
Corporate Social Responsibility in India

Reflections on Emerging Trends and Practices since the advent of Companies Act, 2013

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Abstract

The concept of 'Corporate Social Responsibility' (CSR) has today become a key aspect of business philosophy and practice world over. CSR has been part of Indian business for long. There have been efforts, both in the remote and recent past, on the part of business community and government to make responsible business practices part of our business ethos. All the same, such efforts have been unsystematic, individual/ institution specific in orientation and, in certain cases, lacking a well-defined direction and purpose.

Of late, there are indications that the scenario is changing. A host of factors such as globalization of business operations, the rise to prominence of climate change agenda, adoption of Millennium Development Goals and so on has contributed to an enhanced level of concern and commitment to the idea corporate social responsibility.

As for the government's initiatives are concerned, these are reflected in the new Companies Act passed in 2013, which mandates CSR spend for a defined category of corporate entities. This has given fillip to corporate CSR initiatives in a big way, which have, in many cases, gone beyond the requirements of the law. There have also been efforts, in tune with the global practice, to make CSR part of the corporate strategy and as a tool for attaining and sustaining competitive edge in the market place.

The proposed paper will trace the evolution of CSR in India, Government initiatives to make CSR a part of corporate functioning in the country and the emerging trends in Indian business sector which look at CSR as a tool for competitive strategy.

Key words:

Companies Act 2013, Corporate Social Responsibility, Board's Responsibility in CSR implementation, CSR Committee, CSR Impact

Corporate Social Responsibility (CSR) has been part of Indian business for long. There have been efforts, both in the remote and recent past, on the part of business community and government to make responsible business practices part of our business ethos. All the same, such efforts have been unsystematic, individual/ institution specific in orientation and, in certain cases, lacking a well-defined direction and purpose.

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The Companies Act, 2013 has brought the idea of CSR to the forefront and through its disclose-or-explain mandate, is promoting greater transparency and disclosure. Schedule VII of the Act, which lists out the CSR activities, suggests communities to be the focal point. On the other hand, by discussing a company's relationship to its stakeholders and integrating CSR into its core operations, the draft rules suggest that CSR needs to go beyond communities and beyond the concept of philanthropy. It will be interesting to observe the ways in which this will translate into action at the ground level, and how the understanding of CSR is set to undergo a change.

Companies Act 2013

The Ministry of Corporate Affairs enforced the Companies Act, 2013 (Act) and the CSR Rules from 1 April 2014. Companies with a net worth of INR500 crore or more, or a turnover of INR1,000 crore or more, or a net profit of INR5 crore or more in a given fiscal year are required to comply with the provisions of the Companies Act, 2013 and the CSR rules. Corporate Social Responsibility (CSR) provisions are effective from financial year 2014-15.

- Every company satisfying certain financial strength criteria is mandatorily required to spend at least 2 percent of its average net profit of three preceding financial years on specified CSR activities.
- Each qualifying company to form a CSR committee which will formulate the CSR policy of the company and effectively monitor the CSR activities of the company.
- Board of Directors of the companies are responsible to ensure that the company spends the mandatory CSR spend on specified CSR activities in accordance with the CSR policy of the company and disclose the CSR policy and CSR activities of the company as specified in the provisions.
- The specific activities that could be regarded as CSR are specified in Schedule VII of the New Companies Act, 2013.
- The other modalities of carrying out CSR activities are specified in the draft CSR rules.

After The President of India gave assent to the Companies Bill, 2013, India became the first country to mandate spend on CSR activities through a statutory provision. In India, while many corporate houses have been traditionally engaged in doing CSR activities voluntarily, the new CSR provisions

put formal and greater responsibility on companies to set out clear frameworks and processes to ensure strict compliance.

Overview

- As per Section 135 of the Act, companies with a specified net worth or turnover or net profit are required to mandatorily spend 2 percent of its average net profit towards specified CSR activities.
- Recently, the rule making committee of MCA has published the draft CSR rules and uploaded the same on MCA website for public discussion and debate.
- Our comments in this bulletin are based on the CSR provisions as laid down under the Act and the draft CSR rules. Our comments are subject to final CSR rules that may be notified by the Government after considering the public discussion and debate.
- While the Government is soon expected to notify the effective date of applicability of CSR provisions, the draft CSR rules suggest that CSR provisions will be made effective from financial year 2014-15.
- The analysis on the CSR provisions and salient features of the draft CSR rules are provided as under.

Applicability

- Every company having net worth of INR 5000 million or more, or turnover of INR 10000 million or more or net profit of INR 50 million or more during any financial year will have to comply with the CSR provisions as laid down under the Act.
- If any of the above financial strength criteria is met, the qualifying company is mandatorily required to spend at least 2 percent of the average net profit of past three financial years on specified CSR activities.
- While the threshold limit of net worth criteria and the turnover criteria are kept higher, the net profit threshold limit of mere INR. 50 million will bring majority of companies under the CSR net.
- Net profit is defined to mean 'net profit before tax' as per books of accounts and shall not include profits arising from branches outside India.
- While the reporting framework under the draft CSR rules suggest that the unspent amount of the specified CSR spend to be rolled over to the succeeding financial years, it does not clarify whether the excess spend of over and above 2 percent mandatory CSR spend in any particular financial year can be carried forward in succeeding financial year or not.

Appointment of CSR committee

- Every qualifying company needs to constitute a CSR committee of the Board consisting of 3 or more directors.
 - Though the CSR provisions under the Act required minimum 3 directors for constitution of CSR committee, the issue that needs to be clarified is whether qualifying private companies (which requires minimum two directors only) would be required to appoint one more director only to constitute CSR committee and comply with the CSR provisions.
 - The mandate of the said CSR committee shall be:
 1. To formulate and recommend a CSR policy to the Board;
 2. To recommend amount of expenditure to be incurred on CSR activities;
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3. To monitor the CSR policy of the company from time to time.
- In this context, the draft CSR rules specifies that following should be included in CSR policy:
 1. Details regarding list of projects / programs to be undertaken, modalities of execution, areas / sector chosen, implementation schedules, etc.
 2. That the surplus arising out of the CSR activity will not be part of business profits of a company;
 3. That corpus to include the following:
 - a) 2 percent of average net profits;
 - b) Any surplus arising therefrom
 - c) Surplus arising from CSR activities

Responsibility of the Board

The Board of every qualifying company is required to hold following responsibilities:

1. To approve the CSR policy recommended by the CSR committee and disclose the contents of such policy in its report and place it on company's website;
2. To ensure the CSR activities are undertaken by the company;
3. To ensure 2 percent spending on CSR activities;
4. To report CSR activities in Board's report and disclose non-compliance (if any) with the CSR provisions.

Additional Provisions

- The draft CSR rules provide the format in which all qualifying companies shall report the details of their CSR initiatives in the Director's report and in the company's website.
- The companies shall give preference to the local area and area around it where it operates for spending the amounts earmarked for CSR activities.
- The draft CSR rules further provide following guidelines / manner in which the company can undertake CSR activities and incur CSR spend:
 1. The company can set-up a not-for-profit organisation in the form of trust, society or non-profit company to facilitate implementation of its CSR activities. However, the contributing company shall specify projects / programs to be undertaken by such an organisation and the company shall establish a monitoring mechanism to ensure that the allocation to such organisation is spent for intended purpose only.
 2. A company may also implement its CSR programs through not-for-profit organisations that are not set up by the company itself.
 3. Such spends may be included as part of company's prescribed CSR spend only if such organisations have an established track record of at least 3 years in carrying on activities in related areas.
 4. Companies may also collaborate or pool resources with other companies to undertake CSR activities.
 5. Only CSR activities undertaken in India would be considered as eligible CSR activities.
 6. CSR activities may generally be conducted as projects or programmes (either new or ongoing), however, excluding activities undertaken in pursuance of the normal course of business of a company.

- CSR projects / programs may also focus on integrating business models with social and environmental priorities and processes in order to create shared value.
- CSR activities shall not include activities exclusively for the benefit of employees and their family members.

What constitutes eligible CSR spend

1. Eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water.
2. Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects.
3. Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
4. Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water.
5. protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts.
6. Measures for the benefit of armed forces veterans, war widows and their dependents.
7. Training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports.
8. Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Caste, the Scheduled Tribes, other backward classes, minorities and women.
9. Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Governments.
10. Rural development projects.

Primary Data Analysis

For this study, we collected data regarding CSR spend and other details of 40 Indian BSE listed companies. The companies selected are from 6 broad sectors of the economy, viz., IT, Automobiles, Banking industry, Cement, Oil exploration, F & B and Pharma.

The data are presented in Table 1, Table 2 and Table 3.

Table 1 (see below) shows the status of companies in fulfilling the basic requirements of companies as far as setting up of CSR Committees, the formulation of CSR of policy, the display of CSR policies in their company websites and the structure of the CSR Committees as to who heads the Committee – whether it is headed by an Executive Director or an Independent Director.

As can be seen from the table, all the 40m companies had established CSR Committees and had formulated company CSR policies as mandated by the Companies Act. All but one company had displayed their CSR policies in their websites. When it comes to the Head of CSR Committees, as of now majority of companies (25 of them) had Executive Directors as Head of the CSR Committee, while 15 companies had Independent Directors as the Head of their CSR Committees.

Table 1 Patterns of Compliance with CSR provisions of Companies Act, 2013

Number of companies studied	CSR Committee		CSR Policy		Disclosure on Website		Head of CSR Committee	
	Established	Not established	Exists	Does not exist	Present	Absent	Executive Director	Independent Director
40	40	0	40	0	39	1	25	15

Table 2 (see below) shows the actual expenditure of the Companies against the prescribed expenditure (as per Companies Act 2013 requirement). From the table it can be seen than in both 2014-15 and 2015-16 the actual expenditure is less than the

Table 2 CSR Expenditure of Corporate India (40 BSE Listed Companies)

Industry	COMPANY NAME	2014-15		2015-16	
		Prescribed amount (in Rs)	Amount spent (in Rs)	Prescribed amount (in Rs)	Amount spent (Rs)
IT	TCS	285	219	360	294
	WIPRO	13.27	13.27	156	159.8
	HCL	89.99	6.16	122.13	10.52
	INFOSYS	243	239.54	256.1	202.3
	TECH MAHINDRA	30.88	53.21	41.04	46.9
	ORACLE	32.95	11.93	33.44	24.84
Automobiles	Tata motors	0	17.29	0	20.57
	Maruti Suzuki	50.11	37.25	654	785
	Mahindra and Mahindra	83.03	83.24	84.95	84.95
	Bajaj Auto ltd	86.33	42.91	86.46	86.72
	Hero Moto corp	44.04	2.37	58.18	65
	TVS motor company	6.3	6.4	7.15	7.16
Banking industry	HDFC	197.13	118.55	194.81	141.62
	SBI	109	115.8	0	143.92
	ICICI	172	156	212	172
	Kotak Mahindra	39.2	11.97	47.33	16.4
	AXIS	133.77	123.22	163.03	137.41
	IndusInd bank	32.64	17.53	42.76	27.32
	Yes bank	38.02	15.71	47.75	29.52
Cement	Ultratech	61.51	44.46	57.82	50.89
	Shree cement	18.49	18.18	14.23	14.75
	Ambuja cement	34	38.4	34.64	40.98
	ACC ltd	27.2	27.45	27.92	31.16
	Prism cement	0	0	0	0
	JK cement	515.2	515.2	424.04	464.05

Table 2 CSR Expenditure of Corporate India (40 BSE Listed Companies) (contd.)

Oil exploration	ONGC	660.61	496.23	593.7	421
	GAIL	118.67	71.69	102.34	118.64
	Cairn ltd	129.8	70.36	107.21	51.5
	Petronet LNG	28.84	4.24	20.06	5.96
	Oil India	133.31	133.31	88.31	99.21
F & B	Nestle	153.5	85.1	23.5	20.61
	Britania	7.35	7.35	10.46	10.46
	Kwality	283.86	283.86	288.3	297.9
	Hatson agro	0	0	1.24	1.29
Pharma	Sun pharma	46.7	46.7	116.54	116.54
	Lupin ltd	39.63	12.58	54.13	20.51
	Dr. Reddy's	36.61	29.71	41.88	41.19
	Cipla	34.86	13.43	35.82	20.5
	Cadila healthcare	108.15	108.15	164.55	164.59
	Glaxo SmithKline pharma ltd.	9.45	6.1	14.14	14.7
Total expenditure		4134.4	3303.85	4787.96	4,462.38
Per cent of Actual to Prescribed			80 %		93.20 %

Table 3 CSR Expenditure Performance - Actual Vs prescribed

	Number of companies with CSR spend equal to or more than prescribed	Number of companies with CSR spend of less than prescribed
2014-15	14	26
2015-16	21	19

prescribed amount. However, the actual CSR expenditure has seen a 35 % in increase in 2015-16 over 2014-15. The absolute volume of CSR expenditure in 2015-16 was Rs 4,462.38 compared to Rs 3,303.85 in 2014-15.

Another important indicator of improvement in CSR performance of the companies is the fact that when in 2014-15 the actual expenditure as a percent of the prescribed expenditure stood at 80 %, in 2015-16 there was a substantial increase in this to 93.2 %.

Table 3 (see above), which is derived from Table 2 indicates the number of companies that reported shortfall in actual CSR spend in the two years. Here also there was a significant increase in the number of companies that matched or exceeded the prescribed CSR expenditure as per Companies Act increased from 14 (out of 40) to 21, which is a 50 % improvement in percentage terms.

It can be inferred from the limited data at our disposal that there is significant improvement in the CSR performance of Indian companies in the first two years of experience with mandated CSR activities. It shows that companies are taking CSR activities seriously and are adopting a strategic

approach to their social engagement.

Conclusion

Corporate social responsibility has now become an important aspect of business performance and strategy. The focus on CSR has been there for a long time, but it is acquiring a new urgency and importance in the backdrop of heightened awareness regarding the perils of unplanned growth with single minded focus on corporate financial performance.

Thinkers, researchers, activists and global bodies are all now thinking in unison regarding the need and urgency of corporate involvement in social, economic and environmental activities, though their approaches to details of social engagement of companies may differ. Increasingly, there is growing focus on strategic orientation to CSR activities, in place of the earlier philanthropic approach. This has helped in companies paying greater importance to CSR activities and to higher level of involvement and commitment of resources and personnel.

This global trend is slowly catching up in India as well. This is becoming amply evident from the early emerging trends of CSR programmes of companies in India. As Indian corporate entities start getting involved in social engagement and sustainability activities on a larger scale and the process is bound to be more pronounced in the years to come.

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