

Promoters of over 500 listed firms lose monopoly on directors

New Sebi norms raise the bar on shareholding required to appoint directors

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The promoters of more than 500 companies will no longer be the sole judge on appointments of independent directors. The Securities and Exchange Board of India has said that appointments will need a special resolution. This means that the voting threshold in favour of the appointment will now be 75 per cent. It was earlier passed by an ordinary resolution that needed a majority vote (above 50 per cent).

An analysis of the shareholding data shows that this would remove the promoters' monopoly of such appointments in around 60 per cent of firms.

The analysis looked at companies with at least ₹1,000 crore in market capitalisation as of the announcement day. A total of 884 companies with their shareholding data available for March 2021 onwards have been considered. In the sample there were 525 that had a promoter holding greater than 50 per cent but below 75 per cent.

"At 75 per cent, people are going to be more careful," said Amit Tandon, founder and managing director of proxy advisory firm Institutional Investor Advisory Services India (IIAS).

Both promoters and nominated individuals are likely to be wary of being rejected during the vote. Less than a tenth of such resolutions have seen significant institutional investor opposition previously, according to the data compiled by IIAS. This might have been on account of the promoters being able to push their choices anyway, he said.

In requiring a special resolution in place of an ordinary resolution as was the case earlier, the regulator has achieved a fine balance between empowering minority shareholders while also not making it burdensome for companies through a requirement that a majority of minority investors must vote in favour, as was suggested in an earlier discussion paper, suggested Pranav Haldea, managing director at Prime Database.

He pointed out there was an inherent conflict in the process of appointing independent directors. Independent directors are supposed to safeguard minority investors from the very people who appoint and pay them. "This measure undertaken by Sebi shall help in addressing this issue to some extent," he said.

"The process to be followed by the Nomination and Remuneration Committee (NRC), while selecting candidates for appointment as IDs (Independent Directors), has been elaborated and made more transparent including enhanced disclosures regarding the skills required for appointment as an ID and how the

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SHAREHOLDING PATTERN

Promoters controlled appointments at most firms

Promoter holding	Average mkt capitalisation (₹ crore)	No. of firms	% of sample
75% and above	17,437.5	87	9.8
Above 50%, below 75%	23,891.1	525	59.4
50% and below	31,451.3	272	30.8

Note: Based on companies with at least ₹1,000 crore in market capitalisation as of announcement day. A total of 884 companies with shareholding data available for March 2021 onwards has been considered; compiled by BS Research Bureau Source: Capitaline

proposed candidate fits into that skill set ... The composition of NRC has been modified to include 2/3rd IDs instead of existing requirement of majority of IDs," said a statement after the Sebi board meeting.

The regulator has taken other steps like disclosing the resignation letter of an outgoing independent director. The amendments are effective from January 1, 2022. There are 5,553 individuals holding 7,122 independent directorships in companies listed on the National Stock Exchange, the data from tracker primeinfobase.com shows. There are 1,248 women holding 1,680 independent director positions.

Finding more independent directors is not expected to be a problem, according to Shriram Subramanian, founder and managing director of InGovern Research Services.

"Companies have their resources," he said.

Overall board positions also reveal interesting trends. Less than 12 per cent of company board positions are held by people who are 45 or younger. Around 55.03 per cent of directors are post-graduates or hold doctorates. A total of 429 companies have members of the civil service on their boards.