

How to avert ICICI Bank-type crisis?

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India's banking sector has recently been hogging limelight for a variety of unpleasant reasons. (Reuters)



India's banking sector has recently been hogging limelight for a variety of unpleasant reasons. The ongoing crises involving the mounting non-performing assets (NPA) of the private as well as public sector banks, a massive fraud and loan related corruption at the Punjab National Bank (PNB), and the latest alleged irregularities at the ICICI Bank that allegedly involve a quid pro quo deal of the bank's CEO are some of the important mishaps that have gripped the sector. Many analysts have ascribed different reasons that have led to one or the other morass in the sector. However, in none of these events, the role of accountability of the

Board of Directors in ensuring due diligence in implementing core policies and the extent of clean corporate governance have not been discussed and debated enough in public discourse.

Although the banking system runs on people's trust and, therefore, regulatory oversight and swift corrective measures in case of lapses are extremely important, Indian bank Boards have historically never been swift or proactive enough in responding to whistle-blower complaints. Things move only after much hullabaloo. In addition, in many cases, the banks' various crises points have somehow escaped supervisory oversight, which is one of the primary functions of the Board of Directors.

After a lot of media scrutiny and much in-house deliberations, the Board of Directors of the ICICI Bank have ordered a probe into the issue. In a few days' time and subject to inquiry outcome, we apprehend certain heads may or may not roll, like we saw the exit of the Allahabad Bank CEO in connection with the PNB fraud (as she was the PNB CEO when the scandal had happened), and two executive directors. The issue is not limited to fixing responsibility or identifying whether or not credit disbursements were done after adequate due diligence. The larger issue which plagues many financial institutions is the lack of effectiveness in supervisory oversight. While the executives can be held responsible for their operational or managerial negligence, the accountability of the Board still remains a grey area.

In the US, the central bank has the authority and the mandate to remove member(s) of a bank Board in case of any corruption or misconduct. However, in the Indian context, establishing the Board of Directors' accountability has no straightforward process, although there exists a legal framework. It requires political will to enable the central bank with adequate fire-power for such a situation. Take the Wells Fargo account fraud scandal in the US, for example. In this infamous fake accounts-related fraud, Senator Elizabeth Warren, who was heading the investigation, had specifically asked the Federal Reserve to remove the 12 Board members for their gross negligence of supervisory duties.

Finally, Wells Fargo removed four of its existing Board members after much deliberation. And all this happened after the then CEO John Stumpf was forced to resign and the Board allowed itself a sweet period when it could muster enough efficacy as the

CEO was no more around to influence or question their decisions. The specific case of the ICICI Bank crisis is largely expected to play out analogously. The Board, which was initially reluctant to admit any wrongdoings, obliged with an initial probe. As the probe deepens, the CEO or any wrongdoer might be sacked and, eventually, the Board of Directors may confirm adhering to prudential guidelines and self-certify that it has done a fabulous job of fixing the whole situation.

This will still leave the crucial question of Board accountability unanswered. Specifically, the role of the Board when the CEO along with the executive management was engaged in allegedly nefarious activities needs to be thoroughly probed. We have also witnessed a similar situation of Board failure in case of the Satyam Computer Services accounting fraud. The eerie similarity lies in the Board's accountability, especially the independent directors.

Bank Boards and, in this case, ICICI Bank's Board of Directors, comprise some eminent individuals across different fields, along with a government representative. While the Board members with executive obligations have more reasons to comply with the CEO, the role of independent directors is open to inquiry. Henceforth, [RBI](#), along with the stock market regulator (SEBI), should begin its own evaluation and assessment of the independent Board members across banks. Independent directorship should not be considered as post-retirement postings or appeasement vehicles of political masters. Independent board members need to demonstrate true independence from the influence of the CEO and rise to the occasion where they are expected to be the torch-bearers of effective corporate governance.

Across banks and corporates in India, the role of independent directors has historically not been subject to public scrutiny or media microscope as much as the role of the CEO has been. This is something that must be discussed more openly and objectively in public, since while being the face of the Board, the CEO draws all the flak in case of an irregularity; the independent directors often go immune to such criticism. Moreover, the true level of independence of the independent directors is also questionable in case of many Boards. Another important trend has been that some directors (independent or otherwise) sit on Boards of multiple companies. This, in itself, could be an indicator of their business capacity or credentials.

At its worst, it might also imply that the concerned directors simply get to sit on various company Boards because they are well-networked in the industry or politically-connected. We have had many examples on both the extremes though. In India, we do not talk much about the performance or contribution of such (independent) directors in influencing bank or company outcomes and strategies.

Corporate governance is streamlined when the independent directors can minimise the problem of asymmetric information within the Board. The Board must impress upon the executive management that clean corporate governance practices and processes do not just mean compliance with various laws, and many other critical aspects of due diligence must not be sidestepped. That way, an ICICI Bank-type crisis can be averted in the future.

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