

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
LOK SABHA
UN-STARRED QUESTION NO. 4363
ANSWERED ON MONDAY, MARCH 22, 2021/ CHAITRA 1, 1943 (SAKA)
CORPORATE GOVERNANCE
QUESTION

4363: SHRI OMPRAKASH BHUPALSINH alias PAWAN RAJENIMBALKAR:
SHRI RAHUL RAMESH SHEWALE:
SHRI HEMANT SRIRAM PATIL:

Will the Minister of CORPORATE AFFAIRS
be pleased to state:

कारपोरेट कार्य मंत्री

- (a) whether the violation of corporate governance requirements as prescribed by the Companies Act, 2013 have come to the notice of the Government during each of the last three years and the current year;
- (b) if so, the details thereof and the reasons therefor along with the action taken against such companies so far, company-wise;
- (c) whether the cases of corporate scams/scandals have increased in the country during the said period;
- (d) if so, the details thereof and the reasons therefor along with the nexus unearthed between bureaucrats and corporate houses in such cases, company-wise; and
- (e) the steps taken/being taken by the Government to ensure strict compliance of corporate governance requirements and to protect minority stakeholders from ill-effects of poor corporate governance?

ANSWER

THE MINISTER OF STATE FOR
FINANCE AND CORPORATE AFFAIRS
वित्त एवं कारपोरेट मंत्रालय में राज्य मंत्री

(SHRI ANURAG SINGH THAKUR)
श्री अनुराग सिंह ठाकुर

(a) to (e): Ministry of Corporate Affairs (MCA) has ordered for investigation and assigned to Serious Fraud Investigation office (SFIO) and Regional Directors (RDs) in the cases where there are allegations of misuse of corporate structure/ fraud. The details of it are as under:

Financial year	No. of investigations assigned to SFIO	No. of investigations assigned to RDs
2017-18	22	52
2018-19	33	27
2019-20	26	33
2020-21(till 31.01.2021)	20	38

Securities and Exchange Board of India (SEBI) has informed that in order to ensure strict compliance of corporate governance requirements by listed entities and to protect the minority stakeholders from ill-effects of poor corporate governance, issued a circular no. SEBI/HO/CFD/CMD/CIR/P/2018/77 dated May 3, 2018 (revised on January 22, 2020) which empowered the stock exchanges to levy fines for various non-compliances including corporate governance requirements prescribed under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Non-payment of such fines can lead to freezing of promoter shareholding. If the non-compliance persists for two consecutive quarters, it can also lead to suspension and initiation of process of compulsory delisting of the non-compliant listed entities.

In addition to the above, SEBI is also empowered to initiate action under sections 11(4), 11B and 15I of the SEBI Act, 1992 against non-compliant entities and issue such directions as it deems fit.

The Companies Act, 2013 (Act) contains adequate provisions to promote good corporate governance and protect interest of investors including minority shareholders. The Act contains provisions on following important aspects relating to good corporate governance:-

(i) Greater accountability on companies provided including through appointment of Key Managerial Personnel (KMPs), role of audit committee(s), independent audit, stricter regulation of related party transactions and restriction on layers of companies.

(ii) Enhanced disclosures mandated including through board's report, financial statements as well as filings with Registrar of Companies to ensure that all relevant information is available to investors and regulatory agencies; disclosures in respect of significant beneficial ownership also provided;

(iii) Stricter regulation provided with regard to acceptance of deposits by companies.

(iv) Disciplined financial regulation through audit and oversight mechanism provided. More accountable role for auditors provided. Stringent provisions with regard to independence of auditors provided. Cost audit and secretariat audit provided for specified classes of companies. National Financial Reporting Authority established to oversee the quality of service of the Accounting and auditing profession and take action against misconduct in certain cases.

(v) More effective role for Board of Directors and Committees of Directors provided. The requirements of appointment of Independent directors and woman directors provided for prescribed classes of companies. Provisions for Vigil mechanism (whistle blowing) provided for prescribed classes of companies.

(vi) Stringent enforcement action through inspection, inquiry and investigation provided so that non compliances are taken seriously and necessary action taken. Serious Fraud Investigation Office recognized in the Companies Act, 2013 with adequate powers including powers to arrest. Term "Fraud" defined and stringent punishment provided thereto.

(vii) Auditors (including cost auditor and secretarial auditor) required to report fraud noticed by them to Central Government/audit committee/Board.

Provisions with regard to protection of interests of investors in the Companies Act, 2013 are briefly given below:

(i) Shareholders Associations/Group of Shareholders empowered to take legal action in case of actions relating to mis-statements in prospectus/fraudulently inducing persons to invest money in the company.

(ii) Protection of claim of an investor over unclaimed dividend etc. beyond the existing limit of 7 years. Such amounts can be claimed through Investor Education and Protection Fund (IEPF) even after 7 years.

(iii) IEPF account to be utilized for refund of unclaimed dividends; application monies due for refund; and promotion of investors' education, awareness etc. IEPF accounts also to be utilized for re-distribution of disgorged amount to identifiable victims.

(iv) In case of listed companies, small shareholders (i.e. shareholders holding shares of nominal value of Rs. 20,000 or less) empowered to elect a director in accordance with prescribed rules.

(v) Provisions for prevention of oppression and mismanagement along with action against persons engaged in fraudulent activities retained in the Act.

(vi) 'Class Action' provided for preventive action through orders from Tribunal. Requisite number of members and depositors may approach Tribunal for this purpose.

(vii) Requirement for offer for sale of shares (exit option) to be given to minority shareholders in case of acquisition of 90% or more shares by any other company or group of persons or persons acting in concert.

(viii) The scope of postal ballot (including electronic voting) widened. Certain important matters as stated below are required to be conducted through postal/ electronic voting:

(A) Alteration of Memorandum of Association /Articles of Association in certain cases;

(B) Change of registered office address;

(C) Change in objects for which company raised money from public as provided in section 13 (8);

(D) Issue of shares with differential rights;

(E) Giving of loans and investment exceeding 60% of company's paid-up share capital, free reserves and securities premium account or 100% of company's free reserves and securities premium account, whichever is more.

Information about any nexus unearthed between bureaucrats and corporate houses is not available.