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Related Party Transactions in Promoter-Dominated Firms: Assessing the Effectiveness of Minority Shareholder Protection in India

KAMLESH KUMAR R[*] AND BHARATHI PRIYA S[**]

ABSTRACT

Related Party Transactions (RPTs) represent one of the most significant corporate governance challenges in jurisdictions characterized by concentrated ownership and promoter control. In India, while RPTs may facilitate legitimate business efficiencies, they also create substantial risks of tunnelling, value diversion, and expropriation of minority shareholders. Against the backdrop of recent amendments to the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, this article critically examines whether the existing regulatory framework adequately safeguards minority shareholder interests in promoter-dominated firms. The study is undertaken in response to concerns that increasing reliance on audit committee oversight, evolving materiality thresholds, and procedural compliance mechanisms may weaken substantive investor protection. Using a doctrinal research methodology, the article analyses statutory provisions, regulatory developments, judicial precedents and corporate governance literature. The study finds that despite significant regulatory evolution, the Indian RPT framework remains predominantly procedural, emphasizing disclosure and approval requirements rather than substantive fairness. The absence of clear standards governing ordinary course of business, arm's length transactions, and materiality enables regulatory arbitrage and limits the effectiveness of existing safeguards for minority shareholders. The article argues that meaningful protection of minority investors requires a shift towards a fairness-based governance model incorporating independent valuation, stronger audit committee independence, enhanced shareholder participation, and more robust enforcement mechanisms. Such reforms are essential to ensure that corporate efficiency is balanced with accountability and equitable treatment of minority shareholders.

Keywords: *Minority Shareholder Protection, Promoter-Dominated Firms, Tunnelling, Materiality, Arm's Length Transactions, Audit Committee Oversight, Substantive Fairness*

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I. INTRODUCTION

Related Party Transactions (RPTs) represent a fundamental governance paradox: while they are essential for efficient intra-group financial and operational arrangements, they also serve as a significant mechanism for the oppression and expropriation of minority shareholders. These transactions, which include dealings between a company and entities related to its promoters, directors or management, always carry a risk of conflict of interest and diversion of value. These risks became acutely visible in the high-profile corporate failures of Satyam and IL&FS, which revealed the extent to which poorly regulated RPTs can enable governance failures and financial opacity. The SEBI (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2025, by revising materiality thresholds, widening the role of audit committees and narrowing the range of transactions that require shareholder approval, have further intensified this tension. This paper contends that although the reforms introduce notable procedural safeguards, the Indian regulatory framework governing RPTs remains structurally inadequate in ensuring substantive fairness for minority shareholders. It therefore advocates a recalibrated regulatory approach grounded in principles of fairness and minority protection.

The Indian regulatory framework for RPTs essentially consists of the Companies Act, 2013; the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (SEBI LODR); and the applicable accounting standards. Over time, SEBI has strengthened disclosure and shareholder consent requirements to prevent tunnelling, the extraction of private benefits and other abusive practices. The most recent amendment, the SEBI LODR (Fifth Amendment) Regulations, 2025, notified on 18 November 2025, inserted Schedule XII, which replaces the earlier uniform materiality threshold (₹1,000 crore or ten per cent of annual consolidated turnover, whichever is lower) with a scale-based threshold tied to the listed entity's consolidated turnover.[1] Read with SEBI's October 2025 relaxation of the minimum information to be placed before the audit committee and shareholders for smaller transactions, these changes increase reliance on audit committee approval and dilute certain disclosure and shareholder-approval norms.

Although the reforms may simplify compliance and reduce regulatory burdens, they raise critical concerns in promoter-controlled firms, where minority shareholder protection is structurally weak. The move from shareholder-centred oversight towards audit committee

[1] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2025, No. SEBI/LAD-NRO/GN/2025/273 (India) (published in the Gazette on Nov. 19, 2025; inserting Schedule XII and amending reg. 23(1) with effect from Dec. 19, 2025); *see also* SEC. & EXCH. BD. OF INDIA, Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/135, *Minimum Information to Be Provided to the Audit Committee and Shareholders for Approval of Related Party Transactions* (Oct. 13, 2025).

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approval, the continued use of turnover as the key measure of materiality, and the higher thresholds for shareholder approval may weaken substantive safeguards. Such regulatory relaxation deserves scrutiny in an ecosystem in which investor activism and enforcement mechanisms are still developing.

In this context, this study critically analyses SEBI's recent reforms of the RPT framework, particularly their impact on minority shareholder protection, fiduciary responsibility and corporate governance standards in India. It evaluates whether the new framework adequately captures the structural vulnerabilities of promoter-dominated firms or whether it is inadvertently oriented towards simplifying processes rather than enhancing investor protection.

The main aim of this study is to determine the sufficiency and efficacy of the reforms in protecting minority shareholders. It also recommends regulatory and governance reforms that would shift the emphasis from formal compliance to substantive fairness, so that RPT regulation in India becomes more robust, principle-based and able to accommodate the complexities of contemporary corporate structures.

A. Evolution of RPT regulation in India

i. The disclosure-based regime under the Companies Act, 1956

The development of related party transaction regulation in India can be described as an incremental shift from formalistic, disclosure-based governance towards more substantive, minority-protective control, shaped by promoter dominance and group-based corporate organisation. The initial regulation in the Companies Act, 1956, chiefly Sections 299 and 300, followed a conflict-disclosure model under which an interested director needed only to disclose the interest and abstain from voting. These provisions were ill-suited to an environment of concentrated ownership, in which promoters could influence board decision-making on intra-group dealings without meaningful questioning.[2]

ii. Emergence of Clause 49 and audit committee oversight

The first major regulatory change, in the post-liberalisation period, was the introduction of Clause 49 of the Listing Agreement, which was influenced by Anglo-American governance norms. Although Clause 49 added audit committee controls and disclosure provisions, it based its definition of related parties on Accounting Standard 18, which did not capture horizontal relationships between companies within a group, and thus created regulatory blind spots.[3]

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[2] Ami Galani & Nathan Rehn, *Related Party Transactions: Empowering Boards and Minority Shareholders to Prevent Abuses*, 22 NAT'L L. SCH. INDIA REV. 29, 34–38 (2010).

[3] Umesh S. Mahtani, *Analysis of Related Party Transactions in India: A Group and Non-Group Company Perspective*, 15 CORP. OWNERSHIP & CONTROL 174, 176–79 (2018), https://doi.org/10.22495/cocv15i2c1p4; *see*

iii. Doctrinal shift under the Companies Act, 2013: from disclosure to approval

The Companies Act, 2013 was a doctrinal step forward: Section 188 required shareholder approval for related party transactions above prescribed thresholds, the Act broadened the definition of a related party, and it strengthened board supervision. However, empirical evidence suggests that formal approval mechanisms do not always limit promoter opportunism, because of informational asymmetry and the dominance of controlling shareholders in voting.[4]

iv. The "purpose and effect" test: emergence of substance-over-form regulation

Subsequent amendments to the SEBI LODR Regulations attempted to respond to these issues by tightening the materiality threshold, requiring the prior approval of material transactions by shareholders other than related parties, and extending the scope of RPTs through the "purpose and effect" test.[5] These reforms represent a move towards substance-over-form regulation, acknowledging that transactions structured to fall outside the formal definition can still produce the same economic outcomes.

v. SEBI's 2025 disclosure framework and enhanced scrutiny

Recent regulatory developments, such as SEBI's 2025 industry standards on the minimum information to be placed before the audit committee and shareholders for the approval of RPTs, and the emerging jurisprudence on materiality, also point to a shift towards increased transparency and ex ante oversight.[6] However, scholars and policy commentators have observed that Indian RPT regulation retains a procedural bias, focusing on approvals rather than on substantive fairness.[7] The persistence of tunnelling risks and intra-group value transfers underscores the limitations of disclosure-centric regimes in promoter-controlled environments.

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also Galani & Rehn, *supra* note 2, at 37, 52.

[4] Poonam Singh & Vikas Kumar, *Related Party Transactions, Family Firms, and Regulation: Evidence from India* (SSRN Working Paper, 2024), https://ssrn.com/abstract=5361382.

[5] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2021 (India) (substituting reg. 2(1)(zc), whose "purpose and effect" limb applies from Apr. 1, 2023, and setting the reg. 23(1) materiality threshold at ₹1,000 crore or ten per cent of annual consolidated turnover, whichever is lower, from Apr. 1, 2022); *see* Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, regs. 2(1)(zc)(ii), 23(4) (India).

[6] SEC. & EXCH. BD. OF INDIA, Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/135, *Minimum Information to Be Provided to the Audit Committee and Shareholders for Approval of Related Party Transactions* (Oct. 13, 2025), https://www.sebi.gov.in/legal/circulars/oct-2025/minimum-information-to-be-provided-to-the-audit-committee-and-shareholders-for-approval-of-related-party-transactions_97281.html (last visited Mar. 22, 2026) (modifying the industry standards prescribed by Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/18 (Feb. 14, 2025), as revised by Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/93 (June 26, 2025), to allow a shorter set of information for transactions not exceeding one per cent of annual consolidated turnover or ₹10 crore, whichever is lower).

[7] Anuja Agarwal, *Balancing Ease and Oversight: Decoding India's RPT Reforms*, ASIAN CORP. GOVERNANCE ASS'N (Aug. 27, 2025), https://www.acga-asia.org/blog-detail.php?id=108 (last visited Mar. 24, 2026).

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This evolutionary arc reflects a continuing tension between regulatory aspiration and structural limitation. Successive phases of reform progressively broadened the regulatory architecture, moving from disclosure-based controls under the 1956 regime, to approval-centric mechanisms under the Companies Act, 2013, and then towards substance-over-form regulation through the 2021–2023 amendments. Despite these developments, however, the underlying asymmetry created by concentrated ownership has remained substantially unaddressed. The 2025 amendments mark a critical regulatory juncture: they may be read either as a transition towards a more efficient and risk-sensitive governance framework or as a dilution of minority shareholder safeguards. This paper advances the latter interpretation.

B. RPTs in promoter-dominated corporate structures

Related party transactions take on a structurally distinct role in India because of promoter ownership, under which controlling shareholders exercise de facto control over several parties within a business group. Empirical scholarship demonstrates that such concentrated ownership creates inherent incentives for "tunnelling", the diversion of corporate value through intra-group transactions that may not be at arm's length.[8] On this view, RPTs are not simply a support mechanism for a group's internal business dealings but instruments through which control is exercised, contested and occasionally abused.

These risks are formally addressed in the Indian regulatory framework, through the Companies Act, the SEBI LODR Regulations and the accounting standards (Accounting Standard 18 and, for companies applying the Indian Accounting Standards, Ind AS 24), by means of disclosure, approval and audit processes. Doctrinal and empirical analysis nevertheless shows a continuing gap between procedural compliance and substantive fairness.[9] For instance, while approval requirements and the role of the audit committee have expanded over time, their practical enforceability is weakened by informational asymmetries and by promoter influence over corporate decision-making committees.[10] Recent regulatory developments, including SEBI's enhanced disclosure norms and evolving materiality thresholds, are more transparent but still depend on ex ante disclosure standards rather than on ex post accountability.[11]

More importantly, RPTs also serve legitimate economic purposes in India's group-based corporate system, notably internal capital allocation and operational synergies. The critical issue

[8] Galani & Rehn, *supra* note 2, at 31–33.
[9] Vinod Kothari, *Evolution of Concept of Related Parties and Related Party Transactions*, VINOD KOTHARI CONSULTANTS (May 2023, rev. Feb. 12, 2025), https://vinodkothari.com/2023/05/evolution-of-concept-of-related-parties-and-related-party-transactions/ (last visited Mar. 22, 2026).
[10] Singh & Kumar, *supra* note 4.
[11] SEC. & EXCH. BD. OF INDIA, Circular No. SEBI/HO/CFD/CFD-PoD-2/P/CIR/2025/135, *supra* note 6.

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is therefore not to prohibit RPTs but to re-tune governance mechanisms so as to separate efficiency-enhancing transactions from opportunistic expropriation.[12] This requires a move to substantive review standards, independent assessment and the empowerment of disinterested shareholders, aligning Indian practice with international best practice while reflecting India's distinctive ownership realities.

C. Research questions

1. To what extent does the existing Indian regulatory framework on Related Party Transactions provide substantive protection to minority shareholders, particularly in promoter-dominated firms?
2. Does the absence of clear statutory guidance on "ordinary course of business" and arm's length standards under Indian law create regulatory uncertainty and facilitate the circumvention of disclosure and approval requirements, particularly under Regulation 30 of the SEBI LODR Regulations?
3. In what ways have the 2025 amendments to the SEBI LODR Regulations reshaped the balance between audit committee oversight and shareholder control in the governance of Related Party Transactions?

D. Research methodology

This research adopts a doctrinal methodology. The doctrinal approach entails systematic analysis of primary legal sources such as the Companies Act, 2013; the SEBI LODR Regulations, 2015 and their subsequent amendments; Ind AS 24; and the 2025 Fifth Amendment Regulations, as well as judicial pronouncements and regulatory guidance. Secondary sources, including peer-reviewed journal articles, empirical studies, policy reports and academic commentary, are employed to interrogate the gap between doctrinal intent and governance reality. The paper does not generate new empirical data but synthesises existing evidence to construct a normative argument for regulatory reform grounded in substantive fairness.

E. Scope and limitations

This paper focuses on RPT regulation as it applies to publicly listed companies in India, with particular attention to promoter-dominated corporate structures. It does not address RPTs in unlisted entities, banking and financial sector companies subject to Reserve Bank of India oversight, or public sector undertakings governed by distinct statutory regimes. A further

[12] VINOD KOTHARI CONSULTANTS, *Purpose and Effect Test for Related Party Transactions* (Mar. 17, 2023), https://vinodkothari.com/2023/03/purpose-and-effect-test-for-related-party-transactions/ (last visited Mar. 22, 2026).

limitation is the paper's reliance on secondary empirical data: it engages with existing quantitative studies but does not conduct original statistical analysis. Finally, the paper analyses the 2025 amendments as notified in November 2025; subsequent regulatory clarifications or judicial interpretation of those amendments may affect the analysis.

II. CONCEPTUAL AND LEGAL FRAMEWORK OF RELATED PARTY TRANSACTIONS

A. Conceptual foundations of related party transactions

Related party transactions are best understood not merely as contractual dealings but as governance-sensitive transactions embedded within relational corporate structures. In India, RPTs arise primarily from dense networks of promoters, subsidiaries and affiliated parties, and are structurally different from arm's length market transactions.[13] They are economically rational in that they enable intra-group efficiencies such as resource allocation, cost reduction and operational synergies. However, these efficiencies coexist with governance risks, particularly in systems characterised by concentrated ownership.[14]

Agency theory is an effective analytical tool, although in India the classical conflict between managers and shareholders is frequently replaced by a principal–principal conflict, in which controlling shareholders can extract private benefits at the expense of minority investors.[15] This is most acutely expressed through tunnelling, where corporate value is diverted from the listed entity to promoter-controlled entities through distorted pricing, asset transfers or intra-group financing. Concentrated ownership thus creates structural incentives for value diversion that procedural compliance alone cannot neutralise. Empirical evidence that group-affiliated firms engage in substantially higher levels of RPTs lends support to the concern that opportunistic behaviour, and not purely efficiency-driven motives, is at work.[16]

RPTs are not, however, normatively objectionable per se. They are frequently essential in promoter-owned firms, where internal capital markets take the place of underdeveloped external finance. The regulatory problem, therefore, is not prohibition but distinguishing efficiency-enhancing transactions from value-expropriating ones, which is the essence of contemporary RPT governance and which India's current framework must operationalise effectively.

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[13] Kaushiki Brahma, *Legal Analysis of Related Party Transactions in the BRICS Countries*, 11 BRICS L.J. 4 (2024), https://doi.org/10.21684/2412-2343-2024-11-1-4-31.

[14] STEPHEN BOTTOMLEY, THE CONSTITUTIONAL CORPORATION: RETHINKING CORPORATE GOVERNANCE (Routledge 2016).

[15] Mahtani, *supra* note 3.

[16] Galani & Rehn, *supra* note 2.

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B. Definitional framework and regulatory scope

The definitional architecture of RPTs in India is fragmented and expansive, creating overlapping regulatory jurisdictions rather than a coherent governance system. The Companies Act, 2013 adopts a relationship-based definition encompassing directors, key managerial personnel, their relatives and entities in which they are interested, together with the company's holding, subsidiary and associate companies.[17] The SEBI LODR Regulations, in contrast, reflect the reality of group-based control by extending the definition to every person or entity forming part of the promoter group and to shareholders holding a significant stake in the company.[18]

This multiplicity of definitions, while seemingly comprehensive, produces regulatory incoherence and interpretive ambiguity. Differences in the thresholds of control, significant influence and relational proximity permit transactions to be structured strategically so as to avoid formal classification as RPTs.[19] The so-called "purpose and effect" test is an attempt to close this gap by including transactions which, although formally compliant, have the same effect as one with a related party. It signals a genuine doctrinal shift towards substance-over-form regulation, acknowledging that structural ingenuity can replicate the economic consequences of related party transactions without satisfying their formal definitional criteria.

The 2025 Fifth Amendment Regulations and Schedule XII introduce a further development through a scale-based materiality framework that calibrates regulatory intensity to entity size. While the distinction reflects administrative practicality, it creates a structural concern that larger corporate groups may exploit scale-based thresholds through transaction fragmentation. The definitional framework therefore oscillates between regulatory oversight and compliance certainty, often at the cost of substantive clarity.

C. Legal and institutional framework governing RPTs in India

The Indian RPT regime has a multi-layered approval architecture combining statutory, regulatory and institutional mechanisms. Section 188 of the Companies Act, 2013[20] requires the consent of the board and, for transactions above the thresholds prescribed in Rule 15(3) of the

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[17] Aditi Gupta, *Related Party Transactions under the Companies Act and Other Allied Rules*, 6 INT'L J. LEGAL SCI. & INNOVATION 1 (2024), https://ijlsi.com/paper/related-party-transactions-under-the-companies-act-and-other-allied-rules/; *see* Companies Act, 2013, § 2(76), No. 18, Acts of Parliament, 2013 (India).

[18] Harsh Gupta & Anirudh Vasishtha, *Related Party Transactions & Rights of Minority Shareholders*, 4 INDIAN J. INTEGRATED RSCH. L. 813 (2024); *see* Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 2(1)(zb) (India).

[19] Kirthana Singh Khurana, *Related Party Transactions in India – The Need for a Regulatory Revamp*, *in* CHANGING PARADIGM OF CORPORATE AND COMMERCIAL LAWS IN INDIA 59 (Yogendra Kumar Srivastava & Ankit Singh eds., Taxmann 2021).

[20] Companies Act, 2013, § 188, No. 18, Acts of Parliament, 2013 (India); Companies (Meetings of Board and its Powers) Rules, 2014, r. 15(3) (India).

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Companies (Meetings of Board and its Powers) Rules, 2014, the prior approval of shareholders, thus creating a formal system of checks and balances. Supplementing this, Section 177[21] entrusts audit committees with the approval of transactions with related parties, a move towards internal governance mechanisms.

The SEBI LODR Regulations, especially Regulation 23,[22] have considerably strengthened this framework by requiring the prior approval of the audit committee for all RPTs and the prior approval of shareholders for material RPTs, with no related party permitted to vote in favour of the resolution.[23] This disinterested-shareholder mechanism aims to reduce conflicts of interest and to reconstitute an arm's length governance check where direct market discipline is absent. However, the mechanism depends on conditions such as dispersed ownership, informed minority participation and organised institutional shareholder engagement, which rarely exist in India's promoter-dominated firms.[24] Institutional investors may lack the incentive to scrutinise each related party resolution, while retail shareholders face acute coordination barriers.

The 2024 and 2025 amendments, which extended the audit committee's omnibus approval to transactions of subsidiaries and wrote into the regulations the rule, previously laid down by circular, that shareholders' omnibus approvals of material RPTs given at an annual general meeting remain valid until the next one,[25] reflect a deliberate regulatory choice to rely on improved disclosure, recalibrated materiality levels and comprehensive information requirements to facilitate informed decisions. Nevertheless, these reforms also increase dependence on audit committees and internal controls, which raises questions about their independence and their ability to withstand promoter influence. The institutional structure thus represents a hybrid model, combining external approval with internal monitoring without fully resolving the tension between efficiency and accountability.

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[21] Companies Act, 2013, § 177(4)(iv), No. 18, Acts of Parliament, 2013 (India).

[22] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 23 (India).

[23] Vinod Kothari & Vinita Nair, *Life of Shareholders' Approval for Material Related Party Transactions*, VINOD KOTHARI CONSULTANTS (Apr. 10, 2022), https://vinodkothari.com/2022/04/shareholders-approval-for-material-related-party-transactions/ (last visited Mar. 23, 2026).

[24] Narendra Nath Kushwaha et al., *Related Party Transactions and Audit Fees: Indian Evidence* (Indian Inst. of Mgmt. Bangalore, Working Paper No. 667, 2022), https://repository.iimb.ac.in/handle/2074/21445.

[25] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Third Amendment) Regulations, 2024 (India) (amending reg. 23(3) and inserting reg. 23(2)(f), with effect from Dec. 13, 2024); Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Fifth Amendment) Regulations, 2025 (India) (inserting the third and fourth provisos to reg. 23(4), with effect from Dec. 19, 2025); *see also* SEC. & EXCH. BD. OF INDIA, Circular No. SEBI/HO/CFD/CMD1/CIR/P/2022/47 (Apr. 8, 2022).

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D. Structural limitations and governance challenges

The Indian RPT framework is advanced, but it has structural limitations rooted in the very ownership concentration it aims to regulate. Promoter dominance allows controlling shareholders to determine board composition, audit committee membership and even shareholder outcomes, effectively neutralising approval mechanisms that depend on institutional independence.[26] Doctrinal ambiguities exacerbate these challenges. The absence of a statutory definition of "ordinary course of business", and the brevity of the statutory definition of an "arm's length transaction" in the Explanation to Section 188(1), confer managerial discretion that can be used for regulatory arbitrage. These exemptions may allow transactions with substantively adverse outcomes for minority shareholders to be classified as routine and exempt.

More fundamentally, the regime is characterised by a systematic procedural bias, focusing on disclosure and approval rather than on substantive fairness. As scholarly critiques point out, compliance with formal requirements does not always prevent value diversion, especially where informational asymmetry precludes meaningful scrutiny.[27] The persistence of tunnelling and intra-group value transfers underlines the drawbacks of a disclosure-based approach. Weak enforcement continues to undermine the regime. Although SEBI has strengthened regulatory control, its enforcement remains reactive and episodic, often triggered by high-profile failures such as Satyam and IL&FS rather than by systemic, proactive monitoring.[28] Consequently, the Indian RPT framework combines high regulatory density with limited substantive effectiveness.

In short, the conceptual and legal framework of RPTs in India is a system in transition towards substantive regulation, but constrained by structural realities. Addressing these issues requires recalibrated governance mechanisms, such as independent valuation, stronger enforcement and a transition to a judicially enforced standard of fairness.

E. Case study: RPT governance failures in India

The evolution of RPT regulation in India is best explained through key corporate failures that demonstrate the structural constraints of a disclosure-based model of governance. The Satyam scandal illustrates the ineffectiveness of procedural safeguards in the face of management dominance. The board initially approved the acquisition of the Maytas companies, which were

[26] Galani & Rehn, *supra* note 2, at 31–33.
[27] Saloni Khant, *RPTs: Testing Multiyear Contracts for Materiality*, VINOD KOTHARI CONSULTANTS (Mar. 24, 2026), https://vinodkothari.com/2026/03/rpts-testing-multiyear-contracts-for-materiality/ (last visited Mar. 24, 2026).
[28] *Related Party Transactions in India*, LEXOLOGY, https://www.lexology.com/library/detail.aspx?g=8f7d27a2-b8a4-4300-8ec2-b550e8ca08b2 (last visited Mar. 23, 2026).

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connected with the promoter family, despite a clear conflict of interest. The episode shows that formal adherence to disclosure norms does not amount to substantive scrutiny, especially where boards lack independence and decision-making is promoter-led. The failure lay not in the absence of regulation but in the inability of existing mechanisms to interrogate the economic substance of the transaction.[29]

Similarly, the IL&FS crisis highlights how RPTs can serve as tools of systemic opacity in complex corporate groups. Extensive dealings among group entities made the conglomerate appear financially healthy and prevented regulators and investors from identifying the risk in time. The case demonstrates that entity-level RPT disclosure is structurally inadequate for conglomerate governance and calls for group-level consolidated reporting mechanisms that current regulations do not mandate. In such situations, RPTs enable not only value diversion but also the masking of financial distress.

The dispute between the co-promoters of InterGlobe Aviation, the company that operates IndiGo, shows that even successful listed companies are not immune to RPT conflicts. In 2019 one co-promoter complained to SEBI of governance lapses, including in transactions between the company and entities of the other co-promoter's group; SEBI issued a show cause notice, and the company settled the proceedings in February 2021 without admitting or denying the alleged violations.[30] The episode suggests that disclosure alone cannot resolve underlying control tensions, particularly in firms with competing promoter interests.

Taken together, these cases show that the Indian RPT regime remains reactive rather than preventive, exposing governance lapses only after significant loss of value. They reaffirm the need to shift towards ex ante substantive review, independent control and fairness-oriented assessment to guarantee effective minority shareholder protection.

III. Ordinary Course of Business and Arm's Length Standards in RPT Regulation

A. Conceptual and legal understanding of "ordinary course of business"

The term "ordinary course of business" (OCB) occupies a central but disputed position in the regulation of related party transactions in India. Notably, neither the Companies Act, 2013 nor the SEBI LODR Regulations defines OCB, leaving its interpretation to corporate judgment and

[29] Divyesh Patel & Naresh K. Patel, *Related Party Transactions: Compliances, Cases and Reforms* (SSRN Working Paper, 2023), https://ssrn.com/abstract=4885884.

[30] *In re InterGlobe Aviation Ltd.*, Settlement Order No. Order/GR/KG/2020-21/6365, ¶¶ 1, 3–5, 10 (Sec. & Exch. Bd. of India Adjudicating Officer Feb. 9, 2021) (India), https://www.sebi.gov.in/enforcement/orders/feb-2021/setlement-order-in-the-matter-of-integlobe-aviation-limited_49067.html.

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ex post judicial determination. This legislative silence reflects an implicit reliance on contextual and industry-specific standards. In promoter-dominated corporate systems, however, this discretion may be used strategically to avoid the protection of Section 188, particularly where transactions are labelled routine despite their substantive impact.[31]

Judicial interpretation has sought to fill this definitional vacuum. In *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*,[32] the Supreme Court held that directors' powers are fiduciary and must be exercised bona fide in the interests of the company, so that the validity of a decision turns on the purpose for which a power is exercised and not merely on its formal regularity. The same logic underlies the exemption in Section 188(1) for transactions entered into in the ordinary course of business, which applies only where they are on an arm's length basis.

It follows that OCB should be assessed by reference to the nature and frequency of the transaction, industry comparability (whether comparable companies enter into equivalent transactions on equivalent terms) and commercial justification (whether the transaction serves an independently verifiable business purpose), rather than by formal classification. The difference between regular operational transactions and structured RPTs is paramount: whereas the former support legitimate business goals, the latter can be designed to effect indirect value transfers. The literature notes that companies often adopt broad internal descriptions of OCB, thereby keeping transactions beyond shareholder control.[33] This creates a doctrinal clash between formal categorisation and substantive economic impact, and calls for a more objective legal standard.

B. Judicial approach to conflict of interest and RPT scrutiny

The Indian judiciary has developed a substantive fiduciary standard that operates independently of procedural compliance, providing a jurisprudential counterweight to the structural deficiencies of the statutory RPT framework. In *Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan*,[34] the Supreme Court held that directors act in a fiduciary capacity and must exercise their powers for the benefit of the company, so that an allotment of shares by which a director gains control is liable to be set aside, even if the power to allot technically exists, where it was not exercised bona fide in the interests of the company. Similarly, in *Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad*,[35] the Court, while rejecting the claim of oppression on the

[31] Companies Act, 2013, § 188(1), No. 18, Acts of Parliament, 2013 (India).
[32] *Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd.*, (1981) 3 SCC 333 (India).
[33] Mahtani, *supra* note 3.
[34] *Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan*, (2005) 1 SCC 212; AIR 2005 SC 1624 (India).
[35] *Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad*, (2005) 11 SCC 314; AIR 2005 SC 809 (India).

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facts, reaffirmed that oppression involves at least an element of lack of probity or fair dealing towards a member in the matter of his proprietary rights as a shareholder, a standard directed at the substance of corporate conduct rather than its formal legality. This is especially relevant to RPTs, where consent by conflicted boards or affiliated shareholders can mask inequity.

The Supreme Court's decision in *Vishal Tiwari v. Union of India*[36] (the Adani–Hindenburg case) bears on the same problem from the regulatory side. The petitioners argued that SEBI's amendments to the related party definitions had made it difficult to establish violations through transactions routed via unrelated intermediaries. The Court declined to direct SEBI to revoke those amendments, holding that they had tightened rather than diluted the LODR framework, and recorded the Expert Committee's view that the 2021 amendments, effective from April 2022 and April 2023, were designed to address the device of transferring resources to an unrelated party only to pass them on to a related party. It left the investigation to SEBI. In September 2025, SEBI disposed of proceedings arising from the Hindenburg allegations about loans routed through intermediary companies, holding that the allegations were not established because transactions with unrelated entities undertaken before the amendment fell outside the definition of a related party transaction as it then stood.[37] The sequence illustrates the limits of a definition-driven regime: until the "purpose and effect" limb took effect, the classification of a transaction turned on the formal identity of the counterparty.

Collectively, these decisions suggest that Section 166 of the Companies Act, 2013,[38] which requires directors to act in good faith, to exercise due care and independent judgment, and to avoid conflicts of interest, should be interpreted as imposing substantive fiduciary duties that limit the legitimising effect of procedural approvals. The implication for RPT governance is direct: board or audit committee approval of a related party transaction does not, by itself, satisfy Section 166 if the approval process was structurally compromised by promoter influence or informational asymmetry.

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[36] *Vishal Tiwari v. Union of India*, Writ Petition (Civil) No. 162 of 2023, 2024 INSC 3, ¶¶ 22–24, 28, 67 (Jan. 3, 2024) (India).

[37] *In re Hindenburg Allegations Against Adani Group with Respect to Transactions with Milestone Tradelinks Pvt. Ltd. and Rehvar Infrastructure Pvt. Ltd.*, Final Order No. WTM/KV/CFID/CFID-SEC1/31672/2025-26, ¶¶ 59, 61 (Sec. & Exch. Bd. of India Sept. 18, 2025) (India), https://www.sebi.gov.in/sebi_data/attachdocs/sep-2025/order_matter_milestone_rehvar.pdf.

[38] Companies Act, 2013, § 166, No. 18, Acts of Parliament, 2013 (India).

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C. Materiality and board discretion under Regulation 30 of the SEBI LODR Regulations

Regulation 30[39] leaves the board of directors considerable discretion in determining the materiality of events and transactions. Although the 2023 amendments added a quantitative test, the board continues to shape the outcome through its materiality policy and the residual criterion of its own opinion. Though meant to provide flexibility, this discretion operates alongside Regulation 23, which governs RPT approvals, creating a dual gatekeeping role in which the board controls both disclosure and approval thresholds.[40]

This concentration of power is especially problematic in promoter-dominated firms, where boards can be controlled by the controlling shareholders. Regulatory proceedings illustrate the difficulty. In *Tree House Education & Accessories Ltd. v. SEBI*,[41] which arose from a SEBI investigation into whether the company's books had been manipulated and its funds diverted to related entities, the Securities Appellate Tribunal set aside the market restraint imposed on the company and its promoters but upheld the direction for a forensic audit. In *Linde India Ltd. v. SEBI*,[42] the Tribunal dismissed the company's appeal against SEBI's finding that it had failed to obtain shareholder approval for material transactions with a related party, upholding SEBI's view that all transactions with a related party during a financial year must be aggregated in testing materiality, and not merely those under a single contract. These matters underline that the classification and non-disclosure of material transactions can undermine market transparency and investor protection even where internal thresholds appear, on a technical reading, to have been met. They show that, in the absence of objective and independently verifiable materiality standards, boards retain substantial discretion in determining the scope and extent of disclosures made to investors.

Regulatory commentary also emphasises that materiality is to be judged not only quantitatively but also qualitatively, by reference to the nature and impact of the transaction.[43] The interface between Regulations 23 and 30 is therefore critical: the former requires the approval of material RPTs, while the latter requires their disclosure. The framework is further complicated by the risk of regulatory arbitrage through the structuring of transactions, for example by splitting

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[39] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 30(1), (4) (India) (reg. 30(4)(i)(c)–(d) as substituted and inserted by the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023, with effect from July 15, 2023).

[40] Gupta & Vasishtha, *supra* note 18.

[41] *Tree House Education & Accessories Ltd. v. SEBI*, Appeal No. 78 of 2019, ¶ 25 (Sec. Appellate Trib. Nov. 7, 2019) (India).

[42] *Linde India Ltd. v. SEBI*, Appeal No. 527 of 2024, ¶¶ 8.7, 8.14 (Sec. Appellate Trib. Dec. 5, 2025) (India).

[43] Payal Agarwal, *Getting Material on "Material" Events and Information*, VINOD KOTHARI CONSULTANTS (June 16, 2023), https://vinodkothari.com/2023/06/getting-material-on-material-events-and-information/ (last visited Mar. 22, 2026).

contracts or spreading them over time, which constitutes a major weakness of the existing regime. Consequently, board discretion in determining materiality remains a key vulnerability.

D. Arm's length standard: legal ambiguity and practical challenges

The arm's length standard is the second structural pillar of the regulatory architecture of RPTs, yet its application remains doctrinally uncertain. The Supreme Court in *SAP Labs India Pvt. Ltd. v. Income Tax Officer*[44] held that the Income Tax Appellate Tribunal's determination of the arm's length price is not final: a High Court may examine whether the price was determined in accordance with the provisions of the Income-tax Act, 1961 and the Rules governing transfer pricing, so that pricing justification remains subject to judicial review. In practice, however, firms often rely on selective comparables and internal benchmarks, leading to distortions in valuation, especially for intangibles, royalty payments or long-term service arrangements, where market comparables are limited. The use of "extreme comparables" or manipulated benchmarks further undermines the integrity of the arm's length standard.[45]

As currently operationalised, the arm's length test functions more as an ex post compliance mechanism, allowing transactions to proceed without prior independent checks. It therefore operates as a justifying instrument rather than a preventive protection, and its ability to address tunnelling and value diversion is limited.

E. Toward substantive fairness and independent oversight

The foregoing analysis reveals that the existing RPT framework rests firmly on procedural compliance and requires a transition to substantive regulation based on fairness.

One major reform would be to make independent valuation reports and fairness opinions obligatory for material RPTs. These mechanisms would introduce objective standards and reduce dependence on board determinations. Enhancing the independence of audit committees is also important. Although audit committees play a key role in managing RPTs, they are often undermined by structural relationships with promoters. Bringing external professionals on board and raising independence standards can improve governance outcomes.

Secondly, independent third-party valuation should be a mandatory precondition to audit committee approval for all material RPTs. The valuer must be appointed by the audit committee, not by management, and must have no prior advisory or assurance relationship with the

[44] *SAP Labs India Pvt. Ltd. v. Income Tax Officer*, Civil Appeal No. 8463 of 2022, 2023 INSC 394 (Apr. 19, 2023) (India).
[45] Saloni Khant, *RPTs: Do Extreme Comparables Distort Arm's Length?*, VINOD KOTHARI CONSULTANTS (Mar. 13, 2026), https://vinodkothari.com/2026/03/rpts-do-extreme-comparables-distort-arms-length/ (last visited Mar. 22, 2026).

company or its promoters. The valuation report, including methodology, comparables and conclusions, must be disclosed in full to shareholders before any approval vote. This reform alone would transform the arm's length standard from a post hoc narrative into an operational governance tool.

Thirdly, the OCB exemption requires a statutory definition anchored in objective criteria: the history of the transaction type with unrelated counterparties, the existence of comparable market benchmarks, and the absence of structural concentration of business flows with promoter-affiliated entities. SEBI should issue binding guidance elaborating safe harbours and explicit exclusions.

Another key reform is to restrict board discretion under Regulation 30. Objective materiality limits, together with qualitative standards, should be set out in regulatory guidance to minimise subjective interpretation. Improved disclosure standards, especially on transaction justification, pricing approaches and relationships with related parties, would further enhance transparency.

To sum up, RPT regulation in India needs to be recalibrated from form-based towards substance-based regulation, incorporating independent oversight, strong disclosure and enforceable standards of fairness to deal with the structural risks of promoter-dominated corporate systems. The recalibration required is not incremental but structural: a shift from a framework that asks whether prescribed processes have been followed to one that asks whether the economic outcome is fair to the company and its minority shareholders. Without this shift, the OCB and arm's length exemptions will continue to function as mechanisms of regulatory avoidance rather than as the tools of operational flexibility they were designed to be.

IV. AUDIT COMMITTEE DOMINANCE AND THE DECLINE OF SHAREHOLDER CONTROL

A. Rise of audit committee centrality

The current regulatory system for related party transactions in India reflects a definite institutional shift towards audit committee centrality. Under the SEBI LODR Regulations, and Regulation 23 in particular, all RPTs require the prior approval of the audit committee, and only material transactions require shareholder approval. Recent amendments have deepened this centralisation: the December 2024 amendments extended the audit committee's omnibus approval to transactions of subsidiaries and allowed its independent members to ratify transactions of up to ₹1 crore after the event, and the 2025 amendments adopted the scale-based materiality framework in Schedule XII, which raises the threshold for shareholder approval for larger listed entities and so reduces the proportion of transactions requiring shareholder consent.

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The result is an internal oversight regime with the audit committee as the main gatekeeper, rather than a shareholder-based system of governance.[46]

The rationale for this shift lies in the perceived inefficiencies of shareholder approval mechanisms, especially in widely held corporations where collective action problems limit effective participation. Institutional oversight, in contrast, is premised on expertise, independence and continuous monitoring. In the Indian context, however, where promoters dominate, this transition has had unintended outcomes. Instead of decentralising authority, it has centralised decision-making in board-controlled committees, which are usually under the influence of the controlling shareholders.[47]

Regulatory trends have also increased audit committee responsibilities, such as omnibus approvals and the continuous review of RPTs. Though meant to improve efficiency, these may risk normalising repetitive intra-group transactions without rigorous scrutiny, thereby diluting the intended safeguards.

B. Are independent directors truly independent?

The effectiveness of audit committee oversight depends on the independence of the committee's members, especially its independent directors. There are, however, serious concerns in the Indian corporate environment about the substantive independence of such directors. A promoter-dominated appointment process inherently creates structural dependence, compromising the very independence that independent directors are meant to supply.[48] Empirical and doctrinal studies indicate that independent directors contend with informational asymmetry, reputational constraints and weak incentives to challenge management decisions, which in promoter-dominated firms often produces formal rather than functional independence.[49]

This criticism is consistent with wider theoretical doubts about extending Anglo-American governance models to concentrated ownership systems. The assumption that independent directors can act as efficient monitors rests on a premise of independence and accountability that often does not hold. As a result, an audit committee composed largely of such directors may

[46] Gupta & Vasishtha, *supra* note 18; *see* Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, reg. 23(2)(f), (3), sch. XII (India); *supra* note 25.
[47] Mahtani, *supra* note 3.
[48] Khurana, *supra* note 19.
[49] Ishani Mishra, *Impact of Related Party Transaction on Corporate Governance: Indian Scenario*, 4 INT'L J.L. MGMT. & HUMAN. 4598 (2021), https://ijlmh.com/paper/impact-of-related-party-transaction-on-corporate-governance-indian-scenario/.

not offer meaningful oversight of RPTs, especially when the transactions are complex or strategically designed.

C. Structural weaknesses in audit committee functioning

Beyond the question of independence, audit committees face serious structural and functional constraints. First, they frequently lack the expertise needed to assess complex RPTs involving multi-layered corporate structures, cross-border transactions or intangible assets.[50] Secondly, audit committees depend heavily on information supplied by management, an inherent asymmetry that undermines their capacity for assessment. Where management commissions the valuation reports and fairness opinions, objectivity is at risk, because the committee becomes a reactive body that confirms transactions rather than independently questioning them.[51] Thirdly, the growing reliance on omnibus approvals of recurring transactions diminishes the level of scrutiny and turns oversight into a ritual, especially in large conglomerates where RPTs are frequent and embedded in operations.[52] In these circumstances, the audit committee's responsibility is reduced to passive acceptance.

These structural flaws are compounded by the lack of explicit accountability, as audit committee decisions are rarely subject to ex post judicial or regulatory review unless triggered by major controversies.

D. Decline of shareholder oversight

The rise of audit committee dominance has been accompanied by the erosion of shareholder control, particularly that of minority shareholders. Although SEBI requires material RPTs to be approved by shareholders other than related parties, several practical limitations significantly hamper the operation of this safeguard.

First, informational asymmetry persists even under strict disclosure requirements. Shareholders are not normally able to access information about pricing mechanisms, business justification and relationships with counterparties, and so cannot make effective decisions. Secondly, although related parties cannot vote to approve the resolution, promoter influence remains an effective factor in voting. Institutional investors may lack incentives to participate actively, and retail shareholders face coordination problems.[53] As a result, the ideal of "disinterested

[50] Saurabh Kumar et al., *Exploring Corporate Governance Practices in India*, 9 INT'L J. CREATIVE RSCH. THOUGHTS h543 (2021).
[51] Agarwal, *supra* note 43.
[52] Vinita Nair & Sikha Bansal, *RPT Compliances by Subsidiaries of Listed Entities (Presentation)*, VINOD KOTHARI CONSULTANTS (Nov. 3, 2022), https://vinodkothari.com/2022/11/rpt-compliances-by-subsidiaries-of-listed-entities-presentation/ (last visited Mar. 23, 2026).
[53] Singh & Kumar, *supra* note 4.

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shareholder democracy" remains largely aspirational. Thirdly, the growing use of audit committee approval for non-material transactions removes a large proportion of RPTs from shareholder oversight altogether. This creates a democratic deficit in which major decisions affecting the company are insulated from wider stakeholder participation.

Regulatory commentary and enforcement activity also point to weaknesses in disclosure practices, such as late or incomplete reporting of material events. Such gaps impair the transparency that shareholders need to oversee the company, reinforcing the imbalance between internal control systems and external accountability.

E. Restoring balance and accountability

Institutional strengthening of minority shareholder representation is a critical reform that can help restore shareholder primacy in the governance of related party transactions. This can be achieved by appointing small shareholders' directors, for short terms or on a rotational basis, to provide further independent scrutiny of board decisions, particularly on RPTs. Nominee directors representing minority or institutional shareholders can also enhance accountability by offering a separate avenue of checks within the board. Such directors should not be symbolic; they should carry monitoring and reporting duties, including the preparation of independent reports on related party transactions and governance practices. These reports should be formally presented to shareholders at the Annual General Meeting (AGM), making the process transparent and enabling shareholders to engage in an informed way.

This would realign the governance structure by reducing the informational asymmetry between the board and minority shareholders, and would strengthen participatory corporate democracy.

V. Conclusion and policy recommendations for strengthening minority protection in RPTs

The discussion in this paper shows that the Indian regulatory framework on related party transactions, despite its procedural progressiveness, remains substantively weak in mitigating the risks posed by promoter-based corporate governance. RPTs play a dual role: they support intra-group efficiency and capital allocation, yet they open possibilities of tunnelling and the expropriation of minority shareholders. The fundamental regulatory issue is therefore not to limit RPTs but to differentiate legitimate transactions from the opportunistic diversion of value.

A key finding is the procedural bias of the Indian regime, which relies heavily on disclosure, audit committee approvals and shareholder voting. Although such mechanisms establish formal accountability, they do not always deliver substantive fairness. In concentrated ownership

structures, controlling shareholders may design transactions that are procedurally acceptable but economically biased, so that adherence to the rules does not always produce fair results. This concern is reinforced by the growing reliance on audit committees in the SEBI LODR framework. Despite its intention to increase oversight, this change has in effect displaced shareholder control and concentrated decision-making in board-controlled institutions. Audit committees tend to be limited in their independence, relying heavily on management information and remaining prone to promoter influence. Consequently, they are likely to act as procedural gateways rather than as substantive monitors.

Against this backdrop, meaningful reform requires a move towards a substance-based regulatory paradigm grounded in fairness, independence and enforceability rather than procedural compliance. The recommended reforms are set out below.

A. Embedding substantive fairness

An especially important change would be the introduction of fairness-based criteria into the evaluation of RPTs. The current system is more concerned with conformity of process than with the economic content of transactions. A fairness review would examine the pricing, the business rationale and the effects on minority shareholders. This would bring Indian regulation into line with international governance standards focused on fiduciary responsibility and fair treatment.

B. Risk-based materiality framework

The current materiality levels, which are mostly quantitative, based on turnover or net worth, are not adequate. Fragmentation of transactions enables companies to avoid scrutiny. A reformed method should mandate the consolidation of related transactions and introduce qualitative and risk-based elements of assessment, such as the level of control, strategic significance and the effect on minority interests. This would focus regulatory attention on transactions of economic significance.

C. Strengthening audit committee independence

Given their central position, audit committees need structural reform to become independent and effective. This involves stricter eligibility requirements to minimise promoter pressure and the compulsory involvement of external professionals in complex transactions. Audit committees should also have access to data and analytical tools so that they can act as active monitors rather than passive approvers.

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D. Independent valuation and fairness opinions

Independent valuation reports and fairness opinions should be made mandatory, especially for material RPTs. At present, firms use selective comparables to justify prices. Third-party valuation would provide objective benchmarks and reduce manipulation. Such reports should be disclosed to increase transparency and to allow shareholders to make informed decisions.

E. Strengthening shareholder oversight and participatory governance

Reforms must restore the role of shareholders, especially minority investors, in corporate governance. This can be achieved by introducing small shareholders' directors and strengthening institutional investor participation. Improved disclosure, accessible voting mechanisms and stewardship responsibilities would transform shareholder approval from a procedural formality into a substantive governance tool.

F. Clarifying legal standards

The ambiguity of key legal terms, including "ordinary course of business" and "arm's length", needs to be resolved through more explicit statutory definitions and regulatory principles. Interpretation should rest on objective criteria such as frequency, commercial necessity and industry practice. Similarly, arm's length standards should be supported by transparent valuation methodologies and disclosure requirements, reducing the scope for misuse.

G. Strengthening enforcement

Effective regulation requires strong enforcement mechanisms. Enforcement is currently largely case-by-case and reactive. To detect high-risk transactions, regulators need to adopt proactive, data-driven monitoring systems. Penalties should be more severe and more consistently applied to deter wrongdoing. The development of substantive fairness principles by the courts would also ensure that procedural compliance cannot justify unfair transactions.

H. Conclusion

The proposed reforms underline the need to move from the current procedural, compliance-based regime to a substantive, fairness-based governance system. Although RPTs are operationally necessary, they should be regulated so that operational efficiency is not achieved at the expense of minority shareholders. The integration of fairness review, reinforced independent oversight, improved shareholder participation and clearer legal standards will allow a more equitable regulatory approach. Ultimately, effective RPT governance for the protection of minority shareholders depends on the capacity of the legal framework to evaluate

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economic substance, to impose fiduciary obligations and to uphold fair principles of corporate governance.

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