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Market Watch

Sebi's cut-off for separate Chairman and MD is here. Are family-run businesses ready?

BY [LIJEE PHILIP](#) & [KALA VIJAYARAGHAVAN](#), ET BUREAU | DEC 26, 2019, 07:58 AM IST

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As the year draws to a close, a contentious issue that has picked up volume in several corporate boardrooms is the regulatory imprimatur that seeks separation of power at the top.

To ensure enhanced [corporate governance](#) practices, market regulator Securities and Exchange Board of India ([Sebi](#)) has mandated a clear separation in the roles of chairperson and managing director. The additional provisos also say that the chairperson should be a non-executive director and not related to the [managing director](#) or the [CEO](#).

The new provision will come to force on April 1, 2020, and is based on the recommendations made by the Kotak Committee.

In most Indian promoter-led companies, the posts of chairman and managing director are interwoven. [Promoters](#) say the committee did not recommend that the two posts should not be related and hope the order gets deferred by 2-3 years.

The rule, which applies to top-500 Indian companies by market capitalisation, mandates that the posts do not overlap and are demarcated from one another. Nseinfobase.com (run by Prime Database) numbers show that currently, of the top 500 companies, the chairperson and MD/CEO are the same individual in 162 entities. In 52 companies, the chairperson and managing director/CEO are related.

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Venu Srinivasan, chairman of TVS Motor, says the benchmarking is not correct. "The rule is not fair. Family-owned businesses cannot always be targeted. We should either follow the provisions of the Company Law Board or the Sebi ruling. Sebi cannot issue its own guidelines. Globally, promoters have very little stake in the company," he says.

Corporate top bosses feel that despite the proactive measures taken by promoters, the Sebi notification is a let-down.

In many promoter-led companies, families have reduced their individual stakes and moved the shareholdings to trusts, thereby encouraging more entities to be part of the company's shareholding structure. Godrej Industries is a recent example. The Godrej family has transferred part of its ownership in the company to trusts, a move which is likely to simplify succession planning.

Anand Mahindra of Mahindra and Mahindra and G Mallikarjuna Rao of GMR Infrastructure are among other prominent names who have moved their shareholding to family trusts.

Many promoters ET spoke to were reticent to come on record.

A top Mumbai-based industrialist says businesses are run on guts, instinct, and entrepreneurship. "Some of the best businesses build in the country have been promoter-led. Too much process-thinking and bureaucracy ruin it. But yes, ethics too must be part of the DNA while doing business," he says.

The Confederation of Indian Industry (CII) has also written to the Centre highlighting the fact that the Companies Act 2013 had left it to the shareholders to decide on this issue and it shouldn't be in the form of a diktat.

CII president Vikram Kirloskar says the board of a company is best placed to determine the need for a separate or combined chairman and managing director/CEO role keeping in mind the nature of the company, its business segments, competition profile, and other related matters. "It is important that Indian entrepreneurs are not placed at a disadvantage [position] by imposing such requirements," he says.

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RPG group chairman Harsh Goenka says the suggestion that chairman and managing director should not be related is a bad idea. "I don't see merit in it. It's the prerogative of the board to decide on the chairman and managing director. In fact, promoters are more invested, look for long-term growth, and work towards the good of the company," he says.

Debate over balance of power

Experts feel the primary reason behind the Sebi directive could be to get more professionals into the corporate framework rather than let families run the entire show. It will also encourage a sense of professionalism within the working of a company.

Today, many family-run businesses are facing succession and ownership challenges. At a global level, most European countries and the US do not encourage this kind of a separation of roles. In the UK, the markets give a thumbs-down to this practice.

"Why shouldn't Mukesh Ambani be CMD of Reliance? He is a great managing director and has managed to lead the board and create great value," says Goenka. "But I think separation of CMD roles is a good idea," he adds.

However, Sebi chairman Ajay Tyagi says the regulations were notified in May 2018 to be made applicable from April 2020 and sufficient time has been given to implement the same. "Extending [the deadline] will only mean that corporates don't want to do it," he told ET on the sidelines of a board meeting held few weeks ago.

"The idea was to make people understand and plan for it. If the role of the chairman and that of management are separated, there can be a balance in power, responsibilities, and decision-making. Of the top 500 companies, I believe two-thirds are already meeting the requirement," he said.

Srinivasan of TVS says regulations should be strict, but easy to follow. "To benchmark, why do we need to look at declining economies? Instead, compare it to developing or emerging markets," he says.

The way forward

Amit Tandon, founder of corporate-governance and proxy-advisory firm liAS, says there is no evidence that companies, where the role of the chairman is separated from that of the CEO, do better. But the reason to separate the two posts is that the roles of the chairman and CEO are different. "The chairman sets the agenda for the board meeting, questions the robustness of the business strategy and its assumptions. The CEO sets the strategy and executes it."

Separating the roles requires months of planning. Plan A is to ask for Sebi's decision to be kept in abeyance. Should the regulator not agree to postpone the decision, businesses need to have a plan B, says Tandon.

"The roles of chairman and managing director should be not related as, historically, the promoter families have behaved as 100 per cent owners of cash flows, though they owned only part-shareholding in the listed company. That's where issues of related-party transactions come in. Sebi is ensuring that the minority shareholders' interests are taken care of," says Shriram Subramanian, founder of InGovern Research, a proxy-advisory firm.

Public confidence in professionals is lower than the family members in most promoter-led companies. The role of the family and the patriarch is very significant, which is borne out by the fact that most family businesses have been generating higher growth than their non-family peers. In addition, the younger generation is trained from a very early age to take on the reins of the company in due course of time.

"For listed companies, Sebi can mandate additional regulations, which may not be a part of the Companies Act," says Pranav Haldea, managing director of Prime Database.

According to him, the real test shall be in its implementation and whether it is followed only in letter or in spirit.

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Top 10 Compliant Companies

Company	Mid cap (₹ Lakh Crore)	Chairperson	Position on board	MD/CEO	Re- lated CEO
TCS	7.9	N Chandrasekharan	–	Rajesh Gopinathan	YES
HDFC BANK	6.8	Shyamala Gopinath	C, NED	Aditya Puri	–
HDFC	4	Deepak Parekh	PC, NED	Renu Sud Karnad	–
ICICI BANK	3.4	GC Chaturvedi	C, NED	Sandeep Bakshi	YES
Kotak Mahin- dra Bank	3.1	Prakash Apte	PC, NED	Uday Suresh Kotak	–
Infosys	3	Nandan Nilekani	C, NED, PD	Saill Parekh	YES
Bajaj Finance	2.4	Rahul Bajaj	C, NED, PD	Rajeev Jain	–
Maruti Suzuki	2.1	RC Bhargava	C, NED	Kenichi Ayukawa	–
Axis Bank	2	Rakesh Mahija	PC, NED	Amitabh Chaudhry	–
L&T	1.8	AM Nalk	C, NED	SN Subrahmanyam	YES

List includes companies which presently do not have a chairperson or a managing director/CEO. The chairperson and MD/CEO of these companies are not related.

Top 15 non-compliant Companies

Company	Mid Cap (₹ Lakh Crore)	Chairperson	MD/CEO	Related CEO
RIL	9.8	Mukesh Ambani	–	YES
HUL	4.4	Sanjiv Mehta	–	YES
ITC	3	Sanjiv Puri	–	YES
SBI	3	Rajnish Kumar	Parveen Kumar Gupta	–
Bharti Airtel	2.3	Sunil Bharti Mittal	Gopal Vittal	–
ONGC	1.6	Shashi Ahanker	–	YES
Bajaj Finserv	1.4	Rahul Bajaj	Sanjiv Bajaj	–
Wipro	1.4	Rishad Premji	A Z Neemuchwala	–
Coal India	1.3	Anil Kumar Jha	–	YES
IOC	1.2	Sanjiv Singh	–	–
NTPC	1.1	Gurdeep Singh	–	YES
BPCL	1	D Rajkumar	–	YES
Power Grid	0.97	K Srikant	–	YES
Bajaj Auto	0.93	Rahul Bajaj	Rahul Bajaj	–
Adani Ports	0.76	Gautam Adani	Karan Adani	YES

C- Chairperson; MD- Managing Director; ED- Executive director; D- Director (Others)

PC- Part-time Chairperson; NED- Non-executive Director; PD- Promotor-Director

Companies out of Top 500 NSE-listed companies by market cap as on March 31, 2019