts fairly and accurately in accordance with the accounting and financial reporting guidelines, principles, standards, laws and regulations of the country in which the company conducts its business affairs.

Accounting and audit procedures shall fairly and accurately reflect all of the company's business transactions and disposition of assets. All required information shall be accessible to company auditors and other authorised parties. There shall be no willful omissions of any company transactions from the books and records or intentional destruction of data without approval

Competition and Antitrust

A PQR company shall fully strive for the establishment and support of a competitive, open market economy in India and abroad. PQR group is committed to strict observance of the competition and antitrust laws of the countries in which it does business and to the avoidance of any conduct that could be considered illegal.

Agreements or arrangements may be found illegal through the conduct even if they are not made in writing, since the conduct of the party involved can be sufficient to establish that a violation occurred. Consequently, we must not take part in any formal or informal discussions, agreements, arrangements, projects or accords with current or potential competitors related to pricing, terms of sale or bids, division of markets, allocation of customers or any other activity that restrains or could restrain free and open competition.

The courts may impose large fines and, in certain circumstances, lengthy prison terms for violations of antitrust laws and these penalties may be imposed on both employees and companies. In view of the serious legal consequences, at both the civil and criminal levels, to which such violations could expose the company, PQR group will take any steps that may reasonably be warranted against employees who disobey these laws. Ignorance, overzealousness, good faith or the argument that time did not permit the advice of the Legal Department to be sought will not be accepted as an excuse. All questions in the competition/antitrust area should be submitted to the Legal Department before any action is taken.

Competition

A PQR company shall fully strive for the establishment and support of a competitive, open market economy in India and abroad, and shall cooperate in efforts to promote the progressive and judicious liberalisation of trade and investment by a country. Specifically, a PQR company shall not engage in

activities that generate or support the formation of monopolies, dominant market positions, cartels and similar unfair trade practices.

A PQR company shall market its products and services on its own merits and shall not make unfair and misleading statements about competitors' products and services. Any collection of competitive information shall be made only in the normal course of business and shall be obtained only through legally permitted sources and means

Payments to Government Officials

PQR group will comply with the anti-corruption laws of the countries in which it does business, including the US Foreign Corrupt Practices Act, which applies to its global business. We will not directly or indirectly offer or give anything of value to any government official, including employees of state-owned enterprises, for the purpose of influencing any act or decision in order to assist the company in obtaining or retaining business or to direct business to anyone. We will also ascertain that any agents we engage to conduct business on our behalf are reputable and that they also will comply with these guidelines.

Trading in the Securities of the Company

Should we decide to acquire, as employees, any shares issued by PQR group Steel Company N.V., we must be aware that the purchase of securities of any corporation listed on a stock exchange entails a certain risk and that the decision to acquire shares of PQR group Steel Company N.V. is strictly a personal one.

In addition, before we conclude any trade involving securities of the company, we must consider that securities laws contain prohibitions concerning the use of privileged or "inside" information.

In particular, securities laws prohibit us from purchasing, selling or otherwise

trading in or recommending, for our own account or for others, any securities of corporations where we are in possession of any "material inside information" concerning the corporation in question. Communicating such information to others is also prohibited.

The term "material inside information" refers to any information which, if it were made public, would be reasonably likely to influence the price of the securities of the corporation or to affect an investor's decision to purchase or sell securities of the corporation.

Conflicts of Interest

PQR group recognizes that we all have our own individual interests and encourages the development of these interests, especially where they are beneficial to the community at large. However, we must always act in the best interests of the company and we must avoid any situation where our personal interests conflict or could conflict with our obligations toward the company.

As employees, we must not acquire any financial or other interest in any business or participate in any activity that could deprive the company of the time or the scrupulous attention we need to devote to the performance of our duties.

We must not, directly or through any members of our families or persons living with us or with whom we are associated, or in any other manner:

1. have any financial interests that could have a negative impact on the performance of our duties, or derive any financial benefit from any contract between the company and a third party where we are in a position to influence the decisions that are taken regarding that contract;
or
2. Attempt to influence any decision of the company concerning any matter with a view to deriving any direct or indirect personal benefit.

We must inform our supervisor or the General Counsel of any business or financial interests that could be seen as conflicting or possibly conflicting with the performance of our duties. If the supervisor considers that such a conflict of interest exists or could exist, he or she is to take the steps that are warranted in the circumstances. If the case is complex, the supervisor is to bring it to the attention of the Vice-President of his or her division, the Chief Executive Officer or the General Counsel.

Receiving Gifts or Benefits

We must not profit from our position with PQR group so as to derive personal benefits conferred on us by persons who deal or seek to deal with the company. Consequently, accepting any personal benefit, such as a sum of money, a gift, a loan, services, pleasure trips or vacations, special privileges or living accommodations or lodgings, with the exception of promotional items of little value, is forbidden.

Any entertainment accepted must also be of a modest nature and the real aim of the entertainment must be to facilitate the achievement of business objectives. For example, if tickets for a sporting or cultural event are offered to us, the person offering the tickets must also plan to attend the event. In general, offers of entertainment in the form of meals and drinks may be accepted, provided that they are inexpensive, infrequent and, as much as possible, reciprocal.

As these instructions cannot cover every eventuality, we are all required to exercise good judgment. The saying "everybody does it" is not a sufficient justification. If we are having difficulty deciding whether a particular gift or entertainment falls within the boundaries of acceptable business practice, we should ask ourselves the following questions:

Is it directly related to the conduct of business?

Is it inexpensive, reasonable and in good taste?

Would I be comfortable telling other customers and suppliers that I gave or received this gift?

Other employees?

My supervisor?

My family?

The media?

Would I feel obligated to grant favours in return for this gift?

Am I sure the gift does not violate a law or a company policy?

Corporate Boards of Directors

Before agreeing to sit on the board of directors of a business corporation, we must obtain the authorization of our supervisor or the General Counsel. The purpose of this step is to ensure that there is no possible conflict of interest.

Political Activities

Employees who run for an elected office are required to so inform their supervisor or the General Counsel.

Employees who wish to participate in activities of a political or public nature must do so in a personal capacity only and during non-working hours.

Corporate Opportunities

We, as directors, officers or employees, are prohibited from

(a) Taking for ourselves personal opportunities that are properly within the scope of the company's activities,

(b) Using corporate property, information or position for our own personal gain, and

(c) Competing with the company; unless otherwise authorized by the Board of Directors of the company. We owe a duty to the company to advance its

legitimate interests to the best of our ability.

Fair Dealing

Customer Relations

The company's prosperity is founded on customer satisfaction. PQR group expects us to preserve the quality of our customer relations by maintaining business relationships that are based on integrity, fairness and mutual respect. Only clear, concrete, pertinent and honest information is to be given to customers. We must be careful to avoid making any statement to a customer that could be misinterpreted. The company does not tolerate the making of promises to customers which will probably be impossible to keep, regarding product quality and characteristics, delivery times and prices.

Offering Gifts and Entertaining

The company expects us to refrain from offering gifts or granting favours outside the ordinary course of business to current or prospective customers, their employees or agents or any person with whom the company has a contractual relationship or intends to negotiate any agreements.

Employees who are called upon to do so may incur reasonable expenses for the entertainment of current or prospective customers or other persons who deal with the company, provided that such entertainment is in keeping with the person's position and is related to business discussions and that appropriate accounts are kept.

Supplier relationships

Suppliers of the company are to be chosen in consideration of objective criteria, based on quality, reliability, price, utility and performance or service. Suppliers are to be treated justly, fairly and honestly.

Fees and commissions are to be paid to consultants only in the course of ordinary business relations. Any fees must be substantiated by documentation demonstrating that the amount charged is commensurate with the value of the services rendered.

Confidential Information

Data, information and documents pertaining to the company are to be used strictly for the performance of our respective duties and may be disclosed or communicated to persons outside the company only to the extent that the information in question is needed by such persons in connection with their business relations with the company, or where the information is already in the public domain or is required to be disclosed by law or court order. In case of doubt as to whether the information may be disclosed and to whom it may be sent, we should consult our supervisor or the Legal Department.

We are required, for the duration of our employment with the company and after our employment terminates, to keep such information confidential and to use the utmost discretion when dealing with sensitive or privileged information. Such information includes, in addition to the technology used by the company, intellectual property, business and financial information relating to sales, earnings, balance sheet items, business forecasts, business plans, acquisition strategies and other information of a confidential nature.

Confidential information must not be discussed with any unauthorized persons, whether company personnel or persons outside the company. We must take the necessary steps to ensure that documents containing confidential information, when sent by fax or other electronic media, are not brought to the attention of unauthorized persons, whether company personnel or persons outside the company. We must take the appropriate security measures when destroying documents that contain confidential information (regardless of the medium by which such documents are recorded).

We must also keep confidential any similar information relating to the organizations with which the company has a business relationship of any kind.

Any request for information concerning the company that originates with the media or a government agency should be directed to the Public Affairs Manager, the Chief Executive Officer or the Legal Department, depending on the nature of the information requested.

Personal Information

Personal information, that is, information relating to an individual that allows that individual to be identified, is protected, among other things, by laws in certain jurisdictions. PQR group fully supports the objectives of such legislation and applies rigorous measures to ensure compliance with its provisions. Any collection, retention, use or communication to third parties of personal information must be carried out in a manner that is respectful of the individual and in compliance with the law at all times. Except in certain limited cases, personal information is to be used strictly for the performance of our respective duties and may be disclosed to third parties only where such disclosure has been authorized by the individual concerned. Such information must be kept in a secure place. In case of doubt as to the handling of personal information, we should consult our supervisor or the Legal Department.

Protection and Proper use of Company Assets

Accuracy of Records

The books, records, files and statements of PQR group must faithfully reflect the entirety of the company's assets and liabilities, as well as all of its operations, transactions and any other items related to its business, without omission or concealment of any kind, in accordance with applicable standards and regulations.

All transactions must be authorized and carried out in accordance with the instructions of management. Transactions must be recorded in a manner that will allow accurate financial statements to be prepared and the utilization of assets to be accounted for.

No file is to be destroyed without the authorization of our supervisor. Such authorization will be granted only if it is in keeping with applicable laws and company policy.

Property of the Company

The loss, theft or inappropriate use of the company's property is bound, sooner or later, to affect the company's profitability. The protection of the company's property by each one of us is a matter of integrity and honesty.

We must use any property of the company entrusted to us in an appropriate manner, ensure that it is secure, and prevent theft, damage and premature wear from occurring. Company property must be used exclusively for the business of the company and must not to be used for personal purposes unless we first obtain permission from our supervisor.

PQR group encourages initiative, creativity and innovation on the part of its employees. Nevertheless, intangible property such as inventions, ideas, documents, software, patents and other forms of intellectual property related to the company's business, created or conceived by employees in connection with the performance of their duties, belongs, on that basis, to the company. Subject to any mandatory applicable law, we may not derive profit from, or apply for a patent in our personal name for, any creation or invention conceived or made by us in the course of performing our duties.

Software developed or acquired by the company may not be reproduced or tampered with, nor may it be used for any purposes other than those intended

by the company. Software that is not owned or licensed by the company is not to be used on the work premises or in the company's business.

E-mail and the Internet

PQR group owns the e-mail and internet systems used in the workplace and thus we should use these systems primarily for work-related communications. Although we each have individual passwords to access the e-mail and internet systems, the company reserves the right, subject to applicable law, to access and monitor our use of these systems in appropriate circumstances.

We are strictly prohibited from using the e-mail and internet systems for any improper or illegal purpose, including the transmission of messages that may be viewed as insulting or offensive to another person, such as messages, cartoons or jokes that could be construed as harassment of others on the basis of race, color, religion, sex, age, national origin or disability.

Respecting the PQR group Community

Work environment free of harassment and discrimination

PQR group is committed to providing a work environment that is free of any form of sexual or other harassment, whether it be harassment by an employee of another employee or harassment by an employee of a customer or supplier or vice-versa.

PQR group is committed to ensuring that each one of us is treated with fairness and dignity; accordingly, any discriminatory practice based on race, color, sex, age, religion, ethnic or national origin, disability or any other unlawful basis will not be tolerated. The company seeks to provide each of us with equal opportunity for advancement without discrimination. However, distinguishing between individuals based on the aptitudes or qualifications required for a particular employment does not constitute discrimination.

An employee who believes he or she has been the victim of, or a witness to, a situation involving harassment or discrimination should immediately report that situation to the head of the Legal Department. All such reports will be treated in confidence.

Occupational Health and Safety

PQR group makes every effort to provide us with a healthy and safe work environment, to conduct regular inspections so as to eliminate any dangerous conditions or behavior and their causes, and to develop programs dedicated to our safety and well-being. We must abide by the company's standards in safety matters, do our part to maintain a healthy and safe work environment and take the necessary steps to ensure our own safety and the safety of others.

The manufacture, use, purchase, sale, trafficking or possession on the company premises of substances such as alcoholic beverages (except in permitted circumstances), stimulants, narcotics and other intoxicants is forbidden.

Respect for the Environment

Respecting and protecting the environment is an important value to which PQR group subscribes. We must comply at all times with the environmental legislation applicable to PQR group, and we have an important role to play in implementing the guidelines issued by the company in this regard.

A Shared Responsibility

Each one of us is responsible for adhering to the values of PQR group in our daily lives as employees of the company and for making every effort to ensure that our rules of conduct are respected by all. It goes without saying that conduct that is contrary to these rules is punishable by disciplinary action up to and including termination of employment.

Waivers of this Code of Conduct

A waiver of any provision of this code of conduct will only be given if it is deemed absolutely appropriate under the circumstances. A waiver of this code of conduct for executive officers or directors of the company will only be granted by the Board of Directors of the company or a committee of the Board. Any such waiver granted will be promptly disclosed as required by law or stock exchange requirement

Annexure 4

Specimen Whistle Blower Policy

1. Reporting Concerns

- a) Every employee of ----- Company shall promptly report to the management any actual or possible violation of the Code or an event he becomes aware of that could affect the business or reputation of his or any other -----Company.
- b) Clause 49 of the Listing Agreement between listed companies and the Stock Exchanges has been amended which is effective from January 1, 2006, inter alia, provides for a non-mandatory requirement for all listed companies to establish a mechanism called 'Whistle Blower Policy' for employees to report to the management instances of unethical behaviour, actual or suspected, fraud or violation of the company's code of conduct or ethics policy.
- c) Accordingly, this Whistle Blower Policy ("the Policy") has been formulated with a view to provide a mechanism for employees of the Company to approach the Ethics Counsellor / Chairman of the Audit Committee of the Company.

2. Definitions

The definitions of some of the key terms used in this Policy are given below.

- a) “Audit Committee” means the Audit Committee constituted by the Board of Directors of the Company in accordance with Section 292A of the Companies Act, 1956 and read with Clause 49 of the Listing Agreement with the Stock Exchanges.
- b) “Employee” means every employee of the Company (whether working in India or abroad), including the Directors in the employment of the Company.
- c) “Code” means the ----- Code of Conduct.
- d) “Investigators” mean those persons authorized, appointed, consulted or approached by the Ethics Counsellor/Chairman of the Audit Committee and include the auditors of the Company and the police.
- e) “Protected Disclosure” means any communication made in good faith that discloses or demonstrates information that may evidence unethical or improper activity.
- f) “Subject” means a person against or in relation to whom a Protected Disclosure has been made or evidence gathered during the course of an investigation.
- g) “Whistle Blower” means an Employee making a Protected Disclosure under this Policy.

3. Scope

- a) This Policy is an extension of the ----- Code of Conduct. The Whistle Blower’s role is that of a reporting party with reliable information. They are not required or expected to act as investigators or finders of facts, nor would they determine the appropriate corrective or remedial action that may be warranted in a given case.
- b) Whistle Blowers should not act on their own in conducting any investigative activities, nor do they have a right to participate in any

- investigative activities other than as requested by the Ethics Counsellor or the Chairman of the Audit Committee or the Investigators.
- c) Protected Disclosure will be appropriately dealt with by the Ethics Counsellor or the Chairman of the Audit Committee, as the case may be.

4. Eligibility

All Employees of the Company are eligible to make Protected Disclosures under the Policy. The Protected Disclosures may be in relation to matters concerning the Company

5. Disqualifications

- a) While it will be ensured that genuine Whistle Blowers are accorded complete protection from any kind of unfair treatment as herein set out, any abuse of this protection will warrant disciplinary action.
- b) Protection under this Policy would not mean protection from disciplinary action arising out of false or bogus allegations made by a Whistle Blower knowing it to be false or bogus or with a mala fide intention.
- c) Whistle Blowers, who make any Protected Disclosures, which have been subsequently found to be mala fide or malicious or Whistle Blowers who make 3 or more Protected Disclosures, which have been subsequently found to be frivolous, baseless or reported otherwise than in good faith, will be disqualified from reporting further Protected Disclosures under this Policy.

6. Procedure

- a) All Protected Disclosures concerning financial/accounting matters should be addressed to the Chairman of the Audit Committee of the Company for investigation.
- b) In respect of all other Protected Disclosures, those concerning the Ethics Counsellor and employees at the levels of Vice Presidents and above should be addressed to the Chairman of the Audit Committee of the

Company and those concerning other employees should be addressed to the Ethics Counsellor of the Company.

- c) The contact details of the Chairman of the Audit Committee are as under: -----.
- d) If a protected disclosure is received by any executive of the Company other than Chairman of Audit Committee or the Ethics Counsellor, the same should be forwarded to the Company's Ethics Counsellor or the Chairman of the Audit Committee for further appropriate action. Appropriate care must be taken to keep the identity of the Whistle Blower confidential.
- e) Protected Disclosures should preferably be reported in writing so as to ensure a clear understanding of the issues raised and should either be typed or written in a legible handwriting in English, Hindi or in the regional language of the place of employment of the Whistle Blower. Alternatively, Protected Disclosures can also be reported orally by leaving a voice mail on the following toll free line of the Company ----- . Oral reports will normally be documented by the Chief Ethics Counsellor / Chairman of the Audit Committee accessing the voice mail by a written transcription of the oral report.
- f) The Protected Disclosure should be forwarded under a covering letter which shall bear the identity of the Whistle Blower. The Chairman of the Audit Committee / Ethics Counsellor, as the case may be shall detach the covering letter and forward only the Protected Disclosure to the Investigators for investigation.
- g) Protected Disclosures should be factual and not speculative or in the nature of a conclusion, and should contain as much specific information as possible to allow for proper assessment of the nature and extent of the concern.
- h) For the purpose of providing protection to the Whistle Blower, the Whistle Blower should disclose his/her identity in the covering letter forwarding such Protected Disclosure.

7. Investigation

- a) All Protected Disclosures reported under this Policy will be thoroughly investigated by the Ethics Counsellor / Chairman of the Audit Committee of the Company who will investigate / oversee the investigations under the authorization of the Audit Committee.
- b) The Ethics Counsellor / Chairman of the Audit Committee may at his discretion, consider involving any Investigators for the purpose of investigation.
- c) The decision to conduct an investigation taken by the Ethics Counsellor / Chairman of the Audit Committee is by itself not an accusation and is to be treated as a neutral fact-finding process. The outcome of the investigation may not support the conclusion of the Whistle Blower that an improper or unethical act was committed.
- d) The identity of a Subject and the Whistle Blower will be kept confidential to the extent possible given the legitimate needs of law and the investigation.
- e) Subjects will normally be informed of the allegations at the outset of a formal investigation and have opportunities for providing their inputs during the investigation.
- f) Subjects shall have a duty to co-operate with the Ethics Counsellor / Chairman of the Audit Committee or any of the Investigators during investigation to the extent that such co-operation will not compromise self-incrimination protections available under the applicable laws. .
- g) Subjects have a right to consult with a person or persons of their choice, other than the Ethics Counsellor / Investigators and/or members of the Audit Committee and/or the Whistle Blower. Subjects shall be free at any time to engage counsel at their own cost to represent them in the investigation proceedings. However, if the allegations against the subject are not sustainable, then the Company may see reason to reimburse such costs.
- h) Subjects have a responsibility not to interfere with the investigation.

Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached, threatened or intimidated by the Subjects.

- i) Unless there are compelling reasons not to do so, Subjects will be given the opportunity to respond to material findings contained in an investigation report. No allegation of wrongdoing against a Subject shall be considered as maintainable unless there is good evidence in support of the allegation.
- j) Subjects have a right to be informed of the outcome of the investigation. If allegations are not sustained, the Subject should be consulted as to whether public disclosure of the investigation results would be in the best interest of the Subject and the Company.
- k) The investigation shall be completed normally within 45 days of the receipt of the Protected Disclosure.

8. Protection

- a) No unfair treatment will be meted out to a Whistle Blower by virtue of his/her having reported a Protected Disclosure under this Policy. The Company, as a policy, condemns any kind of discrimination, harassment, victimization or any other unfair employment practice being adopted against Whistle Blowers. Complete protection will, therefore, be given to Whistle Blowers against any unfair practice like retaliation, threat or intimidation of termination/suspension of service, disciplinary action, transfer, demotion, refusal of promotion, or the like including any direct or indirect use of authority to obstruct the Whistle Blower's right to continue to perform his duties/functions including making further Protected Disclosure. The Company will take steps to minimize difficulties, which the Whistle Blower may experience as a result of making the Protected Disclosure. Thus, if the Whistle Blower is required to give evidence in criminal or disciplinary proceedings, the Company will arrange for the Whistle Blower to receive advice about the procedure, etc.

- b) A Whistle Blower may report any violation of the above clause to the Chairman of the Audit Committee, who shall investigate into the same and recommend suitable action to the management.
- c) The identity of the Whistle Blower shall be kept confidential to the extent possible and permitted under law.
- d) Any other Employee assisting in the said investigation shall also be protected to the same extent as the Whistle Blower.

9. Investigators

- a) Investigators are required to conduct a process towards fact-finding and analysis. Investigators shall derive their authority and access rights from the Ethics Counsellor / Audit Committee when acting within the course and scope of their investigation.
- b) Technical and other resources may be drawn upon as necessary to augment the investigation. All Investigators shall be independent and unbiased both in fact and as perceived. Investigators have a duty of fairness, objectivity, thoroughness, ethical behavior, and observance of legal and professional standards.
- c) Investigations will be launched only after a preliminary review by the Chairman of the Audit Committee or the Ethics Counsellor, as the case may be, which establishes that:
 - 1. the alleged act constitutes an improper or unethical activity or conduct, and
 - 2. The allegation is supported by information specific enough to be investigated or in cases where the allegation is not supported by specific information, it is felt that the concerned matter is worthy of management review. Provided that such investigation should not be undertaken as an investigation of an improper or unethical activity or

10. Decision

If an investigation leads the Ethics Counsellor / Chairman of the Audit Committee to conclude that an improper or unethical act has been committed,

the Ethics Counsellor / Chairman of the Audit Committee shall recommend to the management of the Company to take such disciplinary or corrective action as the Ethics Counsellor / Chairman of the Audit Committee may deem fit. It is clarified that any disciplinary or corrective action initiated against the Subject as a result of the findings of an investigation pursuant to this Policy shall adhere to the applicable personnel or staff conduct and disciplinary procedures.

11. Reporting

The Ethics Counsellor shall submit a report to the Chairman of the Audit Committee on a regular basis about all Protected Disclosures referred to him/her since the last report together with the results of investigations, if any.

12. Retention of documents

All Protected Disclosures in writing or documented along with the results of investigation relating thereto shall be retained by the Company for a minimum period of seven years.

13. Amendment

The Company reserves its right to amend or modify this Policy in whole or in part, at any time without assigning any reason whatsoever. However, no such amendment or modification will be binding on the Employees unless the same is notified to the Employees in writing.