Corporate Social Responsibility

The last decade has seen radical changes with regard to the manner in which corporate social responsibility ('CSR') has been managed in India and across the globe.

CSR across the globe

The European Commission Directive on Disclosure of Non-Financial and Diversity Information (2013) requires specific companies *(including public-interest companies)* to disclose material **environmental, social and employee-related matters**. Similarly, The Securities and Exchange Commission of the United States of America, requires listed companies to disclose their environmental compliance expenses. Listed companies in the United Kingdom ('UK') are required to provide a report disclosing their annual **greenhouse gas emissions, levels of diversity and human rights related information** in accordance with UK's Companies Act 2006 (Strategic and Director's Report) Regulations 2013.

CSR in India

India became one of the first countries to enact a legislation relating to CSR in 2014. While specific aspects relating to CSR were stated in the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business in 2011, the Companies Act of 2013 made **CSR spending mandatory in specified cases**.

Section 135 and Schedule VII of Companies Act 2013 requires every company with a net worth of **INR 500 crore or more or turnover of INR 1,000 crore or more or net profit of INR 5 crore** or more during the immediate preceding financial year, to have a CSR committee (*with section 134 (3) of the Companies Act 2013 requiring a disclosure of the CSR committee)* and spend at least 2 per cent of average net profits earned during three immediate preceding financial years on CSR activities.

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India has also recently introduced new **Environment, Social and Governance ('ESG') reporting requirements for the top 1,000 (*i.e. by market capitalization*) listed companies in the country**. The Securities and Exchange Board of India requires disclosures in a new format - **Business Responsibility and Sustainability Report ('BRSR')**, which is based on 9 principles that have been set out in the National Guidelines on Responsible Business Conduct. These seek to align India's sustainability reporting with global reporting standards. Reporting in the BRSR format has been made voluntary for the financial year ending March 31, 2021; and will be mandatory from the financial year ending March 31, 2023.

Over the years, spending on CSR in India has crossed the INR 1 lakh crore milestone. On applying the assumption of the CSR spend at the mandated mark of 2% of average profit of the preceding three fiscals, it is estimated that eligible companies would have spent over INR 22,000 crore on CSR during fiscal 2020, which would comprise INR 15,000 crore by ~1,700 listed companies and the balance by unlisted entities. However, recent reports and research shows that the **quantum of CSR spending in India has plunged significantly in fiscal 2021.**

The substance over form for CSR & ESG

The tenets of good governance require CSR to not be viewed from the narrow prism of numbers. We need to go beyond numbers and beyond the letter of the law to the spirit in which CSR activities in India are conducted. In this respect **some best practices are an early and voluntary adoption of BRSR and the development of balanced scorecards for CSR and ESG that should be be used as the mainstream of corporate planning and development**. These scorecards should be **assessed independently and objectively** for contributions to local, national and international communities and subsequently published annually within the annual report of all listed companies. One key area of focus should relate to '**carbon footprint**', with an overarching focus on **comprehensive ethical and social accountability frameworks** for businesses.