

Independence Principles for Corporate Boards and Directors

NFCG Round Table in Mumbai

26 March 2007

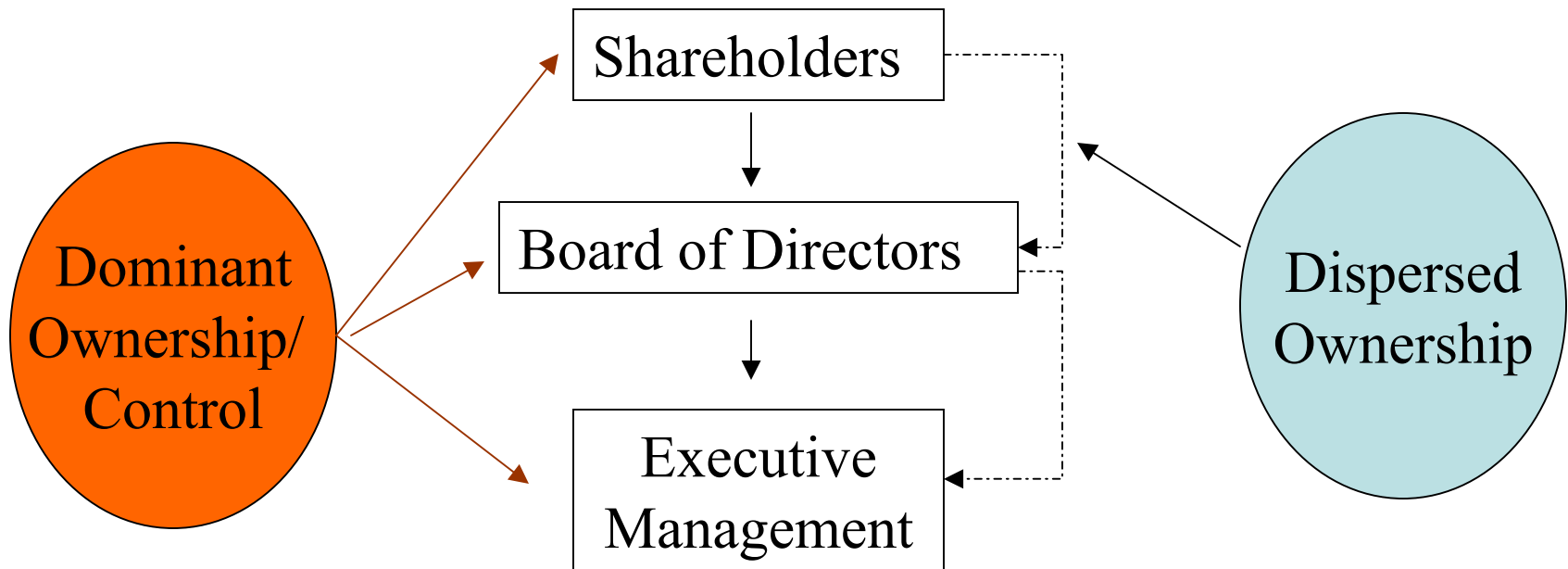
Ownership/Control of the Corporation

- Modern-day Corporations are So Large in Size & Complexity that Their Control Does Not Vest in Their Owners Correspondingly
- Leads to Distancing of Ownership from Control; Shareowners' Interests Require Protection from "Greedy" Executive
- In Case of Dominant (Not necessarily Full or Even Majority) Ownership, Such Protection of Absentee Shareowners Doubly Important
- This Task Entrusted to Independent Boards

The Corporate Governance Hierarchy

- In Widely-Owned Companies, Shareholders Elect Directors, Board Appoints the Executive In Dominant Ownership/Control Companies, Dominant Shareholders Influence Board Election & Executive Management

Governance Hierarchy



Triple-Dimensions of Board Engagement & Oversight

Contributing

Counseling

Controlling

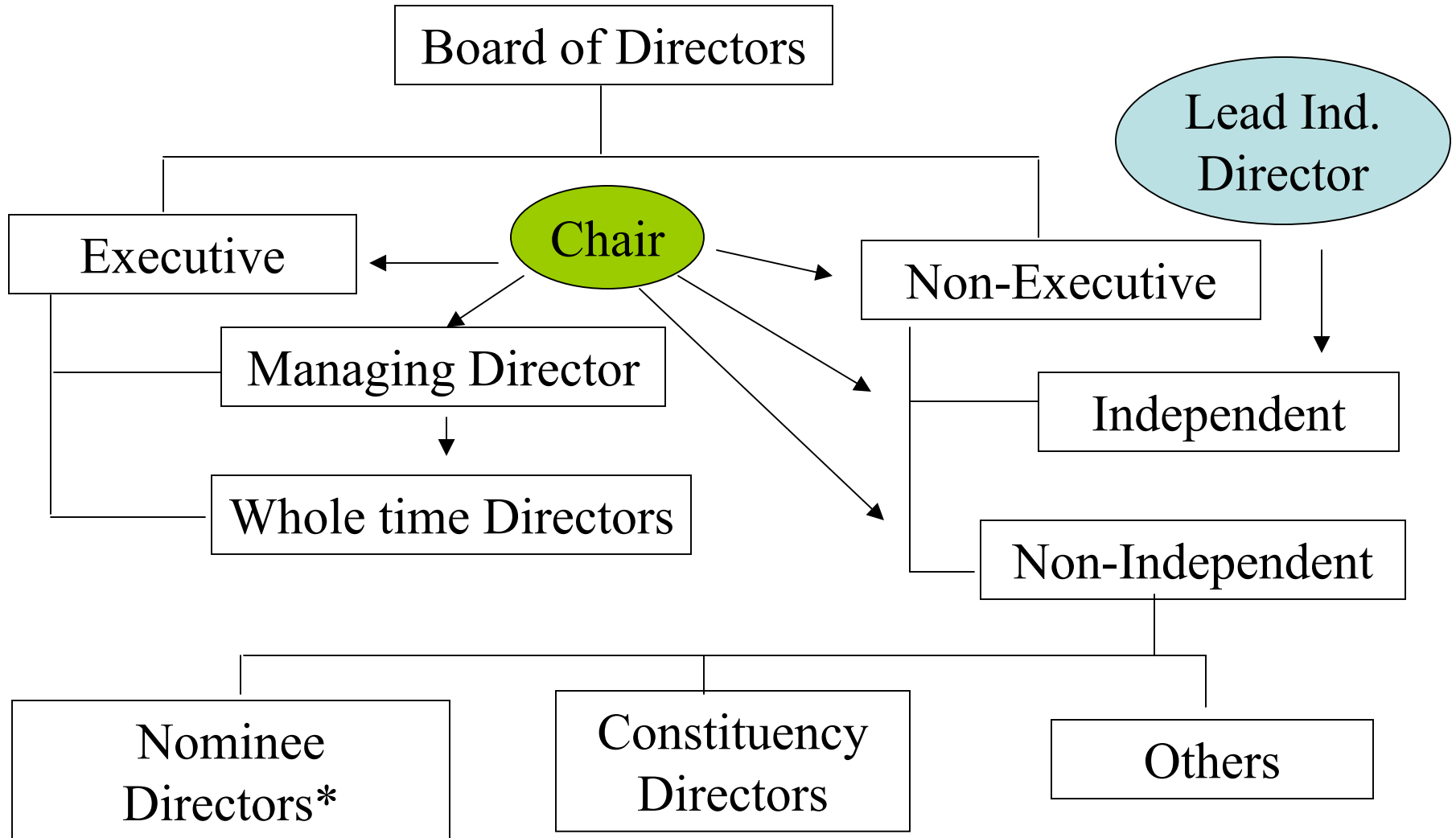
Stewardship Role of Boards

- Oversight of, & Engagement in:
 - Strategy Formulation & Performance Monitoring
 - Top Management Selection & Rewards
 - Risk Management
 - Internal Control & Information Systems
 - Communications Policy
 - Corporate values Framework

Enhancing Quality of Board-Level Decision-Making

- Board Diversity and Objectivity Facilitate Enhancement of Decision Quality
- It Promotes *Cognitive Conflict* leading to Different Views and Perceptions on Topics, thus Minimising the Risks of *False Consensus Effect* Usually Associated with Overly Strong *Cohesion* that Tends to Militate Against *Self-Censorship & Critical Thinking*
 - » *Source:* Cognition and corporate governance: Understanding Boards of directors as Strategic Decision-Making Groups, Daniel Forbes and Frances Milliken, (1999)

Board Composition

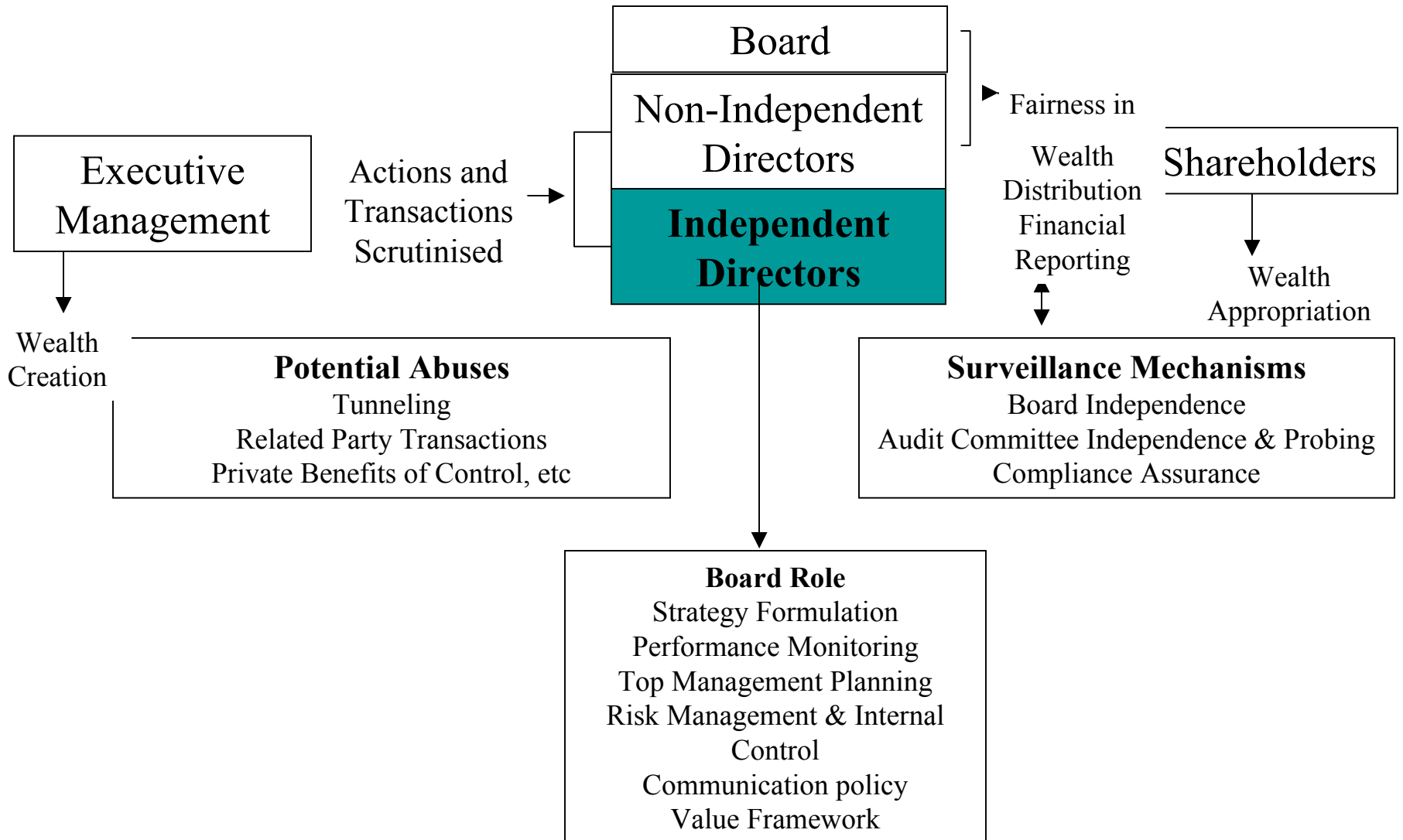


* unless specified otherwise

Independent Review & Validation

- All Dimensions, and Especially the Control Dimension, Require Objective Board Review & Validation
- Created Wealth Transmission to Entitled Shareholders Subject to Leakages *En Route*
- Watchdog Role of Board to Minimise, if not Totally Eliminate, Such Leakages

Independent Validation Process



Independence – A Key Determinant of Board Effectiveness

- Providing an Enabling Environment in Which the Board and the Directors Could Effectively Discharge Their Duties is Key to Good Corporate Governance
- Invited Independence is Preferable to Imposed Independence
- Hence the Foundation “Principles” – No Mandatory Prescription. If convinced, the Government, the Regulators, and the Companies Themselves Could Adopt These Principles

Three-Pillared Enabling Model of Board & Director Independence

- Pillar-I : The State to Provide an Enabling Legislative & Regulatory Environment for Independence
- Pillar-II: Boards to Enable Themselves to Effectively Function Independently
- Pillar-III : Individual Directors to Enable Themselves to Effectively Function on Boards Independently

I. Ensuring the Basis for an Effective Independence Framework

- ***The Corporate Governance environment should promote transparent, objective, and independent discussion in and decision-making by Corporate Boards***
 - A. Corporate legislation and regulation should promote effective contribution by independent members of a Company's Board of Directors, and of Board Committees. Towards this end, the legislative and regulatory framework should provide for appropriate strength of independent Directors on the Board and Board Committees.
 - B. Corporate legislation and regulation should specify minimum criteria (positively and negatively) that would qualify or disqualify a person as an independent Director.

Ensuring the Basis for an Effective Independence Framework [Contd.]

- C. Quorum requirements for Board and Key Board Committees (Audit, Compensation, and Nominations Committees) should be prescribed such that participation (in person or by audio-video conference) by a majority of independent Directors on the Board/Committees is required, where statutorily specified matters of importance are scheduled or brought up for discussion.
- D. Board/Key Committee Approval of resolutions pertaining to certain statutorily specified matters of importance should require the affirmative vote of a majority of independent Directors participating (in person or by audio-video conference) in the meeting.

Ensuring the Basis for an Effective Independence Framework [Contd.]

- E. For purposes of Article I.C and I.D above, Directors subject to conflict of interest requirements should be excluded in reckoning the qualifying number of independent Directors required for the quorum or for affirmative voting on resolutions.
- F. Corporate legislation and regulation should enable independent Directors on Company Boards to obtain, where a majority of them deem necessary, expert advice, with the costs being borne by the Company.
- G. All shareholders should effectively participate in, and contribute to, decisions relating to governance of their Companies.

II. Promoting Board Independence

- ***The Corporate Board should be so constituted as to ensure its independence in discharging its responsibilities***
 - A. *The Board* should have a majority of independent Directors who can objectively ensure that all matters concerning the business and operations of the Company are carried out in the best interest of the Company, all its shareholders, and all other relevant stakeholders.
 - B. The Board Chair should be an independent Director elected by members of the Board and should ensure that the business of the Board is conducted in an objective, transparent and informed manner, with opportunities being provided to all members for due contribution.

II. Promoting Board Independence [Contd.]

- C. The Board and Committee Chairs, in consultation with the Chief Executive and the Company Secretary, should schedule meetings, determine their Board agenda, and duration as would enable participation by members, and oversee prompt and due dispatch of Board papers and other necessary material to the Directors, to facilitate discussions in an informed and meaningful manner.
- D. The Board Chair should encourage a meeting of independent Directors in executive session without any non-executive or executive members of the Board or management being present, before commencement of the full Board meeting to discuss among themselves any matter concerning the business affairs of the Company, whether or not they are part of the agenda.

II. Promoting Board Independence [Contd.]

- E. If the board Chair does not qualify an independent Director, the independent Directors on the Board should designate one among them as the Lead Independent Director, to be their spokesperson. In such a case, the Lead Independent Director should chair the meetings of the independent Directors in executive session.
- F. An independent Director should chair the Board's Audit, Compensation, and Nominations Committees, and most if not all of their members should also qualify as independent Directors. None of them, however, should be an executive Director of the Company.

III. Promoting Director Independence

- ***Individual Directors on a Corporate Board should ensure their capability of independent and unbiased judgement on matters of governance is protected on an ongoing basis.***
 - A. *Individuals* should at all times zealously protect their independent status with reference to any entity on whose Board they serve as independent Directors.
 - B. Independent Directors shall endeavour to attend all Board and Committee meetings of their Companies, and be well prepared for objective and meaningful discussions at meetings.
 - C. Independent Directors should seek, and Board and Committee Chairs shall allow, sufficient time and opportunity for comprehensive discussions on matters before the Board or Committee, including the draft minutes of previous meetings before their formal adoption.

III. Promoting Director Independence [Contd.]

- D. An independent Director should be encouraged to disclose not only definite but also doubtful situations of any conflict of interest, to the Board / Committee Chair, and abide by the Board/Committee decision in terms of participation in discussion or in voting on a resolution pertaining to such situations.
- E. While independent Directors are entitled to be remunerated appropriately for their services as Directors, they should ensure that the remuneration accepted by them from any Company is not disproportionately so large as to invite potential impairment of their independent status.

Thank you

I Will be Happy to Take Any
Questions You May Have