

Extensions to chairmen may come under lens

DISSENT NOTES Sebi, corporate affairs ministry can act if extension for executives over 70 not based on 'solid grounds'

Mahua Venkatesh

mahua.venkatesh@rediffmail.com

NEW DELHI: The role of independent directors would be crucial in cases where chairpersons of companies seek extension after attaining the age of 70 years.

Dissent notes on the issue, if any, by board members could come under the scrutiny of the Securities and Exchange Board of India (Sebi) and even the ministry of corporate affairs, especially if there is an official complaint by any stakeholder, sources said. This would be even more critical in promoter-driven companies that have a large chunk of public capital.

As per the new Companies Act, extension can be sought only on the basis of "solid ground" and proper justification is required for those wishing to continue beyond the age of 70 years. Besides, a special resolution is required with 75% votes in favour of the move.

However, Sebi and MCA would not intervene in cases where extension of chairpersons is given without any dissent.

TOO OLD IS NOT GOLD?

Companies Act stipulates a limit of 70 yrs for board members



59 yrs Average age of directors on the boards of 1,489 NSE-listed companies

1,502* Directors above the age of 70 years

16% Ratio of directors above 70 yrs to the total number of directors

2,036 No. of directorial positions held by persons above 70 yrs

*Includes independent directors also

Wipro chairman **AZIM PREMJI**, who turned 70 last week, sought a 2-yr extension as executive chairman, MD at the company's AGM

Source: NSE's India Board Database

"There has not been any case where there has been any kind of dissent, so there is no cause for concern but in case there are cases and where few voices show another view, Sebi and ministry of corporate affairs are likely to come into the picture," said an official source, who did not wish to be identified.

"This is particularly crucial in promoter-driven companies, there has to be some solid reason for the extension and in case there is some discrepancy, the

market regulator and MCA can spring into action," added Sai Venkateshwaran, partner and head of accounting advisory services, KPMG.

"In case of a public company, appointment of directors beyond a prescribed age should be subject to a special resolution by the shareholders which should also prescribe the term," as per the ministry of corporate affairs. "Continuation of a director above 70 years should be subject to a fresh resolution."