

Corporate Governance Failure: An Overview of the New Emerging Scam of a Private Sector Bank

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ABSTRACT

Modern age private sector banking companies are established to give a stiff competition to public sector banking companies. YES bank emerged in the light of this which stands for ‘**Youth Enterprise Scheme**’ Bank. This esteemed bank belongs to the category of private sector banking with the intention of upholding the corporate governance and stand to serve public better. This research article has been designed to examine the involvement of nefarious agents in the shocking scam which had adversely affected the financial operations of the bank, more specifically it disturbed the user groups mainly comprising of bank customers, depositors and other stakeholders. The major issues of Yes Bank were relating to the extension of massive amount of loans to those companies who have very low repayment capacity resulting in the incurrence of bad debts / NPA’s. The excessive provision of loans and default of the bank in terms of maintenance of adequate funds to the customers for withdrawal resulted in the loss of confidence on the part of customers which ultimately created the situation where customers rushed for funds from their accounts and hence RBI declared restrictions on withdrawal limit. After preliminary investigation, it was found to be the total failure of corporate governance machinery which led to the arrest of key person by E. D under the allegations of fraud and money laundering.

In this regard, an attempt has been made to analyse ‘**Corporate Governance Failure: An Overview of the New Emerging Scam of a Private Sector Bank**. For this purpose, an elaborated conceptual Study has been undertaken which is based on secondary data collected from the various sources of information such as related online articles, newspapers, magazines, journals etc.

Keywords: Customers, Depositors, Fraud, Key person, Moratorium, NPA’s, Yes Bank.



INTRODUCTION:

Yes Bank is one among the dominant private sector banks of India which was incorporated as a public limited company on November 21, 2003 for the first time in the country. Further the securities of the bank were listed on the recognized stock exchanges in the year 2005. The headquarter of the bank is situated at Mumbai, Maharashtra. At present this bank is considered to be India's fourth largest private sector bank and was co-founded by Mr. Rana Kapoor and his brother-in-law Mr. Ashok Kapoor. Soon after the formation of the bank, Rana Kapoor occupied the esteemed position of Managing Director/CEO, whereas Ashok Kapoor became the renowned Chairman of the prestigious Bank. It is observed that Rana Kapoor had 36% stake and Ashok Kapoor owned 11% stake in the management of the bank.

Unfortunately, Ashok Kapoor, the first chairman of Yes Bank lost his life during the terrorist attack which took place at Mumbai on 26/11/2008. After his death there was a prolonged clash existing between Rana Kapoor and the widow wife of Ashok Kapoor namely Madhu Kapoor regarding the appointment of BOD's to their bank and finally it's Rana Kapoor won the legal battle against Mrs. Madhu Kapoor in respect of control on business operations and the Board appointments of the bank. Under the leadership of Mr. Kapoor, the bank started lending its financial assistance to a large number of companies including Micro Small and Medium Enterprises (M.S.M.E) and was often regarded as '**lender of last resort**' for some troubled companies in India. As the strength of its loan book/ lending operations extended, its profitability rate was seriously affected and the proportion of bad debts got sharply increased. Due to this the bank declared a loss of 600 crore during the period of September 2019. The percentage of Gross NPS's were also hiked to 7.4% in this term which was considerably a higher rate compared to the previous quarter. Thus, RBI has taken a complete control of it on 5th March 2020 to avoid collapse of the bank. Moreover, RBI imposed the 30 days moratorium in the interest of bank customers and depositors and suspended its existing board committee members.

The bank failed to raise new sources of finance to recover the amount of bad loans and hence the Central Bank of the country restricted the customers of accused Bank to withdraw money from their accounts subjected to a maximum limit of 50,000 per month except under the emergency or exceptional circumstances. The Governor of RBI, Shaktikant Das promised the customers that the prevailing issue of Yes Bank would be resolved as soon as possible. Even the Finance Minister Nirmala Sitharaman drafted a proposed plan and asked SBI to take a majority of 49% stake in Yes bank and to create new Board committee.

The results of Moratorium caused huge disruptions and unfavourable consequences on the customers and hence on 13th March 2020, Union cabinet passed a new resolution bill in favour of bank depositors that Moratorium would be lifted after the 3 days of notification of the scheme. As per the Reconstruction scheme the prominent investors namely SBI, ICICI bank, HDFC bank, Axis bank, Kotak Mahindra bank, Rakesh Jhunjhunwala, Radhakrishnan Damani and Azim Premji Trust invested a significant share of 12,000 crores into the bank and currently Mr. Prashant Kumar is appointed as an Administrator of the bank.

OBJECTIVES OF THE STUDY:

- To know the emerging scam of Yes Bank happening in the country.
- To analyse the unfavourable impact and consequences of scam on current customers of the bank.
- To understand the effective post measures undertaken by RBI to improve the financial soundness of bank in order to avoid complete collapse of the bank.

RESEARCH METHODOLOGY:

This research study is primarily conceptual and descriptive in nature and it is completely based on secondary sources of information gathered from the various articles and writings available over internet. Some other newspapers and magazines which are available in physical form are also referred to develop a narrative structure for the paper.

AN OVERVIEW OF THE SCAM:

It has been observed that Yes bank has financially fell down drastically over 10 years after its co-founder Mr. Ashok Kapoor brutally died on 26/11 in a terrorist attack at Mumbai. It is interesting to note that Yes bank story can be used as a script that fits the bill for a super-hit Hollywood movie with a difference that all ends badly in loans. The Yes Bank story began in 1999 when three successful bankers

came together to float a non-banking financial company. They were Ashok Kapoor, the former country head of the ABN Amro Bank, Harkirat Singh, the former country-head of the Deutsche Bank, and the third partner Rana Kapoor, former corporate finance head of the ANZ Grindlays Bank.

In an interview to the Economic Times, Harkirat Singh said he accepted Rana Kapoor as the third partner only after the strong recommendation of Ashok Kapoor. The three Indian promoters had 25 per cent share in the non-banking financial corporation while the rest 75 per cent were with the Rabo Bank of the Netherlands. It became the Yes Bank in 2003. It was also the same year when Harkirat Singh quit the Yes Bank over the issues pertaining to influence exerted by Rabo Bank in appointment of CEO and executive chairman.

Yes Bank acquired license in 2004 and went to stock exchange with IPO (initial public offer) in 2005. The Yes Bank started making slow and steady progress in the initial years. But it received a big shock in 2008. Ashok Kapoor, then chairman, was at the Trident Hotel on 26 November 2008 when 10 Pakistani terrorists attacked Mumbai. The Trident Hotel was one of the targets of the 26/11 terror attack. Ashok Kapoor died in the terrorist attack that Thursday night. This changed the way Yes Bank would go about its business under the new leader Rana Kapoor. Ashok Kapoor seemed to have fancied Rana Kapoor. This stems from the fact that he is said to have got his wife, Madhu Kapoor's sister Bindu get married to Rana Kapoor. This marriage made Ashok Kapoor and Rana Kapoor not only business partners but also relatives. These ties came under scrutiny soon.

A Battle for supremacy in the Yes Bank began. This props up from the failed attempts by Madhu Kapoor in 2009 and again in 2011 to get her daughter Shagun on the board of directors. The moves were scuttled apparently by Rana Kapoor, now in full control of the Yes Bank. During this period, Madhu Kapoor's name from major promoters was also removed in the Yes Bank's communiqués. In 2012, Rana Kapoor published a history of the Yes Bank but it had no reference to Ashok Kapoor. The dispute settled finally in 2015 with Kapoor's getting the seats on the board of directors. The period of internal fight was also the phase when the Yes Bank went aggressive with lending. A Business Today report says that of around Rs 35,000 crore of stressed loans, most of the lending's were done in post-2008 period.

The Yes Bank gave loans to companies which were struggling in their businesses. These companies included the Anil Ambani Group of Companies, the Essel Group, the Dewan Housing Finance Corporation Ltd (DHFL) and Infrastructure Leasing and Financial Services (IL&FS). Of these DHFL and IL&FS have collapsed and taken over by the government for restructuring. By the time dispute

between Kapoor and Kapoor's settled, the steel frame of the Yes Bank had begun creaking. Global major financial services firm, the UBS in a report dated 7th July 2015, said the Yes Bank had the strongest growth in loans to potentially stressed companies. The report read, stating Yes Bank as most vulnerable to a prolonged weak credit cycle and consensus may not be ready for a sharp increase in the company's credit costs. The UBS downgraded Yes Bank's stock to a sell meaning it advised the investors to sell their stocks as the company was heading to doom.

Instead of plugging the loopholes, Rana Kapoor headed bank moved the Securities and Exchange Board of India (SEBI) against the UBS. Following the collapse of IL&FS in 2018, the Yes Bank practically had no means to recover. But the issue with the bank was that it was not ready to admit its problems and under-reported its stressed loans instead. With the intervention of the Reserve Bank of India, it is now known, that the Yes Bank has been passing through a tumultuous period for long. In August 2018, the RBI asked the then chief executive Rana Kapoor to quit the bank by January 31, 2019 when it emerged that he could be the real problem of banking governance and source of bad loan practices.

After a brief intermediary period, the RBI appointed Ravneet Gill as the chief executive of the Yes Bank, the fourth largest private sector bank before its collapse. Ravneet Gill later disclosed that there had been large under-reported stressed assets in the Yes Bank. As a result, the Yes Bank reported its maiden loss in March 2019 quarter. The Yes Bank has been trying to raise capital to infuse fresh lease of life in the bank. It initially planned to attract \$2 billion (approximately Rs 15,000 crore) in the current fiscal. But later its board rejected a \$1.2 billion (approximately Rs 9,000 crore) investment in the bank by Canadian investor SPGP Group/ Erwin Singh Braich. The bank's asset size stood at Rs 3.71 lakh crore at the end of June 2019. Promoters of Yes Bank – Madhu Kapoor, Yes Capital (India) Pvt Ltd and Mags Finvest – hold 8.33 per cent stake in the crisis-ridden bank, as per data available on the stock exchanges.

The bank's co-founder Rana Kapoor sold his entire stake in the bank in November 2019, when the Yes Bank had turned completely unbankable. Rana Kapoor is now in the custody of the Enforcement Directorate (ED) on charges of money laundering in connection with a case, registered by the CBI, in the Yes Bank scam. The case is about an alleged bribe of Rs 600 crore by the DHFL Rana Kapoor family on a quid pro quo basis for Yes Bank's investment of Rs 3,700 crore in scam-hit DHFL. Kapil Wadhawan and Rana Kapoor entered into criminal conspiracy to defraud public money. The alleged kickbacks were received in the accounts of Mr. Kapoor's wife Bindu Kapoor and she too was

investigated by the E.D. More skeletons are expected to tumble out of the closets of the Yes Bank and Rana Kapoor's world of banking.

CONCLUSION:

It is very evident from the research study that the founder of Yes Bank has misappropriated the funds of the customers' existing in their bank accounts for some illegal and fraudulent purpose. The public money had been mis utilized by the corrupt Chief executive in order to purchase the debentures of DHFL in which he had interest in the form of kickbacks provided by Kapil Wadhawan, the Chairman of debenture Issuer Company. The fraud and concealment of the origins of money borrowed made by the key person had unfavourable consequences and undesirable effects on the customers and consequently developed disruptions/ interruptions in the E-commerce operations of customers and service providers operating with this bank.

The deception committed by Yes bank had greater impact on its customers which prevented them from access to their own money as some restrictions were put forth by RBI beyond the maximum limit of 50,000 per month, which in reality shook the confidence and faith of depositors kept on bank and they faced several hindrances during the cases of financial emergency. All that reason to this would be the kingpin who made default in complying with the norms and guidelines of RBI as regards lending of loans and maintenance of NPA's.

The study makes everyone remember the line as the saying goes like **“Things gained through unjust fraud are never secure”**, which means the wealth or asset obtained on a sham basis never lasts for a longer time and the guilty would be held responsible for all the illegal acts committed by him against the society. The investigation of the scam reveals the fact that the bank failed to uphold the corporate governance machinery which paved the way for the arrest of its founder by the Enforcement Directorate (E.D) for his criminal offense. Finally, to conclude the scam of Yes Bank is successfully resolved by the honourable Finance Minister Nirmala Sitharaman as she directed the SBI to make intervention into Yes Bank and all its current employees are freed from the fear of losing their jobs owing to the financial inadequacy condition of bank and even account holders are too guaranteed with the safety of their money being locked in the accounts of Yes Bank.

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