

Recent Changes in Listing Agreement

Clause 49 – Corporate Governance

Rationale for Amendments:

- To bring relevant provisions of Listing Agreement in tandem with the provisions of the new Companies Act, 2013, SEBI carried out amendments in Cls. 49 of the Listing Agreement.

Clause 49 I:

A. The Rights of Shareholders:

- To protect and facilitate exercise of shareholders' rights.
- Provide adequate and timely information to shareholders.
- Ensure equitable treatment to all shareholders, including minority and foreign shareholders.

B. Role of stakeholders in Corporate Governance:

encouraging co-operation between Company and stakeholders by:

- Mechanism to redress violation of rights.
- Mechanism for employee participation
- Access to sufficient, reliable and timely information to stakeholders

Clause 49 I:

C. Disclosure and Transparency :

Ensuring timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company.

D. Responsibilities of the Board:

1. Disclosure of Information
2. Key functions of the Board
3. Other responsibilities of the Board

II. Board Of Directors

COMPOSITION OF BOARD

Optimum Combination of

Executive

Non Executive - Not < 50 %
(at least 1 woman director)

Chairman of the Board

Non Executive Director

Is not Promoter /
nor related to
Promoter

Is Promoter /
related to
Promoter

Does not have a
REGULAR Non
Executive Chairman

1/2 the Board of
Independent Directors

1/3 Independent
Director

1/2 Independent
Director

.....Contd. II. Board Of Directors

INDEPENDENT DIRECTOR

Clause 49 (II) B - As per Listing Agreement:

- | | |
|---|---|
| 1 | 'Independent Director' shall mean a non-executive Director, but not a nominee Director. |
| a | who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience. |
| b | (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;

(ii) who is not related to promoters or directors of the company, its holding, subsidiary or associate company. |

.....Contd. Board Of Directors

INDEPENDENT DIRECTOR

Clause 49 (II) B:

- | | |
|---|--|
| c | apart from receiving Director's remuneration, has or had no pecuniary relationship with the Company, its holding, subsidiary or associate Company, or their promoters, or directors, during the 2 immediately preceding financial years or during the current financial year; |
| d | none of whose relatives has or had pecuniary relationship or transaction with the Company, or its holding, subsidiary or associate Company, or their promoters, or Directors, amounting to –
2% or more of its gross turnover or Total income or Rs. 50 Lakhs, or such higher amount as may be prescribed, whichever is lower, during the 2 immediately preceding financial years or during the current financial year. |

.....Contd. Board Of Directors

INDEPENDENT DIRECTOR

Clause 49 (II) B:

E

who, neither himself **nor any of his relatives** :

- holds or has held the **position of a key managerial personnel or is or has been employee of the Company or its holding, subsidiary or associate Company** in any of the 3 financial years immediately preceding the financial year in which he is proposed to be appointed;
- is or has been **an employee or proprietor or** a partner, in any of the 3 financial years immediately preceding the financial year in which he is proposed to be appointed of:
 - (a) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or
 - (b) any legal or a consulting firm that has or had any transaction with the Company, its holding, subsidiary or associate **Company amounting to 10 % or more of the gross turnover of such firm.**

.....Contd. Board Of Directors

INDEPENDENT DIRECTOR

Clause 49 (II) B :

E (iii)	holds together with his relatives 2% or more of the total voting power of the company; or
(iv)	is a Chief Executive or director, by whatever name called, of any non-profit organization that receives 25% or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds 2% or more of the total voting power of the company
(v)	is a material supplier, service provider or customer or a lessor or lessee of the company;
F	who is not less than 21 years of age

.....Contd. Board Of Directors

Similarity Between Section 149 of the Companies Act 2013 and Clause 49 – II B of the Listing Agreement:

Limit on Number of directorships	Maximum in a 7 Listed Companies, If he is a whole time director in any Listed Company – Not more than 3 Listed company.
Maximum tenure of Independent Directors	Maximum of 2 Consecutive Terms of 5 Consecutive Years each (person who is already an Independent Director in a Company, shall be eligible to hold the office as Independent Director for maximum period of 10 years w.e.f. 1 st April, 2014.). Cl. 49 : As per the Companies Act.
Appoint for 1 st Term	At General Meeting by passing an Ordinary Resolution
Re-appoint for 2 nd Term	For Next term by passing a Special Resolution
Restriction after expiration of 2 Terms	Cooling period of 3 years for next term

.....Contd. Board Of Directors

...Contd.

Similarity Between Section 149 of the Companies Act 2013 and Clause 49 – II B:

4. Formal letter of appointment	<ol style="list-style-type: none">1) Issue a formal letter of appointment to independent directors in the manner as provided in the Companies Act, 20132) Disclose on the Website and the Stock Exchanges not later than one working day from the date of such appointment– letter of appointment along with the detailed profile of independent director
5. Performance evaluation	<ol style="list-style-type: none">1) The Nomination Committee shall lay down the evaluation criteria2) The company shall disclose the criteria in its Annual Report3) done by the entire Board of Directors (excluding the director being evaluated)4) On the basis of the report of performance evaluation - determined whether to extend or continue the term of appointment of the independent director.

.....Contd. Board Of Directors

..Contd.

Similarity Between Section 149 of the Companies Act 2013 and Clause 49 – II B :

6. Separate meetings

- 1) Hold at least one meeting in a year - all the independent directors shall present.
- 2) The independent directors in the meeting shall –
 - i. review the performance of-
non-independent directors and the Board as a whole
 - ii. Chairperson of the company
- 3) assess the quality, quantity and timeliness of flow of information between the company management and the Board.

7. Training

- 1) The company shall provide suitable training –
 - i. Familiarize them with the company,
 - ii. Their roles, rights, responsibilities in the company,
 - iii. Nature of the industry in which the company operates,
 - iv. Business model of the company, etc.
- 2) Details of the training disclosed in the Annual Report.

.....Contd. Board Of Directors

FEES / COMPENSATION AND DISCLOSURES OF NON EXECUTIVE DIRECTORS, INCLUDING INDEPENDENT DIRECTORS :

Clause 49 (II) (C) :

- Fixed by the Board of Directors.
- Prior Approval of the Shareholders. If Seating Fees is within the limit then not require prior approval of shareholders.
- Resolution specify the limits for the maximum number of stock options that can be granted to non-executive directors, in any financial year and in aggregate
- **Independent Directors shall not be entitled to any stock option.**
- **Silent on Payment of Commission to Independent Directors.**

.....Contd. Board Of Directors

OTHER PROVISIONS AS TO BOARD AND COMMITTEES:

Clause 49 (II) (D) :

Board Meeting	1. The Board shall meet at least 4 times a year, with a maximum time gap of 120 days between any two meetings.
Minimum information	to be made available to the Board is as given in Annexure to Clause 49 of Listing Agreement
Maximum Number in Committee	<ul style="list-style-type: none">• Director as a Member of Committee - Not more than 10 Committees• Directors as a Chairman of Committee – Not more than 5 Committees• Considered - Chairmanship / membership of the Audit Committee and the Stakeholders' Relationship Committee.
Intimate Other Companies	<ul style="list-style-type: none">• every Director shall inform the company about the committee positions he occupies in other companies and notify changes as and when they take place.

.....Contd. Board Of Directors

.....Contd. OTHER PROVISIONS AS TO BOARD AND COMMITTEES

Clause 49 (II) (D) :

Periodically review	compliance reports of all laws applicable to the company
Independent director Resigns / Removed	<p>shall be replaced by a new independent Director -</p> <p>(i) At the earliest but not later than immediate next Board meeting</p> <p>or</p> <p>(ii) 3 Months from the date of such vacancy</p> <p>which ever is Later</p> <p>(If the company fulfils the requirement of independent Directors in its Board even without filling the vacancy created, above provisions shall not apply.)</p>
Appointments to the Board and to senior management.	The Board shall satisfy itself that plans are in place for orderly succession.

.....Contd. Board Of Directors

CODE OF CONDUCT

Clause 49 (II) (E) :

Code of Conduct	<ol style="list-style-type: none">1. For all Board members and senior management of the company2. And shall be posted on the website of the company
Compliance	<ol style="list-style-type: none">1. On an Annual Basis – by all Board members and senior management personnel.2. The Annual Report of the company shall contain a declaration to this effect signed by the CEO.
Duties of Independent Directors	As laid down in the Companies Act, 2013.
Independent Director liable	Acts of omission or commission occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently with respect of the provisions contained in the Listing Agreement

.....Contd. Board Of Directors

WHISTLE BLOWER POLICY

Clause 49 (II) (F) :

1. Establish a **Vigil Mechanism**.
2. For **Directors and** employees to report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy.
3. Provide for adequate safeguards against victimization of director(s) / employee(s) who avail of the mechanism.
4. Provide direct access to the Chairman of the Audit Committee in exceptional cases.
5. Details of establishment of mechanism disclose :
 - i. **On website and**
 - ii. **in the Board's Report**

III. Audit Committee

Composition	Minimum 3 Directors 2/3 rd to be Independent Directors CS to act as Secretary
Qualification	All members to be Financially Literate 1 member to have Accounting or Financial Management Expertise
Chairman	To be Independent Director To attend AGM to answer Shareholder Queries
Meetings	Atleast 4 meetings in a year; Maximum time Gap between 2 meetings: not more than 4 months
Quorum	2 members or 1/3 rd of members; which ever is greater Minimum 2 Independent Directors must be present
Powers	<ul style="list-style-type: none">• Investigate activity within its terms of reference• Seek information from any employee• Obtain outside legal or professional advise• Secure attendance of outsider with relevant expertise; if necessary

III. Audit Committee

The following Role of the Audit Committee inserted as per Listing Agreement Clause III (D) :

Review and monitor the auditor's independence and performance, and effectiveness of audit process

Approval or any subsequent modification of transactions of the company with related parties

Scrutiny of inter-corporate loans and investments

Valuation of undertakings or assets of the company, wherever it is necessary

Evaluation of internal financial controls and risk management systems;

To review the functioning of the Whistle Blower mechanism **(Mandatory)**

Explanation (i): The term "Related Party Transactions" shall have the same meaning as provided in Clause 49(VII) of the Listing Agreement.

Related Party : As per Sec.2(76) of the Companies Act, and applicable Accounting Standard (i.e. AS18).

IV. Nomination and Remuneration Committee

Composition	<ul style="list-style-type: none">• At least 3 Directors, all of whom shall be non-executive directors and• At least half shall be independent.
Chairman	<ul style="list-style-type: none">• Independent Director• Present at the Annual General Meeting, to answer the shareholders' queries.
Role of the Committee	<ul style="list-style-type: none">• Formulation of the criteria for determining qualifications, positive attributes and independence of a Director.• Recommend to the Board a policy, relating to the remuneration of the Directors, Key Managerial Personnel and other employees.
	<ul style="list-style-type: none">• Criteria for evaluation of Independent Directors and the Board.
	<ul style="list-style-type: none">• Devising a policy on Board diversity
	<ul style="list-style-type: none">• Identifying persons who are qualified to become Directors and who may be appointed in senior management in accordance with the criteria laid down, and• Recommend to the Board their appointment and removal.• Disclose the remuneration policy and the evaluation criteria in its Annual Report.

V. Subsidiary Companies

The following is inserted as per Listing Agreement Clause V :

Formulate a policy	<ul style="list-style-type: none">• For determining ‘Material Subsidiaries’.• Disclose Policy to Stock Exchanges and in the Annual Report.
subsidiary shall be considered as material	<ul style="list-style-type: none">• If the investment of the company in the subsidiary exceeds 20 % of its consolidated net worth as per the audited balance sheet of the previous financial year or• If the subsidiary has generated 20 % of the consolidated income of the company during the previous financial year.
Special Resolution Requires	<ul style="list-style-type: none">• <u>Dispose of shares in its material subsidiary :</u> Reduce its shareholding (either on its own or together with other subsidiaries) to less than 50% or cease the exercise of control over the subsidiary.
	<ul style="list-style-type: none">• <u>Selling, disposing and leasing of assets :</u> More than 20 % of the assets of the material subsidiary.

VI. Risk Management :

Lay down procedures	To inform Board members about the risk assessment and minimization procedures
Board Responsible	For framing, implementing and monitoring the Risk Management Plan for the company.
Constitute	Risk Management Committee: Majority members to be Directors ; Senior Executives can be appointed as members Chairman to be a Director of the Company
	<u>The Board shall –</u> <ul style="list-style-type: none">• Define the roles and responsibilities of the Risk Management Committee and• Delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit.

VII. Related Party Transactions

A.	A related party transaction is a transfer of resources, services or obligations between a company and a related party, regardless of whether a price is charged.
B.	A 'related party' is a person or entity that is related to the company. Parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party, directly or indirectly, in making financial and/or operating decisions.
C.	The company shall formulate a policy on materiality of related party transactions and also on dealing with Related Party Transactions
D.	All Related Party Transactions shall require prior approval of the Audit Committee
E.	All material Related Party Transactions shall require approval of the shareholders through special resolution and the related parties shall abstain from voting on such resolutions.

VIII. Disclosures

The Following Disclosure Requirements inserted as per Listing Agreement :

A. Related Party Transactions

Dealing with related Party Transactions

Disclosed quarterly along with the Compliance Report on Corporate Governance.
Disclose on Website and also in the Annual Report

C. Remuneration of Directors

Pecuniary relationship & transactions with NED

Disclose in the Annual Report

Details of remuneration as perscribed

In the Annual Report

Creteria of payment of NED

In the Annual Report & on the Website of the Company

D. Management

Code of Conduct

Disclose on Website and also in the Annual Report

VIII. Disclosures

The Following Disclosure Requirements inserted as per Listing Agreement :

E. Shareholders

- Profile of Director on Appointment of New Directors or reappointment
- Relationship between directors inter se

Complete details to the Shareholders

F. Disclosure of Resignation of Directors

Letter of resignation + Reason provided by the Director

1. Disclose on Website not later than 1 working day from the date of receipt of the letter of resignation.
2. stock exchanges not later than 1 working day from the date of receipt of resignation for dissemination through its website

G. Disclosure of formal letter of appointment

Letter of appointment of the Independent Director + the detailed profile

Disclose on the websites of the company and the Stock Exchanges not later than one working day from the date of such appointment.

.....Contd. VIII. Disclosures

H. Disclosures in Annual report

- 1. The details of training imparted to Independent Directors.
- 2. Disclose the remuneration policy and the evaluation criteria.

Disclosure on website and in the Board's Report

The details of establishment of Vigil Mechanism

The Following clauses of the Listing Agreement has not change

IX. CEO/CFO Certification

X. Report on Corporate Governance, except formation for Quarterly Compliance Report.

XI. Compliance

Thank You!!!!!!



By Haresh Jani & Associates
Company Secretaries