

***Companies Act 2013***  
Setting new standards for  
Corporate Governance in India



## Are you ready for the new regime?

*The Companies Act 2013 envisages radical changes in the area of Corporate Governance and is set to have far-reaching implications. The new regime is expected to significantly change the manner in which corporates operate in India.*

### Where we are

Currently, the Companies Act, 1956 (1956 Act) and 2013 Act co-exist. The Companies Act 2013 is expected to be fully notified soon along with the issuance of all related Rules and Forms.

#### Companies Act, 2013: A statistical snapshot

Number of schedules	7
Number of chapters	29
Number of times the phrase 'as may be prescribed' is used	346
Number of sections	470

#### Severe consequences for non compliance

*While the bar for corporate governance has been raised, the penal consequences have been exponentially increased with a large number of sections reserving provisions for the prosecution of directors, officers in default and key managerial personnel.*

#### Stricter regime even for unlisted public companies and private companies

*There is a clear shift towards closely monitoring unlisted public companies and large private companies with enhanced compliance requirements encompassing disclosures, transparency and governance procedures.*



## Key areas of impact

While there are changes across the board, the key impact areas in the area of corporate governance include the following:

1. Board structure and responsibility
2. Disclosures and reporting
3. Risk, controls and compliances
4. Secretarial compliances
5. Related party transactions (RPT), loans and investments
6. Audit and auditors
7. Corporate social responsibility

### Board structure and responsibility

- Enhanced responsibility for the board and its committees
  - Specified unlisted co's. to have independent directors (ID); mandatory code for IDs
  - Mandatory woman director for certain co's.
  - Mandatory key managerial personnel (KMP) – CEO/MD/ WTD, CFO and CS
  - Performance evaluation of board and individual members
- Does your current board structure, its role and responsibilities and current board skills address the new governance expectations?

### Disclosures and reporting

- Enhanced disclosures and assertions in Directors' Report – risk management, internal control for financial reporting, legal compliance, RPT, CSR, etc.
  - Compulsory consolidation of accounts; summary statements of associates / JVs / subsidiaries
  - Disclosures of shareholding pattern
  - Disclosures for public money lying unutilised
- Is your management information system and documentation robust and ready for enhanced disclosures?
  - Do you foresee chances of delays in reporting and disclosures?

### Risk, controls and compliance

- Boards now obligated to report on the following:
    - Development and implementation of risk management policy
    - Systems to ensure compliance to all applicable laws and their operating effectiveness
    - Internal financial controls and their operating effectiveness (for listed companies)
- Does your company have robust risk, controls and compliance management processes and systems to enable adequate disclosures?

### A holistic view of the regulatory changes

- At PwC, multiple competencies comprising corporate lawyers, governance specialists, company secretaries, risk and control experts, social and sustainability experts have come together to help our clients transition smoothly to the new regime.
- Our endeavour is to enable our clients with not only the best practices but also embark upon the next practices in the area of corporate governance.
- We leverage on the breadth and depth of experience gained by working with leading companies across industries in the area of corporate governance.



## Secretarial compliances

- Stricter yet forward-looking procedural requirements for board proceedings:
  - Minimum 7 days notice, board meetings permitted through electronic mode
  - Presence of at least one ID must for board meeting at shorter notice
  - Gap between two meetings < 120 days
  - ICSI Secretarial Standards mandatory
- Are your current secretarial procedures and practices in accordance with new requirements?

## RPT, loans and investments

- Scope of RPT significantly enhanced; concept of arm's length pricing introduced
- Central government approval not required, however, heavy penalties for non compliance
- RPT disclosure in Directors' Report along with justifications
- Stricter requirements for loans and investments including private companies
- Have you set up a process for identifying and monitoring related party transactions?
- Does the business understand the new requirements relating to loans and investments?

## Audit and auditors

- Enhanced restrictions on appointment and rotation of auditors
- Statutory auditors prohibited from providing certain services
- Enhanced powers and role of auditors
- Mandatory internal audit and secretarial audit for prescribed class of companies
- Auditors to report on internal financial controls and their operating effectiveness
- Are your records and systems adequate and ready for a review by auditors in the new regime?
- Are you ready for a mandatory internal audit and a statutory secretarial audit?

## Corporate social responsibility

- Prescribed class of companies to:
  - Form a CSR committee with atleast one ID
  - Form and approve a CSR policy
  - Endeavour to spend atleast 2% of net profits
  - Directors to explain inability to spend in the directors' report
- Is your CSR roadmap clearly laid out to address new regulatory expectations relating to CSR?

# How can we help !

#1

Diagnose and identify key exposure areas and help develop an implementation roadmap

#2

Set up a team of SMEs and corporate law experts that will project manage and help you transition to the new regime across corporate and group companies

#3

Realign existing policies and procedures (in areas like secretarial compliance, board reporting, related party transactions, board evaluation, etc.) to meet enhanced governance requirements

#4

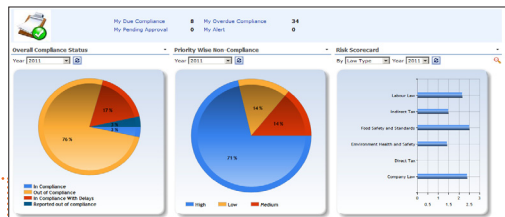
Design and implement risk management, internal control and statutory compliance frameworks and also help automate monitoring and reporting

#5

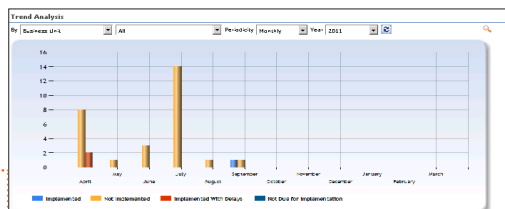
Provide expert inputs and benchmarking support to help define your policies, procedures and systems in areas like CSR

## Enabling governance through Automation

Smart Compliance Tool



Control Self Assessment Tool



Smart Audit Tool

**Risk Analysis**

Department	Risk	High	Medium	Low
Customer Service Delivery	Customer Service Delivery	0	0	0
Finance	Finance	0	0	0
	Patron Management Review	0	0	0
	Review of Payroll Process	0	0	0
	Impairment	0	0	0
Health and Accounts	Health and Accounts	0	0	0
	Health and Accounts	0	0	0

*To know more about our services, please contact*

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