SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015: BALANCING CORPORATE GOVERNANCE AND ACCOUNTABILITY

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ABSTRACT

Corporate governance principles help all the stakeholders to build strong monitoring preventive mechanism for early detection of corporate malpractices to safeguard investors and ensure resilient economy. Corporate governance entails the procedure and rules that balances the interest of the corporate entity without bypassing any legal threshold and also ensuring the various goals of the company. The initial corporate governance model in India was largely based on US and UK models which could not facilitate to address nuanced Indian businesses as witnessed by upsurging corporate frauds causing massive disruption in the economic sphere. SEBI's Listing Obligations and Disclosure Requirements [LODR] Regulations, 2015, was introduced to consolidate, streamline and strengthen corporate governance standards for listed companies. The LODR Regulations prescribes stringent prescriptions wherein a listed entity ensures to observe quality-driven compliance. While some parts of the LODR Regulations are not in tandem with quality-driven compliance rather they serve only as a formal compliance structure or a mere box-ticking method of compliance framework.

Keywords: LODR Regulations, Corporate Governance, SEBI, Disclosure Requirement and Regulatory Compliance

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PART I

A. Introduction

Corporate governance helps all the stakeholders to build strong monitoring preventive mechanism for early detection of corporate malpractices to safeguard investors and ensure resilient economy. Considering corporate governance as a promise, Macey states that:

> *The purpose of corporate governance is to persuade, induce, compel, and otherwise motivate corporate managers to keep the promises they make to investors. Another way to say this is that corporate governance is about reducing deviance by corporations where deviance is defined as any actions by management or directors that are at odds with the legitimate, investment-backed expectations of investors. Good corporate governance, then, is simply about keeping promises. Bad governance (corporate deviance) is defined as promise-breaking behavior.*[1]

Corporate governance entails the procedure and rules that balances the interest of the corporate entity without bypassing any legal threshold and also ensuring the various goals of the company are not compromised.[2] Today's strong corporate governance structure in India is a response to unfortunate corporate frauds over two decades. Transparency in decision-making enables shared responsibility of a corporate entity as an entity in existence in society. Lastly, corporate governance brings humanistic approach to social responsibility of a corporate entity.

Good corporate governance reduces conflicts and anticipates the disbalances among the various interests of the stakeholders. Another aspect of good corporate governance is it allures the foreign investors enriching the economy.[3] Mere box-ticking of corporate governance policies disables the management, which directly impacts the economic prospect of an economy. At the core, there is the behavioral aspect attached to the inculcating of good corporate governance practices as each individual corporate entity entails nuanced practices aligning with its

[1] Jonathan R. Macey, *Corporate Governance: Promises Kept, Promises Broken* (Princeton Univ. Press 2008).
[2] Musiye Banda & Austin Mwange, *Corporate Governance: A Conceptual Analysis*, 14 J Fin. & Acctg.17 (2023).
[3] George S. Georgiev, *Disclosure as a Corporate Governance Tool: Channels and Challenges*, in *The Oxford Handbook of Corporate Law and Governance* (Jeffrey N. Gordon & Wolf-Georg Ringe eds., forthcoming 2025).

objective.

This article proceeds as follows. Part I shall demonstrates the significance of corporate governance and lays down the emergence of SEBI and corporate governance policies in India. Part II elucidates the various theoretical frameworks of corporate governance in nexus with LODR Regulations. Part III covers the overview of the LODR Regulations. It discusses the objectives, governing principles and architecture of the LODR Regulations. Part IV discusses independence and accountability of board of directors and independent directors with relevant cases. Part V explains various committees under LODR Regulations. It also analyses related-party transaction disclosure under LODR Regulations and analyses the debate over disclosure overload and quality-driven transparency. Part VI elaborately discusses and analyses the enforcement structure of SEBI under LODR Regulations and other regulations. Furthermore, it tries to analyze the compliance mentality in Indian corporate structure. Part VII provides comparative analysis of LODR Regulations with OECD Principles and UK Corporate Governance Code respectively. It also portrays a detailed view of identified lacunae and reforms in LODR Regulations and ends with a conclusion for this paper.

B. **Emergence of SEBI and Corporate Governance in India**

Emergence of stringent corporate governance policy in India is of recent origin. The tapestry of changes came post 1991 with economic and liberalization policies. Of the most important ones has been the establishment of SEBI. The first corporate governance initiative was a code formulated on "Desirable Corporate Governance" recommended by the Confederation of India Industry. Followed by the Kumar Mangalam Birla Committee which submitted a report to SEBI.[4] The said recommendations led to insertion of Clause 49 in the Listing Agreement that was applicable to all listed companies of a certain size. Later, this in entirety was replaced by SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 [referred as "LODR"]. The various corporate fraud led the legislature build a mechanism and a regulatory body, namely, SEBI. In the continuum of corporate fraud, the real burden has to be borne by the retail investors. Therefore, the Investor Protection Mechanisms and Investor Education Fund is an essential component of the corporate law in India. It has become quite integrated

[4] See, Securities and Exchange Board of India, *Report of the Kumar Mangalam Birla Committee on Corporate Governance (2000*), available at http://www.sebi.gov.in/ commreport/corpgov.html [hereinafter "Kumar Mangalam Birla Committee Report"].

with the policies and practices in every corporate entity.

Indian business infrastructure is unique in nature. The corporate governance model should address and complement to this unique business infrastructure. The initial corporate governance model in India was largely based on US and UK model[5]; this did not facilitate to address nuanced Indian business issues as witnessed by upsurging corporate frauds causing massive disruption in economic sphere. Hence, a corporate governance framwwork which addresses Indian corporate structure and its emerging challenges remains a need. To address this need, SEBI was strengthened and it framed important regulations such as LODR. These regulations are often modified to address the new problems emerging in Indian corporate landscape.

1. Emergence of LODR Regulations

A seminal document on listing agreement namely, Listing Obligations and Disclosure Requirements [LODR] Regulations was introduced by SEBI vide notification on 2nd September, 2015, to consolidate, streamline and strengthen corporate governance standards for listed companies.[6] SEBI has powers to make regulations relating to listing of public companies was enhanced by the insertion of Section 11A to the SEBI Act[7]. The Regulations covers not only the principles like in case of OECD Principles but also provide stringent prescriptive mandates to be followed by a listed entity. Most importantly, it provided an added layer of compliance obligations for top Indian listed companies.

Indian regulator's knee-jerk reaction to address the ill-effects of global and national corporate frauds, SEBI appointed the Narayana Murthy Committee to examine the Clause 49 of Listing agreement which was revised in 2005. However, the fragmentary nature of regulatory laws and patchwork amendments of Clause 49 remained insufficient. More importantly, Clause 49 was contractual in nature and was not a statutory obligation. Lastly, the new comprehensive law, namely, Companies Act, 2013, that set to be a significant catalyst to the birth of SEBI [Listing Obligations and Disclosure Requirements], 2015. Over the years, the LODR Regulations has

[5] Umakanth Varottil, *A Cautionary Tale of the Transplant Effect on Indian Corporate Governance*, 21 Nat'L. Rev1(2009).
[6] Bharat Vasani, Ayush Lahoti & Maharshi Shah, *Ten Years of LODR: The Journey from "Minimum Principles" to "Maximum Prescriptions"* India Corp. Law (June 4, 2025), https://corporate.cyrilamarchandblogs.com/2025/05/ten-years-of-lodr-the-journey-from-minimum-principles-to-maximum-prescriptions/ .
[7] Securities and Exchange Board of India Act, 1992.

been amended several times in order to align with the market changes and to make the Indian securities markets resilient.

C. Research questions, scope and methodology

This paper tries to navigate two pertinent questions around LODR Regulations, 2015. First, to what extent do the LODR Regulations function as a catalyst for strengthening corporate governance frameworks among listed entities in India. Second, do LODR Regulations ensure only formal compliance or do they actually prevent accountability due to structural and enforcement limitations. The study is confined to application of LODR Regulations in India. The paper does not include a comparative study of LODR Regulations with other foreign jurisdictions except briefly necessary for conceptual clarity. The paper adopts a doctrinal legal research methodology with reliance on the primary and secondary sources. Primary sources are regulations, statutes and landmark case laws. Secondary sources include academic journals, commentaries, reports and relevant scholarly literature.

PART II

A. Theoretical Frameworks of Corporate Governance vis-à -vis LODR Regulations

The theorical understanding of various frameworks of corporate governance enables to identify the gaps in a regulatory framework of a particular jurisdiction. Therefore, understanding of these frameworks put nuanced perspectives to corporate practices that help in distinguishing the effective practices from the obsolete ones.

As per Berle and Means in their 1932 book *The Modern Cooperation and Private Property*, held the view that the separation of ownership and control in major corporations, herein the case of listed companies, create an agency cost. In simple terms, agency cost implies to the problems and expenses that arise when one person [the agent] makes decisions on behalf of another person [the principal]. They argued that agency costs are an unavoidable result of the relationship between investors and managers and that contractual relations are the essence of the firm, not only with employees but also with suppliers, customers, creditors and so on. According to them, most organizations serve as a nexus for a set of contracting relationships among individuals and since decision makers ultimately bear the agency costs, these decision

makers have the economic incentive to minimize agency costs.[8] Largely, based on the Fisherian Separation Principle, the basis for a market economy in which there is separation of ownership and control provided there is an ideal market conditions.[9] This point of view was known to the Anglo-Saxon Model that is largely prevalent in UK and USA. Conversely, Indian corporate structure is family-centric in nature and the fast paced start-up culture in India has also captured significant portion of the market. Berle and Means view, remain misaligned with Indian corporate framework.[10] Resultantly, other jurisdiction's regulation cannot be merely transplanted by Indian regulatory bodies.

On the other hand, there a stakeholder-model of cooperate governance that extends the managerial control to other stakeholders, who can sufficiently showcase their interest in a corporate entity.[11] This type of corporate governance model can be found in practice in Japan, Germany and other continental European countries. The concept of nominated directors remains an extension of this idea; however, the stakeholder-model of corporate governance still does not align with the strongly guided insider-model which is in case of most Indian entities.

The third theory, Stewardship Theory, suggests that the board members and managers are motivated by larger force beyond personal wealth.[12] This theory largely draws from organizational psychology of self-esteem and fulfillment. One of the fundamental objects of regulatory frameworks such as LODR is the investor protection and strong corporate practices makes economy fertile foreign investments. Resultantly, boost in economy remains a strong indicator for sustainable economical and social environment.

The fourth theory, challenges us to look at a corporate entity as an organism, with its own existence and prosperity. To add to this discussion, organization as an organism, foremost look for its own survival and growth.[13] It has its own purpose and longevity. Therefore, this corporate governance model seeks to identify those policies that subserve its own growth.

[8] Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure,* 3 J. Fin. Econ. 305(1976).
[9] Kose John & Lemma W. Senbet, *Corporate Governance and Board Effectiveness*, 22 J. Banking & Fin. 371 (1998).
[10] Umakanth Varottil, *A Cautionary Tale of the Transplant Effect on Indian Corporate Governance*, 21 Nat'L. Rev1(2009).
[11] John & Senbet, *supra* note 9.
[12] John & Senbet, *supra* note 9.
[13] *Id.*

Undoubtedly, good corporate governance practices align with this theory.[14] This framework single-handedly justifies mandatory appointment of the independent directors in Indian corporate law and regulations.

There has been an ongoing argument that setting a purpose does not lead to allegiance to corporate governance.[15] Corporations are subservient to shareholders' wealth maximization. However, keeping wealth maximization as the only aim is discordant because efficiency of corporations depends on various stakeholders e.g. employees, suppliers, financial institution. Good corporate governance implies all the stakeholders associated to the corporate entity are well served and the seed to this can only happen, in exercising good decision-making. Academicians have purposed a democratic theory of enabling such group to have voting rights with measurable interest that run parallel to corporate governance.

Disclosure of appropriate information relating to the company enables accountability and transparency. Similar tapestry of systematic voluntary disclosure has been laid throughout in LODR Regulations to resemble the idea, "Sunlight is said to be the best of disinfectant."[16] Timely disclosure reduces information asymmetry and keeps management accountable while protecting investor interests.[17] This is the object of disclosure theory of cooperate governance.

PART III

Overview of SEBI (LODR) Regulations

A. Objectives of LODR

LODR Regulations applies to listed entities that have listed their securities on recognized stock exchange(s). The securities include shares listed on the main board, SME Exchange or Innovators growth platform non-convertibles, Indian Depository Receipts, securitized debt instruments, security receipts, units issued by mutual funds and any other securities.[18] The regulations apply on market capitalization rankings done every year.

[14] Arie de Geus, *The Living Company* (Harvard Business School Press 1997), https://archive.org/details/livingcompany0000geus/page/n3/mode/2up (last visited Jan. 28, 2026).
[15] Grant M. Hayden & Matthew T. Bodie, *The Problem of Purpose in Corporate Law, 62 Hous. L.Rev.611(2025).*
[16] Louis D. Brandeis, *What Publicity Can Do,* 58 Harper's Wkly.10 (Dec 20,1913).
[17] George S. Georgiev, *Disclosure as a Corporate Governance Tool: Channels and Challenges*, in *The Oxford Handbook of Corporate Law and Governance* (Jeffrey N. Gordon & Wolf-Georg Ringe eds., forthcoming 2025).
[18] Regulation 3 of LODR Regulations, 2015.

B. Key governance principles

The heart of the LODR Regulations lies in Regulation 4, which puts out the principles governing disclosures and obligations of the listed entities. Firstly, these entities are to oblige to the accounting and financial standards and provide timely disclosure. Secondly, the auditing procedure shall be conducted by independent, competent and qualified auditor, who shall ensure the interest of all stakeholders. Thirdly, misrepresentation and misleading information shall be refrained. Fourthly, listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors. Fifthly, listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language. Sixthly, investor protection is an essential theme of the regulations, hence, channels for disseminating information shall provide for equal, timely and cost-efficient access to relevant information by investors. Seventhly, a listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable. Lastly, periodic filings, obligations as per corporate governance principles [laid down under the LODR Regulations] and consideration of the interest of all stakeholders remains an important principle.

In order to achieve the corporate governance objectives laid down throughout the LODR Regulations [especially under Chapter IV], there are additional obligations of the listed entities on the following themes:

1. The rights of shareholders
2. Timely information
3. Equitable treatment
4. Role of stakeholder in corporate governance
5. Disclosure and transparency
6. Responsibilities of the board of directors

Additionally, common obligations of listed entities with regard to compliance is provided in the third chapter. A listed entity shall appoint a qualified company secretary as the compliance

officer.[19] The compliance officer of the listed entity shall ensure conformity with regulatory provisions, ensure correct and authentic information are processed, coordinate timely reports to the Boards/stock exchanges/depositories and monitor grievance redressal mechanism.

Obligations of Share Transfer Agent whether in-house or third party needs to ensure the provisions of the Regulations are duly complied with.[20] The listed entity shall properly coordinate with the intermediaries registered with SEBI. The listed entity shall ensure the scheme of arrangement/amalgamation/merger/reconstruction/reduction of capital shall comply with securities laws/ requirements of stock exchange.[21] Every listed entity shall redress investor grievances promptly within 21 calendar days from the date of the grievance. All the investors' complaints shall be reported to SEBI in a quarterly basis.[22] The listed entity shall pay all the charges/fees on a specified manner under the Regulations[23]. Therefore, the LODR Regulations lays down a comprehensive prescriptive metrics framework.

C. Architecture of the regulatory framework

The LODR Regulations categorises its regulatory framework for non-convertible debt securities, non-convertible securities, non- convertible redeemable preference shares and listed mutual fund units. It is divided into nine chapters. Thus, the LODR Regulations prescribes entity specific obligations but does not dilute the core corporate principles. Additionally, LODR Regulations integrates with other legislations like the Companies Act, 2013, Insolvency and Bankruptcy Code, 2016, to bring sound and resilient jurisprudence during its applicability. It also provides eleven schedules to facilitate smooth compliance. For example, Regulation 15(2)(b) of LODR specifically carve out an exemption for listed companies undergoing insolvency resolution.

PART IV

A. Board Independence and Accountability

1. Regulation 17 and Schedule IV

[19] Regulation 6 of the LODR Regulations.
[20] Regulation 7 of the LODR Regulations.
[21] Regulation 11 of the LODR Regulations.
[22] Regulation 13 of the LODR Regulations.
[23] Regulation 14 of the LODR Regulations.

In order to reduce the agency cost, control mechanisms should be built into the corporate governance, thus, the first step to ensure this is to lay down transparency and accountability in the roots of the corporate entity. Weak corporate governance makes it costly to raise external capital and distorts investment decision far from value maximization.[24] Resultantly, the board of directors should consist of both independent non-executive directors as well as executive directors. Foundations for this is entrenched in Regulation 17 of the LODR Regulations. The genesis of Regulation 17 can be traced back to Clause 49 of the Equity Listing Agreement based on the recommendation of the Kumar Mangalam Birla Committee.

Regulation 17 stipulates the composition of board of directors of the listed entities. Directors have fiduciary relation with the company. Probity and integrity in dealings remains important catalyst in ensuring the substantivity and longevity of the listed company. Therefore, Regulation 17 postulates general board composition must have optimum combination of executive and non-executive directors. The board must consist of at least fifty percent of non-executive directors. Additionally, every board must consist with least one-woman director. The LODR Regulations categorises the proportion of independent director is dependent on the status of the board chairman. In case of the non-executive chairperson, at least one-third of the board must be independent. In case of executive/ promoter chairman, at least fifty percent of the board must be independent but is subject to the following twin conditions: the entity should not have a regular non- executive chairperson and the regular non- executive chairperson is a promoter or is related to the promoter or someone in a top management position.

The top 1000 listed entities as determined by market capitalization, the board must include at least one independent woman director. The top 2000 listed entities must comprise their board with not less than six directors. If a company has outstanding SR equity share, at least half of the board must consist of independent directors.

Some of the distinguishing exemptions to the above rules are also prescribed, if the whole-time director, managing director, manager, independent director has been reappointed or appointed as per the provisions of the Companies Act, 2013 then Regulation 17(1) remains inapplicable. Similarly, the Regulation 17(1) shall not apply if the director or nominee director has been appointed pursuant to the order of a Court or a Tribunal or a financial sector regulator.

[24] John & Senbet, *supra* note 5, at 390.

It has been mandated that the independent director shall not be entitled to any stock option. Fees and compensation to the promoter-cum-executive directors need to be decided by a special resolution subject to the approval of the shareholders. A person shall not serve as an independent director in more than seven listed entities. Regulation 17(1C) states a listed entity, the Chairman of the board of directors shall not be Managing Director or the Chief Executive Officer. The present finance literature argues that this helps in enhancing firm valuation.[25]

Responsibilities of the board has been further listed in the Schedule IV of the LODR Regulations. At the outset, directors must declare if they have a stake in any transaction. The key functions of the board include to approve strategy, monitor risks, oversee performance, succession planning and allocation of remuneration. Ensuring proper financial reporting, audits and risk management are essential role of the board to align with corporate governance principles. Board of directors need to practice independent judgement to encourage diversity, fairness and ethical standards. Directors in general must act in the best interest of shareholders. Thus, the LODR Regulations sets out a comprehensive framework for the board of directors to bring transparency and accountability in their functions in a listed entity.

2. Reality of independent directors

The concept of independent directors was quite new in Indian corporate space. It originally started as a voluntary practice in United States in 1950s.[26] Later, legislation such as the Sarbanes-Oxley Act had a profound impact around the world. The concept of the independent directors in the United Kingdom can be traced to the Cadbury Committee Report. This report is, undoubtedly, considered the most influential studies on corporate governance, even in India. It assigned two important functions to non-executive/ independent directors, namely: (a) to review the performance of the board and the executives; and (ii) to take the lead in decision-making whenever there is a conflict of interest.[27] The theoretical underpinnings of the monitoring function of the board and the independent director emanate from the agency cost theory that relates primarily to the manager-shareholder agency problem in an outsider model of corporate governance but majority of Indian companies can be categorized as an insider model. This dissonance is often pointed out by the academicians and practitioners in Indian

[25] *Id.*
[26] Jeffrey N. Gordon, The Rise of Independent Directors in the United States, 1950-2005: Of Shareholder Value and Stock Market Prices, 59 STAN. L. REV. 1465, 1473
[27] H.A.J. Ford, R.P. Austin & I.M. Ramasay, *Ford, Austin & Ramasay's Principles of Corporations Law* (17th ed.2018)

corporate structure.[28] Therefore, mere transportation of corporate governance frameworks from other jurisdictions without catering to the nuances of Indian corporate structure will make compliance mechanisms ineffective and burdensome.

The old law namely, Companies Act, 1956, did not contain any provision relating to independent director nor did it place independent director within the corporate structure. The corporate fraud scandals of the early 2000s in India acted as a catalyst, prompting all stakeholders to pursue deliberate legal reforms aimed at prevent such scandals from recurring. The current law, the Companies Act, 2013, provides comprehensive procedure for appointment, qualifications and removal of the independent directors, which was a major lacune in earlier regulation. Section 149 (6)(a) provides that an independent director is *"in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience*," inter alia. Rule 5 of the Companies (Appointment and Qualification of Directors) Rules, 2014 states that an independent director *"shall possess appropriate knowledge in one or more fields, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business."* Also, the SEBI LODR (Amendment) Regulations, 2025 implemented additional improvements, such as: (a) Compulsory ESG education and training for independent directors; (b) Open performance evaluation mechanisms; (c) Even the High Value Debt Listed Entities (HVDLEs) need to follow board independence norms; (d) Tighter eligibility requirements consistent with changing governance expectations; (e) These regulatory developments show a transition from a compliancy model to a performance-based governance culture.

Furthermore, the Companies Act, 2013 provides that independent director shall not be a related party. However, the board of directors possess huge influence over the appointment and removal of independent directors. Beyond the legal barriers, there are structural and cultural barriers and remain huge hindrances that shrink the extend of independent directors' role in displaying unbiased, transparent and accountable decision may remain opaque.[29] Information asymmetry, on the other hand, causes to severe unintended gaps in critical analysis by independent directors leaving fertile ground for potential financial frauds and insider trading. In the same way, D & O Insurance is mandated by the LODR Regulations; however, the

[28] Varottil, *supra* note 5.

[29] Smriti Kashyap, *Independent Directors in India: Legal Evolution, Functional Realities and Emerging Challenges*, (Ph.D. Scholar& Asst. Professor, Dep't of L.& Rsch.in L., Nat'l Univ. of Study & Rsch.in L., Ranchi, India) (on file with author)

quantum of the coverage is decided by the board. [30] Another elusive concern still rampant is the cultural biasness in a promotor-led boardrooms. Overall, independent directors are often at the mercy of the board of directors in most of the listed companies in India are heavily promoter-driven.

3. Case studies: Tata- Mistry and IL & FS

There is no dearth of judicial interpretations regarding the various commercial concepts that touch upon the periphery of corporate governance. The robust legal framework that exists today has sprung from multiple corporate frauds and corporate conflicts wherein the courts and tribunals have set precedents. The role of judicial courts and tribunals remains a vital catalyst in sharpening and synthesizing judicial frameworks according to the changing times. Therefore, a brief discussion on these cases helps in understanding concepts and their applications.

3.1 Tata-Mistry Case[31]

This case showcased that the Court will not hesitate to dive deeper into the history and foundational facts of the respective corporate entity in dispute. This done so as to extrapolate the dissonance between the legal provisions and the relevant facts. The Court held that the ousting of a director without following the prescribed procedure does not lead to oppression and mismanagement. The object of the promoter group, herein Tata Sons, being philanthropic trust, withholds and follows the principles of corporate governance despite being an unlisted company. Resultantly, the Court overturned the decision of National Company Law Appellate Tribunal (NCLAT). Despite being an unlisted company, the influence of promotor/ promoter group in management of the company still remains strong, highlighting the realities of independent directors in a corporate entity.

3.2. IL & FS Crisis

The Infrastructure Leasing and Financial Services Limited [hereinafter referred as "IL&FS"], is a non- banking financial company. Its main function is to fund for infrastructure projects and

[30] India Inc.'s Governance Dilemma: Are Expectations from Independent Directors Unrealistic?, Corp. Cyril Amarchand Blogs (Jan.4, 2026), https://corporate.cyrilamarchandblogs.com/2026/01/india-incs-governance-dilemma-are-expectations-from-independent-directors-unrealistic/.

[31] *Tata Consultancy Services Limited vs Cyrus Investments Pvt. Ltd and Ors.,* (2021) 9 SCC 449.

small to medium-sized businesses. Due to its wide scope, IL&FS was under the jurisdiction of several regulatory agencies, including the RBI, SEBI and IRDAI. However, the problem was the ambiguity around these regulators' positions and responsibilities.[32] The crisis occurred in September 2018 when IF &FS discovered that it was unable to pay its debts of Rs. 91,000 crores.[33] It is a government-controlled sector; hence, the member are government appointees. Despite being monitored by government appointed experts, this crisis created a cascading effect across sectors in India. The IL & FS crisis uncovered the looming defect in India's regulatory framework, porous risk assessment mechanism and weak corporate governance structure. In this financial debacle, the Supreme Court of India played crucial role in clarifying the ambiguities of law. In *IL&FS Financial Services vs Adhunik Meghalaya Steels Pvt.*[34], the Hon'ble Court ruled that the acknowledgement of debt in financial statements is sufficient to keep claims alive under Section 18 of the Limitation Act, 1963. This interpretation greatly strengthened creditors' ability to pursue recovery.

PART V

A. Committees, Disclosures & RPTs

1. Audit Committee

Accountability and transparency constitute foundational pillars of corporate governance, ensuring trust among the stakeholders of an entity. In the same vein, the LODR Regulations, 2015, mandates the establishment of audit committee under Regulation 18. This aligns with Section 177 of the Companies Act, 2013, which requires the board of directors of every listed public company to constitute an audit committee. The committee shall have at least three directors as its members. The two-thirds of the members of audit committee shall be independent directors[35] and in case of listed entity having outstanding SR entity shares, the committee shall only consist of independent directors.[36] Each member of the audit committee

[32] Sumit Kumar Sharma, *IF&FS Crisis and Beyond: Assessing India's Regulatory Framework for Financial Stability,* 6 Int'l J. Legal Sci. & Innovation 1114 (2023).
[33] *IF&FS: Rs 91,000-Crore Debt That Might Well Be a Ticking Bomb,* TIMES OF INDIA (India Bus.), Aug. 13, 2018, https://timesofindia.indiatimes.com/business/india-business/ilfs-rs-91000-crore-debt-that-might-well-be-a-ticking-bomb/articleshow/65946060.cms .
[34] *IL &FS Fin. Servs. Ltd v. Adhunik Meghalaya Steels Pvt. Ltd*., 2025 INSC 911(Civil Appeal No. 5787 of 2025)
[35] Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2021 read with the corrigendum, w.e.f. 1.1.2022.
[36] Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Fourth Amendment) Regulations, 2019, w.e.f. 29.7.2019.

shall have professional expertise in finance or accounting or likewise. The Chairman of the audit committee shall be an independent director and he/she is mandated to be present at annual general meeting to answer the shareholders' queries. The primary functions of the audit committee have been summarised in following ways:

(a) The audit committee shall meet at least four times in a year and not more than one hundred and twenty days shall elapse between two meetings.

(b)The quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least two independent directors.

(c)The audit committee shall have powers to investigate any activity within its terms of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.

To sum up, the audit committee needs to fulfil these statutory obligations on a regular manner and align with the foundational object of LODR Regulations, 2015.

2. Nomination & Remuneration Committee

Regulation 19 of the LODR Regulations, where the board of directors shall constitute the nomination and remuneration committee which consist of at least three non-executive directors. Two-third of these directors shall be independent directors. The chairman of the committee shall be independent director. In case, a listed entity has executive or non-executive director as the member than he shall not be chaired such committee. The quorum for a meeting if the committee shall be either two member or one third of its members, whichever is greater, including at least one independent in attendance. The committee shall meet at least once a year and chairman shall be present in the general meeting to answer the queries of shareholders. Despite the presence of the independent directors, the practical realities of nomination and remuneration committee still remain under the influence of board of directors as seen in the case of Tata- Mistry case.

3. Related Party Transactions under LODR Regulations

A related-party transaction (RPT) refers to a transaction between two parties who are joined by

a special relationship prior to the transaction between two parties.[37] The transaction could be a business deal, a single or a series of financial contracts or an arrangement. It may be the parties involved on the two sides of the could be a parent company and its subsidiaries or affiliates, the employees, the principal owners/promoters, the directors or the management of the company and the subsidiaries or members of immediate families. Section 2 (76) of the Companies Act, 2013 and the Regulation 2 of the LODR Regulations, 2015, define '*related party*' on a similar line. Indian Accounting Standard (AS-18) considers parties to be related to each other "*if one party has the ability to control or significantly influence the other in making financial and/or operating decisions in a particular reporting period.*" Such control can be exercised directly as well as indirectly, thus, making RPT a bone of contention across jurisdictions.

Over two decades the world and India, have found RPTs being exploited to cause massive corporate frauds, namely, Enron, Tycon, Satyam, among others.[38] The adverse impact of RPT is the reduction of transparency on reporting, reduces the value of the firm and stunts the growth of the capital market ultimately.[39] Therefore, Regulation 23 stipulates an elaborate measures to prevent the misuse of RPTs in the listed companies in India.

The Regulation 23 mandates that every listed entity shall formulate a policy on materiality of RPTs and on dealing with RPTs. Each listed company shall prescribe a clear threshold limit which shall be approved by the board of directors at least once every three years and updated accordingly.[40] It is pertinent to note, if a RPT will be considered '*material'* if it is entered individually or together with previous transactions during a financial year, exceeds one thousand crore or ten per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower. However, if the RPT payment is for brand usage or royalty then it shall be considered to be material if it exceeds five percent of annual consolidated turnover.

All RPTs need to be approved by audit committee. For such approval, the audit committee shall consist of independent directors only. The audit committee can grant omnibus approval of

[37] Padmini Srinivasan, *An Analysis of Related-Party Transaction in India*, Working Paper No. 402 (Indian Institute of Management Bangalore, Sept. 2013)
[38] Srinivasan, *supra* note 37.
[39] *Id.*
[40] Inserted by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018, w.e.f. 1.4.2019.

RPTs provided the thresholds under the regulation is duly followed. Additionally, prior approval of shareholders is mandated if the transaction is *material*. No shareholder approval is required in following case; a) Transaction between holding company and wholly owned subsidiary; b) Transaction between two wholly owned subsidiaries; c) Transaction between two government companies and d) Transaction approved under insolvency resolution plan.

Disclosure and accountability remain an unprecedented themes of the LODR Regulations; hence, every listed company is to disclose RPTs to stock exchanges, publish on their website and follow the procedure every six months.

4. Disclosure overload vs transparency

Corporate governance does not operate in isolation. One of the strongest parts of the LODR Regulations are embedded in the formation of various committees. In most of the committees, the presence of independent directors simply acts as a *formality* rather than a catalyst for transparency. For example, in case of Stakeholders Relationship Committee and Risk Management Committee. Another significant lacuna in formation of committee, is the Vigil Mechanism. Vigil Mechanism is an indispensable tool in safeguarding against victimisation of directors or employees. The Regulation 22 mandates formulation of vigil mechanism but gives no additional directives. Therefore, it gives listed entity enough room to comply with this regulation but remains prone to exist as a mere box-ticking provision with no actual impact. The gap germinates a lot of employee-fraud within the organisation. The recent IDFC First Bank Ltd., bank fraud of Rupees 590, wherein the employees colluded with the third parties to complete the misdeed remains a glaring example.[41]

The study has also found that RPT disclosure requirements acts as a deterrent to abusive transactions, considerable variations in RPT-related disclosure among companies indicates the need for someone to structure and bring clarity in the reporting requirements.[42] Similarly, audit committee and RPT disclosures have direct nexus to bring out the discrepancies in a financial transaction. This is even more relevant in *omnibus transaction*, wherein, the criteria for approval of *omnibus transaction* are left entirely upon the audit committee. Hence, this remains a grey area of the LODR Regulations due to acute information asymmetry between the board

[41] *Staff Collusion Led to Haryana Government Account Fraud: IDFC Bank,* The Hindu (Feb.24,2026), https://www.thehindu.com/business/Industry/staff-collusion-led-to-haryana-government-account-fraud-idfc-bank/article70666253.ece .
[42] Srinivasn, *supra* note 32.

of directors and independent directors. Lastly, board of directors remain in higher echelons than independent directors and the former have tremendous influence on the latter on the overall management of a listed entity, especially in decisions-making capacities. The *Tata-Mistry case*[43] captures this point wherein the board of directors still hold enormous influence, misaligned with the ethos of corporate governance under Regulation 24.

To sum up, disclosure does not always lead to transparency but accurate disclosure leads to transparency. Once released, the information is no longer secret and entities are legally liable for its accuracy and completeness.[44] This remains a common theme throughout the LODR Regulations, 2015.

PART VI

A. Enforcement, Compliance Culture & SEBI's Role

1. SEBI's Enforcement Powers

The preamble of the Securities and Exchange Board of India Act, 1992 [hereinafter referred as the "1992 Act"] underlines the core functions of SEBI, namely, "*to protect the interest of investors in securities and to promote the development of, and to regulate, the securities."* To fulfil these functions SEBI needs credible and appropriate mechanisms.[45] As a primary objective of any securities regime must be to maintain justifiable public confidence in the integrity of the securities market by ensuring flow of reliable information to investors.[46]

Section 11 of the 1992 Act outlines the elaborate functions of SEBI and Section 11A and Section 11B as inserted by the Securities Laws (Amendment) Act, 2014, gives power to make regulations to protect the interest of the investors, development of securities markets and secure the proper management of intermediary, inter alia. The LODR Regulations, 2015, is the result of power ascribed to SEBI under these provisions. In the same nerve, Regulation 102 bestows SEBI to relax the strict enforcement of the Regulations.

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[43] *Tata Consultancy Services Limited vs Cyrus Investments Pvt. Ltd and Ors.,* (2021) 9 SCC 449.
[44] Georgiev, *supra* note 3.
[45] Howell E. Jackson & Mark J Roe, *Public and Private Enforcement Laws: Resource-Based Evidence*, 93 J.Econ. 207 (2009).
[46] Renee M. Jones, *Dynamic Federalism: Competition, Cooperation and Securities Enforcement,*11 Conn. Ins. L.J.107(2004).

Under the LODR Regulations, SEBI can impose fine, suspend trading, freeze promoter/promoter group holding of designated securities or initiate any other actions.[47] In case of failure to pay fine, SEBI can initiate an action. Importantly, the principles of natural justice have been kept intact throughout the procedure. Therefore, SEBI is bound to follow the due process of law for conducting investigations and inquires for alleged violations of the securities laws and to ensure by providing for a procedure specifying the manner, method and circumstances in which an investigation and inquiry can be conducted.[48] A strong enforcement mechanism is indispensable for churning better investment opportunities in the economy and vital for any meaningful cross-border engagement or collaboration.[49] To sum up, the 1992 Act and the Regulations, bring out the strong mechanism not only to ensure delivery of speedy and efficacious justice but also provide a deterrent mechanism to foresee the potential risks.

2. Penalties and Consent Orders

Penalties for non-compliance of SEBI directives or regulations has been generally restricted to monetary fines and escalation to criminal proceeding is rarely practiced by SEBI.[50] In this regard, Chapter VIA of 1992 Act remains relevant. Some of the grounds of penalties are failure to furnish information, failure to redress investors' grievances, default in case of stock brokers, insider trading, non-disclosure of acquisition of shares and takeovers, unfair trade practices, inter alia. The threshold of monetary penalties remains in higher frame with an object to deter future deviations from the defaulting entity.

Section 15JB postulates a settlement of administrative and civil proceedings. In pursuance of the 2014 Amendment, SEBI framed the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014, replaced later by the SEBI (Settlement Proceedings) Regulations, 2018 [hereinafter "2018 Regulations"]. The defaulting party may file an application in writing to initiate the settlement proceeding. SEBI may agree to the settlement proceeding after considering the nature, gravity and impact of the default. Consent settlement is concluded on agreed settlement terms comprising both monetary and non-monetary

[47] Regulation 98 of the LODR Regulations, 2015.
[48] Dharmishta Raval, *Improving the Legal Process on Enforcement at SEBI* (Indira Gandhi Institute of Development Research Working Paper No. 2011-008,2011) 21.
[49] Sonia Khosa, *Enforcement and Compliance Regimes of SEBI and ASIC: IOSCO Principle 12,* in Deeper, Strategic Collaboration in Securities Sector and Australia (ANU Press).
[50] Disclosure Under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regualtions,2015 -Order Passed by SEBI, Oriental Trimex Ltd. (Feb,19,2026), https://nsearchives.nseindia.com/corporate/ORIENTALTL_19022026152119_Disclosure_SEBI_Order.pdf.

consequences. The non-monetary terms may range from debarment from the securities market and association with any listed entity or registered intermediary, for certain period.[51] Hence, the consent order aims to settle administrative or civil proceedings between the SEBI and the violating entity.

Recently, the Securities Markets Code, 2025, was introduced in Lok Sabha on December 18, 2025.[52] It seeks to repeal and replace the Securities Contracts (Regulations) Act,1956, the Securities and Exchange Board of India (SEBI) Act,1992 and the Depositories Act, 1996. The Bill removes seeks to revamp the penal provisions under the 1992 Act as well.

The provisions under the 1992 Act and the LODR Regulations, 2015, enables SEBI to exercise wider enforcement powers to fulfil its objectives. However, SEBI powers are fragmented in various legislations and regulations. Fragmentation often leads to ineffective procedural process. Thus, introduction of the Securities Markets Code, 2025, remains a positive step towards addressing the problem and fostering strong Indian securities market.

3. Select SEBI orders showing gaps

The securities markets in India are high-volume market.[53]The Indian securities market laws equip SEBI with plethora of regulatory and enforcement powers. As a part of its regulatory responsibilities, SEBI carries out periodic inspection, period compliance analysis and annual system audits. Enforcement outcome achieved is one of the markers to ensure market integrity and enhance investor confidence. However, current literature highlights that the annual reports published by SEBI does not critically evaluate any of the enforcement outcomes achieved by SEBI.[54]

While the broader analysis of SEBI consent framework has largely delivered value, expedited enforcement, reduced backlogs, enabled swift and meaningful remedies and preserved deterrence without overwhelming adjudicatory forum. Critics highlight issues such as limited transparency in settlement negotiations, a lack of proportionality in settlement terms for

[51] Settlement Order dated December 19, 2024 in front running of the orders of Big Client, Bharat Kanaiyalal Sheth Family Trust, and Ors.
[52] PRS Research, The Securities Markets Code, 2025, PRS India (Dec. 18, 2025), https://prsindia.org/billtrack/the-securities-markets-code-2025.
[53] Sec. & Exch. Bd. of India, SEBI Bulletin August 2025- Annexure Tables (Aug.2025), https://www.sebi.gov.in/sebi_data/commondocs/aug-2025/SEBI%20Bulletin%20August%202025%20-%20Annexure%20Tables_p.pdf .
[54] Khosa, *supra* note 49.

comparable violations and unpredictable outcome that risk undermining public confidence in the system.[55]

In the same vein, the 2018 Regulations empower SEBI to refuse settlement on the grounds of 'market integrity' or 'market wide impact' yet neither of the expressions are defined or even illustratively explained. The effect of this insufficient transparency leaves applicants, intermediaries and professionals uncertain about what may be settled and what cannot.[56]

As discussed, the consent settlement framework has remained one of the alternatives to prolonged litigation. Despite being a strong framework, it is not beyond its weakness. To eliminate these weaknesses, SEBI may incorporate end-to-end digital processing and standardise and comprehensive orders.[57] On the other hand, if the conclusion of consent settlement ends at the scrutiny of a judicial authority, then the entire object of alternative settlement mechanism remains fruitless.

In conclusion, incongruence in outcomes leads to inefficiency of the legal framework despite being a comprehensive one. Consistent review of comprehensive framework and utilization of expert's feedback structure remains an emerging need.

4. Compliance Mentality in Indian Corporates

The LODR Regulations, 2015, remains one of the key legislative tools to improve the corporate governance structure. Over the years, the 2015 Regulations, has undergone several changes to reduce risk for investors and improve market resilience. Leniency in compliance mechanism still exist with '*comply or explain*' mandates.[58] Recent addition of a *proviso* under Regulation 15 (1A) stated*: "Provided further that these provisions shall be applicable to a 'high value debt listed entity' on a 'comply or explain' basis until March 31, 2025 and on a mandatory basis thereafter"*, along with an explanation which further states "…*In case the entity is not able to achieve full compliance with the provisions, till such time, it shall explain the reasons for such non-compliance/ partial compliance and the steps initiated to achieve full compliance in the quarterly compliance report filed under clause (a), sub regulation (2) of regulation 27*

[55] M.S. Sahoo & Sumit Agarwal, *Reimagining SEBI's Consent Settlement Framework, Chartered Sec'y,* Jan. 2026, at 92.
[56] Sahoo & Agarwal, *supra* note 55.
[57] Sahoo & Agarwal, *supra* note 55.
[58] Puneeta Goel, *Implications of Corporate Governance on Financial Performance: An Analytical Review of Governance and Social Reporting Reforms in India,* Asian J. Sustainability & Soc. Responsibility 4 (2018).

of these regulations" under this *proviso,* this showcased practice of the regulatory intent strongly indicated on mandatory compliance. It is good that it aligns with the principles of corporate governance. With mandatory compliance, comes another significant question of quality of disclosure and to what extent do Indian listed entities commit to it remains a deeper question. As improved corporate governance practices lead to increase investment by foreign investors and profitability in Indian companies.[59]

Another persistent problem that exists in Indian companies today is the execution of corporate governance provisions with a mere-tick boxing attitude or non-compliance of the provisions at all. [60] Series of listed companies have been penalised for non-compliance of Regulation 17, more importantly, regulations related to composition of independent directors. Presence of independent directors remain a primary catalyst to incorporate corporate governance principles into corporate practices. However, the persistent vacancy of independent directors deteriorates the object of the Regulations. Upon a closer analysis, monetary repercussion has remained ineffective to change the attitude of the companies. Payment of penalty often remains a cheaper alternative for these defaulting parties than appointing the independent directors. Divergence of regulatory provision perishes reputation of the corporate entity signalling a negative view in the eye of foreign investment. No listed entities aim to show this but the overall impact of non-compliance causes withdrawal from foreign investment. Therefore, non-monetary repercussions such as mandating appointment of independent directors within a stipulated period on consistent defaulters, allocation of a list of names of independent directors to the defaulting party with a specified period by the regulatory authorities and alteration of regulatory provisions can remain an effective way forward.

Lastly, initiation of multiplicity of persecution proceedings under various securities market laws results in different outcome in a same offence. The Hon'ble Supreme Court has held that continuation of prosecution on identical facts is an abuse of law.[61] A defaulter will be severely harmed as the principles of natural justice will be water-downed. The regulator needs to assess each so to not erode public confidence in the institution and futility of its resources.

Thus, the ultimate beneficiary of a quality-compliancy and not a mere tick-boxing of attitude

[59] *Id.*
[60] Powergrid Fined Rs. 5.42 Lakhs Each by NSE and BSE over Board Composition Non-Compliance, PSUCONNECT.IN, https://www.psuconnect.in/psu-news/powergrid-fined-5-42-lakh-each-by-nse-and-bse-over-board-composition-non-compliance (last visited Mar.4, 2026).
[61] *Radheshyam Kejariwal v. State of West Bengal* (2011) 3 SCC 581.

of disclosure mandate are the companies themselves. Conversely, the enforcement mechanism also needs to smoothen the compliance and enforcement procedure to strengthen the existing regime.

PART VII

A. Gaps, Comparative Insights & Reform Proposals

1. Structural Weaknesses

Over the years, Indian securities laws have become more comprehensive, stringent and updated to remain in alignment with the best global practices. Despite this, there still remains some structural gaps which become hinderance to it effectiveness. Thus, it is important to address these structural lapses.

The 1992 Act does not lay any directions for private action against the defaulters such as redressal at the Consumer Rights Protection Forum for the deficiency in services in respect of securities market intermediaries or against a stock broker.[62] Although the other route to prosecute the individuals would be under the Companies Act, 2013 or the 1992 Act. These actions, especially under the Indian securities market laws, is initiated by regulatory authorities such as SEBI. The International Monetary Fund's (IMF's) FSAP Report, 2013, has recommended that it would be beneficial to have an express recognition of private rights of action in the respective laws.[63]

SEBI as an institution has immense responsibilities, therefore, the board constituted under Section 3 of the 1992 Act needs to function with integrity and align its role to safeguard public interest. Each member of the board not only need to fulfil qualifications and expertise but need to disclose "*any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter."*[64] In 2024, the Hon'ble Bombay High Court stayed the order to register FIR against the former SEBI Chairman related

[62] Khosa, *supra* note 49.
[63] Int'l Monetary Fund, *The Financial Sector Assessment Program: Update* (Nov. 15, 2013).
[64] Section 7A, Securities and Exchange Board of India Act, 1992.

to a listing fraud case.[65] Later, in the same case the Anti-Corruption Ombudsman Lokpal did not find veracity of the complaint and disposed of the matter.[66] These kinds of occurrences deteriorate public trust and confidence despite the allegations being untenable. Another issue highlighted an ongoing problem of fragmented regulatory approach in Indian securities market regime. The securities market scandal in the early part of the century underscores gaps in comprehensive regulatory financial sector which spilled over across industries.[67] Over the years, SEBI has consistently remained a vigilant and proactive regulator and has overcome multiple issues. Thus, an integrated approach needs be taken by regulators across sectors and collaborative policies among regulators will help in tracing the fraud beforehand.

2. Comparative Analysis

The legal framework governing the Indian securities markets has consistently drawn from global best practices while attuning to address the nuances of domestic market conditions. Therefore, situating these regulations within a broader international comparative lens enriches and enables a more informed assessment of regulatory adequacy and identifying targeted areas for reform.

2.1.The OECD Principles

The Organisation for Economic Co-operation and Development (OECD) Principles of Corporate Governance are non-binding framework that enable the policymakers and stakeholders around the world to help structure policies on cooperate governance.[68] Chapter VI on Sustainability and Resilience was the new chapter added in the 2023 revision of the G20/OECD Principles of Corporate Governance.[69] Both LODR Regulations and OECD Principles place significant emphasis on independent directors, disclosure, transparency, shareholders rights, related party transactions, investor protection mechanism, among others.

[65] Bombay HC Stays Order for Registration of FIR Against Madhabi Puri and SEBI/BSE Officials, SCCONLINE (Mar. 4, 2025), https://www.scconline.com/blog/post/2025/03/04/bomhc-stays-order-for-registration-fir-against-madhabi-puri-buch-and-sebi-bse-officials/ .
[66] Lokpal Gives Clean Chit to Former SEBI Chairman Madhabi Puri Buch in All Corruption Allegations, SCCONLINE (May 29, 2025).
[67] Khosa, *supra* note 49.
[68] Organisation for Economic Co-operation and Development, About, https://www.oecd.org/en/about.html (last visited March. 8, 2016).
[69] G20/OECD Principles of Corporate Governance (2023), https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/09/g20-oecd-principles-of-corporate-governance-2023_60836fcb/ed750b30-en.pdf .

LODR Regulations tries to operationalise the OECD principles.

The 2023 OECD Principles offers guidance on companies' sustainability and resilience to manage environmental and social risks. While LODR Regulations includes Business Responsibility and Sustainability Reporting (BRSR) framework to emphasise on ESG compliance mandatory for the top 1000 listed companies.

Although India has not explicitly adopted OEDC Principles but it remains a key partner in OECD. However, India has endorsed G20/OECD Principles as a political declaration.[70] Some Indian companies like Infosys have voluntarily incorporated OECD Principles alongside SEBI Listing Regulations.[71]

2.2 UK Corporate Governance Code

The UK Corporate Governance Code [hereinafter referred as "the Code"] was published in 1992.[72] The Code operates on a "*comply or explain*" basis unlike the LODR Regulations. The Code sets out 18 Principles and 41 Provisions, which covers board leadership, company purpose, division of responsibilities, composition, audit, risk assessment and remuneration. It does not contain equivalent prescriptive mandate for RPTs like in the LODR Regulations. However, the LODR Regulations does not have specific clawback or malus provisions equivalent to the UK Code. The LODR provides a detailed and unique provisions on subsidiary oversight under Regulation 24 while the UK Code does not contain any equivalent subsidiary-specific governance mandates. The updated 2024 Code emphasises and aligns with governance strategies with global ESG standards. As per the recent SEBI's Master Circular, the stringent ESG metrics still applies in voluntary basis.[73] However, these ESG compliance framework under SEBI's regulation reflects a deliberate shift from voluntary compliance towards a standardized long-term mandatory obligation designed to be integrated as financial reporting. Lastly, the LODR Regulations set an explicit numerical limit for director over boarding but the

[70] Organisation for Economic Co-operation and Development, OECD and G20: G20 2023 India Presidency, https://www.oecd.org/en/about/oecd-and-g20/g20-2023-india-presidency.html (last visited Mar. 8, 2026).
[71] Infosys Ltd., Compliance with the Corporate Governance Codes, https://www.infosys.com/investors/documents/corporate-governance-compliance.pdf .
[72] UK Corporate Governance Code, 2024(Financial Reporting Council 2024), https://media.frc.org.uk/documents/UK_Corporate_Governance_Code_2024_a2hmQmY.pdf .
[73] Securities and Exchange Board of India, *Master Circular* for *Compliance with the Provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements),* 2015 by Listed Entities (Jan. 30, 2026), https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html .

UK Code addresses this issue with principle-based commitment but does not set a fixed numerical cap.

3. Identified Lacunae and Reforms

The Indian securities markets have been shaped by varied experiences of corporate restructuring, cooperate frauds and nuances unique to Indian securities markets. Over the years, stakeholders have realised that mere transposition of legal framework from other jurisdictions cannot address problems associated with the Indian market.[74] As discussed earlier, the quality of disclosure subserves the true intent corporate governance principles. Information asymmetry remains a plaguing problem in an insider-based model corporate entity, which is the case in most of the listed entities in India. The Independent directors cannot escape from board's influence as witnessed by legal tussles and corporate frauds. To add to the issue, complacency to appoint vacancies for the position of independent directors still remains an unsolved issue despite affirmative efforts by the enforcement agencies and regulators. There is no singular solution to these issues but muti-layered and integrated solutions can assist to extinguish these issues. Some of the important reforms and solutions have been discussed below.

Looking beyond monetary actions

The monetary penalty has remained insufficient to encourage the entities to appoint independent directors in a timely manner. There is a need to create a mechanism where a time threshold may be mandated for defaulting companies to appoint the same. In case of failure, SEBI/ regulatory body can itself appoint a nominated independent director until the listed entity fulfil its obligation. This will fulfil the true object of the presence of independent directors in a listed entity, namely, to ensure transparency, accountability and protect the interest of investors.

Revamping the committee structure

As previously mentioned, the LODR Regulations does not gives any prescriptive numerical metrics for the formation of few committees, such as, vigil mechanism committee. Vigil mechanism is an integral tool of corporate governance. The practical realties are far from ideal as stated above, corporate entities remain complacent in spite of stringent prescriptive mandate.

[74] See Varottil, *supra* note 5.

Therefore, the lack of such mandate makes the corporate entity more complacent. Resultantly, this reduces vigil mechanism to a mere reactive instrument rather than a preventive one. The regulatory gap undermines the committee's capacity to detect early warning signs of corporate misconduct and financial frauds.

Reassessing RPT monitoring

The issue with omnibus RPTs need to be looked deeper. The SEBI has recently introduced floor or ceiling thresholds for determining materials RPTs under Schedule XII of LODR Regulations.[75] However, with regard to arm's length qualification, SEBI has hasn't prescribed any methodology. This results in mere formal compliance without any substantive oversight. The management, mostly promoter-based, proposing the transaction simultaneously defines an "arm- length" for the transaction. Another essential point is regarding the applicability of *purpose and application test* to identify the RPTs wherein the test remains applicable to the Indian but methodology is ambiguous. Moreover, different companies use different internal standard and there is no basis of comparison for the investors. These structural gaps can be addressed by analysing international practices and tweaking it with nuances specifically suitable for the Indian securities markets.

Engineering effective enforcement

A key observation is pertaining to the effectiveness of enforcement procedure under 1992 Act and the LODR Regulations. SEBI has wide enforcement powers however; the end result of enforcement has remined feeble. The consent settlement mechanism require procedural transparency and digitization of the process would make it more efficient. Additionally, non-monetary repercussions such as mandating appointment of independent directions within a stipulated period on consistent defaulters, allocate a list of names of independent directors to the defaulting party with a specified period by the regulatory authorities and alteration of regulatory provisions, can remain an effective way forward.

[75] Sec. & Exch. Bd. of India. *Securities and Exchange Board of India (Listing Obligation and Disclosure Requirements)(Fifth Amendment) Regulations, 2025*, Notification No. SEBI/LAD-NRO/GN/2025/273, Gazette of India, Nov. 19, 2025, https://www.sebi.gov.in/legal/regulations/nov-2025/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-fifth-amendment-regulations-2025_97840.html .

Ancillary reforms

As discussed earlier, the LODR Regulations does not have specific clawback or malus provisions equivalent to the UK Code. Without this mandate, listed entities rely on contractual clause or Company Act policies making it a fragmented and weaker adoption. This leads to inconsistent with long-term performance, higher litigation risk, reduced investor protection and selective disclosure. The recent Report published under the Chairmanship of former Justice Anil R. Dave, recommended "…*investigation, inspection, inquiry and audit processes of the Board should require the relevant authority to examine the relevant aspects that are necessary to quantify during the investigation, inspection, inquiry and audit process itself, as doing so will also serve as an apercu to form the line of inquiry*."[76] The report also recommended that the existing regulatory provisions "*do not take into account positive developments in law such as 'e-auction' which has been recognized by the Punjab and Haryana High Court in Dr. Mandeep Sethi v Union Bank of India & Ors*[77]*and other courts subsequently*." The Report highlights that over the years securities laws violation has remained complexed. Hence, it emphasised on re-working the manner of qualification of profit and also provided for the qualification of loss caused to the investors. Most importantly, the Report recommends amendment in Section 32A (2) of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred as "IBC"], because "*..it is not clear whether the bar on action* [by SEBI] *against property of corporate debtor is applicable in criminal proceedings only or both civil and criminal proceedings. If the latter view is taken, it implies that SEBI will be unable to recover even penalty for violation of securities laws which it can otherwise recover after moratorium is revoked*."[78] The Committee emphasised on strengthening the recovery mechanism taking the integrated view of laws in India.

Despite a robust legal framework, Indian securities markets stand at an inflection point and requires a new perspective to address the upcoming challenges. While the regulatory principles align with the global best corporate governance practices however setting the behavioural regulatory framework still needs a consideration and effective implementations across all spheres. This allows all the stakeholders to engage in securities markets without making it a

[76] High Level Committee Under the Chairmanship of Justice Anil R. Dave, Retired Judge, Supreme Court of India, *A Report on the Measures for Strengthening the Enforcement Mechanism of the Board and Incidental Issues,* published by Securities and Exchange Board of India (June 16, 2020).
[77] AIR 2013 P&H 82.
[78] Section 32A has been inserted in IBC to provide immunity against prosecution to a corporate debtor and prevent action against the property of such corporate debtor subject to certain conditions.

mere formality and making a resilient culture to deter irreparable lapses.

Conclusion

Corporate governance is sine non quo of the corporate structure, regulated related party transactions, promoters lock-in period and incorporation of corporate social responsibility are the important aspects of present-day corporate governance laws. The various SEBI regulations enable the monitoring mechanisms to bring corporate governance policies to the changing times. The judicial monitoring by judicial tribunals brings in an added layer of protection for ensuring corporate governance policies do not dilute accountability and transparency. Indian regulators and policy framers engage in sustained effort to bring objective of fast pacing economy to enable dynamic corporate governance in corporate India.

The LODR Regulations, 2015, provide a robust regulatory framework that definitely acts as a catalyst for corporate governance in India. However, the Regulation is not beyond some of its weaknesses. Corporate Governance policies cannot act in isolation. Hence, some of the aspects of the LODR gives stringent prescriptive structure where listed entity cannot act just to ensure a formal compliance but rather provides quality-driven compliance structure. On the other hand, some parts of the LODR are not in tandem with quality-driven compliance structure rather they serve only as a formal compliance structure or a mere box-ticking method of compliance framework. Recent amendments and changes in LODR Regulations allow greater possibility for better structuring cooperate governance framework.