

03:10 PM 24 MAY MARKET STATS ▾	LIVE सेसेक्स 34,623 ▲ 278.56	निफ्टी 50 10,503 ▲ 73.45	सोना (एमसीएक्स) (₹/10 ... 31,290.00 ▲ 107.00	यूएसडी/भारतीय ... 68.34 ▼ -0.08	पोर्टफोलियो बनाएँ	ई-टी मार्केट एप डाउनलोड करें	CHOOSE LANGUAGE HIN
--	---	-----------------------------	---	------------------------------------	----------------------	---------------------------------	---------------------------

ICICI Bank should have got complaint against CEO probed by an external agency: M Damodaran

BY ET NOW | UPDATED: APR 11, 2018, 03.14 PM IST

Post a Comment

In an exclusive interview with **Supriya Shrinete** of **ET Now**, **M Damodaran**, Former Chairman, **Sebi**, talks about governance, developments at **ICICI Bank** and **Axis Bank** and other issues affecting the banking sector in India.

Edited excerpts:

Would you agree that the high profile cases involving two leading private banks have perhaps exposed the poor governance standards in India's private banking space. There was this whole debate on privatisation. Now, when you look at the fault lines that exist between private sector banks, do you believe it is the poor governance standards in India's private sector banks that kind of come to light?

I have never maintained that the private sector in terms of governance is better than the public sector. Mine has been one of those few voices which has consistently maintained that governance standards performance etc. are ownership neutral. If you have good processes, good people driving good processes, there will be good governance standards. I am not entirely surprised but I am certainly unhappy at the developments.

Do you believe the ICICI Bank board was wrong to have given a clean chit to its CEO based on an internal evaluation and just in the interest of transparency, should they have ordered an independent probe?

Going entirely by newspaper reports, what the board seems to have said is that look this complaint came in some time ago, we looked at it, we found there was no merit in it and therefore we believe that there has been no wrongdoing and there is no need for any action. But even if this complaint had come in before, considering that the reputation of the bank is involved and that stakeholders are anxiously looking to the board to provide clarity in this matter, the board should have treated it as a fresh complaint and got it investigated by an external agency.



Save this child from her deadly blood ailment

KETTO



Buy or sell shares worth 50 lakhs* without paying brokerage

ICICIdirect

Recommended By Colombia

There are a number of agencies that can do it in order to create a climate of confidence among the stakeholders. They said that they looked at it two years ago. But the scope of the earlier investigation could be different because there is not just one element in the complaint. There are at least three elements. Did you look at all of these because some of it seems to be relatively new and even if you did get another enquiry done, that would be the right way, I think.

The ICICI Board's Chairman in his statement had said very categorically that there were questions that the regulator had sought and answers have been given, but do you believe that in the interest of keeping it absolutely open, absolutely transparent and fair, the board should have divulged the disclosures made to RBI? Questions remain on what details can be sought by regulators. Many questions have actually been asked on the credibility of the report of the regulator what details have been sought and what sort of answers has ICICI Bank given to the regulator?

RELATED VIDEO



ICICI-Videocon loan case is a clear case of conflict, Chanda Kochhar should step aside: M Damodaran

RELATED COMPANIES

EXPAND

ICICI Bank

Axis Bank

Big Change:

The end of Five-Year Plans: All you need to know



Stay up to date on market action, follow [@ETMarkets@Twitter](https://twitter.com/ETMarkets)



Well that is something that this is a judgement call how much will you reveal to the public at what point of time remember there is an ongoing investigation by a criminal investigation agency. It is at the stage of a preliminary enquiry nevertheless that is a starting point of any investigation. At that point of time, perhaps there could have been a reasoned call taken that alright we will just state the bare facts and no more but far more important is the fact that the board should have been seen as taking this seriously enough to look at it independent of the investigations which is why I said an external agency.

Normally the way to go in these matters when a very senior person is the subject matter of the allegation is to get an external agency to come and look at it, because once the external agency says we have looked at it and everything is clear, it reinforces the position not just of the official concerned but the board which decided to support.

The board decision to support is a point of discussion and perhaps a lot of debate also. There is also this growing clamour for ICICI Bank chief Chanda Kocchar to step down. Large shareholders, rating agencies like Fitch have all expressed their displeasure. Brokerages have said there could be class action law suits, rating agencies like Fitch have said there is a reputational risk. Do you believe that the board needs to ask her to step down or at least stay aside? Can it afford to wait till the investigation is out before taking a call on her term?

There are three or four elements we need to look at. One, the reputation of the bank is on the block. Stakeholders are asking questions, institutional investors who are large shareholders are asking questions; the lay person who is reading newspaper reports is also asking questions. It could be a depositor also who is asking questions in the light of all of this and the fact that there is an investigation.

There are two ways -- one is for the CEO to step down and say I do not want any part of this. I will prove myself to be right as and when the procedure gets completed. The other is to step down for a period of three or four months and say that alright while this thing is going on, I am not going to be there which is why this ties in with what I said earlier. Get an external agency, request her to go on leave. She has worked hard enough all these years and I am sure could do with some leave. So, request her to go on leave for a while. She does not have to vacate the post forever and then see what is the outcome of the investigation.

You have been a former regulator. I am sure you have got a lot of these complaints. There are many questions being raised on the whistle-blower alarm that came in as early as 2016. This was about two years back. Now, he did write all the way up to the prime minister's office, to the banking regulator RBI and to the market regulator Sebi because both ICICI Bank and Axis are listed entities. What explains the silence of the regulators? You have been the market regulator yourself. What would your reaction have been if you were at the helm of affairs today?

We must not confuse silence with inaction. It is entirely possible that having received a complaint in which a CEO and MD has been named, the regulator as well as the government would have had it looked at but that is not to say that they would have come out in public and said look, we have received this complaint and we are looking at it.

But I am not sure that all the elements that are playing out now in terms of whether there was a brother-in-law that was restructuring the accounts, whether the investment has a causal relationship to the loan sanction to the company, whether all of this was gone into or was it just a fact that a loan had been sanctioned?

The answer could perhaps have been well 19 other banks did that. Yes, the loan went bad but no one says you get all your credit decisions right all the time. So, unless there is any indication of mala fide, where there is a huge conflict of interest written all over, this is the fact you take into account. Not in an isolated fashion, but along with the fact that there has been an investment in a company promoted by the spouse and now complicated further by the fact that a brother-in-law has been doing restructuring of several accounts.

We do not know what the facts are, there is an investigative agency staffed with this responsibility which is going at it methodically from what one can see in the papers. Given all of this, to say that we looked at it earlier was not good enough but also to think that nothing was done in 2016 might not be the right conclusion.

But the government's role is also questioned. I understand where you are coming from as far as the regulator is concerned, but what about the government? The government has so far stayed away from these developments. The joint secretary in charge of private banking, Mr Amit Agarwal, who was then the nominee director on ICICI Bank, did not attend that board meeting. We are given to understand Lok Ranjan may not attend either and the bigger question is LIC which is completely owned by the state, owns over 12% stake in ICICI Bank. How can they all be quiet?

No, as far as LIC is concerned, being a very large shareholder, they ought to have led from the front in terms of saying that let us put a process in place to see that this issue gets addressed. As far as the government is concerned, well the government had a representative on the board and I am sure that he must have participated in the discussions either during the board meeting or there could have been consultations offline with him. Somehow, I do not get the impression that that matter has been dealt with in the manner in which I would have liked to see it dealt with. But that is not to say that government is withdrawing from looking at this or the regulator is not doing it, they are all going about it in their own ways.

But ICICI has very clear guidelines on related party transactions. When it comes to practice, the bank is perhaps throwing the company law at you saying that the brother-in-law is not a relative and in fact we have sought a query ourselves and that is exactly what was told to us by the bank that the brother-in-law is not a relative, he is an independent businessman, he can do his own business. Now, how valid is this argument? Is this something that cuts ice with you because Rajiv Kochhar has apparently told investigative agency CBI that he and Deepak Kochhar have estranged relationship. They have not met each other for years except socially in family gatherings. Now, how valid are these arguments when it comes to conflict of interest charges and the kind of disclosures that were perhaps not made?

There are two aspects to this; one is technicality. I do not think this is a matter in which you should hide behind technicalities. A relationship, no matter that it is not covered by the list of relatives in the act or the regulations, the fact that there is a relationship not too far removed is certainly a cause for concern. Two, is the fact that accounts were restructured. Let us assume for argument sake that yes, they were operating completely separately, they had nothing to do with each other, let us assume all of that. The fact that the restructured accounts were partly ICICI Bank's accounts and he would have done that I am sure for several other accounts also. That is extremely uncomfortable situation to be in because are we saying that no one was aware that he was doing this restructuring. Are we saying for a moment that for all these years and one of the accounts mentioned is the account of the company where the other elements of the controversy exists? So, hiding behind technicalities does not enhance the reputation of a large corporate entity.

I understand the technicality and I think a lot of people hide behind it and this is precisely my follow up question. Do you believe there needs to be legislative changes in companies and the banking act to define what is the conflict of interest in a crystal clear manner because many grey zone and technical loop holes exist that amount to disclosures not being made?

I do not think there is an inadequacy in the act. The problem sometimes is that whenever there is an alleged transgression, the tendency is to immediately amend the act or the regulations it becomes a knee jerk reaction to some episodic situation and not something that is systemic. I do not think we should rush to amend acts.

What is more important is the substance of governance. The provisions of the act provide the forms of governance. Is there conflict, is there a suspicion of conflict, and if so, who should address it and in what manner should it be addressed and in what time frame? What are the steps you put in place such as the CEO not being the CEO during that process, these are the issues which promote confidence, not the fact that this having happened you add the brother-in-law to a list of relatives. We can keep on adding relatives and then bring business to a complete halt. That is not the way to go.



So, you are not a fan of knee-jerk reaction, especially when they happen on the back of controversies and crisis. I kind of appreciate and understand that. Let me talk to you about yet another controversy that plagues Axis Bank. Shikha Sharma has been given a seven-month succession. Her overall tenure has been significantly reduced but she still been given a seven-month extension. Is that justified?

See as far as that particular matter is concerned what worries me is the role of the board. After she has been through two terms and nearly completing the third term, the board is reported to have engaged an agency to find a successor. Shortly thereafter, it decided to give her a three-year term. I am sure this must have been discussed, they must have looked at the alternatives. Does the person deserve the term is not the question, the question is for the next three years, who should provide leadership to the bank? It could very well be the incumbent who is the person that you finally identify. So, you should broaden your search not every time the term is over.

I think having recommended a three year term and found that the regulator was not in favour, the board should have had a conversation to say why they recommended a three-year term, on what basis, what process did we follow and try and convince the regulator. Of course, the regulator, I am sure, has information on the basis of which they have not looked at a three-year term favourably and now I think she has done the right thing. She said okay, I will step down in December and that leaves the bank enough time to find her successor.

Do you believe that the law is extremely lenient in India when it comes to white collar crimes? Take the case of Rajat Gupta. The man is still very much involved and still very much behind the bars. You virtually do not have any parallel in India. As far as the quantum of punishment is concerned, my own sense is that there seems to be a very high level of tolerance to white collar crimes in the country?

There is a perception that there is a high level of tolerance to white collar crime. There is a perception not just in this particular space but elsewhere that it is the smaller people that get caught quickly, tried quickly, punished quickly whereas more influential people are able to ensure that the long process of the judicial system works in their favour. But that said the answer does not lie in amendments to the act, in provisions, in regulation. It is really in enforcement of existing regulations in a person neutral manner, looking at the rich and the poor alike the weak and the strong alike and looking at the seriousness of the transgression in addressing them quickly and effectively. The perception that the rich person is not at as much a disadvantage as the poor or the weaker section when it comes to the way laws and regulations play out is a fairly pervasive kind of perception and that is something that is addressed sooner rather than later.

Despite a slew of governance reforms, why do Indian boards continue to be subservient to the interest of either the promoter or the chief executive? My question pertains to independent directors because despite all these changes, they have continued to be silent spectators?

No, we do not know what happens in board rooms. It is entirely possible that independent directors might not have thumped the table but they might have put across the views strongly. In the absence of evidence, let us not assume that independent directors in board

room open the mouth only when the tea and cookies come, no. Far from it. I have seen independent directors engaging management in serious conversations, challenging management propositions often helping to either refine them or even decline management proposals. So a lot of things happen in the board room. It is not a stereotype of the promoter having his or her way while the independent directors just make up the numbers in the board room that is not what happens in board rooms.

Increasingly directors because of the liabilities are far more conscious. They ask the right questions, ask the tough questions, on occasions it is entirely possible that management pulls the wool over their eyes but those cases hopefully are not as many as we would like to believe on the basis of one or two cases having gone wrong.

So you believe that the board and the CEO should have creative differences, which has always augured well. What would be your three ideas to reform the quality of governance in India's banks and I am really asking you to pan across public as well as private sector because it looks like faults lines exist on both sides?

No matter what laws you put in place, what regulations you have most of them will not have any effect you need to see value in governance. You need to see that governance is a necessary condition for sustainable performance. It is not a sufficient condition, you need to have products, you need to have markets, you need to have all of that but you also need to have good governance practices to ensure that the company survives on a long-term basis.

What regulations provide is an environment of compliance. Compliance is a threshold condition for governance, governance is the mind, governance is not in the statute book. If the value system is right, if the interest of the stakeholders are protected by the board led by an effective chairman, you do not need to see too much about what the laws provide or do not provide. The answer does not lie there.

Yes, there are important steps one of which the Kotak Committee has recommended and Sebi has accepted which delights me because I have been speaking about this for a long time. This is the separation of the chairman and the MD position because that combination negates governance. You cannot have one person who is the MD of the company and another who is the chairman of the board the same person discharging both these functions as it reduces everybody else to spectators. I do not think that is a kind of situation that we should continue to tolerate in the corporate environment.

But do you believe there is a concern that this clean-up which was long overdue could paralyse the Indian banking system and bankers will be weary and choke credit flow?

Well, I have been unhappy with some of the changes that have been made, for example, the appointment of a Bank Boards Bureau. I think this is a function that between the government and the RBI should have continued to discharge.

Making the Bank Boards Bureau give you recommendations that you do not act on for months and there are banks that have been headless for months; as we speak today one post of deputy governor which is a critical post is lying vacant. One of the things that we need to do is to go back to a recommendation of the [Narasimham Committee](#) which says set up an independent board for financial supervision where only the governor is common to the RBI and the BFS, not the deputy governor. If you do not do that, you are not even getting started as far as putting in place the right systems are concerned.

Talking about governance norms are you surprised at all that the RBI governor says that he has asymmetric control when it comes to public and private sector banks and which is perhaps what has led to the mess in the public sector banking space that you alluded to?

I was both surprised and saddened by that statement. For the person heading a central bank which has been in existence since 1934 to say in public that my organisation does not have powers, does not inspire confidence. Even if he did not have powers. I think he should not have spoken about it. But the other point that I have is removal, let us say and this question has been raised before, the RBI cannot remove a public sector bank chairman. But I know many years ago that the RBI spoke to the government and got rid of one executive director or chairman I forget in a public sector bank.

After all, the regulator and the owner act together in these matters, it does not matter where formal power resides. What matters is that you are on the same page as far as the person is concerned and as far as the step to be taken is concerned. So, I was a little disappointed to say the least. Maybe he had his reasons, but the Reserve Bank was being attacked and he felt obliged to make that statement. But powers often are what you exercise notwithstanding what the statute provides.

Stay on top of business news with The Economic Times App. [Download it Now!](#)

Powered by	Live Market	Industry	About Us
	News	Newsletters	Create Your Own Ad
	Portfolio	Commodities	Advertise with Us
	Mobile	Speed	Terms of Use & Grievance Redressal
	Live TV	Blogs	Privacy policy
	Biz Listings	RSS	

FOLLOW US

Download it from
APP STORE

Download it from
GOOGLE PLAY

Download it from
Windows Store

Other Times Group news sites

[इकॉनॉमिक टाइम्स](#) | [ईकोनोमिक्स टाइम्स](#) | [Pune Mirror](#) | [Bangalore Mirror](#) | [Ahmedabad Mirror](#) | [ItsMyAscent](#) | [Education Times](#) | [Brand Capital](#) | [Mumbai Mirror](#) | [Times Now](#) | [Indiatimes](#) | [नवभारत टाइम्स](#) | [महाराष्ट्र टाइम्स](#) | [ವಿಜಯ ಕರ್ನಾಟಕ](#) | [Go Green](#) | [AdAge India](#) | [Eisamay](#) | [IGN India](#) | [NavGujarat Samay](#) | [Times of India](#) | [Samayam Tamil](#) | [Samayam Telugu](#) | [Miss Kyra](#) | [Bombay Times](#) | [Filmipop](#) | [BrainBaazi](#) | [BrainBaazi APP](#)

Living and Entertainment

[Timescity](#) | [iDiva](#) | [Entertainment](#) | [Zoom](#) | [Healthmeup](#) | [Luxpresso](#) | [Gadget Reviews](#) | [Titanium & Platinum Credit Card](#) | [Online Songs](#) | [MensXP](#) | [Hotels](#) | [Travel Destinations](#) | [Cricbuzz](#) | [Recipes](#) | [Gaana](#) | [Happytrips](#) | [Getsmartapp](#)

Interest Network

[itimes](#)

Hot on the Web

[Share Market](#) | [GST](#) | [Income Tax Slabs](#) | [Aadhaar Card](#) | [IFSC Code](#) | [Mutual Funds](#) | [How to save Income Tax](#) | [Sensex Today](#) | [Nifty Bank](#) | [Sensex](#) | [Income Tax Calculator](#) | [Karnataka Election 2018](#)

Services

[Book print ads](#) | [Online shopping](#) | [Matrimonial](#) | [Astrology](#) | [Jobs](#) | [Tech Community](#) | [Property](#) | [Buy car](#) | [Bikes in India](#) | [Free Classifieds](#) | [Send money to India](#) | [Used Cars](#) | [Restaurants in Delhi](#) | [Remit to India](#) | [Buy Mobiles](#) | [Listen Songs](#) | [News](#) | [TimesMobile](#) | [Real Estate Developers](#) | [Restaurant Deals in Delhi](#) | [Car Insurance](#) | [Gadgets Now](#) | [Free Business Listings](#) | [CouponDunia](#) | [Remit2India](#) | [Techradar](#) | [AliveAR](#) | [Getsmartapp App](#) | [ETMoney Finance App](#) | [Feedback](#) | [Auto](#)

In Case You Missed It

[Rupee vs Dollar](#)

[Crude Oil Price](#)

[Upcoming IPO](#)

[SEBI](#)

[Sensex](#)

[BSE](#)

[IPO](#)

[Tata Motors Share Price](#)

[ICICI Bank Share Price](#)

[Best Mutual Funds to Buy](#)

[NSE](#)

[Stock Market](#)

Copyright © 2018 Bennett, Coleman & Co. Ltd. All rights reserved. For reprint rights: [Times Syndication Service](#)