

“CORPORATE BOARD AND GOVERNANCE”- AS PER SEBI’S LODR 2015: WITNESS FROM INDIAN GAS, FUEL AND REFINERY SECTOR COMPANIES

CMA Dr. Meenu Maheshwari

Assistant Professor

Department of Commerce and Management

University of Kota, Kota (Raj.)

Abstract:-

Corporate Governance is a system by which companies are directed and controlled. It has obligations towards various stakeholders in corporation. The board is recognized as the top layer of the corporate house which has the responsibility of governing the company. The board appoints various committees and shades them with its power. This research paper highlights the structure, size and strength of the board as per SEBI’s LODR 2015. For this purpose, three gas, fuel and refining sector companies have been taken which are included in BSE Sensex viz. GAIL, ONGC and RIL. The study shows that RIL has the largest number of directors in 2014-15 and 2015-16 and best combination among ED, NED and ID in the board. GAIL and ONGC did not have any woman director in their boards as per requirement of SEBI’s LODR 2015. It is suggested that RIL should appoint at least one nominee director in board structure of the company.

Key words: - Corporate Governance, SEBI, LODR, Board of Directors, Executive director, non-executive director

Introduction:

Corporate Governance is a framework which promotes transparent and efficient market, in line with the rule of law. This should be developed in keeping mind its overall economic performance and promotion of ethical business conduct and sustainable development of all stakeholders in a corporation.

The OECD Principle on Corporate Governance states that “Corporate Governance is the system by which business corporation are directed and controlled. The Corporate Governance structure specifies the distribution of rights and responsibilities among different participants in the corporations, such as the board, managers, shareholders and other stakeholders and spells out the rules and procedures for making decision of corporate affairs.”

An article in Business week (November 25, 1996, p. 84) highlighted the importance of a strong and independent board of directors in these words: “obviously not all well governed companies do well in the market place. Nor do the badly governed ones always sink. But even the best performers risk stumbling someday if they lack strong and independent board of directors.”

Present Corporate Governance norms for all listed companies are regulated by the Companies Act 2013. Now the regulatory body of security market, SEBI has notified on 2nd Sep. 2015 in the extraordinary Gazette of India the Listing Obligation and Disclosure Requirements, 2015 (LODR). So, all the listed companies are now governed by LODR Regulations 2015. Further it is also necessary to mention here that every listed company should comply with the stricter provisions of Companies Act, 2013 and SEBI (LODR) Regulations, 2015.

Board of Directors as per SEBI'S LODR 2015:

The Board of Directors is the highest body of any corporate entity. It has power to exercise objective, transparent and independent judgement on corporate affairs. Board should apply high ethical standards and treat all shareholders fairly. The following points should be kept in mind for Board of Directors:

- i. Board of directors shall have an optimum combination of executive and non-executive directors with at least one women director and not less than 50 % of the board of directors shall comprise of non-executive directors.
- ii. The board of directors shall meet at least four time a year, with a maximum gap of one hundred and twenty days between two meetings.
- iii. The BOD shall periodically review compliance reports pertaining to all laws applicable to the listed entity.
- iv. The BOD shall lay down a code of conduct for all the members of board.

Key Functions of the Board of Directors as per SEBI's LODR 2015:-

- i. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans.
- ii. Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.
- iii. Selecting, compensating, monitoring and when necessary, replacing key managerial personnel.
- iv. Ensuring a transparent nomination process to the BOD with the diversity of thought, experience, knowledge, perspective and gender in the board.
- v. Ensuring the integrity of the listed entity's accounting and financial reporting systems.
- vi. Overseeing the process of disclosure and communications.
- vii. Monitoring and reviewing board of directors' evaluation framework.

Research Methodology:

A. Research Questions:

- (i) Whether the chairman is an executive director or non-executive director?
- (ii) What are the numbers of non-executive directors in the board?
- (iii) Is there at least one women director in its structure?
- (iv) Does the company fulfil the minimum requirements of Independent directors in case chairman is executive director?
- (v) Does the company fulfil the minimum requirement of independent directors in case chairman is non-executive director?

B. Scope of the Study, Sample Size and Collection of Data:

This paper sketches on the shareholding pattern of the sampled Gas, Fuel and Refinery Sector Companies viz. GAIL, ONGC Ltd. and Reliance Industries Ltd. (RIL) included in the BSE Sensex. The study covers SEBI's LODR 2015 for the years 2014-15, 2015-16 and 2016-17. All data and information have been collected from annual reports of respective company's website, journal etc.

Review of Literature:

Tait & Loosemore (2012) compared the compliance level of various construction & non-construction firms listed in Australian Stock Exchange (ASX) as per the guidelines for sound corporate governance issued by ASX Corporate Governance Council. The difference in the two groups in terms of board independence has also been examined. The sample of 20 ASX listed construction & non-construction companies have been taken for the study and their annual reports have been analyzed quantitatively and qualitatively. It has been concluded that listed construction companies are less compliant with board structure and have lower level of board independence. These listed construction companies have been suggested to refine their level of board independence in order to create a competitive advantage and improve the board structure.

Srairi (2015) investigated the impact of extent of corporate governance disclosure on the performance of 27 Islamic banks by developing corporate governance disclosure index. Amongst the factors considered from corporate governance mechanism, one crucial factor was board structure. The methodology of content analysis using annual reports of selected banks has been adopted for analysis of the data and regression analysis provided evidence for the derived results. The results indicated that level of disclosure in context of board structure accounted for 64%. The analysis and results derived manifested positive and significant effect of board size and independence on performance of bank. It has been proclaimed that it acts as key driving force for profitability of Islamic banks.

Rughoobur (2018) attempted to weigh up the influence that good corporate governance constitutes in State Owned Enterprises of Mauritius. The aforesaid aim has been accomplished by exploratory research by procuring the general outlook of employees in particular sector. A sample of 75 employees was drawn from the population of employees of SOEs of Mauritius and questionnaire has been prepared for data collection. A pilot test has been applied to check the reliability and validity of data. It has been concluded that many respondents believe board members acts as a link between its shareholders and stakeholders but their improper execution of respective role results in lagging in area of good corporate governance. It is further noticed that excessive government intervention leads to such actions which resulted in negative responses from the people concerned.

Maheshwari (2019) attempted to analyse the aftermath of board structure and size considering SEBI guidelines (LODR, 2015) on the effectiveness of corporate governance. The study focused on the automobile sector and the sample has been drawn from BSE indexed companies. The annual reports of five companies for three years viz. 2014-15, 2015-16 and 2016-17 have been scrutinized to reach out to the answers for major research questions. The research questions are mainly concerned with the conditions of having independent

directors, women director and non-executive directors. The results revealed that companies fulfil the requirements of independent director and women director, while Bajaj- Auto Corp, Hero Moto Corp. and Mahindra & Mahindra have an Executive Chairman in the Board. It has been recommended for them to have non-executive chairman in the board and all the companies except Mahindra & Mahindra are suggested to possess nominee director to ensure better monitoring of their actions.

Data Analysis and Discussion:

Table –1
Board Structure, Strength and Size of Gas and Fuel, Oil Exploration and Refinery Sector Companies
for the Financial Year 2014-2015

S.No.	Categories	GAIL	ONGC	RIL
I.	Total Number of Director	7	9	13
A	Chairman			
	Executive Director	1	1	1(Promoter)
	Non-Executive Director	-	-	-
B	No. of Executive Directors			
	Promoters	-	-	-
	Others	5	5	4
C	No. of Non-Executive Directors			
	Promoters	-	-	1(Woman)
	Independent Man	-	1	7
	Woman	-	-	-
	Nominee	1	2	-
	Others	-	-	-
II.	No. of Directors in Percentage			
	Executive Directors	85.71%	66.67%	38.46%
	Non-Executive Directors	14.29%	22.22%	7.69%
	Independent Directors	00.00%	11.11%	53.85%
III	Minimum requirement of ID			
	If Chairman is Executive Director then ½	No	No	Yes
	If Chairman is Non-Executive then 1/3	-	-	-

Table –2
Board Structure Strength and Size of Gas and Fuel, Oil Exploration, Refinery Sector Companies
for the Financial Year 2015-16

S. No.	Categories	GAIL	ONGC	RIL
I.	Total Number of Directors	10	12	14
A	Chairman			
	Executive Director	1	1	1(Promoter)
	Non-Executive Director	-	-	-
B	No. of Executive Directors			
	Promoters	-	-	-

	Others	3	6	4
C	No. of Non-Executive Directors			
	Promoters	-	-	1(Woman)
	Independent			
	Man	4	3	8
	Women	-	-	-
	Nominee	2	2	-
	Others	-	-	-
II.	No. of Directors in Percentage			
	Executive Directors	40.00%	58.33%	35.72%
	Non-Executive Directors	20.00%	16.67%	7.14%
	Independent Directors	40.00%	25.00%	57.14%
III	Minimum requirement of ID			
	If Chairman is Executive Director then ½	NO	NO	Yes
	If Chairman is Non-Executive then 1/3	-	-	-

Table –3

**Board Structure, Strength and Size of Gas and Fuel, Oil Exploration and Refinery Sector Companies
for the Financial Year 2016-2017**

S.No.	Categories	GAIL	ONGC	RIL
I.	Total Number of Director	11	16	14
A	Chairman			
	Executive Director	1	1	1 (Promoter)
	Non-Executive Director	-	-	-
B	No. of Executive Directors			
	Promoters	-	-	-
	Others	3	6	4
C	No. of Non-Executive Directors			
	Promoters	-	-	1 (Women)
	Independent			
	Man	5	7	8
	Woman	-	-	-
	Nominee	2	2	-
	Others	-	-	-
II.	No. of Directors in Percentage			
	Executive Directors	36.36 %	43.75 %	35.72 %
	Non-Executive Directors	18.18 %	12.50 %	07.14 %
	Independent Directors	45.45 %	43.75 %	57.14 %
III	Minimum requirement of ID			
	If Chairman is Executive Director then ½	No	No	Yes
	If Chairman is Non-Executive then 1/3	-	-	-

Observations-

- 1) It has been observed that in 2014-15 GAIL and ONGC have seven and nine directors respectively but in 2015-16 and 2016-17 both companies appoint 10 or more than 10 directors while RIL has more than 10 directors during the study period.

- 2) In all three financial years GAIL and ONGC did not comply minimum requirement of NED and ID even GAIL did not have any ID in 2014-15, while RIL has complied this requirement.
- 3) GAIL and ONGC did not have any woman director in board composition as per requirement of SEBI's Regulation 2015.
- 4) In all three financial years it has been observed that RIL has the largest number of directors in 2014-15 and 2015-16 in board composition among gas and oil sector companies. ONGC in 2016-17 has the largest number of directors.
- 5) Only RIL has better combination between ED, NED and ID in composition of board in all three financial years but GAIL and ONGC did not have good combination.

Suggestions-

- 1) GAIL and ONGC should appoint more ID to fulfil the requirement of SEBI's Regulation 2015.
- 2) GAIL and ONGC should appoint at least one woman director in board structure of the company.
- 3) RIL also should appoint at least one nominees directors to inspect the activities of company.

Conclusion:

Adoption of good Corporate Governance system provides stability and growth to the company. The board of directors is the highest governing body of the organisation. As per SEBI's LODR 2015 the board should apply high ethical standards. The interests of different stakeholders be kept on top with fair treatment.

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