

ICICI Board Must Conduct Independent Probe Into Allegations Against CEO, M Damodaran Says

[Harsha Subramaniam](#)
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Boards of companies have been non-performers and have not stood up to the interests of stakeholders in recent times, says M Damodaran, former chairman of SEBI, India's stock market regulator. In a free-wheeling interview, Damodaran points out that the board of [ICICI Bank Ltd.](#) should have conducted an independent enquiry to probe the allegations made against its Managing Director and Chief Executive Officer Chanda Kochhar.

Here are the edited excerpts.

We are talking at a time when India's banking sector is witnessing significant damage to its reputation raising questions on corporate governance in the country's biggest banks. The CEO of ICICI Bank is under a cloud for lending to a company that has business dealings with a firm owned by her husband. What is your assessment of what has happened?

You hit the nail on the head. The issue is reputational risk which is critical because reputational risk is what you cannot pretend that it does not exist in the circumstances. If anyone says that there is no reputational risk involved, then I will be living in another planet. It is written all over the situation at this point of time.

A series of allegations has been leveled. These are allegations which are verifiable, like you can look at whether they are true or false. But they are not general or vague. Since they are specific, the board owes the stakeholders the duty to get an enquiry conducted and to take whatever action as the consequence of the enquiry. If the enquiry establishes that there is no wrongdoing, so be it. If it establishes wrongdoing, then you take whatever action is appropriate. But for the board to sit back and say we looked at in 2016 and these are the same issues, is not enough. Because the board is the custodian of all the stakeholders and they should be seen as acting and not as sitting back passively.

Also Read: [It's For RBI To Decide On Kochhar's Term At ICICI Bank: Finance Ministry Sources](#)

In this case, Chanda Kochhar was part of the committee that sanctioned the loan to Videocon knowing fully well that Videocon has business dealings with her husband. Should the CEO have been the part of the process that gave the loan?

Ordinarily, if you occupy that kind of office there should not be business dealings with an entity in which you or any member of your family has business interests. In all of this, it is important to remember that Caesar's wife should be above suspicion. The fact that there is some possibility of allegation of wrongdoing, some possibility of conflict of interest surfacing should put everyone on notice that this is not something which you go through in ordinary course of business.

Having said that, there is some doubt on the sequencing, whether the loan came first, or the investment promoted by the company by her husband came first. No matter what the sequence is, we are in a disclosure-based regime. We are in the regime where the conflict of interest has to be addressed frontally. It is not about her being the member of a committee or recusing from the committee. It is about her informing the board of the existence of a business relationship. As far as the loan is concerned, it is possible to say that they are one of the 20 banks which have given the loan then what's the issue. It may be possible that the loan was given on the basis of merits of the case as perceived by the committee which she did not chair. When you take that along with other allegations which have been leveled, then a fact-finding enquiry is par for the course.

Narayanan Vaghul, former chairman of ICICI Bank, says it's important to distinguish between the role of the bank and role of Chanda Kochhar. Is that distinction justified?

To resort to hair splitting, to resort to technicalities that the bank seems have to be resorted to, by saying that the brother-in-law is not part of the relatives set out under the act and regulations. These are technicalities, and, in such matters, you don't hide behind technicalities. Stakeholders do not gather sense of comfort. They do not gain confidence by it. If there are allegations, which are verifiable, made against a person holding an office then it is necessary that an independent enquiry needs to be taken, no matter what Mr Vaghul or anyone says.

Also Read: [CBI Questions ICICI Bank CEO Chanda Kochhar's Brother-In-Law Rajiv Kochhar](#)

Does the regulator have a role in this case?

If it was brought to the notice of the board then there is no immediate role for the regulator. The regulator will step in when there are irregularities which needs to be addressed. If it is something which is in the province of the board, then you don't need the regulator jumping into the matter immediately. The regulator reposes trust and faith in the board. The board is the highest level of governance; in a sense, in any company the board is expected to bat on behalf of the regulator. I don't see the role for the regulator to be proactive the minute this surfaced and to do anything because the board is there, and it is expected to act.

Let's talk about another case where the regulator did step in. The RBI questioned Axis Bank CEO Shikha Sharma continuing for three more years. Now the CEO says she will herself cut short her term. Could this succession have been handled better by the board?

When the board first addressed the question whether she should be given another term or not, there were reports that there was searching for a successor. So, there was a possibility theoretically that the board was looking at someone else. Shortly thereafter, the board decided to give her a three-year term. The reasons for it are not in the public domain. When they went to the RBI, the regulator said it did not favour another three-year term. Then they were talking one-year and she did very well to say that she will leave in December. There is enough time for the board to substitute her, so it won't be a disruptive exit should she choose to leave in December. I don't think we know why the RBI did what they did.

Perhaps, it may be the asset quality as it is being speculated or there may be other issues the RBI knows which we don't know, which prompted the regulator to say that three-year term is not indicated. I was surprised that the board did not go to the RBI and say that this is what we deliberated and decided on a three-year term. That conversation should have continued. For disclosures, if you get communication that it is indicative of a change at the top level, you have to disclose it time to time to the exchanges.

In all these instances, be it ICICI Bank, Axis Bank or PNB, no one is smelling of roses as far as corporate governance standards or board accountability is concerned. Have you seen

