



**Source**

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## **SEBI PLAN FALLOUT OF SATYAM SCAM**

**Ind directors face board cap**

*Move To Help Make Their Services Meaningful*

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## Apurv Gupta MUMBAI

THE Securities and Exchange Board of India, or Sebi, is considering a proposal to cap the number of company boards that an independent director can sit on, a person familiar with the matter told ET. The aim is to ensure that independent directors get enough time to analyse the agenda of the board meetings and make meaningful contributions.

A recent discussion paper from Sebi's Primary Markets Advisory Committee points out that board members have to attend at least four board meetings a year. In addition, there could be several meetings of committees such as the ones fixing audit or compensation that an independent director could be part of. Typically, these meetings take place at around the same time of the year. If a person was on the boards of many companies, he would not be able to make a meaningful contribution beyond a point, according to the Sebi paper.

A number of lawyers ET spoke to said the latest proposal is a fallout of the accounting fraud at the erstwhile Satyam Computer, now Mahindra Satyam, which had a large number of independent directors, including well-known academics, on its board.

According to Prime Database, which aggregates data on financial markets, as many as 324 independent directors are serving on the boards of five or more listed companies. There are also individuals holding that post in over a dozen companies.

For instance, one Rajendra Ambalal Shah is an independent director in 14 listed companies and an alternate director in four listed companies. Similarly, Dilip Jayantilal Thakkar is an independent director on the boards of 14 companies and **Shailesh Haribhakti**, a well-known chartered accountant, holds the same post in 13 listed companies, according to Prime Database. There are over two dozen people who serve as independent directors in 10 or more listed companies.

"There is a strong case for reducing the number of companies on the board of which independent directors can sit," said Akil Hirani, managing partner of law firm Majmudar & Co. "Most of the companies are becoming large and going global by expanding their footprint to other countries. In order to give enough attention to all business details, independent directors do need a considerable amount of time," Mr Hirani said.

## **MCA norms cap directorships to only 7cos**

HIRANI, though, is not sure about the number of companies an independent director should be limited to.

Section 275 of the Companies Act restricts the number of directorships that can be held by an individual to 15 companies.

A similar provision has been proposed in the Companies Bill placed before the Parliament.

Voluntary guidelines issued by the ministry of corporate affairs say that an independent director should not serve on the boards of more than seven listed companies.

**"My view is in line with CII recommendations, which say that it should be limited to 12 in case of listed companies," said Shailesh Haribhakti, chairman, BDO India, adding, "One should exclude the unlisted subsidiaries of listed companies for this purpose."**

The capital market regulator is also looking to omit the word 'material' from a clause that deals with the appointment of partners of legal and consulting firms as independent directors. It thinks some companies are appointing partners of their legal firm as independent director on their boards, using the logic that the amount of fees paid annually to the firms are not material compared to their turnover.

Current regulations bar the partner of an audit firm from acting as independent director in a company with which the firm is associated. But the restriction with respect of the partners of legal or consulting firms is applicable only in case the association is 'material'. **Mr Haribhakti said there should not be any ambiguity that provides a loophole for misinterpreting the law. "Companies on their own should take a decision by understanding the spirit of the law," he said.**

Mr Hirani said if a law or consulting firm does substantial work for a company, having a partner from there as independent director is not desirable, as it could lead to conflict of interest.