



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

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Governance, Risk Management,
Compliances and Ethics

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from May 2023 to May 2024)

MODULE 1

PAPER 1

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Lesson 1

Conceptual Framework of Corporate Governance

Years	Global Developments	Brief on Global Development Initiatives
2023	OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023 Edition)	<p>The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct are recommendations addressed by governments to multinational enterprises. They aim to encourage positive contributions enterprises can make to economic, environmental and social progress, and to minimise adverse impacts on matters covered by the Guidelines that may be associated with an enterprise’s operations, products and services.</p> <p>The Guidelines cover all key areas of business responsibility, including human rights, labour rights, environment, bribery, consumer interests, disclosure, science and technology, competition, and taxation. The 2023 edition of the Guidelines provides updated recommendations for responsible business conduct across key areas, such as climate change, biodiversity, technology, business integrity and supply chain due diligence, as well as updated implementation procedures for the National Contact Points for Responsible Business Conduct.</p>
	G20/OECD Principles of Corporate Governance	<p>The G20/OECD Principles of Corporate Governance are the international standard for corporate governance. The Principles help policy makers evaluate and improve the legal, regulatory and institutional framework for corporate governance, with a view to supporting economic efficiency, sustainable growth and financial stability.</p> <p>The Principles were revised in 2023 to reflect recent evolutions in capital markets and corporate governance policies and practices. They offer new and updated recommendations on shareholder rights, the role of institutional investors, corporate disclosure and reporting, the responsibilities of boards, and, for the first time, on sustainability and resilience to help companies manage climate-related and other sustainability risks and opportunities. The Principles were first issued in 1999 and the revised Principles were endorsed by G20 Leaders in 2023.</p>

Corporate Sustainability Reporting Directive (CSRD)

About CSRD

- i) Launched in 5 Jan, 2023.
- ii) It modernises and strengthens the rules concerning the social and environmental information that companies have to report.
- iii) Companies subject to the CSRD will have to report according to European Sustainability Reporting Standards (ESRS).

1. Reasons for adoption of CSRD

- The EU (European Union) believes that consumers and investors deserve to know the sustainability impact of businesses, and the CSRD was created because the existing legislation wasn't cutting it.

Before the CSRD, the Non-Financial Reporting Directive (NFRD) established the reporting principles for large companies. However, the European Commission discovered that the information reported by companies was insufficient.

2. Application of CSRD

- The CSRD more than quadruples the number of companies required to report on sustainability, from the 11,000 covered by the NFRD (The NFRD applies only to so-called "public-interest entities", such as listed companies, banks, or insurance companies, with more than 500 employees) to the nearly 50,000 that will be covered by the CSRD.

Large companies – even ones based outside of the EU

Companies meeting two of the following three conditions will have to comply with the CSRD:

1. €50 million in net turnover
2. €25 million in assets
3. 250 or more employees

In addition, non-EU companies that have a turnover of above €150 million in the EU will also have to comply. It is to be noted that the CSRD doesn't place any new reporting requirements on small companies, except for those with securities listed on regulated markets. And to make it easier for listed SMEs, they can report using simplified standards. But while the CSRD doesn't apply to non-listed SMEs, the European Commission has also proposed developing separate standards that non-listed SMEs could voluntarily use.

3. *Facts to be reported under CSRD*

Companies will need to disclose the sustainability information in their management reports, which means that financial and sustainability information will be published at the same time.

This sustainability data will have to be submitted in a standardized digital format, to allow for easier checking and comparison in the European single access point database.

The submitted data will then be subject to “limited third-party assurance,” meaning that an auditor will need to evaluate the data.

4. *Effective dates of CSRD*

The European Commission adopted the CSRD in late 2022. The rules will start applying between 2024 and 2028:

- From 1 January 2024 for large public-interest companies (with over 500 employees) already subject to the Non-Financial Reporting Directive (NFRD), with reports due in 2025;
- From 1 January 2025 for large companies that are not presently subject to the NFRD (with more than 250 employees and/or €40 million in turnover and/or €20 million in total assets), with reports due in 2026;
- From 1 January 2026 for listed SMEs and other undertakings, with reports due in 2027. SMEs can opt-out until 2028.

Impacts inward & impacts outward

The CSRD – like the NFRD – requires “double materiality,” which means that businesses will have to disclose not only the risks they face from a changing climate, but also the impacts they may cause to the climate and to society. For businesses who have historically only analysed the risks posed to them by climate change – and neglected the role they played in changing the climate – this is a call to do some self-reflection.

Better comparability through standardization

The CSRD will require company sustainability data to be submitted in a standardized digital format. This is meant to provide a clear format for company sustainability reporting – which is currently rife with many idiosyncratic formats – allowing for better understandability and easier comparison between companies.

The EU CSRD sets out reporting requirements and obligations, while the ESRS provide a framework and methodology for reporting on sustainability issues. Both the CSRD and ESRS are legally binding. They are part of the same legal framework around corporate sustainability transparency.

European Sustainability Reporting Standards

The European Commission adopted European Sustainability Reporting Standards (ESRS) on July 2023. There are 12 ESRS, covering the full range of sustainability issues, in line with EFRAG's (European Financial Reporting Advisory Group) proposal:

Group	Number	Subject
Cross-cutting	ESRS 1	General Requirements
Cross-cutting	ESRS 2	General Disclosures
Environment	ESRS E1	Climate
Environment	ESRS E2	Pollution
Environment	ESRS E3	Water and marine resources
Environment	ESRS E4	Biodiversity and ecosystems
Environment	ESRS E5	Resource use and circular economy
Social	ESRS S1	Own workforce
Social	ESRS S2	Workers in the value chain
Social	ESRS S3	Affected communities
Social	ESRS S4	Consumers and end users
Governance	ESRS G1	Business conduct

ESRS 1 (“General Requirements”) sets general principles to be applied when reporting according to ESRS and does not itself set specific disclosure requirements. ESRS 2 (“General Disclosures”) specifies essential information to be disclosed irrespective of which sustainability matter is being considered. ESRS 2 is mandatory for all companies under the CSRD scope.

All the other standards and the individual disclosure requirements and datapoints within them are subject to a materiality assessment. This means that the company will report only relevant information and may omit the information in question that is not relevant (“material”) for its business model and activity.

Disclosure requirements subject to materiality are not voluntary. The information in question must be disclosed if it is material, and the undertaking’s materiality assessment process is subject to external assurance in accordance with the provisions of the Accounting Directive. The standards require undertakings to perform a robust materiality assessment to ensure that all sustainability information necessary to meet the objectives and requirements of the Accounting Directive will be disclosed.

If a company concludes that climate change is not a material topic and therefore does not report in accordance with that standard, it has to provide a detailed explanation of the conclusions of its materiality assessment with regard to climate change. This requirement reflects the fact that climate change has wide-ranging and systemic impacts across the economy.

For details, please refer the following link:
https://ec.europa.eu/commission/presscorner/detail/en/qanda_23_4043

IFRS Sustainability Disclosure Standards

IFRS S 1

IFRS S1 is effective for annual reporting periods beginning on or after 1 January 2024 with earlier application permitted as long as IFRS S2 Climate-related Disclosures is also applied.

The objective of IFRS S1 is to require an entity to disclose information about its sustainability-related risks and opportunities that is useful to users of general purpose financial reports in making decisions relating to providing resources to the entity.

IFRS S1 requires an entity to disclose information about all sustainability-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance or cost of capital over the short, medium or long term (collectively referred to as 'sustainability-related risks and opportunities that could reasonably be expected to affect the entity's prospects').

IFRS S1 prescribes how an entity prepares and reports its sustainability-related financial disclosures. It sets out general requirements for the content and presentation of those disclosures so that the information disclosed is useful to users in making decisions relating to providing resources to the entity.

IFRS S1 sets out the requirements for disclosing information about an entity's sustainability-related risks and opportunities. In particular, an entity is required to provide disclosures about:

- a. the governance processes, controls and procedures the entity uses to monitor, manage and oversee sustainability-related risks and opportunities;
- b. the entity's strategy for managing sustainability-related risks and opportunities;
- c. the processes the entity uses to identify, assess, prioritise and monitor sustainability-related risks and opportunities; and
- d. the entity's performance in relation to sustainability-related risks and opportunities, including progress towards any targets the entity has set or is required to meet by law or regulation.

IFRS S 2

IFRS S2 is effective for annual reporting periods beginning on or after 1 January 2024 with earlier application permitted as long as IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information is also applied.

The objective of IFRS S2 is to require an entity to disclose information about its climate-related risks and opportunities that is useful to users of general purpose financial reports in making decisions relating to providing resources to the entity.

IFRS S2 requires an entity to disclose information about climate-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance or cost of capital over the short, medium or long term (collectively referred to as 'climate-related risks and opportunities that could reasonably be expected to affect the entity's prospects').

IFRS S2 applies to:

- a. climate-related risks to which the entity is exposed, which are:
 - i. climate-related physical risks; and
 - ii. climate-related transition risks; and
- b. climate-related opportunities available to the entity.

IFRS S2 sets out the requirements for disclosing information about an entity's climate-related risks and opportunities. In particular, IFRS S2 requires an entity to disclose information that enables users of general purpose financial reports to understand:

- a. the governance processes, controls and procedures the entity uses to monitor, manage and oversee climate-related risks and opportunities;
- b. the entity's strategy for managing climate-related risks and opportunities;
- c. the processes the entity uses to identify, assess, prioritise and monitor climate-related risks and opportunities, including whether and how those processes are integrated into and inform the entity's overall risk management process; and
- d. the entity's performance in relation to its climate-related risks and opportunities, including progress towards any climate-related targets it has set, and any targets it is required to meet by law or regulation.

(For more details on IFRS S1 and IFRS S2 please refer the following websites-

IFRS S1: <https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s1-general-requirements.html/content/dam/ifrs/publications/html-standards-issb/english/2023/issued/issbs1/>

IFRS S2, please refer the following website- <https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s2-climate-related-disclosures.html/content/dam/ifrs/publications/html-standards-issb/english/2023/issued/issbs2/>)

Lesson 2

Legislative Framework of Corporate Governance in India

Principles governing disclosures and obligations – Regulation 4 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

(2)(d)(iv). The listed entity shall devise an effective vigil mechanism/ whistle blower policy enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.

Lesson 3

Board Effectiveness

Regulation 17 of SEBI (LODR) Regulations, 2015

Composition of the Board of Director – Regulation 17(1)(a)

The composition of board of directors of the listed entity shall be as follows:

(a) Board of directors shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;

Provided that the Board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020;

Minimum number of director in certain class of listed companies – Regulation 17(1)(c)

The board of directors of the top 2000 listed entities shall comprise of not less than six directors.

Directors and Officers insurance for Independent Directors– Regulation 25 (10)

The top 1000 listed entities by market capitalization, shall undertake Directors and Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.

Regulation 19(4) read with Part D of Schedule II –

(1) formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the board of directors a policy relating to, the remuneration of the directors, key managerial personnel and other employees;

(1) formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the board of directors a policy relating to, the remuneration of the directors, key managerial personnel and other employees;

For every appointment of an independent director, the Nomination and Remuneration Committee shall evaluate the balance of skills, knowledge and experience on the Board and on the basis of such evaluation, prepare a description of the role and capabilities required of an independent director.

The person recommended to the Board for appointment as an independent director shall have the capabilities identified in such description. For the purpose of identifying suitable candidates, the Committee may:

- a. use the services of an external agencies, if required;
- b. consider candidates from a wide range of backgrounds, having due regard to diversity; and
- c. consider the time commitments of the candidates.

Related Party Transactions – Regulation 23 of Under the SEBI (LODR) Regulations, 2015

(1A) Notwithstanding the above, with effect from July 01, 2019 a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed five percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

Lesson 4

Board Processes through Secretarial Standards

Provisions under the SEBI (LODR) Regulations, 2015

Prior Intimations – Regulation 29

(1) The listed entity shall give **prior intimation of at least two working days in advance, excluding the date of the intimation and date of the meeting to stock exchange** about the meeting of the board of directors in which any of the following proposals is due to be considered:

Provisions under the SEBI (LODR) Regulations, 2015

Prior Intimations – Regulation 29

(d) fund raising by way of issue of securities (excluding security receipts, securitized debt instruments or money market instruments regulated by the Reserve Bank of India), through further public offer, rights issue, American Depository Receipts/ Global Depository Receipts/Foreign Currency Convertible Bonds, qualified institutions placement, debt issue, preferential issue or any other method and for determination of issue price:

Provided that intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholder approval for further fund raising indicating type of issuance.

Provided further that intimation for determination of issue price in a qualified institutions placement is not required if such placement is done in accordance with the provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

g) any alteration in the form or nature of any of its securities that are listed on the stock exchange or in the rights or privileges of the holders thereof;

h) any alteration in the date on which, the interest on debentures or bonds, or the redemption amount of redeemable shares or of debentures or bonds, shall be payable.

(2) The intimation required under sub-regulation (1) shall mention the date of such meeting of board of directors.

Quorum

Regulations 17(2A): The quorum for every meeting of the board of directors of the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

Revised SS-1

(Revised Text of SS-1)

Paragraph 1 & 2

This Standard is applicable to the Meetings of Board of Directors of all companies incorporated under the Act except One Person Company (OPC) in which there is only one Director on its Board and a company registered under Section 8 of the Companies Act, 2013 or corresponding provisions of any previous enactment thereof. However, companies registered under Section 8 of the Companies Act, 2013 Section 8 companies need to comply with the applicable provisions of the Act relating to Board Meetings. The exemption to a company registered under Section 8 of the Companies Act, 2013 as referred above and the specific exemptions given to a private company in this Standard shall be available only if it has not committed any default in filing its Financial Statements or Annual Return with the Registrar of Companies.

Paragraph 1.2.3

Any Director may participate through Electronic Mode in a Meeting unless the Act or any other law specifically prohibits such participation through Electronic Mode in respect of any item of business. Directors shall not participate through Electronic Mode in the discussion on certain restricted items unless there is a Quorum in a Meeting through physical presence of Directors.

Paragraph 1.3.4 (After 3rd Paragraph)

The Director may intimate his intention of participation through Electronic Mode at the beginning of the Calendar Year also, which shall be valid for such Calendar Year. Such intimation shall not debar him from participation in the Meeting in person provided he gives such intimation sufficiently in advance to the company.

Paragraph 1.3.7 (8th Paragraph)

“Unpublished Price Sensitive Information” means any information, relating to a company or its securities, directly or indirectly, that is not generally available, which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: – (i) financial results;

(ii) dividends;

(iii) change in capital structure;

(iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions; and

(v) changes in key managerial personnel.

Paragraph 2.1 (2nd Paragraph)

The company shall hold first Meeting of its Board within thirty days of the date of incorporation. It shall be sufficient if subsequent Meetings are held with a maximum interval of one hundred and twenty days between any two consecutive Meetings.

Further, it shall be sufficient if a One Person Company, Small Company, or Dormant Company or a private company which is recognised as (start-up) holds one Meeting of the Board in each half of a Calendar Year and the gap between the two Meetings of the Board is not less than ninety days. An adjourned Meeting being a continuation of the original Meeting, the interval period in such a case, shall be counted from the date of the original Meeting. For the purposes of this Standard, the term “start-up” means a private

company incorporated under the Act and recognised as start-up in accordance with the notification issued by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India.

Paragraph 2.3

Meeting of Independent Directors: Where a company is required to appoint Independent Directors under the Act, such Independent Directors shall hold meet at least once one Meeting in a Calendar financial year without attendance of Non-Independent Directors and members of management.

Paragraph 3.2

A Director shall neither be reckoned for Quorum nor shall be entitled to participate in respect of an item of business in which he is interested. However, in case of a private company, a Director shall be reckoned for Quorum and entitled to participate in respect of such item after disclosure of his interest.

Paragraph 3.3

Directors participating through Electronic Mode in a Meeting shall be counted for the purpose of Quorum, unless they are to be excluded for any items of business under the provisions of the Act or any other law except for restricted items in which Quorum shall be ascertained on the basis of physical presence of Directors.

Paragraph 5.1.2

If the Chairman is interested in an item of business, he shall entrust the conduct of the proceedings in respect of such item to any Non-Interested Director, with the consent of the majority of Directors present, and resume the chair after that item of business has been transacted. However, in case of a private company, the Chairman may continue to chair, be reckoned for quorum and entitled to participate in respect of such item after disclosure of his interest.

Paragraph 6.2.2

Proof of sending and delivery of the draft of the Resolution and the necessary papers shall be maintained by the company for such period as decided by the Board, which shall not be less than three years from the date of the circulation of such Resolution.

Annexures

Annexure 'A'

(Paragraph 1.3.8)

Annexure 'B' (Paragraph 1.3.8).

Annex- A (Specific items 9 th Bullet point)

Appointment of Director(s) in casual vacancy subject to the provisions in the Articles of the company. To be subsequently approved in the immediate next general meeting.

Rationale

Amendment in law

Companies (Amendment) Act, 2017

Section 161(4): In the case of a public company If the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board which shall be subsequently approved by members in the immediate next general meeting.

For details, please refer:

https://www.icsi.edu/media/webmodules/Comparative_Analysis_Amendments_in_SS-1_24.pdf

Lesson 5
Board Committees

Risk Management Committee

Gap between two meetings – Regulation 21(3C) (Listing obligations and disclosure requirements) (Amendment) Regulations, 2024.)

The meetings of the risk management committee shall be conducted in such a manner that on a continuous basis not more than two hundred and ten days shall elapse between any two consecutive meetings.

Risk Management Committee- Applicability – Regulation 21(5) (Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2024)

- I. the top 1000 listed entities, and,
- II. a ‘high value debt listed entity’.

Lesson 6

Corporate Policies and Disclosures

1. ANNUAL REPORT

(f) For the top one thousand listed entities based on market capitalization, a Business Responsibility and Sustainability Report on the environmental, social and governance disclosures, in the format as may be specified by the Board from time to time.

(5B) Senior Management: Particulars of senior management including the changes therein since the close of the previous financial year.

Items required to be hosted on website as per Regulation 62 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

(aa) composition of the Board;

(b) financial information including:

(i) notice of meeting of the board of directors where financial results shall be discussed;

(ii) financial results, on the conclusion of the meeting of the board of directors where the financial results were approved;

(iii) complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc;

(h) information with respect to the following:

(iii) revision of rating assigned to the non-convertible debt securities: (stands deleted)

(i) all credit ratings obtained by the entity for all its listed non-convertible securities, updated immediately upon any revision in the ratings;

(j) statements of deviation(s) or variation(s) as specified in sub-regulation (7) and sub-regulation (7A) of regulation 52 of these regulations;

(k) annual return as provided under section 92 of the Companies Act, 2013 and the rules made thereunder.

The listed entities to whom regulations 15 to regulation 27 are applicable shall also make the following additional disclosures on their website:

(a) composition of the various committees of the board of directors;

(b) terms and conditions of appointment of independent directors;

(c) code of conduct of the board of directors and senior management personnel;

- (d) details of establishment of vigil mechanism/ whistle blower policy;
- (e) criteria of making payments to non-executive directors, if the same has not been disclosed in the annual report;
- (f) secretarial compliance report as per sub-regulation (2) of regulation 24A of these regulations;
- (g) policy on dealing with related party transactions;
- (h) policy for determining 'material' subsidiaries;
- (i) details of familiarization programmes imparted to independent directors including the following details:-
 - (i) number of programmes attended by the independent directors (during the year and on a cumulative basis till date),
 - (ii) number of hours spent by the independent directors in such programmes (during the year and on cumulative basis till date), and
 - (iii) other relevant details.

The listed entity shall update any change in the content of its website within two working days from the date of such change in content.
