Corporate Governance of Unlisted Companies

A Necessary Evolution in the Indian Corporate Playbook

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Redefining Corporate Governance for Unlisted Companies in India: A Need for Balance

"It takes decades to build a company's reputation but only minutes to destroy it."

Warren Buffett's cautionary words resonate strongly every time a corporate failure makes headlines. In recent years, the collapse of unicorns, operational shutdowns of promising ventures, and governance lapses in high-profile private companies have raised serious concerns. These developments prompt a critical question: **Is it time for India to redefine Corporate Governance for unlisted companies?**

Understanding Corporate Governance

Corporate governance refers to the systems and principles by which companies are directed and held accountable. Its core values - transparency, accountability, fairness, and responsibility - are essential to protect stakeholders and ensure sustainable growth.

For listed companies in India, governance requirements are well-defined. They are subject to stringent disclosure norms, independent board oversight, audit committees, and structured approval processes for related-party transactions amongst others. These mechanisms serve as important checks and balances to uphold the core values mentioned above.

However, when it comes to unlisted companies - startups, family businesses, and privately held enterprises - the corporate governance related regulatory framework is significantly lighter. While the **Companies Act, 2013** does impose some governance obligations, these are limited in scope and often insufficient to prevent major failures. For example, under Section 177 of the Act, only certain classes of public companies are required to establish an audit committee, and even then, there is no mandate for majority independent composition - unlike the norms for listed companies.

Governance Gaps in Unlisted Companies

Unlisted entities are not subject to continuous public scrutiny as compared to public companies. There are no requirements for routine disclosures, investor calls, or regulatory review of material decisions. This lack of oversight can result in risks accumulating beneath the surface, surfacing only when a crisis erupts.

Recent examples highlight these vulnerabilities which includes a **large unicorn** and a **rapidly scaling mobility startup** highlighting their lack of strong Corporate Governance safeguards.

Such events are not isolated. They reflect systemic gaps in the governance frameworks for large unlisted companies - gaps that can lead to widespread financial, operational, and reputational damage.

While it is widely acknowledged that unlisted companies require operational agility—and that excessive controls may hinder innovation—there is a clear case for subjecting certain classes of unlisted companies to stronger governance norms. The extent and nature of these norms should be proportionate to the size, scale, and risk exposure of the company.

Several critical governance requirements currently apply only to listed companies. If adapted and extended selectively to qualifying unlisted companies, these measures could meaningfully enhance board oversight, improve transparency, and safeguard stakeholder interests.

1. **Mandating independent directors on boards and key committees** - such as audit committees, and risk committees - would introduce much-needed objectivity in decision-making. An external, empowered perspective can serve as a crucial counterweight to promoter dominance, especially when difficult financial or ethical decisions are at stake.
2. The **related-party transaction (RPT) framework** applicable to listed companies includes detailed thresholds, prior audit committee approvals, disinterested shareholder voting for material transactions, and half-yearly disclosures. These checks reduce the risk of opaque inter-company lending with promoter-linked entities. For large unlisted companies, adopting these controls would offer immediate credibility with investors, banks, and employees.
3. A **whistle-blower or vigil mechanism** overseen by the audit committee can surface red flags early. In the absence of a safe channel for employees or vendors to report misconduct, early signs of fraud or misreporting often go unnoticed. Implementing this mechanism is low-cost and high impact, ensuring companies can address internal issues before they escalate into crises.

4. **Half-yearly financial disclosures**, certified by the CEO and CFO or other key management personnel, can instil financial discipline and increase accountability. In listed companies, this practice helps boards detect financial stress and control failures early. For unlisted companies, even a simplified version of this process can offer critical visibility to lenders, investors, and employees - improving trust and enabling better risk management.
5. Additional norms such as **shareholding pattern disclosures, pledge reporting, and immediate disclosure of material events** - like leadership exits, regulatory actions, or covenant breaches - can reduce information asymmetry. In the absence of such requirements, many key stakeholders remain unaware of critical developments until negative consequences are unavoidable. These disclosures, if applied proportionally, offer early transparency to all stakeholders, not just shareholders.

These regulatory mechanisms, if adapted appropriately, can serve as essential building blocks for robust governance in unlisted entities. They are not simply compliance obligations; they are preventive tools - designed to detect issues early, protect reputation, and build long-term resilience.

Calibrating Governance for Scale

A one-size-fits-all approach would not work. Excessively stringent governance mandates may discourage innovation, especially in smaller or early-stage companies. As noted by startup industry bodies, imposing public-company-grade compliance on seed-stage ventures could limit agility and increase operating costs.

However, **larger unlisted entities** - some of which surpass listed companies in revenue and stakeholder impact - must not operate without meaningful oversight. A threshold-based model offers a pragmatic solution.

For example, such a framework could apply select governance norms to unlisted companies that meet annual turnover (such as greater than INR 500 Cr), employee strength (such as greater than 1,000), valuation (such as greater than USD 100 Mn or post Series B funding) and borrowing (such as greater than INR 100 Cr) thresholds.

This approach preserves flexibility for smaller firms while ensuring that companies with material ecosystem exposure are held to a higher standard.

Conclusion: Striking the Right Balance

Corporate governance is not an optional add-on - it is a fundamental safeguard that builds institutional trust and long-term value. While listed companies are bound by comprehensive frameworks, unlisted entities that wield similar influence must not remain in regulatory blind spots.

Extending select listed-company regulations to large unlisted companies is not about adding bureaucracy. It is about introducing proportionate accountability - one that prevents reputational and financial damage before it becomes irreversible.

India need not choose between agility and governance. With a tailored, risk-based approach, it can achieve both. The objective is not to slow down enterprise but to build resilient, transparent, and trusted businesses that stand the test of time.