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EDITORIAL ANALYSIS

SEBI's Independent Director Skilling Initiative — Strengthening Corporate Governance

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SEBI's Independent Director Skilling Initiative — Strengthening Corporate Governance

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The Indian Express

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CONTEXT

The Indian Express editorial examines **SEBI's structured initiative to enhance the skills, training, and accountability of independent directors** in listed companies. The move comes in response to **recent boardroom failures** at major listed entities and aims to strengthen **corporate governance, transparency, and minority shareholder protection**. The editorial argues that independent directors are India's primary safeguard against promoter abuse — but only if they are genuinely independent and adequately skilled.

THE EDITORIAL ARGUMENT

- 1 **Independent directors are the cornerstone of corporate governance** — they provide objective oversight in a system where promoter families control most listed companies
- 2 **Skill gap is real** — many independent directors are appointed for their connections rather than relevant expertise; financial literacy, regulatory knowledge, and audit understanding are often lacking
- 3 **The Independent Director Database is necessary but insufficient** — creating a pool of qualified candidates does not solve the appointment problem (companies still choose who to appoint)
- 4 **Liability concerns deter quality candidates** — high-quality professionals are reluctant to serve as independent directors due to legal liability under Companies Act and SEBI regulations
- 5 **Compensation must match responsibility** — current sitting fees and remuneration are too low to attract top talent

WHAT IS AN INDEPENDENT DIRECTOR?

An **Independent Director** is a member of a company's Board of Directors who:

- Has **no material/pecuniary relationship** with the company, promoter, or management

- Does not own significant equity in the company
- Has not been an employee for the past 3 years
- Provides **objective oversight** of management decisions
- Represents the interests of all stakeholders (especially minority shareholders)

Legal Framework

PROVISION	SOURCE
Definition of Independent Director	Section 149(6), Companies Act 2013
Mandatory % on board (listed companies)	SEBI LODR Regulations 2015 — at least 1/3 (or half if chairman is a promoter)
Tenure	Maximum 2 consecutive terms of 5 years each
Cooling-off period	3 years before reappointment
Code of Conduct	Schedule IV, Companies Act 2013
Independent Director Database	Maintained by IICA (Indian Institute of Corporate Affairs) since 2019

SEBI'S SKILLING INITIATIVE — KEY COMPONENTS

COMPONENT	DETAILS
Structured training programmes	Modules on financial reporting, audit, regulatory compliance, ESG, cybersecurity
Certification examination	Mandatory for new independent director appointments since 2019 (via IICA database)
Continuing professional education	Annual refresher requirements
Specialised skill modules	Sector-specific training (banking, fintech, healthcare, manufacturing)
Whistle-blower mechanisms	Strengthened with anonymous reporting channels
Liability clarification	Limiting personal liability for procedural lapses (proposed)

WHY THIS MATTERS — RECENT BOARDROOM FAILURES

India has seen several high-profile corporate governance failures in recent years:

CASE	YEAR	ISSUE
Satyam Computer Services	2009	Accounting fraud; board failed to detect
Punjab National Bank (PNB)/Nirav Modi	2018	Letters of Undertaking fraud; oversight lapses
IL&FS	2018	Massive debt default; board missed warning signs
YES Bank	2020	NPA classification, governance failures
Religare/Fortis (Singh Brothers)	2018-19	Promoter siphoning; independent directors failed
BharatPe (Ashneer Grover)	2022	Co-founder fraud; weak oversight
Adani Group (Hindenburg)	2023	Allegations of accounting irregularities
Paytm/RBI action	2024	Compliance failures; banking licence restrictions

In several of these cases, independent directors were either **complicit, negligent, or simply unaware** of the underlying issues — exposing the gap between formal compliance and substantive oversight.

SEBI'S LODR REGULATIONS — KEY INDEPENDENT DIRECTOR PROVISIONS

The **SEBI Listing Obligations and Disclosure Requirements (LODR) Regulations, 2015**:

- Listed companies must have at least **1/3 independent directors** on the board
- If the chairman is a non-independent or promoter director, **at least 50%** must be independent
- **Audit Committee** must consist entirely of independent directors (chairman must be independent)
- **Nomination and Remuneration Committee** must be majority independent
- Independent directors must hold a **separate annual meeting** without management or promoter directors
- **Performance evaluation** of independent directors required annually

THE PROMOTER-DIRECTOR PROBLEM

India's listed company landscape is dominated by **promoter-controlled firms** — over 60% of listed companies have a promoter holding above 50%. This creates structural conflicts:

- Promoters appoint independent directors (creating dependency)
- Independent directors are often friends or business associates of promoters
- Removal of an independent director by a promoter (controlling majority) is easy
- The “fit and proper” criterion is hard to enforce against well-connected appointments

SEBI’s reforms attempt to address this through:

- **Database-based appointments** (only candidates in IICA database eligible)
- **Cooling-off requirements** to break perpetual relationships
- **Mandatory disclosures** about director independence
- **Special resolution** for reappointment of independent directors

UPSC RELEVANCE

GS Paper 3 – Economy

- Corporate governance reforms in India
- SEBI’s role and regulatory framework
- Companies Act 2013 and LODR Regulations
- Promoter dominance in Indian corporates
- Minority shareholder protection

GS Paper 2 – Governance

- Independent regulatory bodies
- Self-regulation vs statutory regulation
- Conflict of interest in board appointments

Mains Probable Questions:

- “Independent directors are the cornerstone of corporate governance in India, but their effectiveness is often undermined by structural factors. Discuss the challenges and SEBI’s reform efforts.” (250 words)
- “Critically examine the role of independent directors in detecting and preventing corporate frauds. What changes are needed to strengthen their effectiveness?” (250 words)

FACTS CORNER

- The **Companies Act, 2013** introduced the concept of independent directors as a mandatory requirement — replacing the more flexible 1956 Act framework.
- The **Indian Institute of Corporate Affairs (IICA)** was established in 2008 under the Ministry of Corporate Affairs as a think tank for corporate governance research.
- **SEBI was established in 1988** as a non-statutory body and given statutory powers under the SEBI Act, 1992. It is headquartered in Mumbai with a chairman and 5 members.
- The **Kotak Committee (2017)** on corporate governance recommendations significantly influenced subsequent SEBI reforms — including the separation of Chairman and CEO roles, and mandatory IR (Investor Relations) functions.
- India has approximately **5,400 listed companies** on BSE and NSE — making it one of the largest stock markets by number of listings globally.
- **Independent directors** typically receive sitting fees of **Rs 50,000-1 lakh per board meeting**, with annual commission ranging from Rs 5 lakh to Rs 50 lakh depending on company size — modest compared to executive compensation.

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