

## **BREATHING LIFE INTO STAKEHOLDERS RELATIONSHIP COMMITTEES**

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**MUMBAI**

### **SUMMARY OF DISCUSSIONS**

#### **CONTEXT SETTING**

*Prior to the coming into force of the Companies Act, 2013, companies were required to constitute Shareholder Grievance Committees. Consistent with the name, the Committee was tasked only to look into and, hopefully, resolve the grievances of only one category of stakeholders, namely shareholders. In almost all cases, the grievances related to non-receipt of dividends or non-receipt of Annual Reports. In many cases, presumably to show more cases disposed, even requests for noting changes in address were added to the list of “grievances”.*

*With the coming into the force of the Companies Act, 2013, the Stakeholders Relationship Committee (SRC) has come into existence as one of the four mandatory Board Committees. Belying its name, which gives rise to higher expectations, the SRC is tasked only with considering and resolving the grievances of security holders of the company (Section 178(6) of the Companies Act, 2013). The marginal change from shareholders to security holders, falls woefully short of what might have been possible in the wake of the change in the Committee’s name. Should this Committee not have been mandated to deal with matters relating to other stakeholders such as vendors, customers and the like?*

*Equally important is the fact that the Committee is no longer a grievance committee but a relationship committee. Should it not reach out to stakeholders and strengthen relationships rather than wait for grievances to reach its doorsteps?*

### **DISCUSSIONS**

#### **STAKEHOLDERS RELATIONSHIP COMMITTEE (SRC)**

- In India, earlier under the Companies Act, 1956, Shareholders Grievance Committee (SGC) was introduced to address the need of that time. The focus of SGC was on mechanisms and systems for shareholders. Since on ground reality has changed, and companies are now focusing on stakeholders instead of shareholders, the committee was renamed Stakeholders Relationship Committee (SRC) under the Companies Act, 2013 (the Act).
- Even though the Act has renamed SGC to put “Stakeholders” in place of “Shareholders” and “Relationship” in place of “Grievance”, the scope of the Committee has not been suitably expanded. At the same time the expectations of stakeholders are increasing.
- Further, the committee does not even have a Section in the Act to itself, being tucked away in sub-sections (5) and (6) of Section 178 relating primarily to Nomination and Remuneration Committee (NRC). This reflects the non-seriousness given to it by the statute.
- The composition of SRC too has not been given adequate thought. As per the Act, a Non-Executive Director would be the Chairperson of the committee and the other members would be decided by the Board. As a result, most companies put management persons in the committee, without a proper mix of Directors therein.
- As the name suggests, the SRC should reach out to all its stakeholders proactively to build relationships with them. However, most companies either consider shareholders and stakeholders to be the same or claim that it is difficult to identify stakeholders. The SRC should start by proactively identifying all the stakeholders.
- Except for society as a stakeholder which has a dedicated committee to look at it, viz- the Corporate Social Responsibility Committee (CSRC), the other stakeholders do not know which committee to reach out to, in case they have a concern or matter to report.

## **SRC MEETINGS**

- Duration of meetings of SRC is too short to permit the taking up of any meaningful agenda. The time allotted to the meeting is indicative of the non-seriousness attached to the committee.
- Pre-reads/ agenda papers of SRC meeting contain only complaints of security holders, especially shareholders.
- The Committee or its members do not consider it to be in their scope of work to proactively reach out to other stakeholders to ascertain their problems/ concerns.
- At present, the committee meetings function merely as a tick the box activity.

## **EXPECTATION OF STAKEHOLDERS**

- Expectation of stakeholders is increasing. Stakeholders now have a different perspective, and common ground should be found by the company to connect with them. This is a non-negotiable requirement now for each company, irrespective of its type or size.
- As per Schedule IV of the Act, Independent Directors have to balance the conflicting interests of stakeholders. However, this is premised on the assumption that there is an inevitable adversarial relationship between different stakeholders. There could be divergence of interests or some issue-based conflicts but they will not last forever. Ultimately, if the company does well, all stakeholders stand to benefit.
- Communication channels used in the past to communicate with stakeholders might not work now.
- Most companies have no communication with some of their stakeholders and the focus, if any, is only on shareholders.

## **ANNUAL GENERAL MEETINGS (AGMs)**

- AGMs are the only structured forum through which shareholders can interact with companies and raise any concern or question that they might have about the company.
- However, in India, AGMs do not promote proper dialogue between the company and its shareholders. Many companies do not use AGMs to properly communicate with their shareholders and in turn try to curb the voice of shareholders too. This is because they have underdelivered on their promises.
- The attendance at AGMs is also poor with mostly persons with spare time on their hands coming to attend them. Enlightened shareholder dialogue is often missing. Further, most AGMs do not even have a feedback loop.
- Postal ballots were introduced with the good intention of increasing participation of shareholders. However, most companies do not provide shareholders with complete information to aid in informed decision making. More often than not, only the decision of the Board or relevant committee is mentioned.
- Introduction of e-voting was yet another step to encourage shareholders to participate in stakeholder democracy. Prior to e-voting, promoters did not think that a resolution could be defeated. However, there have been instances of resolutions being defeated, and subsequently with more information being given to shareholders, the same resolutions have been passed. However, with electronic voting getting over the day before the AGM, the AGM has become more of a formality.
- Participation of institutional investors at AGMs is very poor, with a number of them voting electronically. While proxy firms are active, and have been asking some difficult questions that the Boards should be asking, they need to be much more active for managements to get up and start working proactively for their shareholders.
- SRCs cannot be given the responsibility for AGMs, since law has made Chairperson of Board, Chairperson of Audit Committee and Compliance Officer responsible for a number of things. However, it is for SRCs to understand and analyze in case a large number of negative votes are received from shareholders in regard to some proposal of the company.
- There was a suggestion to companies to hold staggered AGMs, as in some other countries, to enhance shareholder participation. However, this suggestion was found to be impractical because unlike in other countries, in India, an annual report has to contain a huge number of disclosures, making it very

difficult to prepare this report several times in a year. The annual reports in other countries are less bulky with only the basic information being provided in them.

- Shareholders can probably be given time to send their questions in advance for encouraging conversation leading to debate and informed decision making.
- Companies could also consider proactively having conversations with shareholders in cities other than the city in which the company has its registered office. This could be in the form of informal chats to understand the concerns of shareholders. Alternatively, companies could consider promoting investor clubs in cities that have a large number of its shareholders, and they can among themselves discuss concerns and give feedback to the company.
- The right information, complete in all aspects, should reach all the concerned persons, before voting commences.

### DEMATERIALIZATION OF SHARES

- Even though dematerialization is not compulsory, some companies have been proactively reaching out to shareholders to get their shares dematerialized. But there has been some resistance.
- Some of the causes for this resistance *inter alia* are preference for hard copy certificates, and costs associated with the process of dematerialization.
- Dematerialization and updated KYC documents will help reduce the distance between a company and its shareholders.

### SHAREHOLDER EDUCATION

- Shareholder education is very important for them to understand their rights.
- Some shareholders are not even aware that if they have a certain percent of shares in the company, they can call for an Extraordinary General Meeting (EGM).

### COMMUNICATION WITH STAKEHOLDERS, ESPECIALLY SHAREHOLDERS

- A number of companies do not keep shareholders informed.
- A number of promoter companies think that the promoters own the company and do not see value in conversations with either the Board or its stakeholders.
- A few companies have been reaching out to their shareholders proactively to assist them *inter alia* with
  - Consolidation of folios.
  - Encashment of dividends not encashed for years.
  - Assistance in dematerialization of their shares with the company bearing the expenses for the same.
  - Odd-lot consolidation for small lots.
  - Updating details such as PAN no., nominee details etc. for shareholders.

### INTERNATIONAL SCENARIO WITH RESPECT TO COMMITTEE FOR STAKEHOLDERS

- In general, internationally, it seems that a SRC is not mandated in most countries and that discretion is vested with companies to devise a mechanism for Investor Relations.
- **United Kingdom**
  - Companies have been vested with the power to devise channels of addressing shareholders' concerns and the mechanism in this regard.
  - The responsibility for this has been cast on the Senior Independent Director who should be available for shareholders' concerns, if the normal channels fail.
- **United States of America**
  - Discretion is vested with companies to devise a mechanism for stakeholders' relations.
  - Companies / Board may delegate the stakeholders' relation charter to one of its Committees.
  - Role for Lead Independent Director and the legal department has been considered.
- **Australia**
  - Investors' relationship mechanism is wide and may travel much beyond shareholders.

- Senior Independent Director can also assist the Board in *inter alia* providing a separate channel of communication for security holders.
- The disclosure policy of the company should address *inter alia* external communications such as analyst briefings and responses to security holder questions.
- Also, a listed entity should design and implement an investor relations program.
- **Singapore**
  - The Board has been tasked with the responsibility of establishing and maintaining a regular dialogue with shareholders, to gather views or inputs, and address shareholders' concerns.
  - The Board should state in the company's Annual Report the steps it has taken to solicit and understand the views of the shareholders.
  - Lead Independent Director should be available to shareholders where they have concerns and for which contact through the normal channels of the Chairman, the CEO or the CFO (or equivalent) has failed to resolve, or is inappropriate.
- **Hong Kong**
  - The responsibility of shareholders' relation is primarily vested in the Board and the Chairman.
  - The Board should establish a shareholders' communication policy.
- **European Union**
  - It seems that the focus is more on investor relations and stewardship responsibilities of the Board of Directors, including the identified directors and members of the management.

## EXPANDING THE SCOPE OF SRC IN INDIA

- Most companies will give SRC its due only if an increase in scope of its activities is mandated by law. However, the changing ecosystem of a company needs relationships, irrespective of the Act mandating it.
- SRCs can be made more relevant and vibrant if they attempt to expand the scope of their work in the space between what is prescribed by law and what is proscribed by law. This would help stakeholders, other than security holders, feel that this committee is for them.
- A number of activities relating to some of the stakeholders of the company are being done by other committees of the Board when they should logically fall under the mandate of SRC.
- At present, the Audit Committee (AC) is looking at concerns of a number of stakeholders. Whistleblower mechanism is the committee's responsibility as per law. However, others such as *inter alia* Business Responsibility Report (BRR), Code of Conduct, Prevention of Sexual Harassment (POSH) Committee and Insider Trading, which are not mandated by law, are also overseen by the AC and can be moved to SRC since they pertain to stakeholders.
- Some companies have constituted non-Board committees to address concerns for some of the stakeholders and this can all be overseen by SRC.
- Further, under Integrated Reporting, the non-financial disclosures such as processes relating to sustainability, customer satisfaction etc. can go through SRC. Safety and Health reporting can come under SRC.
- Another area where SRC becomes relevant is when one stakeholder wears several hats, such as a nominee director being a Board member as well as a lender's nominee or when a large shareholder is also a vendor. Conflicts, if any, arising from duality of roles too have to be addressed and solutions found aligned to the company's interests.
- In addition to logically expanding the scope of activities of SRC, this would help maintain a balance between the workload of various committees, some of which are overburdened at present. However, while defining the scope of these activities, care has to be taken to ensure that there is no overlap in the roles of different committees and that SRC does not get into operational details, and addresses only issue based grievances. SRC should not look at individual problems but at processes and systems. This also becomes important because the liabilities for SRC members might increase if they get into operational details since then that information will become information that they received from Board processes giving rise to liabilities.

- SRC should also work towards engagement, proactively building relationships and communication with stakeholders. It should ensure that all stakeholders get relevant, correct and complete information.
- All this would be possible only if the composition of the committee is strengthened.

### **POSTSCRIPT**

*Recently, in one of the bigger companies in India, one of the promoter shareholders communicated his grievances and concerns through the newspapers to the Board and the management. In turn, the Board and the management responded to him through a law firm. As per the Act, SRC has been tasked by law to look at grievances of security holders, but in this case, it did not do anything. Reports in the newspaper quoted the Chairperson of the Board, Chairpersons of NRC and the AC and the CEO and MD on a number of matters, but SRC was not mentioned at all. Interestingly, the same individual is the Chairperson of NRC and Chairperson of SRC, but he was referred in reports only as Chairperson of NRC. The case for a strong SRC to, at least, respond to the requirements envisaged in the Act needs no further evidence.*

**EXCELLENCE ENABLERS**  
**CORPORATE GOVERNANCE SPECIALISTS**

**ADDING VALUE, NOT TICKING BOXES**

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