excellence enablers CORPORATE GOVERNANCE SPECIALISTS
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Expert Expressions
Corporate Governance Demystified

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A series of interfaces with the entire range of stakeholders of Corporate Governance, has given rise to a number of questions, issues, concerns and, happily, some suggestions and solutions. In this issue, the seventeenth in this series, departing from our usual practice of getting two experts to state their views on a particular aspect of Corporate Governance, we take a close and hard look at the mechanical and mindless manner in which the mandatory requirement of Board evaluation has been made meaningless. Needless to add, we welcome your feedback.

Editor

SEEING VALUE IN EVALUATION

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"Judge not, that ye be not judged"?!

"Give a dog a bad name and hang him" is a saying that we have all come to terms with. In recent times, there has been no better illustration of this statement than the debates and discussions regarding the evaluation of the Boards of Directors, the Board Committees, the Chairpersons, and the Directors. There are very few persons who see any value in this exercise and even fewer who are willing to express a positive view. The overwhelming majority has persuaded itself that the evaluation exercise is at best a waste of time and at worst sounds the deathknell of a hitherto cohesive Board. While opinions on agenda items during Board discussions might vary, there is common cause made by most persons in the boardroom, and some outside, that the earlier evaluation as a concept is buried, the better it will be for Boards and companies. One can almost hear an exhortation, on the lines of Aurangzeb's reference to music, that evaluation should be buried so deep that it should never surface again.

The detailed process of evaluation spelt out in Schedule IV of the Companies Act, 2013 is a major part of the problem. In being needlessly prescriptive, it seems to have placed form above substance and understandably put Boards and Directors on the defensive. Somewhere along the way, the fact that evaluation is an assessment to take stock and make improvements has been lost sight of. Tasking the Nomination and Remuneration Committee (NRC) also with the process of evaluation, while vesting the same responsibility in Boards and on Independent Directors (IDs) has confounded the existing confusion.

Yet another impediment, more imaginary than real, is the perception that is sought to be continuously reinforced, that members of Indian Boards do not and will not take constructive feedback positively. The blame for this is sought to be laid at the doorstep of Indian culture and our heightened sensitivity to any external assessment of any deficiency, or room for improvement on our part.

When a process is gone through without seeing any value in it, ab initio, it necessarily translates to an empty avoidable exercise. Evaluation, in the last three years, has had to live with this approach. Since it is statutorily prescribed, there is no way by which companies can avoid this exercise. The common response has been to administer, to the members of the Board, short questionnaires, often comprising questions permitting of only one politically correct answer. The responses are understandably carefully calibrated to avoid causing any offence, either imaginary or real, to any member of the Board, or to the Board as a collective entity. If the resultant evaluations, which rate Boards, Chairpersons, Directors and Committees, as performing consistent with the highest standards, had any grain of truth in them, the stakeholders would never cease to smile and celebrate. Such meaningless exercises, as are increasingly in evidence, give legitimacy to the mutual admiration societies which Boards of Directors have descended to. To expect persons, who shy away from honest evaluation, to measure up to the responsibility of providing superintendence, direction and control is a huge ask.

The points of resistance are many. Chairpersons, especially promoters having a majority stake, wonder whether it should be necessary for anyone, be it the Board as a collective or an outsider to judge her performance, when majority ownership is sometimes treated as sole proprietorship. Directors, who join the Boards on invitation, are often heard to ask whether their performance should be evaluated, when these were not positions that they applied for, but were invited to. The disproportionate importance given to IDs by the Act and the regulations, and the role envisaged for them in the process of evaluation, often prompts executive managements to ask whether these part-time visitors to boardrooms should sit in judgement on the performance of Boards and companies.

Mercifully, there are a few Boards that see value in the exercise. Some of them have sought to reach out to external evaluation consultants and advisors in the expectation that an objective view from the outside would help the Board and the Directors to hold a mirror to themselves. As has happened, times without number, in regard to several other matters, Board evaluation while not yet a cottage industry, finds within its list of practitioners, persons who have not even by accident, been in the vicinity of a boardroom. Importing a textbook understanding of the process into the evaluation exercise, without bringing firsthand boardroom experience to the table has been a major drawback in the recent past.

There can be no doubt that the evaluation process is not only desirable but also necessary, for the large body of stakeholders to satisfy themselves that persons, who provide leadership, on their behalf, to the company, are fit for the job. Clearly the process should be objective, meaningful and result-oriented. If well intentioned corporates dig in, and prevent the baby from being thrown out with the bathwater, a clean, scrubbed and productive evaluation process might still see the light of the day. They must see this as an opportunity rather than an obstacle. A constructive post-evaluation conversation alone can translate to continuous improvement in Board level leadership, failing which, corporates might as well begin to write their obituaries.

READERSPEAK - Risk Management – The Elephant in the Room ?

Vikram Kasbekar, Executive Director Operations (Plants), Hero MotoCorp Limited
"It is indeed useful."