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'One or two PSUs should be suspended for non-compliance': M Damodaran

M Damodaran urges SEBI to suspend non-compliant PSUs and push boards beyond tick-box governance; read his case for stronger oversight.

Written by **Rajas Kelkar**

Updated:November 27, 2026 06:45 IST



M Damodaran, former chairman of the Securities and Exchange Board of India and of Excellence Enablers. (Photo source: Enhanced with AI-Excellence Enablers)

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M Damodaran, former chairman of the Securities and Exchange Board of India and of Excellence Enablers, believes that more than technical training, independent directors need training in behavioural issues related to their duties. He tells Rajas Kelkar that the government should take the lead in setting higher corporate governance standards through public sector companies. Excerpts:

SEBI Chairman Tuhin Kanta Pandey noted at your summit recently that regulation has its limits and announced consultations on a Capacity Building Network for continuous director training. Is the core deficit among Indian independent directors only a lack of technical training?

A: As the SEBI Chairman correctly said, regulation has its limits. I would say regulation must have its limits; it should not be over-prescriptive. That said, in recent times, by and large, independent directors have a better understanding of their role in the boardroom, are asking more questions – generally — and are insisting on satisfactory answers.

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Of course, there are not-so-glorious exceptions, and we've seen some of them recently. In my view is that this capacity-building network for continuous director "training" is not the right answer. The problem here is: How do you incentivise directors to be more independent, rather than how do you train them or build capacity? Capacity-building has become a cliché now, so I don't think we should get to that at all.

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Sixteen of the 17 Nifty 100 companies lacking the mandated number of independent directors in FY26 were public sector entities, with four PSUs operating with none at all. Many in the private-sector corporate world are quick

to point out the situation and hide behind it. How do you think the government should intervene?

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I have maintained this before: if you rank the people who have not done enough for governance, numbers one to ten will be the government. Only after that will be other people. Why? Because you mandated that there should be X number of independent directors. Your own companies, where you're either the sole owner or the majority shareholder, don't have that many directors. You mandated that there should be a woman director on the board; many of your PSUs don't have that.

These are big PSUs. We interact with some of them; we engage with some of them. But can the PSUs remain blameless? 'No' is my answer, because they should put pressure on the government. I know that if they put pressure, the government will do it.

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How do we resolve the structural trap where PSU boards carry full legal liability under Sebi LODR yet have zero authority over appointments controlled by nodal ministries?

A: SebI has given responsibilities to the boards, but if the boards have no authority over appointments, it goes to the ministry. SEBI regulates only the listed entities. If a listed entity in the public sector cannot put enough pressure on the government, then clearly it will have to pay fines, leading to an adverse track record. If I were in SEBI at this point in time, I would have suspended at least one or two large public

sector undertakings which are not complying. As our survey shows, there have been people who have been non-compliant for years. Nothing happens. Maybe some small fine is levied; they take it in their stride and go on. That's not good enough.

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Even when independent director seats are filled, your survey shows 40 of the top 100 companies held only one exclusive meeting of independent directors annually across four years — with 32 consistently scheduling it in March. What can give independent directors confidence to play their role? How do you nudge business owners toward understanding the importance of independent directors doing their jobs without fear or favour?

The mistake is in the Companies Act. If you look at Schedule IV, it talks about at least one meeting of independent directors. And what do they want independent directors to do? This comes at the end of Schedule IV: they want them to do the evaluation of the board, the directors and other things. So that explains why everybody has one meeting in March, and all that they do is a tick-box board evaluation, which is a completely useless exercise. But if you have a good company – and we've been urging companies to do it, and many are doing it now – have an independent directors' meeting before every board meeting, so they have discussions among themselves before they come to the board meeting.

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Most top companies now meet the statutory rule of having at least one independent woman director. However, too many boards treat that legal floor as a ceiling and do not actively look for more than one woman member. Do you think it will help if SEBI raises the mandatory quota to at least two independent women directors?

I have argued for quite some time: Have at least two women and at least one must be independent. You don't need both to be independent, but get two women on the board to begin with. But there's a lot of resistance. Law already exists. Regulators can at best enforce and maybe penalise. But at the end of the day, the penalty is paid by the shareholders and other stakeholders.

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About seven years ago, you had a conversation at an event with Kumar Mangalam Birla on corporate governance. Has anything changed since then? Anything you can highlight?

There has been — and I went public on it two, three days ago — there has been improvement in governance standards. To begin with, more people are talking about governance; more people are aware of the requirements, et cetera. Some people—still many—are equating governance with compliance. You tick all the boxes. For example, the law says you should have audit committees; you have audit committees. Audit committees must meet; yes. How long do meetings last? They meet for 10 minutes, sometimes 15 minutes, with no worthwhile agenda. That ticks the box that you have met the right number of times, your committee has the right directors in terms of the categories, but is it adding value? No. We have to move from compliance to governance. That is the journey that is not getting started, because if you are a chess player, you will appreciate what I say: that compliance is playing black pieces. Somebody else makes the first move—lawmaker, regulator, somebody—and you are responding or reacting. Governance is playing white pieces: you are making the first move; nobody has moved first, because you think it's a good move to make in the interest of the stakeholders. Now, if that appreciation is not there, you will keep ticking boxes.

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