

Corporate Governance Philosophy of Indian Automobile Sector: A Case Study of Tata Motors Ltd.

*Dr. M. R. Bansal

Abstract

Corporate Governance is a system which helps in directing and controlling the companies by the management in the best interest of the stakeholders and other related parties. This has become more important in today's globalized business world where corporations need to access global pools of capital and need to live in harmony with the community. The objectives of the paper are to review the disclosure requirements under the listing agreement, to provide input to ICAI and to review existing Indian accounting standards on par with international practices. The paper is limited to a review of procedures and implementation thereof, adopted by the company for ensuring the compliance of the conditions of Corporate Governance. This study is neither an audit nor an expression of opinion on the financial statements of the company.

Keywords: ICAI, Corporate Governance, TATA Motar, Global Business, Stakeholder.

Introduction

Corporate Governance essentially is the system by which companies are directed and controlled by the management in the best interest of the stakeholders and others. Corporate Governance ensures fairness, transparency and integrity of the management. Corporate Governance is a way of life, rather than a mere legal compulsion. It further inspires and strengthens investor's confidence and commitment to the Company. A corporation is a congregation of various stakeholders, namely, customers, employees, investors, vendor partners, government and society. A corporation should be fair and transparent to its stakeholders in all its transactions. This has become imperative in today's globalized business world where corporations need to access global pools of capital, need to attract and retain the best human capital from various parts of the world, need to partner with vendors on mega collaborations and need to live in harmony with the community. Unless a corporation embraces and demonstrates ethical conduct, it will not be able to succeed. Corporate governance is a key element in improving the economic efficiency of a firm. Further, it ensures that their Boards are accountable to the shareholders. This, in turn, helps to assure that corporations operate for the benefit of society as a whole. Often, increased attention on corporate governance is a result of financial crisis. For instance, the Asian financial crisis brought the subject of corporate governance to the surface in Asia. The many instances of corporate misdemeanors have also shifted the emphasis on compliance with substance, rather than form, and brought to sharper focus the need for intellectual honesty and integrity. This is because financial and non-financial disclosures made by any firm are only as good and honest as the people behind them. By this very principle, only those industrialists whose corporations are governed properly should be allowed to be a part of committees. This includes the Prime Minister and Finance Minister's advisory councils, committees set up by the Confederation of Indian Industry ("CII"), the Securities and Exchange Board of India ("SEBI"), the Department of Company Affairs, ministries, and the boards of large banks

and financial institutions. Corporate governance initiatives in India began in 1998 with the Desirable Code of Corporate Governance – a voluntary code published by the CII, and the first formal regulatory framework for listed companies specifically for corporate governance, established by the SEBI. The latter was made in February 2000, following the recommendations of the Kumarmangalam Birla Committee Report.

The Kumarmangalam Birla Committee on Corporate Governance

Financial disclosure is a critical component of effective corporate governance. SEBI set up an Accounting Standards Committee, as a Standing Committee, under the chairmanship of Shri Y. H. Malegam with the following objectives

- To review the continuous disclosure requirements under the listing agreement for listed companies;
- To provide input to the Institute of Chartered Accountants of India ("ICAI") for introducing new accounting standards in India; and
- To review existing Indian accounting standards, where required and to harmonize these accounting standards and financial disclosures on par with international practices.

Implementation of Corporate Governance Requirements:

The Recommendations were implemented through Clause 49 of the Listing Agreements, in a phased manner by SEBI.

□ They were made applicable to all companies in the BSE 200 and S&P C&X Nifty indices, and all newly listed companies, as on March 31, 2001.

□ The applicability of the Recommendations was extended to companies with a paid up capital of Rs. 100 million or with a net worth of Rs. 250 million at any time in the past five years, as on March 31, 2002.

□ In respect of other listed companies with a paid up capital of over Rs. 30 million, the requirements were made applicable as on March 31, 2003.

□ The accounting standards issued by the ICAI, which are applicable to all companies under sub-section 3A of Section 211 of the Companies Act, 1956, were specifically made

*Associate Professor, Bhagwan Parshu Ram College, Kurukshetra

applicable to all listed companies for the financial year ended March 31, 2002, under the Listing Agreements.

Compliance with the Code and SEBI's Experience

SEBI's Circular No. SMD/Policy/CIR-03/2001 dated January 22, 2001; all companies are required to submit a quarterly compliance report to the stock exchanges within 15 days from the end of a financial reporting quarter. The report has to be submitted either by the Compliance Officer or by the Chief Executive Officer of the company after obtaining due approvals. SEBI has prescribed a format in which the information shall be obtained by the Stock Exchanges from the companies. The companies have to submit compliance status on eight sub-clauses namely:

1. Board of Directors;
2. Audit Committee;
3. Shareholders / Investors Grievance Committee;
4. Remuneration of Directors;
5. Board Procedures;
6. Management;
7. Shareholders; and
8. Report on Corporate Governance.

Stock exchanges are required to set up a separate monitoring cell with identified personnel, to monitor and compliance with the provisions of the Recommendations. Stock exchanges are also required to submit a quarterly compliance report from the companies as per the Schedule of Implementation. The stock exchanges are required to submit a consolidated compliance report within 30 days of the end of the quarter to SEBI.

Corporate Governance: A Case of Tata Motors

Tata's principal purpose is to improve the quality of life of the communities it serves. The values and ideals, the way that it functions, help it do that. As a Tata Company, the Company's philosophy on Corporate Governance is founded upon a rich legacy of fair, ethical and transparent governance practices, many of which were in place even before they were mandated by adopting highest standards of professionalism, honesty, integrity and ethical behavior. As a global organization, the Corporate Governance practices followed by the Company and its subsidiaries are compatible with international standards and best practices. Through the Governance mechanism in the Company, the Board along with its Committees undertakes its fiduciary responsibilities to all its stakeholders by ensuring transparency, fair play and independence in its decision making.

The Corporate Governance philosophy is further strengthened with the adherence to the Tata Business Excellence Model as a means to drive excellence, the Balanced Scorecard methodology for tracking progress on long term strategic objectives and the Tata Code of Conduct which articulates the values, ethics and business principle sand serves as the ethical road map for the Company, its directors and employees supplemented with an appropriate mechanism to report any concern pertaining to non-adherence to the said Code. The

Company is in full compliance with the requirements of Corporate Governance under Clause 49 of the Listing Agreement with the Indian Stock Exchanges ("the Listing Agreement"). The Company's Depository Programme is listed on the New York Stock Exchange and the Company also complies with US regulations as applicable to Foreign Private Issuers (non-US listed companies) which cast upon the Board of Directors & the Audit Committee, onerous responsibilities to improve the Company's operating efficiencies. Risk management and internal control processes focus areas continue to meet the progressive governance standards.

Board of Directors

The Board of Directors along with its Committees provides leadership and guidance to the Company's management and directs, supervises and controls the performance of the Company. The Board currently comprises of twelve Directors out of which nine Directors (75%) are Non Executive Directors. The Company has a Non Executive Chairman and the six Independent Directors comprise at least one half of the total strength of the Board. All the Independent Directors have confirmed that they meet the 'independence' criteria as mentioned under Clause 49 of the Listing Agreement.

None of the Directors on the Company's Board is a Member of more than ten Committees and Chairman of more than five Committees (Committees being, Audit Committee and Investors' Grievance Committee) across all the Indian Public limited companies in which he is a Director. All the Directors have made necessary disclosures regarding Committee positions held by them in other companies and do not hold the office of Director in more than fifteen public companies. None of the Directors of the Company are related to each other. All Non - Executive Directors, excluding the 'Steel Director' (Tata Steel representative), are liable to retire by rotation. The appointment of the Managing Director and Executive Directors including the tenure and terms of remuneration are also approved by the members at the first meeting after their appointment.

The Committees of The Board

The Board has constituted a set of Committees with specific terms of reference/scope to focus effectively on the issues and ensure expedient resolution of diverse matters. The Committees operate as empowered agents of the Board as per their Charter/terms of reference. Targets set by them as agreed with the management are reviewed periodically and mid-course corrections are also carried out. The Board of Directors and the Committees also take decisions by circular resolutions which are noted at the next meeting. The minutes of meetings of all Committees of the Board are placed before the Board for discussions/noting.

Audit Committee

During the year under review, the Committee comprised of four independent Directors, all of whom are financially literate and have relevant finance and/or audit exposure. Mr S M Palia,

who was the Financial Expert, stepped down as Director w.e.f. April 25, 2013. Mr Munjee has been appointed as the Financial Expert in his place. The quorum of the Committee is two members or one-third of its members, whichever is higher. The Chairman of the Audit Committee also attended the last Annual General Meeting of the Company. During the year under review, nine Audit Committee meetings were held on April 18, 2012, May 26, 2012, July 17, 2012, August 7, 2012, September 7, 2012, November 5, 2012, December 1, 2012, January 16/17, 2013 and February 13, 2013.

Table-1 : The composition of the Audit Committee and attendance at its meetings

Composition	Meetings attended
N Munjee (Chairman)	9
S M Palia*	7
R A Mashelkar	8
V K Jairath	9
Falguni Nayar**	NA

*Ceased to be member w.e.f. April 25, 2013

**Appointed as member w.e.f. May 29, 2013

Remuneration Committee

The Remuneration Committee is empowered to review the remuneration of the Managing Director, Executive Directors of the Company and the CEOs of certain significant subsidiary companies, retirement benefits to be paid to them under the Retirement Benefit Guidelines approved by the Board, recommending the amount and distribution of commission to the non Executive Directors based on criteria fixed by the Board and to deal with matters pertaining to Employees' Stock Option Scheme, if any. The Remuneration Committee comprises two Independent Directors (including the Chairman of the Committee) and two non Executive Directors. During the year under review, a meeting of the Committee was held on May 29, 2012. The decisions are taken by the Committee at meetings or by passing circular resolutions.

Table-2 : The composition of the Remuneration Committee and attendance at its meeting is as follows:

Composition	Meetings attended
N N Wadia (Chairman)	1
Ratan N Tata	1
Cyrus P Mistry	–
S Bhargava	1
Ravi Kant	1

The Directors' remuneration and sitting fees paid/payable by the Company in respect of the Financial Year 2012-13, are given below:

Table-3 : Non Executive Directors (Rs. in Lakh)

Name	Commission	Sitting Fees
Ratan N Tata	133	2.40
Cyrus P Mistry	–	2.00
Ravi Kant	67	3.30
N N Wadia	25	2.60
S M Palia	60	4.10
R A Mashelkar	20	3.20
N Munjee	45	4.00
S Bhargava	25	2.80
V K Jairath	20	3.80
R Sen	5	1.00
R Speth	–	–
Falguni Nayar	–	–

Table-4 : The Remuneration paid to the Managing Director and Executive Directors in FY 2012-13

(Rs. in Lakh)

Name	P M Telang	Karl Slym	R Pishar- ody	S B Bor- wankar
Salary	18.23	65.95	42.00	33.13
Perquisites & Allowances	82.16	628.20	40.25	47.02
Commission/Bonus	56.00	394.80	160.00	85.00
Retirement Benefits	4.92	7.91	11.34	8.95

Table-5 : Shareholding Pattern as on March 31, 2013

Month	Ordinary Shares					'A' Ordinary Shares				
	As on March 31, 2013		As on March 31, 2012		Variance 13 v/s 12 %	As on March 31, 2013		As on March 31, 2012		Variance 13 v/s 12 %
	No. of shares	%	No. of shares	%		No. of shares	%	No. of shares	%	
Promoters and Promoter Group#	*94,00,56,205	34.72	*93,70,56,205	34.82	(0.10)	42,53,587	0.88	1,86,00,448	3.86	(2.98)
Mutual Funds and Unit Trust of India	3,44,99,261	1.27	4,43,55,749	1.65	(0.37)	16,91,52,392	35.09	18,25,45,509	37.88	(2.78)
Government Companies, Financial Institutions, Banks and Insurance Cos.	25,57,56,154	9.44	31,55,05,382	11.72	(2.28)	2,88,936	0.06	4,48,83,879	9.31	
Foreign Institutional Investors	76,21,92,951	28.14	74,37,65,001	27.63	0.51	23,69,15,544	49.16	18,83,23,828	39.08	10.08
NRIs, Foreign Companies and ADRs/ GDRs	51,56,34,863	19.04	45,48,27,555	16.90	2.14	21,97,642	0.46	29,20,334	0.60	(0.14)
Others	20,00,16,717	7.39	19,61,03,563	7.28	0.10	691,51,519	14.35	4,46,59,117	9.27	5.08
Total	2,70,81,56,151	100	2,69,16,13,455	100		48,19,59,620	100	48,19,33,115	100	

* Out of the Promoter holding, 7,10,00,000 shares of face value of Rs.2/- each, aggregating 2.62% of the paid-up capital were pledged.

#TATA AIA LIFE INSURANCE COMPANY LIMITED (TALIC) does not act in concert with Tata Sons Limited or any of its group companies for acquisition of shares, voting rights

or control over the Company. However TALIC held 56,57,335 Ordinary Shares representing 0.21% of the paid up Ordinary Share Capital. Accordingly, their holding is included under Public Shareholding under the head "Institutions"-Insurance Companies

**Table-6 : Distribution of Shareholding as on March 31, 2013
Ordinary Shares**

Range of Shares	No. of Shares				No. of Shareholders			
	No. of Shares	Physical form (%)	Demat form (%)	% of Capital	No. of Holders	Physical form (%)	Demat form (%)	% of Capital
1 - 500	3,93,64,926	0.24	1.21	1.45	3,39,058	9.78	72.73	82.51
501 - 1000	2,22,64,794	0.19	0.63	0.82	29,575	1.72	5.48	7.20
1001 - 2000	2,98,27,218	0.24	0.86	1.10	20,524	1.12	3.87	4.99
2001 - 5000	4,59,59,018	0.31	1.39	1.70	14,824	0.68	2.93	3.61
5001 - 10000	2,71,93,852	0.15	0.86	1.01	3,896	0.14	0.81	0.95
Above 10000	2,54,35,46,343	0.31	93.61	93.92	3,049	0.07	0.67	0.74
Total	2,70,81,56,151	1.44	98.56	100.00	4,10,926	13.51	86.49	100.00

Table-7 : 'A' Ordinary Shares

Range of Shares	No. of Shares				No. of Shareholders			
	No. of Shares	Physical form (%)	Demat form (%)	% of Capital	No. of Holders	Physical form (%)	Demat form (%)	% of Capital
1 – 500	52,62,576	0.03	1.06	1.09	37,603	2.29	77.67	79.96
501 – 1000	30,51,881	0.01	0.62	0.63	3,938	0.15	8.22	8.37
1001 – 2000	30,87,886	0.01	0.63	0.64	2,068	0.05	4.35	4.40
2001 – 5000	60,53,454	0.01	1.25	1.26	1,859	0.02	3.93	3.95
5001 – 10000	49,43,208	0.00	1.02	1.02	673	0.00	1.43	1.43
Above 10000	45,95,60,615	0.00	95.36	95.36	887	0.00	1.89	1.89
Total	48,19,59,620	0.06	99.94	100.00	47,028	2.51	97.49	100.00

Top Shareholders (holding in excess of 1% of capital) as on March 31, 2013

Table-8 : Ordinary Shares

Name of Shareholder	No. of Shares held	% to Paid-up capital
Tata Sons Limited	70,23,33,345	25.93
Citibank N.A. New York, NYADR department	49,80,41,255	18.39
Tata Steel Limited	14,78,10,695	5.46
Life Insurance Corporation of India	11,58,25,841	4.28
Euro Pacific Growth Fund	8,39,11,630	3.10
Tata Industries Limited	6,84,36,485	2.53

Table-9 : 'A' Ordinary Shares

Name of Shareholder	No. of Shares held	% to Paid-up capital
HDFC Trustee Company Limited –HDFC Top 200 Fund	2,93,87,761	6.10
HSBC Global Investment Funds A/C HSBC Global Investment Funds Mauritius Limited	2,87,89,306	5.97
HDFC Trustee Company Limited- HDFC Equity Fund	2,58,78,932	5.37
Matthews Asia Dividend Fund	1,94,10,000	4.03
Swiss Finance Corporation (Mauritius) Limited	1,51,65,244	3.15
East Spring Investments India Equity Open Limited	1,21,09,359	2.51
Government Pension Fund Global	1,19,23,281	2.47
DSP Blackrock Top 100 Equity Fund	1,13,34,005	2.35
Government Of Singapore	1,03,63,096	2.15
HDFC Trustee Company Limited – HDFC Prudence Fund	98,46,027	2.04
SBI Magnum Tax Gain Scheme – 1993	84,00,000	1.74
Reliance Life Insurance Company Limited	77,56,978	1.61
The Master Trust Bank of Japan, Ltd. A/c HSBC Indian Equity Mother Fund	74,38,909	1.54
HSBC Global Investment Funds A/C HSBC Global Investment Funds BRIC Equity	73,76,534	1.53
ICICI Prudential Focused Bluechip Equity Fund	73,45,749	1.52
Birla Sun Life Insurance Company Limited	72,68,868	1.51
HDFC Trustee Company Limited – HDFC Tax Saver Fund	66,85,418	1.39
Dragon Peacock Investments Limited	64,60,573	1.34
The Royal Bank Of Scotland Asia Merchant Bank (Singapore) Limited	63,40,959	1.32
DSP Blackrock Equity Fund	59,40,623	1.23
Robeco Capital Growth Funds	57,20,000	1.19
Franklin Templeton Mutual Fund A/C Franklin India Bluechip Fund	50,00,000	1.04

Dematerialisation of Shares:**Table-10 :The electronic holding of the shares as on March 31, 2013 through NSDL and CDSL**

Particulars	Ordinary Shares (%)		'A' Ordinary Shares (%)	
	2013	2012	2013	2012
NSDL	97.45	97.28	97.78	96.59
CDSL	1.11	1.17	2.16	3.35
Total	98.56	98.22	99.94	99.94

Outstanding Securities

Outstanding Depository Receipts/Warrants or Convertible instruments, conversion date and likely impact on equity as on March 31, 2013

ADRs/GDRs

There are two separate programs for the Company's Depository Receipts. Each Depository Receipt represents 5 underlying Ordinary Shares of Rs.2/- each post subdivision of face value in September, 2011. The American Depository Shares (ADSs) through the conversion of its International Global Depository Shares into American Depository Shares (ADSs) are listed on the New York Stock Exchange (NYSE) since September, 27, 2004. 99,604,051 ADSs were outstanding as on the year end. The Global Depository Shares (GDSs) issued in October 2009 are listed on the Luxembourg Stock Exchange and the GDSs were also traded on IOB platform of the London Stock Exchange. 9,972 GDSs were outstanding as on the year end. In view of the very few GDSs outstanding and as there was no trading the Company had deregistered the GDSs from the said IOB trading platform w.e.f. May 23, 2013

Conclusion

The Company offers foreign investors a limited facility for conversion of Ordinary Shares into American Depository Receipts/ Global Depository Receipts within the limits permissible for two way Fungibility, as announced by the Reserve Bank of India vide its operative guidelines for the limited two way fungibility under the "Issue of Foreign Currency Convertible Bond and Ordinary Shares (through Depository Receipt Mechanism) Scheme, 1993", circular dated February 13, 2002.

The compliance of the conditions of Corporate Governance is the responsibility of the management. Our examination was limited to a review of procedures and implementation thereof, adopted by the company for ensuring the compliance of the conditions of Corporate Governance. It is neither an audit nor an expression of opinion on the financial statements of the company. Stated that such compliance is neither an assurance as to the future viability of the company nor of the efficiency or effectiveness with which the management has conducted the affairs of the company.

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