**Cover Page**

Title of the Paper: **A COMPARATIVE STUDY ON CORPORATE GOVERNANCE PRACTICES BETWEEN INDIA AND USA**

Author’s Name: Dr. Sankar Paul

Designation: Assistant Professor, Department of Commerce, Hooghly Mohsin College.

Official Address: Hooghly Mohsin College, P.O.- Chinsurah, Dist.- Hooghly-712101
Residential Address: Pancham Apartment, Flat-2B, BH-81B, MajherPara, Kestopur, Kolkata-700102
Contact No: 9836714521
E-mail ID: paulsankar16@yahoo.in

**Abstract**

Corporate Governance is a set of guidelines, rules, practices that govern and administer corporate entities. It is a policy framework of a corporate entity’s internal management. Present study has shown the different phases of development of corporate governance in USA and India. This study shows the various corporate governance standards and regulations based on Companies Act, 2013 and SEBI (LODR) regulation, 2015. In US corporate governance practices, we have found that transparent, ethical standards are followed in US corporate entities. As a result corporate governance standards in USA is very high. In India, The Companies Act, 2013 and SEBI (LODR) regulation, 2015 aim to give a governance prospect in India with developments. The New companies Act, 2013 and SEBI (Listing Obligation Disclosure Requirement) regulation, 2015 help to increase corporate governance standards in India and most of the corporate entities will follow the regulations.

**A COMPARATIVE STUDY ON CORPORATE GOVERNANCE PRACTICES BETWEEN INDIA AND USA**

**Introduction**

Corporate Governance is a set of guidelines, rules, practices that govern and administer corporate entities. It is a policy framework of a corporate entity’s internal management. In India, according to Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 prescribe some guidelines that every corporate entities must follow regarding corporate governance. The core elements of corporate governance are fairness, accountability, transparency.

In this study, we make a comparative study on corporate governance practices between India and USA. We choose USA because most of the companies in USA follow corporate governance standards. Corporate Governance index of USA is high. Our study is based on three sections;

1. To highlight the phases of development of corporate governance in the USA.
2. To analyze the background of corporate governance in India.
3. To highlight the comparison of corporate governance practices in India and USA.
4. **To highlight the phases of development of corporate governance in the USA**

In the year 1976, corporate governance term had appeared in the book of federal register in USA.

**Table 1: Phases of development of corporate governance in the USA**

|  |  |  |
| --- | --- | --- |
| **Name of the development** | **Year of occurrence** | **Rules and regulations** |
| The Foreign Corrupt Practice Act | 1977 | Certain provisions regarding internal control establishment, maintenance and review. |
| US Securities Exchange Commission | 1979 | Obligatory rules regarding internal financial control. |
| Treadway Commission | 1985 | Focused on internal auditing and desires to create independent boards, the birth of committee of sponsoring organizations. |
| COSCO issued Internal Control-Integrated Framework  | 1992 | Internal control is assessed and enhanced to help business. |
| Sarbanes-Oxley Act | 2002 | CEO and CFO must report any deficiencies in internal accounting control, or any fraud involving the management of the audit committee, all financial statements and their requirement to be accurate and presented in a manner that does not contain incorrect statements or admit to state material information, all annual financial report must include internal control report stating that management is responsible for an adequate internal control structure, companies are required to disclose on a real time basis information concerning material changes in its financial condition or operations. |
| Dodd-Frank Wall Street Reforms and Consumer Protection Act. | 2010 | The law plays stern rules on lenders and banks in an effort of consumer protection and avoids another all-out economic recession. |

**Source: Governance, Risk Management, compliances and Ethics, ICSI and US Securities Exchange Commission, Securities Law.**

The fundamental provenance of federal rules includes the Securities Act, 1933 and the Securities Exchange Act, 1934. Other regulations are Sarbanes-Oxley Act, 2002 and the consumer protection Act, 2010, the Dodd-Frank Wall Street reform. Also, major stock exchanges like NYSE, NASDAQ provide for the regulation relating to corporate governance issues which companies must follow as an order for listing in the stock exchange.

1. **S. Securities and Exchange Commission**

 To protect investor’s interest, maintain fair order and efficiency in the stock market is the foremost objective of the U.S. Securities and Exchange Commission. The SEC supervises the prime members in the securities market. The rules and regulations regarding the securities market are chalked out for the benefit of investor’s interest as a whole. To attain this objective, the Securities Exchange Commission requires public companies to impart financial and other relevant information to the public. This would helpful to get insight regarding security performance as well as market performance, through which investors could able to make a rational decision regarding their investment.

Sarbanes-Oxley had passed in 2002 by the US congress to protect the shareholders and public from fraudulent activities by organization and also disclosure of corporate governance methods.

1. **To analyze the background of corporate governance in India**

In corporate governance standards in India, certain committees’ recommendations have taken place i.e Securities Exchange Board of India (SEBI), Associated Chamber of Commerce and Industry (ACCI) and Confederation of Indian Industry (CII).

**Table 2: Phases of development of corporate governance in India**

|  |  |  |
| --- | --- | --- |
| **Name of Development** | **Year of Development** | **Rules and regulations** |
| Desirable Corporate Governance- A Code | 1998 | The first initiative had taken by CII towards the establishment and promotion of Corporate governance practices among companies (the private company also included). |
| Kumar Mangalam Birla Committee | 1999 | Extensive rules and regulations for corporate governance in Indian companies as well as in capital markets. Evolution of clause 49 of SEBI in listing agreements. |
| Task force on Corporate Excellence through Governance | 2000 | Corporate excellence along with the introduction of Corporate governance standard among Indian firms. |
| Naresh Chandra Committee | 2002 | Examining and amending corporate governance standards in India. Creation of law regarding auditor-client relationship and role of independent board of directors. |
| N.R. Narayan Murti Committee | 2003 | Assessing clause 49 of SEBI, complying by the Indian firms and its statistics. Revision of clause 49 for more effective and reliable standards, to protect investors. |
| Dr. J. J. Irani Committee on Company Law | 2004 | Condensing the regulation and introduction of flexibility in rules, to adopt international standards in Indian firms. Creation of shareholders relationship committee. |
| CII’s task force on Corporate Governance  | 2009 | For sustainable development of the business task force suggested adopting a triple bottom line approach. |
| NASSCOM Recommendations  | 2010 | The recommendation was issued for Corporate governance and ethics for the sake of shareholders by NASSCOM. |
| Policy documents on Corporate Governance | 2012 | Articulation of Form 17 of Corporate governance standards guiding principle of Corporate governance. |
| Companies Act | 2013 | Commencement of new Companies Act for the radical changes in Corporate Governance and involves key structures and roles, disclosures by the Indian firms. |
| SEBI (Listing Obligations and Disclosure Requirements) Regulations | 2015 | Commencement of LODR (Listing Obligations and Disclosure Requirements) under the new companies Act, 2013. |

**Source: Governance, Risk Management, compliances and ethics, ICSI**

1. **To highlight the comparison of corporate governance practices in India and USA**

 **Independent Board of Director’s Role:** Every listed company in India must appoint one third of the total directors as Independent directors according to New Companies Act, 2013. To ensure high quality corporate governance standards SEBI has declared for Independent directors as norms that there would be no nominee director, banning on stock options, compulsory performance assessment, exclusive meeting for independent directors, number of companies has curtailed to 7 and many more key aspects for independent directors.

To encourage the management answerability the structuring of the board and appointment of an independent directors is quite crucial for family owned listed companies. In USA the board members are Independent directors except for the Chief Executive Officer.

As per SEBI Listing Obligation Disclosure Requirement (LODR) Act, 2015 provides that Board of Directors shall have an optimum mix of Executive and Non Executive members and minimum one-women director and not less that fifty percent of the Board members should consist of non executive members; For top 500 companies should have one-women director (Independent) by 1st April, 2019 and for top 1000 companies should appoint women director by 1st April, 2020.

**Role of Audit Committee:** In an Audit committee, there should be an Independent chairman and the majority of the committee should be independent members along with a minimum one independent director should have auditing and accounting knowledge. As per regulation 18(2) (c) of SEBI Listing regulation, 2015 The Audit committee should have authority to assess any activity within its terms of reference, seek information from employee, and to obtain outside legal or professional guidance and secure attaindance of outsiders with relevant expertise, if it considers as requirement.

**Remuneration to Board members:** For directors and key personnel, there should be a remuneration committee and remuneration policy as per companies Act, 2013 of section 178. The companies Act, 2013 also recommends the composition and level of a remuneration committee. The US Security Exchange Commission announced that most public companies should disclose the remuneration paid to the personnel as the Dodd-Frank Act of section 953 (b), which had issued on 18th September, 2013.

As per regulation of 19 of SEBI (LODR) Regulation, 2015 the remuneration committee should comprise 3 members and they must be non-executive members, and two third of them should be Independent board members. The chairperson of remuneration committee should be Independent board members. They should conduct a meeting at least once in a year.

**Whistle-blower protection:** In an organizations, employees have to report to the management if they are getting any concerns regarding unethical practices or violating the principles of the company as per clause 49. There should be a system regarding reporting of critical concerns prescribed by the listed companies as per companies Act, 2013. The concept has been derived from US regulations. The listed companies should create a vigil system for directors and employees to report the issues under which they could have direct access to the chairman of the Audit committee in appropriate and exceptional cases and create and reveal whistle-blower policy.

**Protection of investors:** There is an important step had taken to safeguard investors’ benefit at large, if a group of shareholders or associations can take legal measures as prima facie in the occurrence of any fraudulent activity or going to occur as per companies Act, 2013. To protect investors, The Govt. of India has established a mechanism called Serious Fraud Investigating Office (SFIO).

**Conclusion**

The recent amendments in the companies Act and SEBI (LODR) regulation, 2015, corporate governance practices in Indian corporate entities for more investor’s protection have increased and reduce the disputes gradually. There is a high demand for requirement of strong corporate governance standards to create more transparency by company and increase corporate governance index of India. While comparing the corporate governance standards in USA, most of the countries will follow and it is based on principles rather than rules and regulations like India. The New companies Act, 2013 and SEBI (Listing Obligation Disclosure Requirement) regulation, 2015 help to increase corporate governance standards in India and most of the corporate entities will follow the regulations.

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