



Regulators under scanner: Kotak, Mahindra slam excessive rules

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One of the weakest links in fiduciary chain of governance in India is accounting, says Kotak Mahindra Bank boss



Kotak, who chaired a Sebi-appointed committee on corporate governance framework in the country, said the sector will undergo a change with the introduction of the National Financial Reporting Authority (NFRA) by the government.

Industry captains Anand Mahindra and Uday Kotak on Thursday came out against “proliferation” of regulations in business, stating that in the current environment they are forced to follow the rules in letter and not in spirit. The comments come days after industry veteran Rahul Bajaj expressed his displeasure on laws made by Sebi and corporate affairs ministry in the wake of fleeing defaulters.

“When one takes a view that let’s follow spirit, and the letter is not clear, you get a push back (saying) ‘this is the rule; have you followed it or not’. You get a slap back. If you play for spirit, you run into problems. I have no ability to question spirit, (so) let me follow rules. We are living in this world where we are going in a transition from principles to rules,” Kotak, vice-chairman and managing director of Kotak Mahindra Bank, said.

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He was speaking at a summit on corporate governance, organised by a body promoted by former Sebi chief M Damodaran. Kotak had run-ins with the regulator over recognition of an instrument used by the bank to decrease promoter shareholding

recently. Kotak also said auditors are one of the “weakest links” plaguing the corporate governance architecture.

“One of the weakest links in fiduciary chain of governance in India is accounting. Time and again we find that this situation is leading to significant issues for many listed companies whether it is on the equity markets or debt markets,” he said. The comments from Kotak, who is tasked with helping IL&FS get back in shape, come amid growing instances of fraud being. He said the issue in the profession stems from a potential “conflict of interest” where an association of accountants, ICAI, also acts as the sector regulator.

Kotak, who chaired a Sebi-appointed committee on corporate governance framework in the country, said the sector will undergo a change with the introduction of the National Financial Reporting Authority (NFRA) by the government. The NFRA will act as the single source for regulating all the auditors and will ensure that the signature of the auditor gets back the trust, Kotak hoped.

He said there are six layers of corporate governance in our system, including the company management, company board, credit rating agencies, auditors and regulators. Of late, these six layers' work has been found wanting, he said, adding that “they are not doing their job”.

Using tennis analogy to describe his predicament, Kotak said: “In the early days of my career, I was very comfortable to hit the ball on the line. I have now come to a view (to) make sure you hit the ball inside the line. If it hits the line, then it is the umpire who decides whether it is outside or inside... work towards following the rules but hit the ball clearly inside the line.”

He added that if the ball is adjudged by the umpire as being outside the line, there is a huge reputation risk which a company is exposed to because of the judgements of the 24×7 media. “If you look at reputational risk, you are first hung in the court of media well before you go out to the real world,” Kotak said.

Mahindra, chairman of Mahindra group, said the current environment reminds him of the days of the licence raj, where the role of the government in promoting enterprise was was found wanting. “Your job is not to eliminate risk, but to eliminate unwarranted risk. Risk is a very integral element of the capitalist system,” he said and rued that there is a “proliferation” of regulation. When asked if he has taken less risk because of the focus on keeping the ball inside the line, Kotak said it is a “debatable question”.

Both the industry leaders, however, did not offer any specifics on any regulatory overreach. Damodaran said there is a need for regulators not to have a disconnect with the regulated universe and be more responsible. They can do so by analysing the cost and benefits before writing a regulation, he said. There should not be a distrust of business, he said, adding that we are in a mode of “distrust and crucify”. Mahindra also said he has had a very cordial relationship and learnt a lot from accountants.

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