

Standing Committee Report Summary

The Companies Bill, 2011

- The Standing Committee on Finance submitted its 57th Report on 'The Companies Bill, 2011' on June 26, 2012. The Chairman of the Committee was Mr. Yashwant Sinha. The Bill was introduced in the Lok Sabha on December 14, 2011. It seeks to replace the Companies Act, 1956. An earlier Bill introduced in 2010 was examined by the Standing Committee; this Bill incorporates many of the recommendations made by that Committee.
- The Bill proposes that the Company shall obtain the approval of the Tribunal to consolidate/subdivide its share capital. The Committee is of the view that the approval of the Tribunal shall be obtained only in cases where the consolidation/subdivision of share capital affects the voting power of the shareholders.
- According to the Companies Act, 1956, auditors have to be appointed by shareholders at every Annual General Meeting (AGM) in the interest of accountability. The Bill proposes that auditors shall be appointed at the first AGM for a term of five years. The Committee recommends that this appointment shall be ratified at every AGM.
- The Bill proposes that the partners of an audit firm shall be rotated "every year" if the members of the company pass a resolution for the same. The Committee recommends that the term "every year" shall be replaced with "at such interval as may be resolved by Members".
- The Bill proposes that the members of the Company Law Board (CLB) who are eligible shall be appointed as the members of the National Company Law Tribunal (NCLT). The Committee feels that the working of the CLB Benches is not satisfactory and hence the selection of the members of the NCLT should be made afresh.
- The Bill requires that a report of the Board of Directors to be laid before the Company. The Committee recommends that the impact of the government directives on the financial position of a government company also be included in this report. According to the Committee, this would help reduce government interference in the management of public sector enterprises and also be in the interest of their operational efficiency.
- The Bill proposes that the inter-corporate loans shall be charged a rate above the prevailing bank rate as prescribed by the RBI. The Committee recommends that the rate of interest on inter-corporate loans should be linked to the yield on government securities of equivalent maturities instead of the prevailing bank rate under the RBI Act.
- The Bill proposes that every company that has a profit of Rs 500 crore or more, or a turnover of Rs 1000 crore or more shall have to conduct Corporate Social Responsibility (CSR) activities. The Committee recommends that the Bill should state clearly that the CSR activities shall be directed in and around the activities of the area in which the company operates.
- The Bill proposes that in case of non-compliance by an auditor with the intent to deceive the company or its shareholders or creditors or any other interested person in the company, the auditor shall have to pay a fine prescribed by the person deceived. The Committee is of the view that such open ended liability without any defined restrictions may expose the auditor to uninsurable risk. Hence, "any other person concerned or interested in the company" shall be defined to restrict the liability.
- The Bill proposes criminal liability for certain transgressions such as delay in registering transfer of shares within the prescribed period. The Committee is of the view that such technical errors should be viewed in a broader perspective and not invite very stringent liability.

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