

Effective board governance in India

Taking stock and looking forward



Introduction

Corporate hubris is all too often in the news. Corporate regulation is tightening. The importance of a well-governed board of directors has never been more critical in India. In response, Indian boards are evolving, but there is still a learning curve. The problem often starts at the very beginning, with the selection and appointment of directors. Most global boards use search firms to hire independent directors. It is done after exhaustive diligence and is based on merit. In India, though, it is still very much a work in progress.

From the candidate's point of view, who can blame them for becoming very choosy and discerning about taking an independent director position on an Indian board. This makes it difficult to attract good talent. What's more, the lack of corporate transparency and regulator penalties make the risk versus reward equation extremely challenging for candidates.

Opening the debate	04
New legal realities	05
Beyond the old boy network	06
A critical friend	07
Strengthening governance and accountability	08
Diversity performance	09
What about compensation?	10
Conclusions and challenges	12
Participants	13
Odgers Berndtson in India	14
Odgers Berndtson Team	15



Opening the debate

Today, while legal compliance of boards is very important in India, embedding good governance practices into the corporate culture is becoming a priority as well. Odgers Berndtson India is keen to add to the debate on this topic.

To this end, Odgers Berndtson hosted two roundtable events on 'Board Governance in India' in Delhi and Mumbai. The events were well attended, with a mix of board members. These included Chairs, Independent Directors, Wholetime Directors, CEOs and HR Leaders of large Indian conglomerates and multinational companies.

Odgers Berndtson was represented by Global CEO Kester Scrope, Odgers Berndtson India MD, Dr Prasad Medury, and the India Leadership team.

All the participants are listed at the conclusion of this document.

The participants took stock of how corporate approaches to board governance in India have been evolving, including changes that have impacted the appointment, role and compensation of independent directors.

The discussion ranged widely, including the process for board appointment, the role definition of a board member, training for first-time independent directors, compensation,

board governance, board performance reviews, and legal protection for independent directors given the new provisions of Companies Act, and so on.



New legal realities

For global investors and regulators, independent directors are emerging as a fulcrum of good corporate governance.

Their increased presence in the boardroom is being lauded as vital to help prevent fraud and mismanagement and maximize returns for all stakeholders.

These shifts are part of a general trend towards greater board accountability and professionalism.

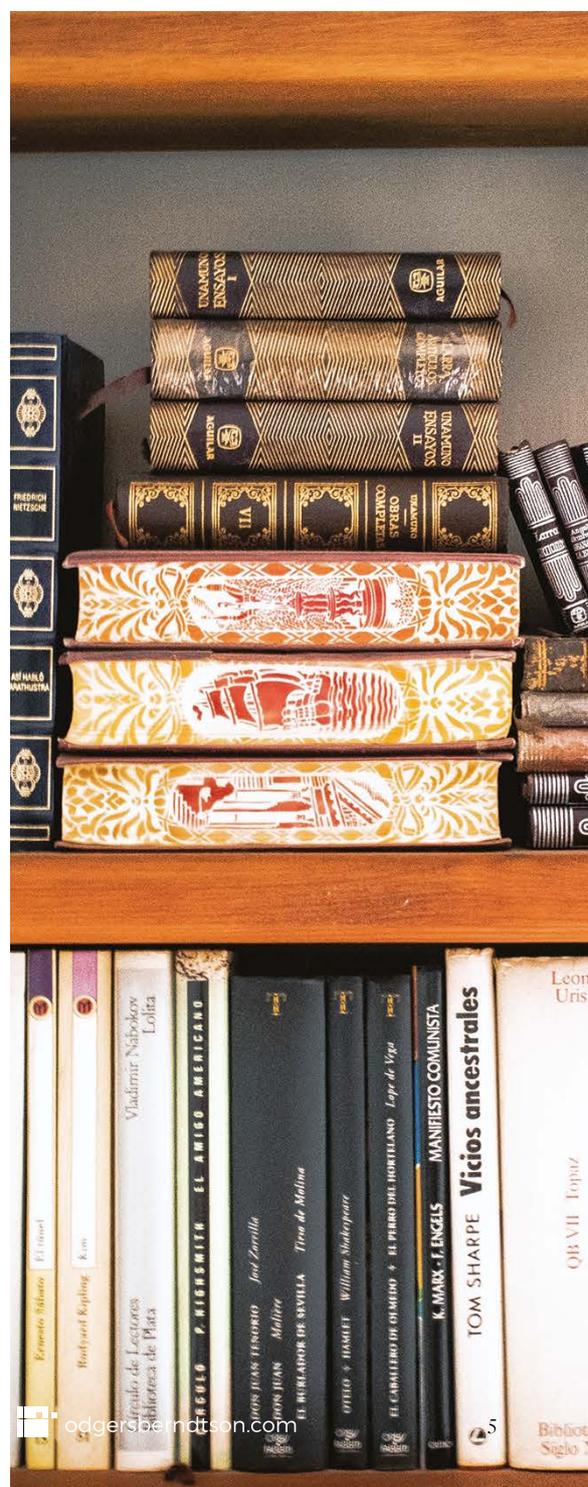
The discussion began by noting that listed companies in India are transitioning from sourcing independent directors and other talent through the “old boys’ network” to taking a more professional approach.

This is being driven by a few key regulatory changes.

Today, at least half of the directors of India’s 500 biggest listed companies are required to be independent non-executive directors. For smaller listed entities, this rule comes into effect in April 2020.

In addition, independent directors must make up two-thirds of the Nomination and Remuneration Committee (NRC). At the same time, the SEBI Listing Regulations now forbid the appointment of independent directors who are affiliated with a company’s promoter group.

“ Today, at least half of the directors of India’s 500 biggest listed companies are required to be independent non-executive directors. For smaller listed entities, this rule comes into effect in April 2020. ”



Beyond the old boy network

In the past, the board recruitment process was mostly run like a beauty pageant, targeting senior leaders based purely on reputation and reference.

Now it is being driven through a formal process. Companies are seeking professional assistance, the NRC is making decisions or search firms are being engaged. Having said that, the process remains largely ad-hoc and imperfect.

In the past, independent directors were rubber stamps who were not expected to be vocal and engaged members of the board. Even today, their presence on some boards may be assumed to be compliance-driven rather than strategic. But as one participant noted during the roundtable,

for most companies, “the equation seems to have changed fundamentally and independent directors are no longer board stamps.”

So, what are Indian companies looking for and how are they finding independent directors with the requisite experience?

“ So, what are Indian companies looking for and how are they finding independent directors with the requisite experience? ”



A critical friend

Many of the participants agreed that it is important for independent directors to understand the pace of change in the relevant industry and the vision of the company moving forward.

These days, boards are “asking more questions about corporate culture, succession planning and the like.” Another participant added that “new board members can make a real contribution if they understand the business.”

Prasad noted that promoters have pointed out that they need board members who are resilient.

An independent director should be like a “critical friend who can challenge [the management] in a supportive way” and “be the voice of the shareholders.”

The feeling in the room was that boards today are moving beyond their traditional competencies in finance and compliance and taking an active interest in the company’s broader business activities.

Undoubtedly, making board appointments is a challenge in a tight talent market where independent directors are both in demand and cautious about taking on the risks of a directorship in a strict regulatory environment. As one participant pointed out, “The challenge is not only in recruiting them, but in candidates selecting us.” Greater transparency helps. Another participant believes that this transparency would also help independent directors in making a real contribution.

A candidate “needs to understand whether the organisation is ethically and culturally solid and whether it is growth oriented or not. Thereafter, the key is accountability.”

Most global boards utilise executive search firms to identify qualified candidates

and this trend is picking up in India as well. One participant noted that they are seeking “a robust, neutral way of assessing a potential board member’s capability.”

“What remains important to understand is whether the appointment is strategic or more compliance driven? Do you need board members who will be comfortable challenging the status quo? Or do you want a board that would just agree?”

Whereas, previously, the Chairman and CEO may have made all appointment decisions, today the process is more likely to be driven by the board’s Nomination and Remuneration Committee, or by an outside agency. Participants noted that this is the result of “good pressure” on companies to make the board appointment process more structured.

“ An independent director should be like a ‘critical friend who can challenge [the management] in a supportive way’ and ‘be the voice of the shareholders’. ”

Strengthening governance and accountability



The conversation then turned to board governance practices, which caused one participant to observe, “This is a nation where the best and worst practices co-exist”. Another added, “Governance is good until it breaks down. If the business wants something, it will get it.”

A few other participants added, “there is no focus on agendas or preparation for meetings. It is all relative, governance practices depend on situations.”

In addition, we heard, “the ownership structures are conflicting. Cultural differences are felt, but not discussed”. Boards need to be more widely engaged, as “a bulk of effective engagement happens outside the boardroom”.

Another concept that is gaining popularity is ‘Succession’, which has become an extraordinary governance piece.

But who is accountable? How can companies strengthen their board governance for the benefit of all stakeholders?

Kester Scrope noted that regulatory activism has changed it in the UK, making it more transparent. How about India? Is stock market policing enough?

“ But who is accountable?
How can companies strengthen
their board governance for the
benefit of all stakeholders? ”

Diversity performance

The gender composition of boards has been one metric of increasing interest to both regulators and shareholders. Research has shown a positive correlation between having women on boards and market capitalization.

However, according to the 2018 India Disclosure Index by FTI Consulting, 19% of listed companies in India did not have a single female independent director.

The Kotak Committee Report recommended, and SEBI agreed, that the boards of listed entities must have at least one independent director who is a woman. This requirement came into effect for the 500 largest listed companies by market capitalization in April 2019 and will apply to the top 1,000 listed entities beginning in April 2020.

One participant noted that while gender diversity is part of the picture, “We need more diversity on corporate boards – a greater diversity of experience and ideas.”

Greater board diversity would help companies keep pace with how quickly markets, technology and businesses themselves are changing.

One participant explained, “Businesses have become far more complex. There are massive gaps between the reality on the ground and what is seen at the macro level.” Another added, “Technology is changing everything and creating a Consumer to Consumer (C2C) world. The pace of change is high.”

In this environment, boards need to be agile and up-to-date on issues like cyber risk and digitization. Therefore, according to one executive, the minimum requirement for a board seat should be

“some general management experience plus functional expertise.”

The real question therefore is “how young (not in age) are boards getting? It will eventually become about mindset vs. skillset.”

Interestingly, a participant noted, “Futuristic boards of 2030 may become similar to cloud-based computing; where one would look at not physical, but virtual board members.” One could also see an emergence of ‘rotating chairs’ where one could draw upon expertise based on the need of the hour.

“Greater board diversity would help companies keep pace with how quickly markets, technology and businesses themselves are changing.”

What about compensation?

As serving as an independent director is becoming a more time-consuming endeavour that is subject to increased regulatory scrutiny, the role will have to be remunerated more generously in order to attract the best talent.



This goes hand in hand with a much-needed shift from independent directors being a rubber stamp to being board members who add value and promote good governance.

Historically, India's independent directors have not been paid very much - this is partly due to what a Bloomberg opinion writer calls, "The simplistic perception that compensation and independence have an inverse relationship."

As one participant shared, "the risk and reward ratio" for an independent director is "atrocious".

Another participant added, "If one were to do the risk-reward analysis, no one would ever join a board in India." Still, many business

leaders - those who are established in their careers and can afford to do it - have been willing to take on the independent director role for the gravitas, to enhance their experience and to share their knowledge.

However, the view of independent directors is changing. As one participant shared, "if based on my experience, the organisation is seeking to leverage my knowledge in a way that may translate into a positive effect to their business, then I would like to be valued and compensated accordingly." It may not always be the monetary value to properly reflect that contribution.

Contrary to this, another participant noted that "the role of a board is almost missionary; far from being transactional, it is a gesture."

“ As one participant shared, ‘the risk and reward ratio’ for an independent director is ‘atrocious’. ”

A participant added, “one would tend to intrinsically look at what is the viability and possibility of the business growing tenfold.” “The need is to be driven by the outcome. One needs to understand whether the organisation is ethically and culturally solid, and growth-oriented or not. What remains key thereafter is accountability.” For a few others, it is the shareholder value.

To achieve a better risk-reward balance, the Kotak Committee Report recommended that the independent directors of the 500 biggest listed entities in India be paid a minimum of half a million Indian Rupees per year.

Kester Scrope noted that some listed companies may consider including a bonus based on a percentage of net profit in the compensation of independent directors, much like the equity interest of board members in the UK.

The bottom line, according to one participant is: “If you don’t pay the fee, you won’t get the expertise.”

This does create a challenge for medium-sized or growing companies who do not have deep pockets. Independent directors of a high calibre will be reluctant to accept appointments from smaller companies, which may, as one participant pointed out, “make it difficult for mid-sized or growing companies

(who may need it the most) to have experienced boards.” If the regulations are not changed, then people may not get directors of the necessary calibre.

“ To achieve a better risk-reward balance, the Kotak Committee Report recommended that the independent directors of the 500 biggest listed entities in India be paid a minimum of half a million Indian Rupees per year. ”

Conclusions and challenges

Pressure from international investors, other stakeholders and regulators is having an impact on the corporate culture and good governance practices of India's listed companies.

This extends to the appointment, engagement and compensation of independent directors.

For example, it was noted that a skewed risk-reward ratio for independent directors may be making advisory board memberships or advisory roles (which carry a lower level of legal liability) a growing trend in India. But corporations will continue to need experienced, committed independent directors.

Responding to changes in regulation, while also maintaining focus on a company's larger goals, remains a challenge. As one participant observed, "Too much compliance may dilute a company's purpose and too much rigidity may come in the way of evolution. Therefore, board members need to have the right mix of judgement, wisdom and dynamism."

"It is dangerous to get too much wishful thinking on the board. Executives need to judge what is coming their way."

Getting that mix right is a challenge that listed companies in India need to tackle, but they don't have to do it alone.

The Odgers Berndtson round-table events certainly established just how critical it is for experienced board members to provide the right advice to corporate executives who find it hard to balance the daily challenges of running large businesses with the task of implementing best practices. Our thanks go to all who participated and contributed to this important debate.

“It is dangerous to get too much wishful thinking on the board. Executives need to judge what is coming their way.”



Participants*

in the Odgers Berndtson Roundtable on Board Governance in India.

Altaf Jiwani, Director & CFO,
Welspun Group

Amit Narayan, Managing
Director India, Control Risks

Amit Uplenchwar, CEO, HCC
(Engineering & Construction)

Anant Garg, Director HR,
India and South Asia, Becton
Dickinson

Anuj Poddar, Executive
Director, Bajaj Electricals
Limited

Deepak Iyer, President, India,
Mondelez International

Gita Nayyar, Independent
Director (TCIL, TajSATS,
Oriental Hotels), Board of
Governors (IIM Udaipur),
Senior Advisor (Fulcrum
Ventures) and Start-up Mentor

MS Unnikrishnan, Managing
Director and Chief Executive
Officer, Thermax

Neeraj Akhoury, Chief
Executive Officer and
Managing Director, ACC
Limited

Rajesh Padmanabhan, Director
& Group CHRO, Welspun
Group

Rakesh Bhutoria, Chief
Executive Officer, SREI
Infrastructure Finance

Ranjit Shahani, Former
Vice Chairman & Managing
Director, Novartis India
Limited; President, Swiss
Indian Chamber of Commerce;
Operating Partner – Gaja
Capital; Board Member
(Ambuja Cement, Hikal,
Novartis Comprehensive
Leprosy Care Association,
Advisory Council, Harvard
School of Public Health)

S Venkatesh, Management
Board Member & President
Group HR, RPG

Sachin Mehta, Country
Director, India & ISC, William
Grant & Sons India

Shailesh Haribhakti, Chairman
on multiple Boards (Baker Tilly,
Blue Star Limited, CII, Future
Lifestyle Fashions, IoD (Western
Region), L&T Finance Holdings,
L&T Mutual Fund Trustee)

Sharad Sanjay Sen, Group
Director HR, Avantha Group

Swarup Choudhury, Founder &
Chairman, Dhanvikas

Uday Chander Khanna,
Independent Director & Advisor

Vikrant Trilokekar, Managing
Director India, Smiths Detection

Vivek Rai Gupta, Founder,
EP360 Global Ventures

Yogi Sriram, Senior Vice
President (Corporate HR)
& Member of the Executive
Committee, Larsen & Toubro
India

*In alphabetical order

Odgers Berndtson in India

Odgers Berndtson India works with Indian conglomerates, large globalising Indian companies and foreign multinationals to discover and develop leaders with the talent to capitalise on India's growing markets. With a pan-India reach through our offices in Mumbai and Delhi, we pride ourselves on a deep understanding of every aspect of our clients' needs and a focus on a quality candidate experience.

For over 50 years, Odgers Berndtson has helped some of the world's biggest and best organisations find the senior talent to drive their agendas.

We deliver executive search, assessment and development to businesses and organisations varying in size, structure and maturity.

We do that across over 50 sectors, whether commercial, public or not-for-profit, and draw on the experience of more than 250 Partners and their teams in 29 countries.

Odgers Berndtson's strength lies in the partnerships we develop to address that need.

We form strong relationships with the most talented people, with those seeking them and between our own teams globally, to bring both sides together.

It is because of our deep, non-transactional and lasting partnerships, that our clients can acquire, develop and retain their strongest leaders.

“ For over 50 years, Odgers Berndtson has helped some of the world's biggest and best organisations find the senior talent to drive their agendas. ”



Authors



Prasad Medury
Managing Director India

prasad.medury@odgersberndtson.com
+91 124 4758301



Angela Thomas
**Consultant Retail &
Consumer, India**

angela.thomas@odgersberndtson.com
+91 124 4758308

Odgers Berndtson Team



Kester Scrope
CEO UK & APAC

kester.scrope@odgersberndtson.com
+44 207 529 1060



Gaurav Seth
Partner, India

gaurav.seth@odgersberndtson.com
+91 124 4758302



Souveek Chakraborty
Partner, India

souveek.chakraborty@odgersberndtson.com
+91 124 4758300



Mahima Chaudhary
**Consultant, Industrial &
Social Sector, India**

mahima.chaudhary@odgersberndtson.com
+91 124 4758300



Parika Chaudhry
**Consultant, Financial
Services, India**

parika.chaudhry@odgersberndtson.com
+91 124 4758318



Ramit Bhel
**Consultant, Consumer &
Industrial, India**

ramit.bhel@odgersberndtson.com
+91 124 4758305

