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SCHOOL OF MANAGEMENT STUDIES

UNIT – I – Corporate Governance – SBAA1506/SBAA3009

UNIT 1: INTRODUCTION

Introduction – Definition - Understanding A Corporation and Its Facets - The Four P ‘S of Corporate Governance - Corporate Structure - Why Is Corporate Structure Important?

INTRODUCTION

- Corporate governance is a multi-faceted subject. An important theme of corporate governance is to ensure the accountability of certain individuals in an organization through mechanisms that try to reduce or eliminate the principal-agent problem.
- Corporate governance is the combination of rules, processes or laws by which businesses are operated, regulated or controlled.
- The term encompasses the internal and external factors that affect the interests of a company’s stakeholders, including shareholders, customers, suppliers, government regulators and management.

DEFINITION

The Cadbury Committee Report in 1992 had a clear but narrow definition,

“Corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders’ role in governance is to appoint the directors and auditors and to satisfy themselves that the appropriate governance structure is in place.”

What is Corporate Governance?

- Corporate Governance is the system of rules, practices and processes by which a company is directed and controlled.
- Corporate Governance essentially involves balancing the interest of the company’s many stakeholders such as shareholders, management, customers, suppliers, financiers, government and the community.

CORPORATE GOVERNANCE - CHANNEL OF GROWTH AND DEVELOPMENT

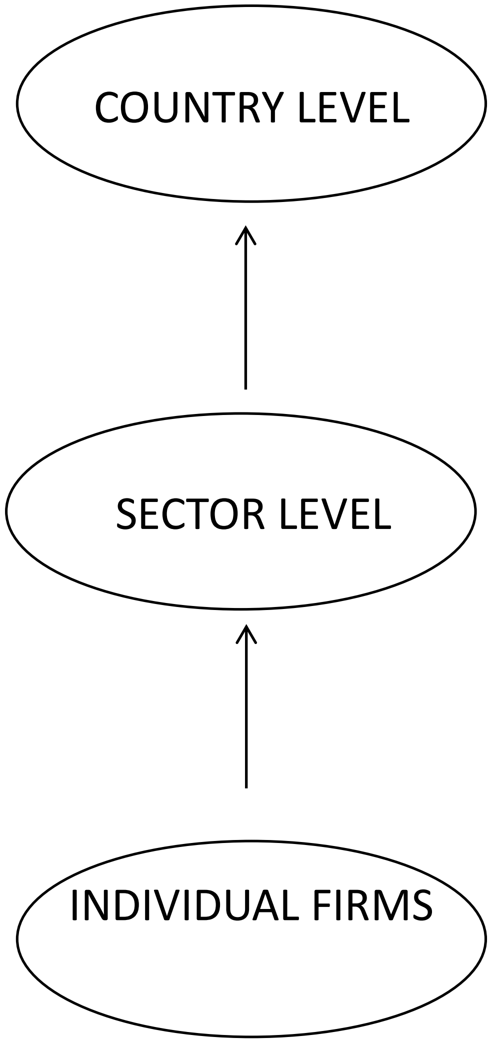

Fig 1

EFFECTIVE MANAGEMENT RELATIONSHIPS

- Among various participants in determining the direction and performance of a corporation :
- Managers
- Board of directors
- Employees
- Customers
- Creditors
- Suppliers
- Community

Why Corporate Governance?

Corporate governance is about enabling organisations to achieve their goals, control risks and assuring compliance. Good **corporate governance** incorporates a set of rules that define the relationship between stakeholders, management and the board of directors of a company and influence how the company is operating.

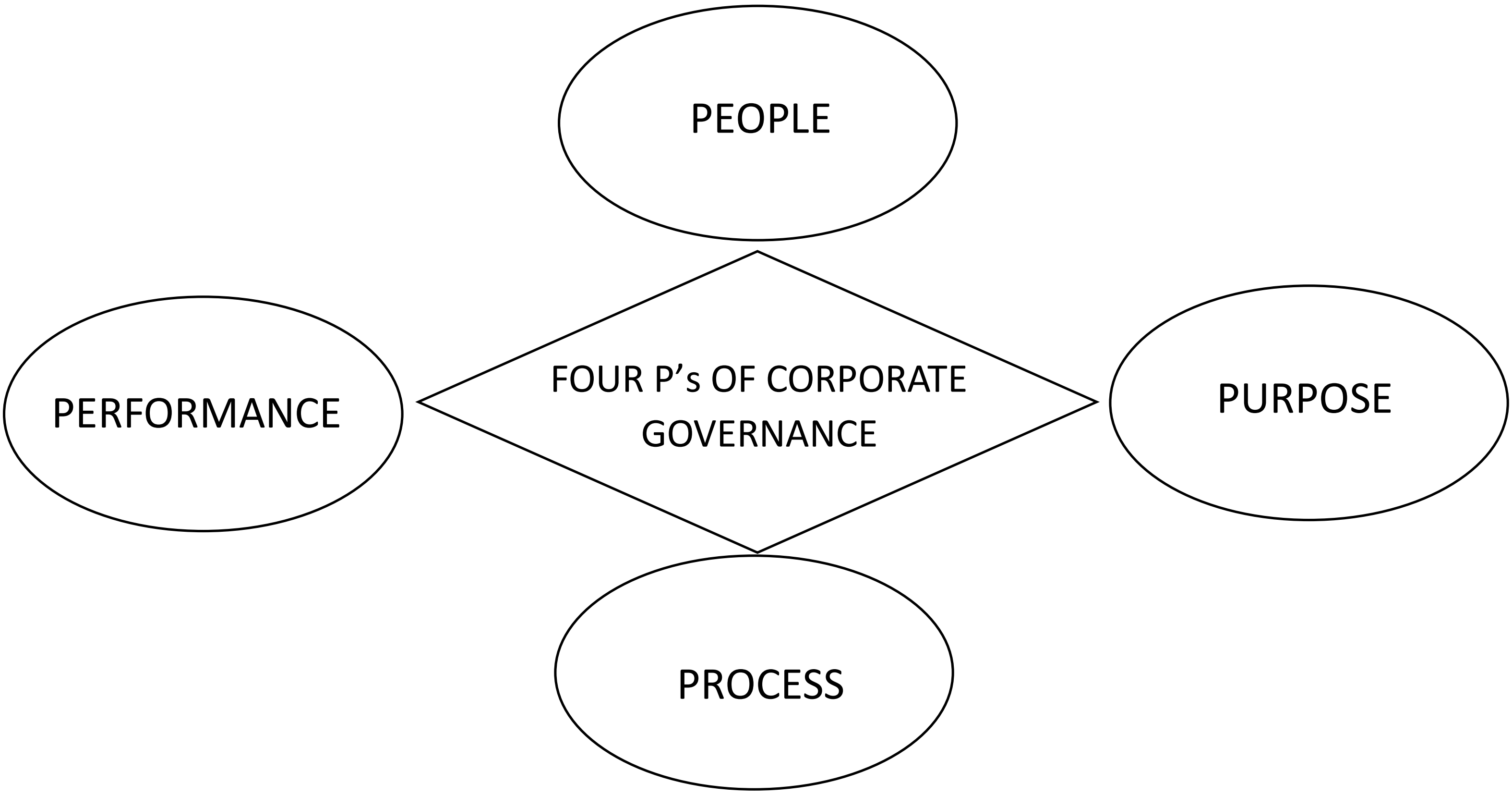

Fig 2

FOUR P'S OF CORPORATE GOVERNANCE

- Experts break corporate governance into four simple words: **People**, **Purpose**, **Process** and **Performance**.

  People

- People come first in the Four Ps because people exist on every side of the business equation.
- They are the founders, the board, the stakeholder and consumer and impartial observer.

- People are the organisers who determine a purpose to work towards, develop a consistent process to achieve it, evaluate their performance outcomes, and use those outcomes to grow themselves and others as people.

Purpose

- Purpose is the next step. Every piece of governance exists for a purpose and to *achieve* a purpose.
- The ‘for’ is the guiding principles of the organisation. Their mission statements.
- Every one of their policies and projects should exist to further this agenda.

Process

- Governance is the process by which people achieve their company’s purpose, and that process is developed by analysing performance.
- Processes are refined over time in order to consistently achieve their purpose, and it’s always smart to take a critical eye to your governance processes.

Performance

- Performance analysis is a key skill in any industry.
- The ability to look at the results of a process and determine whether it was successful (or successful enough), and then apply those findings to the rest of your organisation, is one of the primary functions of the governance process.

Principles of corporate governance

- While corporate governance structure may vary, most organizations incorporate the following key elements:
- All shareholders should be treated equally and fairly. Part of this is making sure shareholders are aware of their rights and how to exercise them.
- Legal, contractual and social obligations to non-shareholder stakeholders must be upheld.
- This includes always communicating pertinent information to employees, investors, vendors and members of the community.
- The board of directors must maintain a commitment to ensure accountability, fairness, diversity and transparency within corporate governance.

- Board members must also possess the adequate skills necessary to review management practices.
- Organizations should define a code of conduct for board members and executives, only appointing new individuals if they meet that standard.
- All corporate governance policies and procedures should be transparent or disclosed to relevant stakeholders.

CORPORATE STRUCTURE

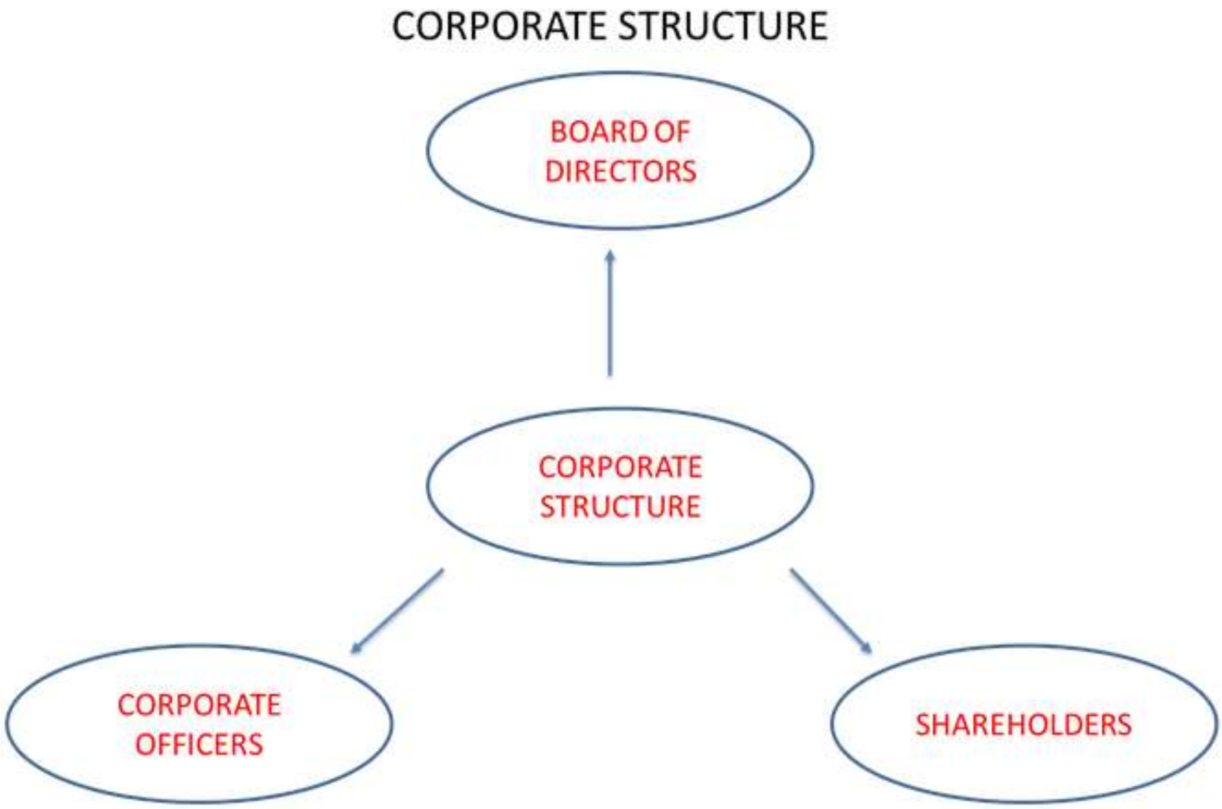

Fig 3

Corporate Structure

- Corporate structure is also known as corporate governance, it is the way of running a business.
- Corporate structure is a way of organizing a company in three parts.
- This includes:
- Board of directors, who control the business

- Corporate officers, who oversee operations
- Shareholders, who own the business

Board of Directors

The board's tasks include:

- The board of directors reports to the shareholders.
- Making sure managers are effective
- Keeping the chief executive officer (CEO) on track
- Reviewing the company's plans, budgets, and goals
- Ensuring the business follows the law
- Writing bylaws
- Creating committees
- Protecting shareholders
- Holding annual meetings
- The board can be one or many people with diverse experience. Shareholders elect board members.
- The company's by laws will say how many members the board needs.
- Usually, the board of directors has an odd number of members to avoid tied votes.

Directors may include

- Chairman:
- This person leads the business and is responsible for the board's actions.
- They work with top officers. He or she acts as the public face of the company.
- Usually, the chairman starts as a board member.
- Inside Directors: These people are in charge of budgets.
- They may be shareholders or top managers. Sometimes they are called executive directors.

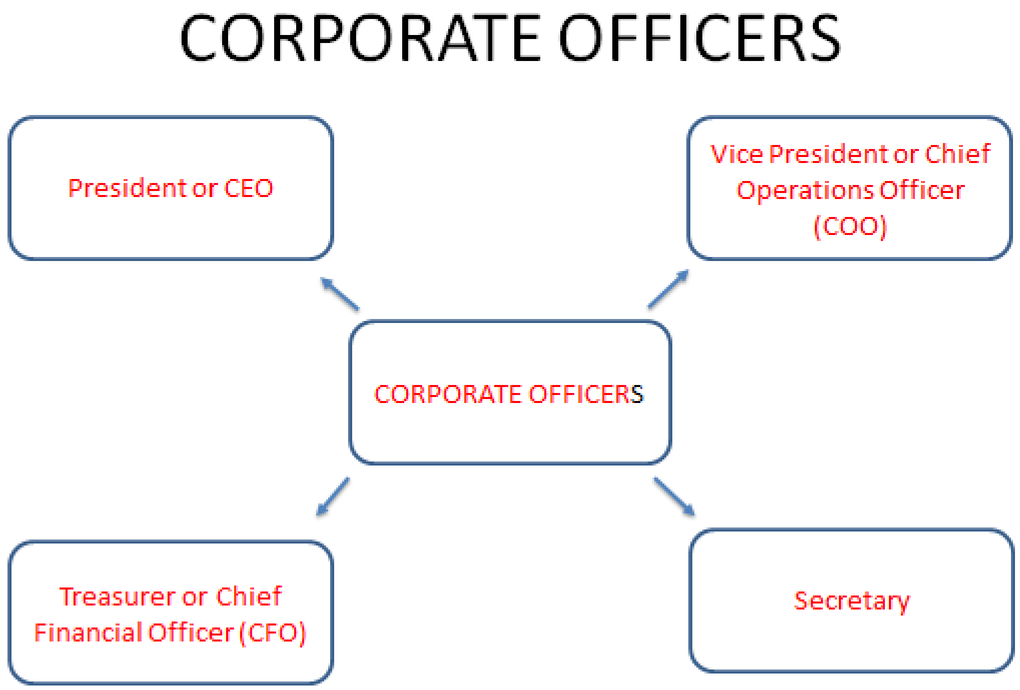

Fig 4

Corporate Officers

- Corporate officers are chosen by the board. They are also called upper management. Officers handle day-to-day tasks. They look out for the company's interests.
- There are four kinds of officers:
- President or CEO: This officer enforces policy, signs documents, and works with the board of directors. They may also be the president. CEOs enforce decisions.
- Vice President or Chief Operations Officer (COO): This officer is a senior executive. VPs replace the president if he or she can no longer act as president. COOs run the daily business, marketing, production, sales, and staff.
- Treasurer or Chief Financial Officer (CFO): This officer is in charge of finances. The CFO writes budgets, and tracks spending, and writes reports. Most CFOs give reports to the board, the Securities and Exchange Commission (SEC), and other agencies.
- Secretary: This officer keeps records, minutes, and books.

Shareholders

- Shareholders own the company. They don't typically take part in daily business.
- Different kinds of corporations have different numbers of shareholders. These people own common stock shares.
- They get a return from the company in the form of profits. Shareholders are not personally liable for the company.
- Shareholders help make decisions. Those who own more shares have more interest in the company.
- While a corporation's owners are usually its first shareholders, larger companies can have many public shareholders.
- Shareholders can vote on:
- Members of the board of directors
- Changing bylaws or the Articles of Incorporation
- Dissolving or merging the company with another
- Disposing of assets

Why Is Corporate Structure Important?

- Corporate structure separates owners and managers. Clear structure can grow a small family business into an international company that's traded around the world.
- A well-defined structure helps a business shape its goals. Corporate structure is useful for start-ups because it helps them to outline positions and responsibilities. This can also attract investors who easily understand how a company plans to make profits.

THREE PILLARS OF CORPORATE GOVERNANCE

Fig 5

First Pillar of Corporate Governance: Transparency

- In simplest terms, transparency means having nothing to hide.
- For a company, this means it allows its processes and transactions observable to outsiders.
- It also makes necessary disclosures, informs everyone affected about its decisions, and complies with legal requirements.
- Transparency is a critical component of corporate governance because it ensures that all of a company's actions can be checked at any given time by an outside observer.
- This makes its processes and transactions verifiable, so if a question does come up about a step, the company can provide a clear answer

Second pillar of corporate governance

- **Accountability**
- It takes more than transparency to build integrity as a company.
- It also takes accountability, which can also mean answerability or liability.

- Shareholders are deeply interested in who will take the blame when something goes wrong in one of a company’s many processes.

Third pillar of corporate governance

- **Security**
- A company is expected to make their processes transparent and their people accountable while keeping their enterprise data secure from unauthorized access.
- There is simply no compromise for this.
- Companies that experience security breaches involving the exposure of their clients’ personal information quickly lose their credibility.

Types of corporate governance mechanisms

- A corporate governance structure is often a combination of various mechanisms.

Internal Mechanism

- The foremost sets of controls for a corporation come from its internal mechanisms.
- These controls monitor the progress and activities of the organization and take corrective actions when the business goes off track.
- Maintaining the corporation's larger internal control fabric, they serve the internal objectives of the corporation and its internal stakeholders, including employees, managers and owners.
- These objectives include smooth operations, clearly defined reporting lines and performance measurement systems.

External Mechanism

- External control mechanisms are controlled by those outside an organization and serve the objectives of entities such as regulators, governments, trade unions and financial institutions.
- These objectives include adequate debt management and legal compliance.
- External mechanisms are often imposed on organizations by external stakeholders in the forms of union contracts or regulatory guidelines.

Independent Audit

- An independent external audit of a corporation’s financial statements is part of the overall corporate governance structure.
- An audit of the company's financial statements serves internal and external stakeholders at the same time
- An audited financial statement and the accompanying auditor’s report helps investors, employees, shareholders and regulators determine the financial performance of the corporation.

Organizations are complex adaptive systems:

- To understand the organization and operate it all parts of the organization need to focus on understanding the system as a whole and not parts of the system.
- As a network of people, groups, and connections there aren’t one direction interactions; any interaction is bidirectional.
- Any change to one element in the system might end up with unknown outcomes impacting the entire system.
- **Purpose**: The organization must have a clear and appealing purpose.
- Each group within the organization should have its purpose, directly derived from the company’s purpose.
- **No central control:** Control and authority should distribute to different groups and individuals in the organization.
- The organization should be decentralized. There’s always a need for coordination and collaboration, but not central control.
- **Self-Organized:** People and teams will organize by themselves to reach a common goal or reach emergent property that they can’t achieve alone.
- Although it looks like chaos, the organization needs to give people and groups to self-organize.
- **No-silos:** individuals contribute to the organization at least one area of expertise and a set of competencies.

- Groups should be a collection of people with different expertise needed to reach the group purpose.
- **Govern by feedback loops:** Instead of boards and governance body, which are an attempt of few to understand the complexity of the organization's internal and external environment, organizations need to establish many feedbacks loop between environments and the groups or functions that need to respond to the feedback.
- **Always emerging**: The ability of groups to create properties that their members can't create by themselves (emergent properties) is a critical capability of a system to be adaptive and to adjust itself to feedbacks coming from the environments.
- Organizations need to focus on finding new emergent properties or increasing existing emergent properties.

Clear boundaries

To enable decentralization and distribution of authority all roles/function and groups/entities within an organization should have a clear definition of their purpose, managed assets, responsibilities and connection to other roles or groups.

Continuous indications

- Each group should define simple to track and understand an indication on how a group or function progressing to reach their purpose.
- Those indicators should always be available publicly to anyone in the organization

Define conflict resolution

- Without central authority organizations need to agree on a common conflict resolution mechanism.
- This mechanism should be available for anyone to use and its decision should be respected.
- The most common mechanism now is voting with merit factor.

GOVERNANCE AND MANAGEMENT

- Governance is the job of the governing body, such as a committee or board, to provide direction, leadership and control.

- Management is typically the job of a management or executive team, led by a coordinator or chief executive and his/her staff and volunteers.
- The governing body's role is to oversee management, not to manage. It must be satisfied that the management team is doing its job in accordance with policy and resources.

An effective and productive governing body/chief executive relationship is built on:

- Mutual respect for their separate but interdependent roles and responsibilities
- A clear definition of the results to be achieved
- Clearly defined and documented delegation and authority
- Mutual agreement about the boundaries of freedom granted to the chief executive to carry
- out his/her role and tasks
- A fair, ethical and transparent process for evaluating the chief executive's performance
- Open and regular communication
- An ability to engage in robust debate and a mutual willingness to challenge and to offer and receive constructive criticism.

SEPERATION OF OWNERSHIP AND CONTROL

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SEPERATION OF OWNERSHIP AND CONTROL

- Ownership means that having legal title.

- Control means having the ability to determine use.
- Many feel that the management of a company are not sufficiently incentivized to ensure the company is responsibly managed and hence are encouraged to take excessive risk.
- Shareholders generally have little input into the management of the company and are thought to be predominately concerned with increasing the value of their investment.
- It is against this backdrop that corporate governance has developed, ensuring that the management of a company do not take excessive risks and run the company with due care and skill.

Theoretical basis of corporate governance

- There are six broad theories to explain and elucidate corporate governance. These are:
- Agency Theory
- Stewardship Theory
- Resource Dependency Theory
- Stakeholder Theory
- Transaction Cost Theory
- Political Theory

Agency Theories

- **Agency Theories(Stephen Ross and Barry Mitnick in 1973)**
- Agency theories arise from the distinction between the owners (shareholders) of a company or an organization designated as "the principals" and the executives hired to manage the organization called "the agent.“
- Agency theory argues that the goal of the agent is different from that of the principals, and they are conflicting .
- The assumption is that the principals suffer an agency loss, which is a lesser return on investment because they do not directly manage the company.
- Part of the return that they could have had if they were managing the company directly goes to the agent.

Stewardship Theories

- **Stewardship Theories (Donaldson and Davis 1989)**
- Stewardship theories argue that the managers or executives of a company are stewards of the owners, and both groups share common goals.
- Therefore, the board should not be too controlling, as agency theories would suggest.
- The board should play a supportive role by empowering executives and, in turn, increase the potential for higher performance .

Resource-Dependence Theories

- This theory originated in the 1970s with the publication of "The external control of organisation: A Resource dependence perspective by Jeffery Pfeffer and Gerald R Salanick.
- Resource-dependence theories argue that a board exists as a provider of resources to executives in order to help them achieve organizational goals .
- Resource-dependence theories recommend interventions by the board while advocating for strong financial, human, and intangible supports to the executives.
- For example, board members who are professionals can use their expertise to train and mentor executives in a way that improves organizational performance.
- Board members can also tap into their networks of support to attract resources to the organization. Resource-dependence theories recommend that most of the decisions be made by executives with some approval of the board.

Stakeholder Theories

- The **stakeholder theory of corporate governance** focuses on the effect of **corporate** activity on all identifiable **stakeholders** of the **corporation**.
- This **theory** posits that **corporate** managers (officers and directors) should take into consideration the interests of each **stakeholder** in its **governance** process.
- Stakeholder theories argue that clients or customers, suppliers, and the surrounding communities also have a stake in a corporation.
- They can be affected by the success or failure of a company.

- Therefore, managers have special obligations to ensure that all stakeholders (not just the shareholders) receive a fair return from their stake in the company
- Stakeholder theories advocate for some form of corporate social responsibility, which is a duty to operate in ethical ways, even if that means a reduction of long-term profit for a company (Jones, Freeman, & Wicks, 2002).

Transaction Cost Theory

- Transaction cost theory states that a company has number of contracts within the company itself or with market through which it creates value for the company.
- There is cost associated with each contract with external party; such cost is called transaction cost.
- If transaction cost of using the market is higher, the company would undertake that transaction itself.

Political Theory

- Political theory brings the approach of developing voting support from shareholders, rather by purchasing voting power.
- It highlights the allocation of corporate power, profits and privileges are determined via the governments' favor

INSTANCES OF GOOD AND BAD GOVVERNANCE

Eight Elements of Good Governance

- Good governance has 8 major characteristics.
- It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law.

Good governance is responsive to the present and future needs of the organization, exercises prudence in policy-setting and decision-making, and that the best interests of all stakeholders are taken into account.

1. **Rule of Law**

Good governance requires fair legal frameworks that are enforced by an impartial regulatory body, for the full protection of stakeholders.

2. Transparency

Transparency means that information should be provided in easily understandable forms and media; that it should be freely available and directly accessible to those who will be affected by governance policies and practices, as well as the outcomes resulting therefrom; and that any decisions taken and their enforcement are in compliance with established rules and regulations.

3. Responsiveness

Good governance requires that organizations and their processes are designed to serve the best interests of stakeholders within a reasonable timeframe.

4. Consensus Oriented

Good governance requires consultation to understand the different interests of stakeholders in order to reach a broad consensus of what is in the best interest of the entire stakeholder group and how this can be achieved in a sustainable and prudent manner.

5. Equity and Inclusiveness

The organization that provides the opportunity for its stakeholders to maintain, enhance, or generally improve their well-being provides the most compelling message regarding its reason for existence and value to society.

6. Effectiveness and Efficiency

Good governance means that the processes implemented by the organization to produce favorable results meet the needs of its stakeholders, while making the best use of resources – human, technological, financial, natural and environmental – at its disposal.

7. Accountability

Accountability is a key tenet of good governance. Who is accountable for what should be documented in policy statements? In general, an organization is accountable to those who will be affected by its decisions or actions as well as the applicable rules of law.

8. Participation

Participation by both men and women, either directly or through legitimate representatives, is a key cornerstone of good governance. Participation needs to be informed and organized, including freedom of expression and assiduous concern for the best interests of the organization and society in general.

Towards Improved Governance:

- Good governance is an ideal which is difficult to achieve in its totality.
- Governance typically involves well-intentioned people who bring their ideas, experiences, preferences and other human strengths and shortcomings to the policy-making table.
- Good governance is achieved through an on-going discourse that attempts to capture all of the considerations involved in assuring that stakeholder interests are addressed and reflected in policy initiatives.

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SCHOOL OF MANAGEMENT STUDIES

UNIT – II – Corporate Governance – SBAA1506/SBAA3009

UNIT 2: BOARD OF DIRECTORS

Directors: Monitoring a corporation - Directors in historical perspective - Types of directors - Board committees and chairman - Separation of CEO and Board chairman post - Nomination committee - Board selection - Boards performance

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BOARD OF DIRECTORS

DIRECTORS

The board of directors is the highest governing authority within the management structure at a corporation or publicly traded business. It is the board's job to select, evaluate, and approve compensation for the company's chief executive officer (CEO), evaluate the attractiveness of and pay dividend, recommend stock splits, oversee share repurchase, approve the company's financial statements, and recommend or reject merger and acquisition opportunities, and the like. Boards are composed of individual men and women who are elected by the company's shareholders for multiple-year terms.

The Role of the Board of Directors in Corporate Governance

It takes some combination of people, rules, processes and procedures to manage the business of a company. This is how we define corporate governance. Corporate governance forms the basis for corporations to make decisions that consider many environments, including economic, social, regulatory and the market environment. Corporate governance gets its roots in ethical behaviour and business principles, with the goal of creating long-term value and sustainability for all stakeholders.

Corporate board directors face the continual challenge of aligning the interests of the board, management, shareholders and stakeholders. They respond to their duties and responsibilities with full regard to transparency and accountability. It's often said that corporate boards are responsible for providing oversight, insight and foresight.

Corporate boards have many duties and responsibilities. In every decision the board makes, they must consider how it will affect their employees, customers, suppliers, communities and shareholders.

Good corporate governance relies on distinct differences in the roles between board directors and managers. It was never intended for board directors to be directly involved in the daily operations of a corporation, and they certainly shouldn't engage in micromanaging the management. The main role of board directors is oversight and planning. Despite the differences, board directors may delegate certain powers to the CEO or CFO under certain circumstances.

The Board's Relationship with Management

It's in the board's best interest to develop good working relationships with managers. Corporations run best when the board and senior management hold the same perspectives on strategy, priorities and risk management.

Communication is a vital component of good corporate governance. Boards must communicate clearly and in a timely manner to develop a sense of mutual confidence and trust with their managers. It's important for board directors to be having regular conversations with managers about risk mitigation and prevention. Managers need to understand risks so that they can put processes in place to protect the company. Risk conversations between boards and managers should cover a span of risk areas, including:

- Economic risks
- Market risks
- Operational risks
- Acquisitional risks
- Dispositional risks
- Infrastructure risks
- Technology risks
- Reputational risks
- Disclosure risks
- Compliance risks

Monitoring role of board of directors

Since boards are appointed to control the agency conflicts between managers and shareholders, the **monitoring role** of the board is likely to depend on the severity of the agency conflicts. Thus firms with high current or potential agency conflicts are likely to benefit by having a board that monitors.

A corporate director's duties and responsibilities typically include:

- Acting on behalf of the **corporation** and its best interests with an appropriate "**duty** of care" at all times;
- Acting with loyalty to the **corporation** and its shareholders;
- Participating in regular meetings of the board of **directors**;

DIRECTORS IN HISTORICAL PERSPECTIVE

India:

The fundamentals of Corporate Governance have its deep roots in Indian History. But surprisingly it is very less known to us. Our own ancient texts have laid down sound principles of governance which seem very relevant to modern day corporate requirements. Years back in 1600, The East India Company was arguably the first to be chartered as a Company by the then Queen Elizabeth I, with a monopoly of trade between England and Far East. Since then, corporations have come a long way, both in terms of their power and wealth-creating potentials, and of institutionalized checks and balances to ensure their sound operations within their mandates and transparent reporting back to the shareholders. Since then the Corporate Governance has become the crucial issue in the Corporate World. Different countries across the World follow different Corporate Governance Systems. India also follows more or less the UK Model of Corporate Governance.

TYPES OF DIRECTORS

The following are the types of directors:

Executive director

He/she is the full-time working director of the company. They have a higher responsibility towards the organization. The company and its employees expect them to be efficient and careful in all the dealings.

Non-Executive Directors

H/she are non- working directors and are not involved in the everyday working of the company. They might take part in the planning or policy-making process. They challenge the executive directors to come up with decisions and solutions that are in the best interest of the company.

Managing directors

They have a substantial ability to make decisions, manage and direct other members of the company. A Public Company or a subsidiary of a Public Company that has a share capital of more than Five Crore rupees must have a Managing Director.

Independent directors

They are the ones who do not have any direct relationship with the company. Their experience is their asset and gives expert advice to the board when required. Public companies who have paid-up share capital, turnover, or outstanding loans of Rs. 100 Crores, Rs.100 Crores, and Rs.50 Crores or more need two independent directors.

Qualifications to be an independent director:

- Must have expertise and experience;
- Must be a person of integrity;
- Should not be a promoter of the company or its subsidiaries;
- Should have no relations (financial/personal) with the promoters, or directors of the company;
- Should not have been key managerial personnel of the company or any of its holdings and subsidies;
- Should not hold total voting power exceeding two percent in such company.

Residential director

A director who has lived in India for at least 182 days is a residential director. A company should have one residential director.

Small Shareholder Directors

They are the ones who can appoint a single director in a listed company. By issuing a notice to at least 1000 shareholders or 1/10th of the shareholders whichever is lesser, to approve this action.

Women directors

The companies who have their securities listed on the stock exchange or have a paid-up capital of Rs. One hundred crores/turnover of Rs. Three hundred crore or more must have a women director.

Additional Directors

An individual can act as an additional director by taking the position of a director until the next Annual General Meeting.

Alternate director

When a director is absent for more than three months; an alternate director comes on board on his behalf. He acts as a director for a temporary period. And can only hold office as permissible to the director whose office this director holds.

Nominee Director

Shareholders, central government or third parties appoint them. Nominee directors come on board when there is grave mismanagement or the board members abuse their powers.

Directors hold different positions and powers in a company. The division of power helps in maintaining a fair and transparent system. Moreover, the distribution of control keeps a check on abuse of power and increases efficiency.

BOARD COMMITTEES AND CHAIRMAN

Committee chairs should promote full and fair discussions on the various issues placed before the **committees**. The company secretary of the company should be the secretary of the **committee**. The **Board** may appoint the **committee chairman** or the **committee** members can choose/elect the **chairman**.

The Role of Board Committees

Committees of the board provide the benefit of strong accountability. Committee members have specific assigned tasks and are directly accountable to the full board for completing them. Because committees have dedicated time for addressing agenda items, boards expect them to conduct due diligence and be thorough, yet timely, in pursuing their responsibilities. Ultimately, boards are looking for comprehensive information that committees can present to them in a concise manner to help inform their votes on specific issues.

Even though board committees require strong expertise, their work often overlaps with the work of other committees of the board. With an eye on efficiency and to prevent duplicity, many boards structure their committees with multi-committee directors. Directors who sit on several committees share helpful information, which alleviates issues with information segregation. Multi-committee directors tend to be outside directors who have a surplus of expertise in several areas

CHAIRMAN

A **chairman** is an executive elected by a company's board of directors who is responsible for presiding over board or committee meetings. A **chairman** often sets the agenda and has significant sway as to how the board votes.

The **Chairman's** main **duties** include chairing meetings of the Board of Directors, setting meeting agendas in conjunction with the Company Secretary, managing and providing leadership to the Board of Directors, and acting as a direct liaison between the Board and the Company's management, through the Chief Executive.

SEPARATION OF CEO AND THE BOARD CHAIRMAN POST

The differences in the duties and responsibilities between the CEO and the board chair are clear. In simple terms, the CEO is the top senior executive over management while the board chairperson is the head of the board of directors.

The CEO is the top decision-maker for the company and the person who oversees the daily operations and logistics. All of the senior management executives report to the CEO. The CEO is the chief operating officer and usually delegates many of the responsibilities to other senior, mid-level and lower-level managers, depending on the size of the company. The CEO’s position entails focusing on the strategic plan, which includes strategizing about the competition and which markets to enter. The CEO reports directly to the board of directors.

By contrast, the board chairperson of a company is the head of its board of directors. The board of directors is elected by the shareholders, and they're charged with protecting the investors' best interests. Part of that responsibility includes ensuring that the company is stable and profitable. Boards usually meet at least quarterly to set long-term plans, review and monitor the financial reports, monitor and oversee the senior-level executives, and vote on major decisions.

Board directors are responsible for recruiting, appointing and evaluating the CEO's performance and replacing those who don't meet performance expectations.

The board chairperson has substantial power. The person appointed to this position sets the board's agenda and facilitates board meetings. The board chairperson usually has a close working relationship with the CEO, but the chair doesn't play an active role in the management of the daily operations.

Board committees

Committees appointed by the Board focus on specific areas and take informed decisions within the framework of delegated authority, and make specific recommendations to the Board on matters in their areas or purview. All decisions and recommendations of the committees are placed before the Board for information or for approval.

To enable better and more focused attention on the affairs of the Corporation, the board delegates particular matters to the committees of the board set up for the purpose. Committees review items in great detail before it is placed before the Board for its consideration. These committees prepare the groundwork for decision making and report at the subsequent board meeting

VARIOUS COMMITTEES OF THE BOARD

The following are some of the important committees of the Board-

Audit Committee

Shareholders Grievance Committee

Remuneration Committee

Risk Committee

Nomination Committee

Corporate Governance Committee

Corporate Compliance Committee

Ethics Committee

AUDIT COMMITTEE

The Audit Committee shall assist the Board of Directors in the oversight of

(1) The integrity of the financial statements of the Company,

(2) The effectiveness of the internal control over financial reporting,

(3) The independent registered public accounting firm’s qualifications and independence,

(4) The performance of the Company’s internal audit function and independent registered public accounting firms,

(5) The Company’s compliance with legal and regulatory requirements,

(6) The performance of the Company’s compliance function

Powers of Audit Committee:

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

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

SHAREHOLDERS GRIEVANCE COMMITTEE

The Shareholders/ Investor Grievances Committee looks into redressal of shareholder and investor complaints, issue of Duplicate/ Consolidated Share Certificates, Allotment and Listing of shares and review of cases for refusal of Transfer/ Transmission of shares and debentures and reference to Statutory and Regulatory Authorities. The scope and functions of the Shareholders/Investor Grievances Committee are as per Clause 49 of the Listing Agreement.

REMUNERATION COMMITTEE

The role of a Remuneration Committee is:

- To decide and approve the terms and conditions for appointment of executive directors and/ or whole time Directors and Remuneration payable to other Directors and matters related thereto.
- To recommend to the Board, the remuneration packages of the Company's Managing/Joint Managing/ Deputy Managing/Whole time / Executive Directors, including all elements of remuneration package (i.e. salary, benefits, bonuses, perquisites, commission, incentives, stock options, pension, retirement benefits etc
- to review the overall compensation policy, service agreements and other employment conditions to Executive Directors and senior executives just below the Board of Directors and make appropriate recommendations to the Board of Directors
- to make recommendations to the Board of Directors on the increments in the remuneration of the Directors;

RISK COMMITTEE

The committee comprises a minimum of three independent non-executive directors, as well as the chief executive and financial director. The chair of the board may not serve as chair of this committee. Members of the committee are individuals with risk management skills and experience. The committee's responsibilities include

- Review and approve for recommendation to the board a risk management policy and plan developed by management. The risk policy and plan are reviewed annually.
- Make recommendations to the board on risk indicators, levels of risk tolerance and appetite.
- Ensure risk management assessments are performed regularly by management.
- Review reporting on risk management that is to be included in the integrated annual report.

NOMINATION COMMITTEE

The primary role of the Nomination Committee of the board is to assist the board by identifying prospective directors and make recommendations on appointments to the board and the senior most level of executive management below the board. The committee also clears succession plans for these levels. The Nomination Committee is responsible for making recommendations on board appointments and on maintaining a balance of skills and experience on the board and its committees.

CORPORATE GOVERNANCE COMMITTEE

Together with the audit and compensation committees, the nominating/corporate governance committee rounds out the three standing committees of a public company's board of directors. It plays a critical role in overseeing matters of corporate governance for the board, including formulating and recommending governance principles and policies. As its name implies, this committee is charged with enhancing the quality of nominees to the board and ensuring the integrity of the nominating process.

CORPORATE COMPLIANCE COMMITTEE

The primary Objective of the Compliance Committee is to review, oversee and monitor:

- The company's compliance with applicable legal and regulatory requirements.
- The company's policies, programs, and procedures to ensure compliance with relevant laws, the company's code of conduct, and other relevant standards
- The company's efforts to implement legal obligations arising from settlement agreements and other similar documents
- Perform any other duties as are directed by the board of directors of the company.

ETHICS COMMITTEE

The possible roles for an Ethics Committee are:

- Contribute to the continuing definition of the organization's ethics and compliance standards and procedures.
- Assume responsibility for overall compliance with those standards and procedures.
- Oversee the use of due care in delegating discretionary responsibility.
- Communicate the organization's ethics and compliance standards and procedures, ensuring the effectiveness of that communication.
- Monitor and audit compliance.

SIGNIFICANCE OF BOARD COMMITTEES

Committees allow the board to –

- Handle a greater number of issues with greater efficiency by having experts focus on specific areas
- Develop subject specific expertise on areas such as compliance management, risk management, financial reporting
- Enhance the objectivity and independence of the board's judgment

CHARACTERISTICS OF OUTSTANDING BOARD MEMBER

- Pre-existing passion for the cause.
- Eagerness to participate at every meeting.
- Willing to prepare ahead for meetings.
- Anxious to serve on committees.
- Ability and propensity to give above average financially.
- Strong desire for stewardship to others.
- Supportive, but willing to express their own opinion.

NOMINATION COMMITTEE

The term nomination committee refers to a committee that acts as part of an organization's corporate governance. A nomination committee evaluates a firm's board of directors and examines the skills and characteristics required of board candidates. Nomination committees may also have other duties, which vary from company to company.

Nominating committees serve a very useful and important purpose for different organizations ranging from nonprofits to major corporations. Also referred to as nominating committees or nominating and governance committees, they are often made up of the chairman of the board, the deputy chairman, and the chief executive officer (CEO). There are usually at least two members on each committee, although the exact number of people who serve on the committee tends to differ based on the type and size of the organization. The length of time each member serves on the committee also varies depending on the nature of the entity.

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SCHOOL OF MANAGEMENT STUDIES

UNIT – III – Corporate Governance – SBAA1506/SBAA3009

UNIT 3: PRACTICES

Executive Compensation - Role of Remuneration Committee - Human Side of Governance - Financial Oversight And Audit Mechanisms - Audit Committee - Disclosure Mechanisms - Role Of SEBI

INTRODUCTION

Executive compensation is a very important issue for investors to consider when making decisions. An improperly compensated executive can cost shareholders money and can produce an executive who lacks the incentive to increase profits and boost the share price.

Executive compensation

- ✓ **Executive compensation**, also known as **executive pay**, refers to **remuneration** packages specifically designed for business leaders, senior management and **executive**-level employees of a company.
- ✓ **Executive compensation** includes benefits such as salaries, perks, incentives, insurances etc.
- ✓ It must attract executives with the skills, experiences, and behavioural profile necessary to succeed in the position.
- ✓ It must be sufficient to retain these individuals, so they do not leave for alternative employment.
- ✓ It must motivate them to perform in a manner consistent with the strategy and risk-profile of the organization and discourage self- interested behaviour.

5 Key Types of Executive Compensation

1. Base Pay

- ✓ **Base Pay is the initial salary paid to an employee not including benefits, bonuses or raises.**
- ✓ **It is the rate of compensation; an employee receives in exchange for services.**
- ✓ **An employee's base pay can be expressed as an hourly rate or as a weekly, monthly or annual salary.**

- ✓ **It is the minimum salary paid to an employee.**
- ✓ **It can also be said as a fixed amount paid to an employee for a certain job.**

2. Short-Term Incentive

- ✓ **Short-term incentive is typically performance-based and designed to drive the business strategy and key goal achievement.**
- ✓ **Short-term incentive refers to the awards given in a time period of up to one year.**
- ✓ **It is also sometimes refers to annual incentive.**
- ✓ **These are typically tied to contributions which have greatest impact on company performance and are used to inspire goal achievement.**

3. Long-Term Incentive

- ✓ **Long-term incentive rewards are longer-term performance-based goals that are often established on a two or three year rolling basis.**
- ✓ **Awards can be made in cash or equity and a great number of design features and alternatives can be considered and tailored to meet an organization's unique needs.**

4. Benefits

- ✓ **Some benefits for executive level employees are simply enhanced versions of those offered to the non-executive workforce such as, extra levels of life insurance, fully paid medical insurance, supplemental pension plans, etc.**

5. Perquisites

- ✓ **Perquisite may be defined as any casual emolument or benefit attached to an office or position in addition to salary or wages.**
- ✓ **There are usually non-cash benefits given by an employer to employees in addition to cash, salary or wages.**
- ✓ **They are also referred to as fringe benefits like**
    - Travelling Allowance
    - Petrol Allowance

- Electricity Bills
- Health Care
- Entertainment Allowance etc

ROLE OF REMUNERATION COMMITTEE

- ✓ The main role of the Remuneration Committee is to assist and advise
- ✓ the Board on matters relating to the remuneration of the Board and senior management,
- ✓ To motivate and retain executives and ensure that the Company is able to attract the best talents in the market in order to maximize shareholder value.

How can we improve remuneration committee?

- In short, directors need to be probing management on remuneration recommendations and receiving adequate information to make well-informed, and publicly justifiable remuneration decisions.

1. Remuneration roles and responsibilities.
2. Driving desired behaviors.
3. Exercise of board discretion in determining incentive outcomes.

HUMAN SIDE OF GOVERNANCE

- ✓ This newly-emerging ethical framework for business provides a stronger base for the exercise of moral values and ethical reasoning.
- ✓ "People in business are ultimately responsible as individuals, but they are responsible as individuals in a corporate setting where their responsibilities are at least in part defined by their roles and duties in the company … businesses in turn are defined by their role(s) and responsibilities in the larger community …" (Solomon 1992, 320).
- ✓ The definition of corporate governance offered by Cadbury, and adopted by the World Bank:
- ✓ **Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to**

require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society.

- ✓ This definition highlights the importance of corporate governance in providing the incentives and performance measures to achieve business success, and secondly in providing the accountability and transparency to ensure the equitable distribution of the resulting wealth.
- ✓ Finally the significance of corporate governance in enhancing the stability and equity of society recognizes a more positive and proactive role for business.
- ✓ Rather than corporate governance and regulation being inherently restrictive, they can be a means of enabling corporations to achieve the highest goals of corporate achievement.

HUMAN SIDE OF GOVERNANCE

HRM Case Study

- ✓ Watson Public Ltd Company is well known for its welfare activities and employee-oriented schemes in the manufacturing industry for more than ten decades.
- ✓ The company employs more than 800 workers and 150 administrative staff and 80 management-level employees. The Top-level management views all the employees at the same level.
- ✓ This can be clearly understood by seeing the uniform of the company which is the Same for all starting from MD to floor level workers.
- ✓ The company has 2 different cafeterias at different places one near the plant for workers and others near the Administration building.
- ✓ Though the place is different the amenities, infrastructure and the food provided are of the same quality. In short, the company stands by the rule of Employee Equality.

The company has one registered trade union and the relationship between the union and the management is very cordial. The company has not lost a single man day due to strike. The company is not a paymaster in that industry. The compensation policy of that company, when compared to other similar companies, is very less still the employees don’t have many grievances due to the other benefits provided by the company. But the company is facing a countable number of problems in supplying the materials in the recent past days. Problems like quality issues, mismatch in packing materials (placing material A in the box of material B) incorrect labelling of material, not dispatching the material on time, etc…

The management views the case as there are loopholes in the system of various departments and hand over the responsibility to the HR department to solve the issue. When the HR manager goes through the issues, he realized that the issues are not relating to the system but it relates to the employees. When investigated he come to know that the reason behind the casual approach by employees in work is

- The company hired new employees for a higher-level post without considering the potential internal candidates.
- The newly hired employees are placed with higher packages than that of existing employees in the same cadre.

Questions:

1. **Narrate the case with a suitable title for the case. Justify your title.**

Solution for HRM Case

Case Study

- ✓ Employee Equality is not the need for every hour. In the above-said case, Watson Ltd had provided all facilities to employees at each grade in an equal manner.
- ✓ But still, the employees started creating certain issues like materials meeting the quality supply schedule is not met etc. and the HR manager said that the policy of hiring new employees for the higher post without considering old potential employees is the major problem.

"Employee recognition VS Employee equality". As the HR manager states that employees are not been recognized for the potential rather the company has gone for new recruitment. Because of which the company faces problems.

2. **The points rose by the HR manager as the reason for the latest issues in the organization is justifiable or not. Support your answer with Human resource related concepts.**

- ✓ Yes, the points raised by the HR manager is justifiable because "Human beings are social Animals as popularly" said by many Human resources Scholars. So human minds demand social recognition, self-respect, consideration, etc for their work and performance.

- ✓ In the above-said case, even the company provides and stands by the concept of employee equality when it fails to recognize the potential talents of existing employee, they felt dissatisfaction towards the organization and they showed in the way of quality issues and slow down production.

Related HR concept.

Slow down Production:

- ✓ The concept of slow down production is a type of strike done by an employee.
- ✓ The Industrial Relations sates that when the employee wants to show their dissatisfaction to the management but don't want to go for strike, they follow slow down strike.
- ✓ The impact of which will be understood after a particular time period

Employee Recognition:

- ✓ Human beings can be easily motivated by Rewards and recognition than that of money.
- ✓ In this case, also the employee is not satisfied even after all facilities just because of the reason that they are not recognized.

OVERSIGHT AND AUDIT MECHANISMS

- An audit is a formal check of financial accounts of an individual, business or organization.
- An internal audit is conducted by members of the same organization or business, and an external audit may be conducted by a regulatory agency or governmental agency.
- There are six specific steps in the audit process that should be followed to ensure a successful audit.
- There are six specific steps in the audit process that should be followed to ensure a successful audit.
    - Requesting Financial Documents. ...

- Preparing an Audit Plan. ...
- Scheduling an Open Meeting. ...
- Conducting Onsite Fieldwork. ...
- Drafting a Report. ...
- Setting Up a Closing Meeting.

1. Requesting Financial Documents

- After notifying the organization of the upcoming audit, the auditor typically requests documents listed on an audit preliminary checklist.
- These documents may include a copy of the previous audit report, original bank statements, receipts and ledgers.
- In addition, the auditor may request organizational charts, along with copies of board and committee minutes and copies of bylaws and standing rules.

2. Preparing an Audit Plan

- The auditor looks over the information contained in the documents and plans out how the audit will be conducted.
- A risk workshop may be conducted to identify possible problems.
- Risk workshop is a feature that allows to invite different stakeholders to collaborate in the risk assessment process
- An audit plan is then drafted.

3. Scheduling an Open Meeting

- Senior management and key administrative staff are then invited to an open meeting during which the scope of the audit is presented by the auditor.
- A time frame for the audit is determined, and any timing issues such as scheduled vacations are discussed and handled.
- Department heads may be asked to inform staff of possible interviews with the auditor.

4. Conducting Onsite Fieldwork

- The auditor takes information gathered from the open meeting and uses it to finalize the audit plan.

- Fieldwork is then conducted by speaking to staff members and reviewing procedures and processes.
- The auditor tests for compliance with policies and procedures.
- Internal controls are evaluated to make sure they're adequate.
- The auditor may discuss problems as they arise to give the organization an opportunity to respond.

5. **Drafting a Report**

- The auditor prepares a report detailing the findings of the audit.
- Included in the report are mathematical errors, posting problems, payments authorized but not paid and other discrepancies; other audit concerns are also listed.
- The auditor then writes up a commentary describing the findings of the audit and recommended solutions to any problems.

1. **Setting Up a Closing Meeting**

The auditor solicits a response from management that indicates whether it agrees or disagrees with problems in the report, a description of management's action plan to address the problem and a projected completion date.

At the closing meeting, all parties involved discuss the report and management responses.

If there are any remaining issues, they're resolved at this point.

AUDIT COMMITTEE

- An audit committee is one of the major operating committees of a company's board of directors that is in charge of overseeing financial reporting and disclosure.
- The Audit Committee shall consist of a minimum of 3 directors with independent directors forming a majority.
- The majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.

WHAT IS AUDIT COMMITTEE IN INDIA?

- An audit committee (AC) is a sub-committee of the Board of Directors (BOD) and the Indian Companies Act (Amendment, 2000) was provided for the formation and functioning of ACs.

- The Securities and Exchange Board of India (SEBI) has made it mandatory for all the listed companies to have an AC.

INTRODUCTION TO SECURITY EXCHANGE BOARD OF INDIA (SEBI)

- The Securities and Exchange Board of India (SEBI) is the regulator of the securities and commodity market in India owned by the Government of India.
- It was established on 12 April 1988 and given Statutory Powers on 30 January 1992 through the SEBI Act, 1992.
- **SEBI** sets **governance** standards in which the securities market must operate, protecting the rights of issuers and investors.
- **SEBI** has power to investigate circumstances where the market or its players have been harmed and can enforce **governance** standards with directives.

PURPOSE AND ROLE OF SEBI

SEBI was set up with the main purpose of keeping a check on malpractices and protect the interest of investors. It was set up to meet the needs of three groups.

1. Issuers:
For issuers it provides a market place in which they can raise finance fairly and easily.

2. Investors:
For investors it provides protection and supply of accurate and correct information.

3. Intermediaries:
For intermediaries it provides a competitive professional market.

THE ORAGANIZATIONAL STRUCTURE OF SEBI

- **SEBI's organisation structure** comprises of 9 members: A chairman is chosen by the Union Government of India.
- 2 members are officers from the Union Finance Ministry.
- 1 member from the RBI.
- SEBI is working as a corporate sector.
- Its activities are divided into five departments. Each department is headed by an executive director.
- SEBI has formed two advisory committees to deal with primary and secondary markets.

- These committees consist of market players, investors associations and eminent persons.

OBJECTIVES OF THE TWO COMMITTEES

To advise SEBI to regulate intermediaries.

To advise SEBI on issue of securities in primary market.

To advise SEBI on disclosure requirements of companies.

To advise for changes in legal framework and to make stock exchange more transparent.

To advise on matters related to regulation and development of secondary stock exchange.

These committees can only advice SEBI but they cannot force SEBI but they cannot force SEBI to take action on their advice

OBJECTIVES OF SEBI

The overall objectives of SEBI are to protect the interest of investors and to promote the development of stock exchange and to regulate the activities of stock market. The objectives of SEBI are:

1. To regulate the activities of stock exchange.

2. To protect the rights of investors and ensuring safety to their investment.

3. To prevent fraudulent and malpractices by having balance between self-regulation of business and its statutory regulations.

4. To regulate and develop a code of conduct for intermediaries such as brokers, underwriters, etc.

FUNCTONS OF SEBI

The SEBI performs functions to meet its objectives. To meet three objectives SEBI has three important functions. These are:

i. Protective functions

ii. Developmental functions

iii. Regulatory functions.

THE ROLE OF SEBI IN CORPORATE GOVERNANCE AND CAPITAL MARKET

1. To provide power to make rules for controlling stock exchange
2. To provide license to dealers and brokers
3. To Stop fraud in Capital Market
4. To control the Merge, Acquisition and Takeover the companies
5. To audit the performance of stock market
6. To make new rules on carry – forward transactions
7. To create relationship with ICAI
8. Introduction on derivative contracts on volatility index
9. To require report of portfolio management activities
10. To educate the investors

CASE STUDY

- Byrraju **Ramalinga Raju** (born 16 September 1954) is the former chairman and CEO of Satyam Computer Services, from 1987 until 7 January 2009.
- In 2015, he was convicted of corporate fraud, which led to the collapse of Satyam Computers.
- The Satyam scandal was a Rs 7,000-crore corporate scandal in which chairman Ramalinga Raju confessed that the company's accounts had been falsified.
- On January 7, 2009, Ramalinga Raju sent off an email to Sebi and stock exchanges, wherein he admitted and confessed to inflating the cash and bank balances of the company.
- Raju also manipulated the books by non-inclusion of certain receipts and payments, resulting in an overall misstatement to the tune of Rs 12,318 crore, shows an analysis of findings of Sebi's probe.
- As many as 7,561 fake bills which were even detected in the company's internal audit reports and were furnished by one single executive.

- Merely through these fake invoices, the company's revenue got over-stated by Rs 4,783 crore over a period of 5-6 years.
- The probe itself continued for almost six years and found that fictitious invoices were created to show fake debtors on the Satyam books to the tune of up to Rs 500 crore.

What happened to Satyam auditors?

- The institute has cancelled the membership of six chartered accountants with respect to the accounting fraud at **Satyam** Computer Services.
- SEBI has also directed the audit major and its two partners who worked on the IT firm's accounts to disgorge wrongful gains worth over Rs 13 crore.

Takeover by Tech Mahindra

- After the fraud came to the light, the government had ordered an auction for sale of the company in the interest of investors and over 50,000 employees of Satyam Computers.
- It was acquired by Tech Mahindra, and was then renamed as Mahindra Satyam, and was eventually merged into the parent company.
- The Satyam saga eventually turned out to be a case of financial misstatements to the tune of approximately Rs 12,320 crore,
- As per SEBI's probe then Citibank froze all its 30 accounts in 2009.

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SCHOOL OF MANAGEMENT STUDIES

UNIT – IV – Corporate Governance – SBAA1506/SBAA3009

UNIT 4: CORPORATE CONDUCT

Important Corporate Governance Codes and Principles in India - Best Governance Practices - Reasons For Corporate Misconduct - Whistle Blowers Protection - Factors Responsible For Obstructing Effective Corporate Governance Practices - Corporate Fraud – Significant Cases

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CORPORATE CODE OF CONDUCT

Corporate code of conduct (CCC), codified set of ethical standards to which a corporation aims to adhere. Commonly generated by corporations themselves, corporate codes of conduct vary extensively in design and objective. Crucially, they are not directly subject to legal enforcement.

Corporate governance code in India

- The code refers to standards for good practices relating to: Board composition, Shareholder relations.
- Using best practices as its foundation, the Corporate Governance Code outlines the standards for the expectations for corporate boards in protecting shareholder investments
- The Desirable Corporate Governance Code by CII (Confederation of Indian Industry 1998) for the first time introduced the concept of independent directors for listed companies and compensation paid to them.
- Such remuneration and stock option is required to be disclosed in the annual report of the company

Confederation of Indian Industry (CII)

- For over a decade, the Confederation of Indian Industry (**CII**) has been at the forefront of the **corporate governance** movement in India.

- Moreover, the **CII** Code was the first and probably a unique instance where an industry association took the lead in prescribing **corporate governance** standards for listed companies.

Role of CII

- **CII** works to
- create and sustain an environment conducive to the development of India,
- partnering industry, Government, and civil society, through advisory and consultative processes
- by engaging business, political, academic and other leaders of society to shape global, regional, and industry agendas.

BEST GOVERNANCE PRACTICES

- Every corporation should follow best practices for corporate governance.
- Best practices apply equally to new corporations as they do to well-established ones.
- Best practices for corporate governance apply to large companies, small companies, public companies and private companies.
- They even apply to nonprofit organizations and other entities.
- The benefits of following best practices for good corporate governance are many and the potential impact is boundless.
- Good corporate governance improves overall performance and promotes trust among shareholders and other stakeholders.
- Good corporate governance provides for sound strategic planning and better risk management.

Corporate misconduct

- The new face of corporate misconduct can be described as

    - A failure of corporate governance and critical functions such as board oversight and supervision, ethical business decision making, lack of a speak up culture and failures of critical compliance functions such as legal and audit.

Examples of misconduct

- Types of misconduct may differ from company to company and there is no complete list of the types of misconduct an employee can commit.
- Specific forms of misconduct would thus be dependent on the type of industry the company is operating in, its culture and specific workplace rules and regulations.
- Typical examples of misconduct are
    - Theft,
    - Fraud,
    - Assault,
    - Willful damage to company property,
    - Intimidation, insubordination, unauthorized absenteeism,
    - Consumption of alcoholic beverages on company premises,
    - Arriving at work under the influence of alcohol or narcotic substance,
    - Willful poor work performance and racial harassment, to name but a few.

How to regulate misconduct?

- Misconduct can be managed by a company's Disciplinary Code, which should highlight the various forms of misconduct,
- As well as further elaborate upon the disciplinary action imposed if an employee be found guilty of such misconduct.

DISCIPLINARY CODE

- A Code would provide a framework, setting out how employees are to conduct themselves and behave at work, as well as the procedures to be adopted in addressing such misconduct.

- Employees have certainty regarding the consequences of any unacceptable behavior in the workplace and cannot plead ignorance to what constitutes misconduct.
- Both employers and employees have rights
- Misconduct, if not properly and fairly managed, can become a serious problem in the workplace.
- It is important to bear in mind that although employees have the right to fair treatment,
- employers have the right to expect satisfactory work performance and conduct from their employees.

CODE OF CONDUCT

A code of conduct and a code of ethics aren't the same thing, though the two documents can reference each other and be used to support each other. A code of ethics is a document that states the principles the company and its employees are expected to follow. A code of conduct spells out how employees are to follow the code of ethics and clearly states which actions are acceptable and encouraged and which are unacceptable.

Writing a Code of Conduct

By writing a code of conduct, a company explains its culture. It answers many of the questions employees have about working with the employer and eliminates “gray area” challenges managers might face.

A code of conduct clearly spells out exactly what kind of behavior is expected from an organization’s members. An employer’s code of conduct for employees might state the avenue through which they're to file complaints about issues in the workplace; how they are to report metrics like profit, consumer engagement and company losses; how employees are to conduct themselves toward consumers as well as among their colleagues and the actions for which they can expect to face disciplinary measures. These disciplinary measures should be included in the code of conduct.

Types of Code of Conduct

In many cases, an organization creates multiple codes of conduct. This is because the organization needs different things from the different groups it serves and is served by. A school, for example, might have a code of conduct for students as well as a code of conduct for faculty and staff.

A code of conduct for students might address:

- Plagiarism.
- Reporting misconduct.
- Dress code.
- Absence policy.
- Proper technology usage.
- Whereas a code of conduct for teachers would instead address:
- The avenue through which to contact students' parents.
- Recording and submitting students' grades.
- Dress code.
- Leave policy.
- Developing a Code of Conduct

Companies can find examples of code of conduct rules by looking at other companies' codes of conduct. Some choose to draw inspiration from other companies in their industry to ensure that they cover all industry-specific concerns like certain legal or ethical standards that companies in other industries don't have to follow. One example of this is a medical practice including HIPAA privacy rules in its code of conduct. In a similar vein, many companies look at other local businesses' codes of conduct to ensure that they don't miss any city- or state-specific employer requirements like anti-discrimination policies for certain protected classes.

Many companies also look at big, well-known brands' codes of conduct, particularly brands widely known for having employee-friendly workplace cultures, to find effective examples of code of conduct requirements. The Google code of conduct is available online for anybody to read and draw inspiration from, as are Coca-Cola's and IKEA's code of conduct for their suppliers.

An easy way to find examples of code of conduct guidelines is to google “code of conduct.” A well-developed code of conduct clearly states what's expected of the group it is written for and provides a sufficient amount of supporting material to ensure that the reader understands each part of the code. This supporting material can include:

Infographics that demonstrate the cause-and-effect outcomes of following (or not following) the code of conduct.

Real-life anecdotes that invoke the code of conduct.

Hypothetical situations where various points in the code of conduct come into play.

Principles for a Code of Conduct

An effective code of conduct is one that's fair, transparent and clearly spells out expectations for all members of an organization, not just employees. When writing a code of conduct, a business owner or human resources director should focus on the following principles:

- Fairness.
- Accountability.
- Clarity.
- Ethical practices.
- Respect for people.
- Legal requirements, such as labor laws, antitrust laws, reporting requirements and environmental regulations.
- Safety.
- Integrity.

A well-developed code of conduct protects employees as well as the employer. Clear information about the disciplinary measures in use for specific employee actions can help the company avoid a retaliation complaint, while clear information about the company’s ethical practices can help an employee determine whether he has actual grounds to make a whistle blower complaint.

Code of Conduct

What needs to be in a code of conduct depends on the type of organization it's written for. A non profit organization needs a different code of conduct from a business, and a public school needs a different code of conduct from a private fraternal organization.

Although there are overlaps between the different types of codes of conduct, each type of organization has type-specific needs that should be considered when developing a code of conduct for individual groups within it. For example, a school's code of conduct needs to be developed around creating an atmosphere that's conducive to learning and fostering student success, while a non profit organization's code of conduct would instead focus on promoting the cause the organization supports.

An employer's code of conduct may include:

- Employee leave policy.
- The company's operating hours.
- If employees are expected to be reachable after hours.
- The company's definitions of conflicts of interest and how to handle them.
- Employees' probationary period.
- Legal reporting requirements, such as those imposed by the Sarbanes-Oxley Act.
- Proper email, internet and other technology usages.
- The company's community involvement.
- Business operational procedures.
- Gift and entertainment policies.
- How employees are to use their expense accounts.
- Meal and rest break policies.
- Behavioral standards.
- Violations of the company's behavioral standards and the consequences.
- How to report issues like safety violations and sexual harassment.
- The company's values.
- Compliance resources.

When developing a code of conduct, it can be helpful for a business owner or Human Resources department to look at the company's code of ethics template document. Although a code of conduct is much more granular and actionable than a code of ethics, using the code of ethics template document can put the reader into a behavior-focused mindset. She can also use the ethical standards she reads as a guide for the code of conduct and rely on the code of ethics template document to create a well-organized, visually appealing code of conduct that communicates its points clearly while complementing the rest of the employee handbook.

Examples of Code of Conduct Styles

Some organizations create simple codes of conduct and organize them as numbered or bulleted lists. Others get more creative and create acronyms or organize key points in a question-and-answer format. Some, like the Google code of conduct, use very conversational language that aims to read like a chat between the employee and human resources, while others take a more formal tone.

An effective code of conduct is one that leaves no room for confusion. A clear, somewhat uninteresting code of conduct is a far better choice than a creative yet confusing one. Although a company can work its branding into its code of conduct, the code of conduct's author should always remember that clarity is her top priority because when a code of conduct is unclear, misunderstandings can easily lead to employee mistakes.

Corporate Fraud

Corporate fraud consists of activities undertaken by an individual or company that are done in a dishonest or illegal manner, and are designed to give an advantage to the perpetrating individual or company. Corporate fraud schemes go beyond the scope of an employee's stated position, and are marked by their complexity and economic impact on the business, other employees and outside parties.

Regulatory Legislations: -

1. Indian Contract Act 1872.

2. Indian Penal Code 1860.

3. Prevention of Corruption Act 2013.

4. Prevention of Money laundering Act 2012.

5. The Companies Act 1956& 2013.

6. Information Technology Act 2008.

7. Prohibition of Insider Trading.

Types of Fraud: -

There are many types of corporate fraud, including the following common frauds:

1. Theft of cash, physical assets or confidential information

2. Misuse of accounts

3. Procurement fraud

4. Payroll fraud

5. Financial accounting mis-statements

6. Inappropriate journal vouchers

7. Suspense accounting fraud

8. Fraudulent expense claims

9. False employment credentials

10. Bribery and corruption.

Who conducts the investigation?

Corporate fraud

HR managers are increasingly being called upon to conduct in-house investigations. The question of whether to bring in law enforcement, a regulatory agency, external audit teams, a private law firm, or handle the matter in-house is an open one. This decision is fact and case specific, and will depend upon the duration and breadth of the potential problem as well as potential in-house investigatory skills. Many times the in-house investigations are coordinated with outside counsel. If the company initially decides that it will conduct an internal investigation instead of an external investigation, the roles of the individuals involved in the investigation should be clearly delineated. If the investigation is conducted in-house under the supervision of an HR manager, the benefits may include:

1. Heightened knowledge about the company's business, employees, and procedures;

2. Increased control over the investigation as well as the possible resulting publicity;

3. An unfiltered view of the fraud and the extent of it.

Keeping the investigation in-house will also prevent possible problems with the Fair Credit Reporting Act (FCRA). The FCRA applies generally to workplace investigations, but does not apply when the investigation is done completely in-house. On the other hand, the disadvantages to keeping the investigation in-house may include:

1. Lack of attorney-client privilege;

2. Insufficient training In carrying out fraud investigations;

3. Less objectivity than an external investigation;

4. Possible conflicts between the company's well-being and management's professional obligations; and

5. Possible loyalty issues between the investigator and the employees and lack of support.4 although some of the disadvantages are not damaging to the company generally, the existence of such factors when conducting an in-house investigation might be problematic.

How to Prevent Fraud: -

One of the best ways to develop policies and procedures that are effective in prevention corporate fraud is with the assistance of an experienced anti-fraud professional who has investigated hundreds of frauds to develop the most relevant and most effective anti-fraud controls including:

1. Establish clear and easy to understand standards from the top down. Have an employee manual that clearly outlines these standards and keeps the rules from becoming arbitrary.

2. Always check references and perform background checks that include employment, credit, licensing and criminal history for all new hires.

3. Secure physical assets, access to data, and money at all levels including monitoring and using pre-numbered checks, keep checks locked up, have a "voided check" procedure and never sign blank checks. Review all disbursements regularly.

4. Segregation of duties of employees. Divide activities so one employee doesn’t have too much control over an area or duty. Separate important accounting and account payable functions. Small-business owners and managers should review every payroll check personally. The person who has custody of the checks should never have check signing authority. The person opening the mail should not record the receivables and reconcile the accounts.

5. Proper authorization of transactions, ensuring that employees aren’t exceeding their authority.

6. Independent checks on performance, using audits, surprise check-ups, inventory counts, or other procedures to verify compliance with policies and procedures, as well as accuracy.

7. Instil an anonymous reporting mechanism, such as an employee fraud hotline.

8. Small-business owners should control who first receives the bank statements and other sensitive documents. Consider a separate post office box for the purpose of receiving bank statements, customer receipts or any other sensitive documents.

9. All account reconciliations and general ledger balances should have an independent review by a person outside the responsibility area such as an outside accountant. This allows for reviews, better ensuring nothing is amiss and providing a deterrent for fraudulent activities.

10. Conduct annual audits to motivate all bookkeeping- related staff to keep things honest because they can never be sure what questions an auditor is going to ask or what documents an auditor may request to review.

11. While no company, even with the strongest internal controls, is completely protected from fraud, strengthening internal control policies, processes and procedures will go a long way towards making your company a less attractive target to both internal and external criminals.

Corporate Scandals: –

One of the most reputed company revealed in September that it had installed software on millions of cars in order to trick the Environmental Protection Agency’s emissions testers into thinking that the cars were more environmentally friendly than they were, investors understandably deserted the company.

Company lost roughly $20 billion in market capitalization, as investors worried about the cost of compensating customers for selling those cars that weren’t compliant with environmental regulations.

The company not only has to deal with compensating their customers, but it will also need to contend with potential fines from regulators as well as a reputational hit that could severely affect its market share.

Other Example of Corporate Scandal is one of the biggest Ponzi schemes in West Bengal that enjoyed political patronage and lured millions of investors to deposit money with the promise of abnormally high returns including fancy holidays etc. The chit fund eventually collapsed leading to defaults after a crackdown by SEBI and the Reserve Bank of India. The default, apart from leaving small depositors high and dry, also led to 10 media outlets owned by company being forced to wind up, leaving 1000 journalists jobless.

And an online business survey firm that collected thousands of cores of rupees from over 24 lakh investors, asking them to fill surveys and guaranteeing to quadruple their income in one year, company was accused of running a Ponzi scheme. A criminal case was registered against the company in 2011, some accounts frozen and its business shutdown.

Penalty or Punishment under the various acts :-

As Per Section 447 of Companies Act 2013, prescribes that the person who is guilty of fraud shall be punishable with imprisonment for a term not less than 6 months and up to 10 years and fine, which shall not be less than the amount involved in the fraud and may extend to thrice of such amount.

If the fraud involves public interest, the minimum imprisonment to be awarded shall be 3 years.

As per Prevention of Money laundering Act 2012 if any person convicted offence in this act, there can be punishment of imprisonment up to 3-7 years with fine up to 5 lakh rupees.

As per Indian Penal Code 1860, punishment of offences, every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India.

As per Section 66F (Acts of cyber terrorism) of Information Technology Act 2002, If a person denies access to authorized personnel to a computer resource, accesses a protected system or introduces contaminant into a system, with the intention of threatening the unity, integrity, sovereignty or security of India, then he commits cyber terrorism and he is liable for Imprisonment up to life.

The corporate world is witnessing various changes. Corporate world's networks are increasingly being targeted by cyber criminals. Each passing day comes up with some news about breaches on corporate networks at global and Indian levels. For running the day-to-day affairs of corporates, the electronic format is the defacto format.

Corporates need to be aware to the facts that the law has gone ahead and given an expansive definition of personal information to mean any information that relates to a natural person, which, either directly or indirectly, in combination with other information available or likely to be available with a body corporate, is capable of identifying such person. Further, the law has gone ahead and defined what constitutes sensitive personal data or information. Sensitive personal data or information of a person has been defined to mean such personal information which consists of information relating to; —

1. Password;

2. Financial information such as Bank account or credit card or debit card or other payment instrument details;

3. Physical, physiological and mental health condition;

4. Sexual orientation;

5. Medical records and history;

6. Biometric information;

7. Any detail relating to the above clauses as provided to body corporate for providing service; and

8. Any of the information received under above clauses by body corporate for processing, stored or processed under lawful contract or otherwise.

9. Companies are required to have detailed terms and conditions, rules and regulations as also privacy policies, while handling or dealing with information including sensitive personal information or data. Companies should also have policies for collection, preservation, retention, disclosure and transfer of sensitive personal information.

Precautions Taken by the Companies

1. Know Your Employees

2. Make Employees Aware/Set Up Reporting System

3. Implement Internal Controls

4. Monitor Vacation Balances

5. Hire Experts

6. Live the Corporate Culture

According to me, the top five mechanisms, which are vital for implementing better and effective Corporate Governance in any organisation, are:

- Independence of Board
- Role of Auditors (Internal and Statutory) and Audit Committee
- Whistle Blowing
- Shareholder Activism
- Fast Track Redressal Forums and Independent compliant mechanisms.

Any code on corporate governance can only provide the framework or structure to ensure that companies are governed to the best interest of stakeholders at large.

Whistle Blowing- An Indispensable Tool of ensuring good Corporate Governance Practices in Spirit:

A very famous quote by Edward Thurlow (1731-1806):

"Did you ever expect a corporation to have a conscience, when it has no soul to be damned, and no body to be kicked?"

The above quote describes that corporations have neither bodies to be punished nor souls to be condemned, they therefore do as they like.

- Whistle blowing is relevant and plays a critical role in implementing Corporate Governance Practices.
- This was evident when Sherron Watkins blew the whistle on Enron's Management in the U.S and when Harry Templeton challenged Robert Maxwell's prowling of the pension fund, better known as the "Maxwell Saga" in the U.K.
- Our society has become so entrenched in doing wrong that corruption and violation has become the inherent part of the public and private life of the society.
- This issue is to be tackled by adopting best approach, which encourages and requires corporate to set up channels for blowing the whistle.

Whistleblowing in corporate governance

- Whistle Blowing can be defined in a number of ways.
- In common, it is speaking out on Malpractices, Corruption, Misconduct or Mismanagement.
- In its simplest form, whistle blowing involves the act of reporting wrongdoing within an organization to internal and external parties.
- It is raising a concern about malpractices within an organization or through an independent structure associated with it.

Key Highlights of Whistleblower Protection Act, 2014

- The act establishes a mechanism to receive complaints related to disclosure of allegations of corruption or willful misuse of power or discretion, against any public servant, and to inquire or cause an inquiry into such disclosure.
- The act also provides adequate safeguards against victimization of the person making such complaints.

- It allows any person, including a public servant, to make a public interest disclosure before a Competent Authority.
- The law has elaborately defined various competent authorities.
- For instance, Competent authority to complaint against any union minister is the Prime Minister.
- The law does not allow anonymous complaints to be made and clearly states that no action will be taken by a competent authority if the complainant does not establish his/her identity.
- The maximum time period for making a complaint is seven years.
- Exemptions: The act is not applicable to the Special Protection Group (SPG) personnel and officers, constituted under the Special Protection Group Act, 1988.
- Court of Appeal: Any person aggrieved by any order of the Competent Authority can make an appeal to the concerned High Court within a period of sixty days from the date of the order.
- The scenario of whistle blowing is very complicated in India.
- References of whistle blowing and whistle blowers is made in various committee reports (for eg: in 1998 by CII Code of Corporate Governance, in 1999 by Kumar Mangalam Birla Committee, in 2002 by Naresh Chandra Committee and in 2003 by N.R Narayana Murthy Committee), listing agreement and Voluntary Guidelines of Corporate Governance .
- There is Whistle blower Protection Laws in US, UK, Norway but in India, awareness is yet to come.

The Whistle blower policies effective implementations not only reduce the fraudulent activities but also send a signal to both internal and external agencies that organisations exercises good corporate governance.

The key aspects are:

- Clear definition of individuals covered by the Policy
- Non retaliation provisions

- Confidentiality
- Process
- Communication

Whistle Blower Policy

- The Whistle Blower Policy should include the methods to encourage employees, vendors, customers and shareholders to report evidence of fraudulent activities.
- It should properly address the processes that the employees should follow in filing their claims.
- Specific Reporting Mechanisms within the process could include telephone, emails, hotlines, websites or suggestion boxes.
- The first steps of creating an environment where a whistleblower will report problems that exist is the crucial one, to be fully effective whistle blower policy must be consistently implemented, claims investigated and evaluated and proper enforcement taken when necessary.
- Clause 49 of the Listing Agreement keeps whistle blowing as non-mandatory item but it should be mandatory
- Good corporate Governance focuses on conducting the business with all integrity, fairness, and being as transparent as possible regarding all the transactions.
- The Company makes all the necessary disclosures and decisions by complying with all the laws of the land.
- It takes accountability and responsibility towards the stakeholders. Commit to conducting business in an ethical manner.
- As per the SEBI reports on the essentials of corporate Governance, the controller of the companies must be able to distinguish between personal and corporate funds.

FACTORS RESPONSIBLE FOR OBSTRUCTING EFFECTIVE CORPORATE GOVERNANCE PRACTICES

- Corporate Governance is a dynamic practice consisting of internal control provisions and procedures to manage a company.
- It affects and gets affected by a number of factors.
- These factors can range from internal to external factors.
- Market factors can be cited as an example of external factors, whereas the practice of effective communication can be an example of internal factors.

Companies have an external and internal environment;

- Internal environment / Micro environment.
- External environment / Macro Environment.

  General environment.

  Industry environment.

- An organization's operations are affected by both types of environments.
- Therefore, the managers need to make an in-depth analysis of the elements of the environments
- So that they can develop in themselves an understanding of the internal and external situations of the organization.

Internal Environment of Organization

- Forces or conditions or surroundings within the boundary of the organization are the elements of the internal environment of the organization.
- The internal environment generally consists of those elements that exist within or inside the organization such as physical resources, financial resources, human resources, information resources, technological resources, organization's goodwill, corporate culture and the like.

- The internal environment includes everything within the boundaries of the organization.

Elements of internal environment are;

- Owners and Shareholders.
- Board of Directors.
- Employees.
- Organizational Culture.
- Resources of the Organization.
- Organization's image/goodwill.

1. **Owners And Shareholders**
    - Owners are people who invested in the company and have property rights and claims on the organization.
    - Owners can be an individual or group of persons who started the company; or who bought a share of the company in the share market.
    - They have the right to change the company's policy at any time.
    - Owners play an important role in influencing the affairs of the business.
2. **Board of Directors**
    - The board of directors is the governing body of the company who is elected by stockholders
    - And they are given the responsibility for overseeing a firm's top managers such as the general manager.

3.Employees

- Employees or the workforce, the most important element of an organization's internal environment, which performs the tasks of the administration.
- Individual employees and also the labor unions they join are important parts of the internal environment.
- If managed properly they can positively change the organization's policy.
- But ill-management of the workforce could lead to a catastrophic situation for the company.
-

4.Organizational Culture

- Organizational culture is the collective behavior of members of an organization and the values, visions, beliefs, habits that they attach to their actions.
- An organization's culture plays a major role in shaping its success because the culture is an important determinant of how well their organization will perform.
- Organizational culture (or corporate culture) significantly influences employee behavior.
- Culture is important to every employee including managers who work in the organization.
- A strong culture helps a firm achieve its goals better than a firm having a weak culture.
- Culture in an organization develops and 'blossoms' over many years, starting from the practices of the founder(s).

5.Resources of the Organization

- An organization's resources can be discussed under five broad heads: physical resources, human resources; financial resources, informational resources, and technological resources.
- Physical resources include land and buildings, warehouses, all kinds of materials, equipment and machinery.
- Examples are office buildings, computers, furniture, fans, and air conditioners.
- Financial resources include capital used for financing the operations of the organization including working capital.
- Examples are investment by owners, profits, reserve funds, and revenues received out of a sale.
- Informational resources encompass 'usable data needed to make effective decisions.
- Examples are sales forecasts, price lists from suppliers, market-related data, employee profile, and production reports

6. Organization's image/goodwill

- The reputation of an organization is a very valuable intangible asset.

- High reputation or goodwill develops a favorable image of the organization in the minds of the public
- The internal environment of an organization consists of the conditions and forces that exist within the organization.
- Internal environment {sometimes called micro-environment) portrays an organization's 'in-house' situations.
- An organization has full control over these situations.
- Unlike the external environment, firms can directly control the internal environment.

External Environment of Organization – Factors Outside of Organization's Scope

- Factors outside or organization are the elements of the external environment.
- The organization has no control over how the external environment elements will shape up.
- The external environment embraces all general environmental factors and an organization's specific industry-related factors.
- The general environmental factors include those factors that are common in nature and generally affect all organizations.

Elements of the General External Environment

- The general environment includes the; distant factors in-the external environment that is general or common in nature.
- Its impact on the operations of the firm, its competitors and customers make its analysis imperative.
- Political factors.
- Economic factors.
- Sociocultural factors.
- Economical factors.
- Legal factors.
- (Natural) Environmental factors.

1.Political Legal Factors

- The political factors of the general environment refer to the business-government relationship and the overall political situation of a country.
- A good business-government relationship is essential to the economy and most importantly for the business.
- The government of a country intervenes in the national economy through setting policies/rules for business In our country, we see many such policies – import policy, export policy, taxation policy, investment policy, drug policy, competition policy, consumer protection policy, etc.

2.Economic Factors

- The economic factor of an organization is the overall status if the economic system in which the organization operates.
- The important economic factors for business are inflation, interest rates, and unemployment.
- These factors of the economy always affect the demand for products.
- During inflation, the company pays more for its resources and to cover the higher costs for it, they raise commodity prices.
- When interest rates are high, customers are less willing to borrow money and the company itself must pay more when it borrows.
- When unemployment is high, the company can be very selective about who it hires, but customers' buying power is low as fewer people are working.
- A country's economic conditions affect market attractiveness.
- The performance of business organizations is affected by the health of a nation's economy.

3.Socio-Cultural Factors

- Customs, values and demographic characteristics of the society in which the organization operates are what made up the socio-cultural factors of the general environment.

- The socio-cultural dimension must be well studied by a manager.
- It indicates the product, services, and standards of conduct that society is likely to value and appreciate.
- The standard of business conduct varies from culture to culture and so does the taste and necessity of products and services.
- Socio-cultural forces include culture, lifestyle changes, social mobility, attitudes towards technology, and people's values, opinion, beliefs, etc.
- A society's values and altitudes form the cornerstone of society

4. Technological Factors

- It denotes to the methods available for converting resources into products or services.
- Managers must be careful about the technological factor.
- Investment decisions must be accurate in new technologies and they must be adaptable to them.
- Technological factors include information technology, the Internet, biotechnology, global transfer of technology and so forth.
- None can deny the fact that the pace of change in these technological dimensions is extremely fast.
- Technological changes substantially affect a firm's operations in many ways.
- The advancement of industrialization in any Country depends mostly on the technological environment.
- Technology has major impacts on product development, manufacturing efficiencies, and potential competition.

5.Legal Factors

- The legal environment consists of laws and regulatory frameworks in a country.

- Many laws regulate the business operations of enterprises such as the Factories Act, Industrial Relations Ordinance, the Contract Act, and the Company law
- Business laws also protect society at large.
- The laws regarding a merger, acquisitions, industry regulation, employment conditions, unionization, workmen's compensation and the like affect a firm's strategy.
- Even globalization has caused significant repercussions in the legal environment.
- Thus, the business managers must have thorough knowledge about the major laws that protect business enterprises, consumers and society.

6.Environmental / Natural Factors

- Strategy-makers need to analyze the trends in the natural environment of the country where it is operating its business.
- The most pertinent issues in the natural environment that strategy-makers should consider include the availability of raw materials and other inputs, changes in the cost of energy, levels of environmental pollution, and the changing role of government 'in environmental protection.
- Changes in physical/natural environment, such as global warming, will heavily affect our daily lives and the functioning of our organizations with a variety of consequences

Elements of Industry Environment

- Suppliers.
- Customers & Buyers.
- Competitors & New Entrants.
- Regulators.
- Substitute Products.
- Strategic Partners.

The different elements of the task environment may be discussed as under:

1. Suppliers

- Suppliers are the providers of production or service materials.
- Dealing with suppliers is an important task of management.
- A good relationship between the organization and the suppliers is important for an organization to keep a steady following of quality input materials.
- Suppliers are sources of resources such as raw materials, components, equipment, financial support, services, and office Supplies.

2. Customers & Buyers

- “Satisfaction of customer”- the primary goal of every organization.
- The customer is who pays money for the organization’s product or services.
- They are the people, who hand them the profit that the companies are targeting.
- Managers should pay close attention to the customers’ dimension of the task environment because its customers purchase that keeps a company alive and sound.

3. Competitors & New Entrants

- Policies of the organization are often influenced by the competitors.
- Competitive marketplace companies are always trying to stay and go further ahead of their competitors.
- In the current world economy, competition and competitors in all respects have increased tremendously.
- A firm needs to analyze the competitive intensity in the industry.
- It needs to understand the competitive position in the industry to improve its chance of designing winning strategies.

4. Regulators

- Regulators are units in the task environment that have the authority to control, regulate or influence an organization's policies and practices.
- Government agencies are the main player in the environment and interest groups are created by its members to attempt to influence organizations as well as the government.
- Trade unions and the chamber of commerce are common examples of an interest group.

5.Substitute Products

- The producers of substitute products are indirect competitors.
- Substitute products serve the same categories of customers.
- They can meet the similar needs of customers, and therefore, emerge, as threats.
- For example, when the detergent powder is capable of meeting customer needs in a much better way or even in the same way as the laundry soap does, the detergent powder becomes a strong indirect competitor of laundry soap.

CORPORATE FRAUD -CASE STUDIES

- SARADHA CHIT FUND SCAM (April 2013)
- Protagonist – Sudipta Sen
- Amount – Rs. 2060 – 2400 Cr

What was it about? –

- One of the biggest Ponzi schemes in West Bengal that enjoyed political patronage and lured millions of investors to deposit money with the promise of abnormally high returns including fancy holidays etc. The chit fund eventually collapsed leading to defaults after a crackdown by SEBI and the Reserve Bank of India. The default, apart from leaving small depositors high and dry, also led to 10 media outlets owned by Saradha being forced to wind up, leaving 1000 journalists jobless.

Status:

- Various agencies including ED and SFIO are probing the misappropriation of funds. Sudipto Sen, the Chairman and managing director of the Saradha Group was arrested earlier this year and the Enforcement Directorate has been granted his custody for interrogation to probe money laundering. Suspended TMC MP Kunal Ghosh, who was accused by Sen for being involved in the scam has been called for questioning by SFIO, but not arrested yet.
- The state had set up a fund of Rs 500 crore for compensating poor depositors. Of Saradha's 1.7 million investors, only 1000 depositors were indemnified in September and about 1 lakh were expected to be compensated before durga puja.

KETAN PAREKH SECURITIES SCAM (2001)

- Protagonist – Ketan Parekh
- Amount – Rs. 1,250 Cr

What was it about? –

- Parekh was involved in circular trading and stock manipulation through 1999-2001 in a host of companies. Like his mentor Harshad Mehta, Parekh too borrowed from banks like Global Trust Bank and Madhavpura Mercantile Co-operative bank, and manipulated a host of stocks popularly known as K-10 stocks.

Status:

- Parekh has spent only 1 year in jail but has been banned from trading in the Indian stock markets till 2017.
- His name though, continues to haunt the street as he has been accused of pulling the strings from the backstage.
- An IB (Intelligence Bureau) report last year alleged that Parekh and his associates were still engaged in circular and insider trading through front entities, but it was very difficult to establish his complicity because these were largely benami transactions.

SPEAK ASIA SCAM (2011)

- Protagonists: Harender Kaur, Manoj Kumar Sharma, Tarak Bajpai & others
- Amount – Rs. 2000 + Cr

What was it about? –

- An online business survey firm that collected thousands of crores of rupees from over 24 lakh investors, asking them to fill surveys and guaranteeing to quadruple their income in one year, Speak Asia was accused of running a Ponzi scheme.
- A criminal case was registered against the firm in 2011, some accounts frozen and its business shutdown.

Status:

- The Economic Offences Wing (EOW) despite promising to file a watertight case hasn't yet filed a charge sheet in the case, even with the Bombay High Court warned it for clubbing all the cheating cases together, leading to a delay.
- Speak Asia's panelists have still not been refunded their money (Over Rs 2,000 Cr is due according to some media reports) and its key management personnel are absconding, with no convictions made till date.

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UNIT – V – Corporate Governance – SBAA1506/SBAA3009

UNIT 5: HR PERSPECTIVE OF CORPORATE GOVERNANCE

Personal and Interpersonal Governance - Integration of Employees - Owners and Directors – Employees - Compensation and Ownership - Future Directions of Corporate Governance - Governance Issues in Entrepreneurial Firms - Unique Issues Among Entrepreneurial Firms - Choosing Board of Directors and Venture Capitalist

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INTRODUCTION

Indeed, **HR governance** also includes the internal oversight and management of an organization's **HR** strategy, programs, practices, and outcomes, through clearly defined roles, responsibilities, and accountabilities both down and across the enterprise.

When it comes to **employee relations**, an **HR** department has two primary **functions**.

- First, **HR** helps prevent and resolve problems or disputes between **employees** and management.
- Second, they assist in creating and enforcing policies that are fair and consistent for everyone in the workplace.

The 7 major HR activities

- Job design and job analysis.
- Employee hiring and selection.
- Employee training & development. Compensation and Benefits.
- Employee performance management.
- Managerial relations.

- Labor relations.

Personal Governance

- "**Personal governance** is a conscious, strategic and operative/situational form of self-steering and permanent **personal** development"
- **Personal governance** is aligned with a **personal** mission, one that takes equal account of private and professional goals and is based upon these.(equal account of private and professional goals)
- It is a psychological contract with ourselves.(employee and company)

Interpersonal Governance

- Interpersonal relationship refers to a strong association among individuals working together in the same organization.
- Employees working together ought to share a special bond for them to deliver their level best.
- Interpersonal relationships are formed in the context of social, cultural and other influences.
- The context can vary from family or kinship relations, friendship, marriage, relations with associates, work, clubs, neighborhoods, and places of worship.
- Individuals in an interpersonal relationship must share common goals and objectives.
- They should have more or less similar interests and think on the same lines.
- It is always better if individuals come from similar backgrounds.
- Individuals in an interpersonal relationship must respect each other's views and opinions.

OWNERS AND DIRECTORS

- Shareholders (or "stockholders," the terms are by and large interchangeable) are the ultimate owners of a corporation.

- They have the right to elect directors, vote on major corporate actions (such as mergers) and share in the profits of the corporation.
- However, shareholders do not have the right to direct the day-to-day operations of the corporation.
- A corporation is required to hold annual meetings of shareholders to elect directors.
- The minutes of these meetings must be carefully maintained by the corporation.
- If the corporation has only one or a few shareholders, it may make sense to hold the meetings by conference call, or simply by having the shareholders sign a statement indicating what actions were approved.

DIRECTORS

- The board of directors are in charge of the management of the company's business; they make the strategic and operational decisions of the company and are responsible for ensuring that the company meets its statutory obligations.
- The directors are effectively the agents of the company, appointed by the shareholders to manage its day-to-day affairs.
- The basic rule is that the directors should act together as a board but typically the board may also delegate certain powers to individual directors or to a committee of the board.

EMPLOYEES

- An employee is a term for workers and managers working for a company, organization or community.
- These people are the staff of the organization.
- In general, any person hired by an employer to do a particular job in exchange for payment is an employee, but there are different kinds of employees.
- Additional factors that make someone an employee include:
- The person is on the company's payroll and receives a specific salary or wage

- The individual is eligible for benefits and other perks offered by the employer
- A written or implied contract of employment
- The person is protected by law in terms of wages and employment rights
- There are several classifications of employees and companies can hire one or many types of employees to perform work.
- The most common employee classifications include:
    - Part-time employees
    - Full-time employees
    - Seasonal employees
    - Temporary employees
    - Leased employees

Part-time employees

- Part-time employees are individuals who work less than 40 hours a week and are typically paid by the hour rather than salaried.
- These employees are still considered legitimate employees of a company but may not be eligible for benefits.

Full-time employees

- Full-time employees are those that work an average of 40 hours a week and are eligible for benefits.
- Because the Fair Labor Standards Act does not provide a definition for part-time or full-time employees, employers are given the liberty to decide how they classify full-time employment within their organizations.
- Employers with 50 or more full-time employees must offer health care coverage to their full-time employees and their dependents.

Seasonal employees

- Seasonal employees are those who are hired based on the seasonal needs of a company.
- For example, a retail company may hire 10 seasonal employees to cover the increase in business during peak seasons such as the summer months and holidays.
- This type of employee is eligible for Social Security and unemployment benefits as they are not considered permanent employees.

Temporary employees

- Temporary employees are those that are hired on a temporary basis, often for a set period of time such as six months.
- They may also be hired to work on a specific project and stop working for the company when the project is complete.
- Employers can hire temporary employees directly or can go through a staffing agency to find employees that fit their needs.

Leased employees

- A leased employee is an individual who is hired by a staffing agency and then "leased" out to an organization to complete a specific job.
- Leased employees typically work with the company they are leased to for a year or longer.
- While still considered an employee, leased workers are on the payroll of the staffing agency and also receive any benefits through the employment agency rather than the organization they are working for.

Executive compensation

- Executive compensation or executive pay is composed of the financial compensation and other non-financial benefits received by an executive from their firm for their service to the organization.
- Executive pay is an important part of corporate governance, and is often determined by a company's board of directors

The four types of compensation

- The Four Major Types of Direct Compensation: Hourly, Salary, Commission, Bonuses.
- When asking about compensation, most people want to know about direct compensation, particularly base pay and variable pay.
- The four major types of direct compensation are hourly wages, salary, commission and bonuses

OWNERSHIP

- Corporate ownership, on the other hand, is much more complex, because it involves the creation of a legal identity separate from those of its owners.
- While an individual may own all the shares of a corporation, he or she is not personally responsible for it.
- That is because a corporation is, strictly defined, a legal entity that is "immortal" (does not terminate upon the owner's death), which can enter into and dissolve contracts, incur debts, sue or be sued, own property and sell it, as any individual may do.

How can corporate governance be improved in India?

- Recognize that good governance is not just about compliance.
- Clarify the board's role in strategy.
- Monitor organizational performance.
- Understand that the board employs the CEO.
- Recognize that the governance of risk is a board responsibility.
- Ensure the directors have the information they need.
- Build and maintain an effective governance infrastructure
- Appoint a competent chair
- Build a skills-based board

- Evaluate board and director performance and pursue opportunities for improvement

UNIQUE ISSUES AMONG ENTREPRENEURIAL FIRMS

Challenges facing entrepreneurship

- Cash flow management.
- Hiring employees.
- Time management.
- Delegating tasks.
- Choosing what to sell.
- Marketing strategy.
- Capital.
- Strapped budget.
- Business growth
- Self-doubt

Major ethical issues in entrepreneurship

- Accounting. “Cooking the books” and otherwise conducting unethical accounting practices is a serious problem, especially in publicly traded companies.
- Social Media.
- Harassment and Discrimination.
- Health and Safety.
- Technology/Privacy.

Choosing board of directors

- Keep the board size manageable.
- Too many voices and opinions could keep your small business from moving forward.

- Find board members who can raise money.
- If your small business needs financing, a board with contacts and experience with raising money could be a valuable addition.
- Complement existing management.

Venture Capitalist

- A venture capitalist (VC) is a private equity investor that provides capital to companies exhibiting high growth potential in exchange for an equity stake.
- This could be funding startup ventures or supporting small companies that wish to expand but do not have access to equities markets.

CHOOSING VENTURE CAPITALIST

- Name and Reputation of the Venture Capitalists.
- Development Phase of the Company.
- Industry Sector of Firm and Venture Capitalists.
- Required Financing Volume.
- Location of the Venture Capitalists.

Power director and shareholder

However, shareholders do have some power over the directors although, to exercise this power, shareholders with more that 50% of the voting powers must vote in favour of taking such action at a general meeting. One of the main powers that the shareholders have is to remove a director or directors.

Is managing director higher than director?

The managing director is the highest management position in a company, and the director works beneath the managing director. At a large company, there are typically many directors who work under the managing director.

GOVERNANCE ISSUES IN ENTREPRENEURIAL FIRMS

1) CONFLICTS OF INTEREST

Avoiding conflicts of interest is vital. A conflict of interest within the framework of corporate governance occurs when an officer or other controlling member of a corporation has other financial interests that directly conflict with the objectives of the corporation. For example, a board member of a solar company who owns a significant amount of stock in an oil company has a conflict of interest because, while the board he or she serves on represents the development of clean energy, they have a personal financial stake in the success of the oil industry. When conflicts of interest are present, they deteriorate the trust of shareholders and the public while making the corporation vulnerable to litigation.

2) OVERSIGHT ISSUES

Effective corporate governance requires the board of directors to have substantial oversight of the company's procedures and practices. Oversight is a broad term that encompasses the executive staff reporting to the board and the board's awareness of the daily operations of the company and the way in which its objectives are being achieved. The board protects the interests of the shareholders, acting as a check and balance against the executive staff. Without this oversight, corporate staff might violate state or federal law, facing substantial fines from regulatory agencies, and suffering reputational damage with the public.

3) ACCOUNTABILITY ISSUES

Accountability is necessary for effective corporate governance. From the top-level executives to lower-tier employees, each level and division of the corporation should report and be accountable to another as a system of checks and balances. Above all else, the actions of each level of the corporation is accountable to the shareholders and the public. Without accountability, one division of the corporation might endanger the success of the entire company or cause stockholders to lose the desire to continue their investment.

4) TRANSPARENCY

To be transparent, a corporation must accurately report their profits and losses and make those figures available to those who invest in their company. Overinflating profits or minimizing losses can seriously damage the company's relationship with stockholders in that they are enticed to invest under false pretences. A lack of transparency can also expose the company to fines from regulatory agencies.

5) ETHICS VIOLATIONS

Members of the executive board have an ethical duty to make decisions based on the best interests of the stockholders. Further, a corporation has an ethical duty to protect the social welfare of others, including the greater community in which they operate. Minimizing pollution and eschewing manufacturing in countries that don't adhere to similar labour standards as the U.S. are both examples of a way in which corporate governance, ethics, and social welfare intertwine.

FUTURE DIRECTIONS OF CORPORATE GOVERNANCE

1. Diversity at every level and of every kind will continue to grow.
2. Private companies will increasingly have outsiders on boards, who in many cases will be "professional" challengers, instead of lapdogs.
3. Stakeholders will figure frequently on-board agendas—and on boards themselves, possibly as a result of regulatory changes.
4. While public company disclosures in the OECD might be streamlined…
5. Private company boards will become more demanding on regular disclosures, and so will their shareholders.
6. A more holistic view of the firm will emerge through systematic cultural audits.
7. Diversity, disclosure and interactions between principal and their agents, as well as stakeholders will increasingly require high quality governance data.
8. Which will increase demand for data platforms at every level.
9. The DFIs 'weight in the EM governance area will continue to increase; they will become an important source of demand for diversity, disclosure and data…
10. Thus, becoming themselves an important driver of change.