

STARBoards

Indian Independent Directors Independence Challenging Times



BOMBAY CHAMBER OF COMMERCE AND INDUSTRY
CORPORATE AS A CITIZEN

Team Legasis
Aug 28, 2019



STAR Boards

Challenging Times

STAR Boards Challenging Times for Economy

STAR Boards “Sure signal of worldwide recession being months away, but is India prepared?” 20th August 20th 2019 06:03 AM
<http://www.newindianexpress.com>

STAR Boards Challenging Times for Businesses

STAR Boards “Raghuram Rajan Sounds Alarm Bell For Indian Economy, Says Difficult Times Ahead” August 20th, 2019 / 4:13 PM <https://thelogicalindian.com>

STAR Boards Tough Times for the Company

STAR Boards “If the growth is slowing down, you just have to worry about what you can do, Chandrasekaran said.” August 21st 2019 07.11 pm / <https://economictimes.indiatimes.com>



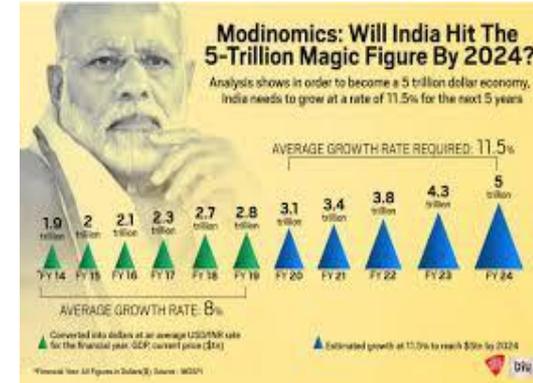
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Challenging Times

STARBoards Corporate Governance Failures

STARBoards “India Stocks Review: Down as corporate governance concerns resurface” August 20th 2019 / <http://www.cogencis.com>

STARBoards “The golden rule of investment is to pour money in stocks that are trading at attractive levels compared to their intrinsic value, thus allowing investors to create wealth over a period of time” ““For instance, apart from facing a slowdown in their respective industries, companies like Sun Pharma, Indiabulls Housing are also witnessing pressure due to on-going corporate governance issues and hence fresh investments at this juncture may not be a good decision,” Aug 21st , 2019 02:35 PM / <https://www.moneycontrol.com>



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Contrasting Challenge

STARBoards India Inc needs over 25,000 Independent Directors (2000 NSE Listed have 7,900 IDs

STARBoards 24,000 professionals are registered as aspiring IDs

STARBoards Capacity Building is a Major Challenge

Directors' Cut

PRIVATE LOCKERS COME UNDER GOVT SCANNER

316 independent directors exited Nifty 500 companies in FY19

32% more independent director exits in FY19 vs FY18

50 independent directors quit without giving any reason

MAJOR REASONS

Other Preoccupations
54

Personal Reasons
31

Health
10

No Reason Offered
50

Source: Prime Database Group

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Is Resigning a solution?

STARBoards Kotak Committee recommended providing for & confirmation of reasons for resignations may solve the problem

STARBoards Effective April 2019, recording the reasons and confirming it is now a new norm

STARBoards Reading between the lines: Understanding what are true reasons for resignation and what is being informed

STARBoards LODR # 30 (7B)

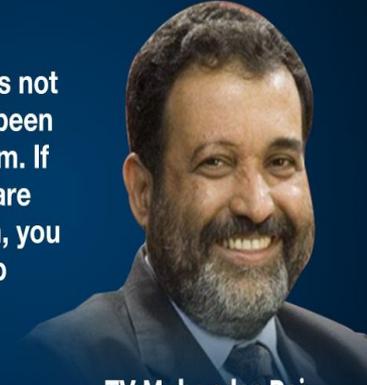
STARBoards Detailed reasons to be disclosed

STARBoards ID to confirm

STARBoards ID's confirmation to be disclosed



Resigning and going away is not a solution, because you've been appointed to solve a problem. If you (independent director) are unable to solve the problem, you go, when you must stand up and take decisions.



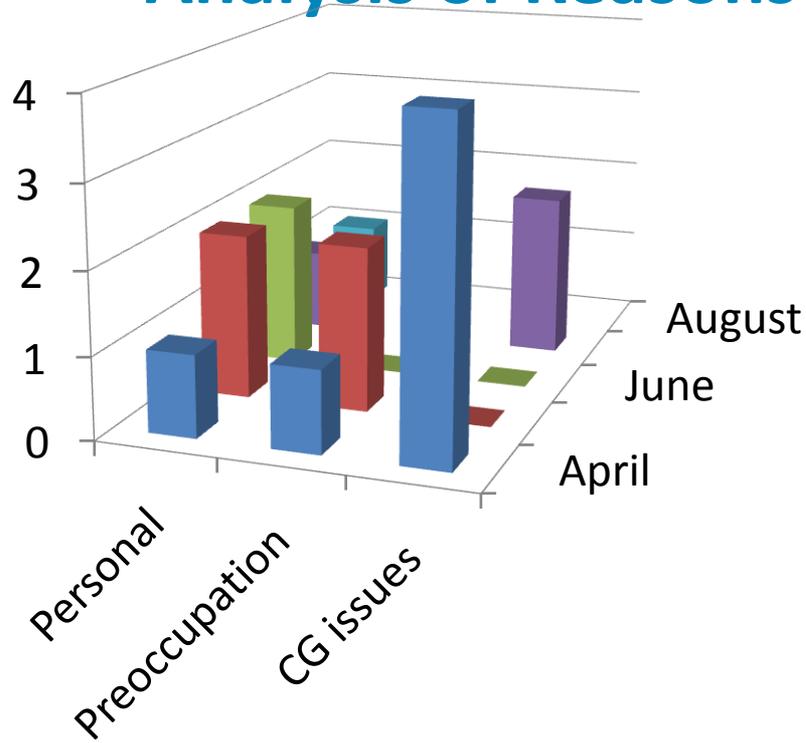
TV Mohandas Pai

Chairman, Manipal Global Education
Former CFO, Infosys

Bloomberg | Quint

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Analysis of Reasons



- April
- May
- June
- July
- August



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Example of ID's reason

... .. the year ago was indeed a game changer milestone event in the fifty years' history of our company. We all celebrated that event at the Board Meeting. Now the Board members hear, in bits and pieces, that this contract implementation has been passing through some serious impediments which can substantially impact company's revenue inflow for future years. Sir, the entire Board and, more particularly, its Risk Management Committee have to get into action and have to formulate a strategic action plan to mitigate all the adverse risks that the company will be exposed to in future years.

6. The above inadequacies \ irregularities impose limitations for independent directors and they are not able to discharge the functions expected from them under the provisions of the Companies Act 2013. More so I am, as a member of the audit committee, not able to implement good corporate governance practices and processes which would go a long way in building up strong internal controls as well. In view of the above, how so ever I tried to do so as a member of the audit committee but was unable to achieve the results as aforesaid in view of lack of support and strong supervision from senior management which would have made that happen.

- (vi) The audit committee had desired that as a sort of good control and reporting, each departmental head should report to the audit committee and update the committee about the functioning of the department, its difficulties and what issues are pending with them and how they are being sorted out. However, for the reason best known to the management except for one meeting no such reporting took place.
- (vii) The agenda of the audit committee is circulated without consultation with Audit Committee Chairman and / or the Chairman of the Board.

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Criminal Liability is underlying cause



STAR Boards “ I earned Rs. 10 lacs as ID’s remuneration. I am expected to read Board Pack that consists of minimum 1000 pages. And I am expected to take decisions after understanding every line item. Now the Investigating Agency (with benefit of hindsight) is questioning my as though I am a criminal” Lady ID in ILFS Case

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ILFS Case: Making History

STARBoards SFIO Arrests- FOAK for India

STARBoards Moving from accomplice to co-accused :

STARBoards Auditors

STARBoards KMPs

STARBoards Directors

STARBoards Independent Directors



STARBoards Direct Messages : Zero Tolerance

STARBoards Direct Actions : Vigil Mechanism ,Voluntary Disclosures of Interest

STARBoards In direct Messages : Encouraging the Dissent

STARBoards Subtle Messages : "Walk The Talk"

STARBoards Tone At The Top is critical to exhibit for any legal defense



STARBoards Setting The Culture

STARBoards Tone At The Top

STARBoards Understanding Business Insight

STARBoards Delivering Oversight

STARBoards Decision Making

STARBoards Legal Obligations

STARBoards Protection of Good Faith



STARBoards Fiduciary Responsibility

STARBoards Obligations under CA 2013 & Other Laws

- Discharging Obligations through proper delegation
- Delegation in absence of Authority & Budget
- Governance through Committees



STARBoards Conflict of Interest

STARBoards Related Party Transactions

STARBoards Documentation

- Minutes & Notes
- Committee Recommendations & Decision making
- KMP Assurances

STARBoards Fiduciary Responsibility

STARBoards Business Judgment Decision Making

- Statutory Provisions of Australian Laws
- Adverse Effect on Stakeholders

STARBoards Good Faith

- Implies acting in the interest of the Company's best interests
- Absence of Bad Faith

STARBoards D&O Liability Insurance

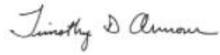
STARBoards Indemnification in the AoA



STARBoards - The Governance

STARBoards Board's Responsibility to set up

STARBoards Commonsense Approach & Principles



Tim Armour
CAPITAL GROUP



Mary Barra
GENERAL MOTORS
COMPANY



Warren Buffett
BERKSHIRE
HATHAWAY INC.



Jamie Dimon
JPMORGAN CHASE



Mary Erdoes
J.P. MORGAN ASSET
MANAGEMENT



Larry Fink
BLACKROCK



Jeff Immelt
GE



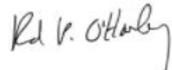
Mark Machin
CPP INVESTMENT
BOARD



Lowell McAdam
VERIZON



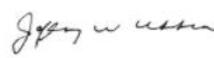
Bill McNabb
VANGUARD



Ronald O'Hanley
STATE STREET
GLOBAL ADVISORS



Brian Rogers
T. ROWE PRICE



Jeff Ubben
VALUEACT CAPITAL

STARBoards - The Risk

STARBoards Board's Oversight : Management's Risk Appetite

Risk Fitness Quiz: **How Do You Score?**



Risk Assessment

1. How well do we identify, measure and document the threats/risks that could impact on the achievement of our business objectives?

SCORE /10

Risk Treatment

2. How well and how often do we reevaluate the effectiveness of our risk treatment strategies?

SCORE /10

Risk Treatment Optimization

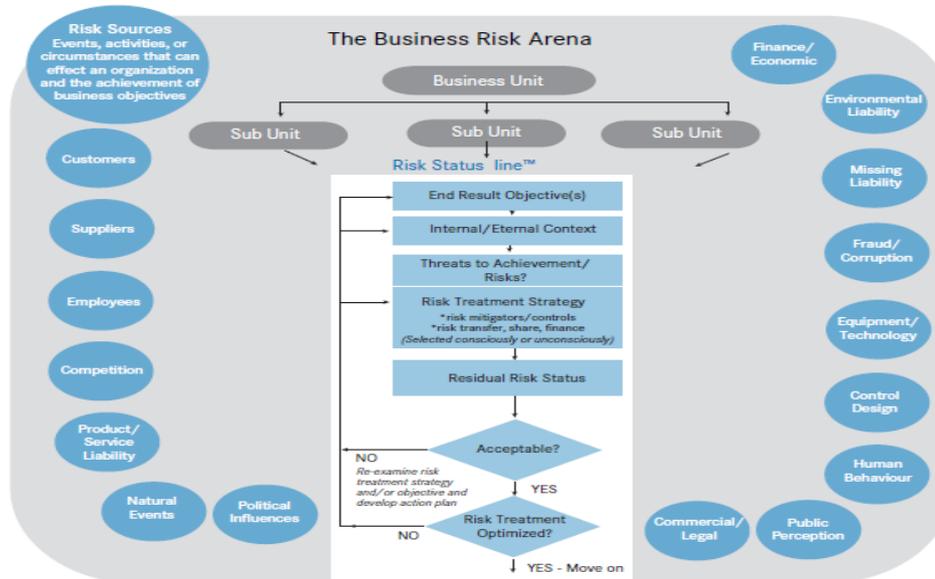
3. How good are we at identifying opportunities to eliminate expensive risk treatments while still maintaining an acceptable residual risk level at a lower overall cost?

SCORE /10

Risk Testing the Future

4. How good are we at documenting and evaluating risks when making important business decisions, launching new products/services, and preparing strategic business plans?

SCORE /10



Planning for Serious Risk Situations
5. Do we have contingency plans in place to deal with potentially high risk but low probability situations that could cripple business units or the organization? Do we periodically revisit these plans to reassess their adequacy?

SCORE /10

Worst Case Scenarios
6. How good are we at considering the possibility of high risk situations, which, if they occurred together, could have a devastating impact on the organization?

SCORE /10

Risk Oversight Process

10. How well briefed is the Board of Directors and Senior Management on the company's significant residual risks? Have they taken steps to ensure work units are identifying, measuring, treating and monitoring significant risks?

SCORE /10

Regular Risk Re-evaluation

9. How effective is our corporate process to reassess the effectiveness of our risk management processes and periodically reassess the acceptability of risk acceptance decisions?

SCORE /10

Risk Transfer/Financing Options

8. How effective are we at identifying risk sharing and insurance options to avoid or reduce the consequences of specific threats/risks to business objectives?

SCORE /10

Early Warning Systems

7. How good are we at regularly monitoring our risk status using early warning signs that indicate changes might be needed to risk treatments and/or objectives?

SCORE /10

TOTAL RISK FITNESS SCORE /100

STAR Boards - The Compliance

Hallmarks

- Commitment from senior management
- Code of Conduct and Compliance Policies and Procedures
- Oversight, Autonomy, and Resources
- Risk Assessment
- Training and Continuing Advice
- Incentives and Disciplinary Measures
- Third-Party Due Diligence
- Confidential Reporting and Internal Investigation
- Continuous Improvement: Periodic Testing and Review

STAR Boards Compliance with ALL laws

STAR Boards "Proper System....Adequate & Operating Effectively

STAR Boards Non Prosecution

STAR Boards Deferred Prosecution

STAR Boards Risk Based Approach

STAR Boards Business Continuity vs Prosecution

STAR Boards Standards of Systems

STAR Boards ISO 19600

STAR Boards ISO 37001

STARBoards Companies Act 2013



EVALUATION

“134. Financial statement, Board’s report, etc.—
(3)(p) in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a **statement indicating the manner** in which formal annual evaluation has been made by the **Board of its own performance** and that of its **committees and individual directors.**”

Requirement	Relevant Provision
Performance evaluation of the Board	Section 149 & Schedule IV
Formal Annual Evaluation Disclosure	Section 134(3)(p)
Nomination and Remuneration Committee	Section 178

STARBoards SEBI LODR

EVALUATION

The Role of NRC shall include formulation of criteria for evaluation of performance of independent directors and the board of directors and

Whether to extend or continue the term of appointment of the independent director, on the basis of the report of performance evaluation of independent directors



STARBoards Secretarial Standards

EVALUATION

In case of appointment of Independent Directors, the justification for choosing the appointees for appointment as Independent Directors shall be disclosed and in case of re-appointment of Independent Directors, performance evaluation report of such Director or summary thereof shall be included in the explanatory statement.



Are Board's Effective?



Directors' Responsibilities



Q&A

Contact Us

Pune

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Bangalore

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Singapore

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Thank You!

