

Shareholders' Right to Half Yearly Financial Reports: Right Denied



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Clause 49 of the listing agreement stipulates two types of requirements: mandatory and non-mandatory. It is reasonable to assume that companies will necessarily comply with the mandatory requirements in view of the penal provisions for non-compliance like fine and delisting, among others, as contained in the listing agreement. However in respect of non mandatory requirements they have a choice. It therefore becomes important to examine the extent of adoption/non-adoption of these norms by them. High standards of corporate governance practices demand that companies must willingly adopt the non mandatory requirements (NMRs) in full spirit. In fact the latest trend in this area of study and practice is the laying down of emphasis more and more on the voluntary initiatives by the companies beyond what is required by the regulatory authorities. In recent times various reports and consultative papers like Corporate Governance Recommendations for *Voluntary Adoption*; Report of the Confederation of Indian Industry (CII) Task Force on Corporate Governance (Naresh Chandra Committee), National Voluntary Guidelines on Socio-Economic and Environmental Responsibilities of Business brought out by the Ministry of Corporate Affairs and Securities & Exchange Board of India (SEBI) Consultative Paper on Review of Corporate Governance Norms in India have all emphasized the need for the

corporates to move beyond the mandatory regime and set highest standards of corporate governance through voluntary spirited measures.

Clause 49 provides that NMRs may be implemented as per the discretion of the company. However, the disclosure of their adoption / non-adoption needs to be made in the section on corporate governance in the annual report. The clause mentions 8 NMRs:

1. Provision for non-executive chairman's office at the expense of the company
2. Independent directors' tenure not to exceed 9 years in aggregate
3. Formation of remuneration committee
- 4. Shareholders' right to half yearly financial reports**
5. Audit qualifications: Companies to move towards unqualified report
6. Training of board members in the business model of the company
7. Mechanism for evaluating non-executive board members to be put in place
8. Establishment of whistle blower policy

The **NMR 4** elaborates that a half-yearly declaration of financial performance including summary of the significant events in the last six-months, may be sent to each household of shareholders. As the genesis of corporate governance lies in the financial scandals, it becomes all the more important to keep the shareholders informed with these essential details.

It is in this background that a research was carried out to find out how compliant the Indian corporate sector is with this important NMR. The research proceeded with the following methodology.

1. Constituent companies of Bombay Stock Exchange Sensitivity Index (BSE Sensex) numbering 30 have been considered as representing the Indian corporate sector since the Sensex stocks represent large, well-established and financially sound companies across key sectors and the Sensex itself is considered as the barometer of Indian capital market ("S&P BSE SENSEX - The Barometer of Indian Capital Markets", http://www.bseindia.com/indices/DispIndex.aspx?iname=BSE30&index_Code=16&page=B16FEF6B-3A5C-45B8-89F9-C79E884CC716). These companies enjoy leadership positions in their respective industry sectors and corporate reporting practices followed by them are keenly watched by, and influence, the reporting practices of the entire corporate sector. Their market capitalization (as on October 30, 2013) at INR 34, 64,702 crore (346,47,020 Million, "Market Capitalization of BSE SENSEX Companies", <http://www.bseindia.com/SensexView/SensexView.aspx>) represents 51.32 % of the total market capitalization of all BSE listed companies amounting to Rs. 67, 50, 941 crore ("Market Capitalization of All BSE Listed Companies", <http://www.bseindia.com/>).
2. The corporate governance reports of all these companies as contained in their respective annual reports for the latest financial year 2012-13 were scanned to find out the details about adoption/non-adoption of NMR 4. These

details were tabulated company wise. Business houses representing these companies were identified. The objective was to analyse the adoption per company as well as per business house. 'Y' in the table under the column of 'Adoption' stands for 'yes' and 'N' for 'no'.

Findings of the research are presented in the following table.

Adoption of NMR 4 Shareholders' Right to Half Yearly Financial Reports				
Sl. No.	Company	Business house	Adoption	
1	Bajaj Auto	Bajaj	Y	
2	Bharti Airtel	Bharti		N
3	BHEL	Govt. of India-1		N
4	Cipla	Y. K. Hamied		N
5	Coal India	Govt. of India-2		N
6	Dr. Reddy's Lab	Dr. Reddy's		N
7	Gail India	Govt. of India-3	Y	
8	HDFC Bank	HDFC group-1		N
9	HDFC	HDFC group-2		N
10	Hero MotoCorp	Munjal (Hero)		N
11	Hindalco	Aditya Birla		N
12	Hindustan Unilever	MNC Associate-1		N
13	ICICI Bank	ICICI group		N
14	Infosys	N.R. Narayanmurthy	Y	
15	ITC	MNC Associate-2	Y	
16	Jindal Steel	Om Prakash Jindal		N
17	L & T	L & T group		N
18	Mahindra & Mahindra	Mahindra		N
19	Maruti Suzuki	MNC Associate-3		N
20	NTPC	Govt. of India-4		N
21	ONGC	Govt. of India-5		N
22	Reliance	Mukesh Ambani	Y	
23	SBI	Govt. of India-6		N
24	SSLT (Sesa Sterlite)	Vedanta		N
25	Sun Pharma	Dilip Singhvi		N
26	TATA Motors	TATA-1		N
27	TATA Power	TATA-2	Y	
28	TATA Steel	TATA-3		N
29	TCS	TATA-4	Y	
30	Wipro	Azim Premji		N
		Aggregates:	7 23.33%	23 76.67%

The research makes the following insights:

1. Out of 30 companies only 7, namely, Bajaj Auto, Gail India, Infosys, ITC, Reliance, TATA Power and TCS sent half yearly financial reports to their shareholders.
2. Statistically only 23.33% companies sent half yearly financial reports to their shareholders. By any standard a very dismal performance. 76.67% of the companies did not keep their shareholders informed of the progress of their business which they duly deserve. In the interest of 'information to all' and creating 'market efficiency' a level playing field is a must as it is common knowledge that big institutional investors any way have access to such information.
3. There are 3 MNC associate companies in the Sensex, namely, Hindustan Unilever, ITC and Maruti Suzuki. Only 1 of them, namely, ITC adopted NMR 4.
4. There are 6 companies belonging to the Government of India or PSUs in short, namely, BHEL, Coal India, Gail India, NTPC, ONGC and SBI. Only 1 of them, namely, Gail India adopted NMR 4.
5. Of the 2 companies belonging to HDFC group, namely, HDFC and HDFC Bank none adopted NMR 4.
6. Out of 4 companies of the TATA group, namely, TATA Motors, TATA Power, TATA Steel and TCS, only 2 companies, namely, TATA Power and TCS complied with NMR 4. It appears that there is no uniform group policy on corporate governance in the house of TATAs.
7. Of the rest of the business houses, only Bajaj Auto (Bajaj), Infosys (N.R. Narayanmurthy) and Reliance (Mukesh Ambani), with 1 company each, adopted NMR 4.
8. Rest of the companies, namely, Bharti Airtel, Cipla, Dr. Reddy's Lab, Hero MotoCorp, Hindalco, ICICI Bank, Jindal Steel, L & T, Mahindra & Mahindra, SSLT (Sesa Sterlite), Sun Pharma and Wipro did not adopt NMR 4.
9. Non-adoption of NMR 4 by Hindalco is quite surprising in view of the fact that its chairman, Kumar Mangalam Birla, was the chairman of the first SEBI appointed committee on corporate governance which laid the architecture of the first official code on the issue in our country.

The real purpose of corporate governance code will not be served until the corporates follow it in spirit. The rule based approach is fine. But the wider expectations go beyond the rule book. And probably it is impossible to make fool-proof rules for anything and everything to safeguard shareholders' interests. The corporates therefore need to be conscious of their sacred duty towards the shareholders in particular and other stakeholders in general. They need to adopt a principle based approach to corporate governance. In the interest of creation of a disciplined, orderly and efficient capital market they need to particularly abide by certain NMRs like NMR 4. Let us hope that the corporates lend a ear to this and a half-yearly declaration of financial performance including summary of the significant events in the last six-months, will be sent regularly to each household of the shareholders by them.
