

Compliance and Governance in India: A Quick Reference Guide for U.S. General Counsel

Key Highlights

Governance breakdowns in India increasingly translate into commercial, regulatory, and reputational risk for U.S. parent companies.

India's enforcement landscape is becoming more accountability-driven, impacting boards, leadership, and deal outcomes.

Proactive compliance architecture strengthens valuation, investor trust, and operational resilience.

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Why This Matters for U.S. In-House Counsels

Weak governance in Indian subsidiaries can lead to:

- Transaction delays and valuation discounts
- Regulatory investigations and financial penalties
- Reputational damage at the global level
- Restricted exits or IPO challenges
- Board and executive liability exposure

For general counsel, compliance under Indian law is more than a purely legal obligation. Governance maturity directly influences deal confidence, stakeholder perception, and long-term scalability.

Compliance "gaps" in Indian operations increasingly surface as critical deal-friction points — often manifesting less as technical non-compliance and more as commercial mistrust during diligence and board oversight reviews.

India's Corporate Governance Landscape

India's governance framework is primarily anchored in:

- [The Companies Act, 2013](#), governing corporate conduct and board accountability; and
- [The Securities and Exchange Board of India \(SEBI\) \(Listing Obligations and Disclosure Requirements\) Regulations, 2015](#), establishing disclosure and governance standards for listed entities.

These regimes emphasise:

- Fiduciary responsibilities for the board
- Transparent disclosures and financial integrity
- Conflict of interest management
- Structured risk monitoring frameworks

By way of an example, a U.S. private equity investor could postpone an acquisition after diligence revealed undocumented related-party transactions and weak board oversight. Governance gaps can also result in valuation adjustments and enhanced indemnity protection.

Global investors are treating governance discipline in India not merely as a compliance checkbox, but as a litmus test for management credibility and operational maturity.

GC takeaway: *Governance readiness directly determines transaction speed and pricing confidence.*

Board and Director Responsibilities: Translating Governance into Risk Exposure

Indian law imposes statutory fiduciary duties on directors, including in the following instances:

- Acting in good faith and in the best interests of the company
- Exercising due care and independent judgment
- Avoiding conflicts and undue gain
- Ensuring effective governance oversight

Independent and nominee directors face heightened scrutiny, particularly in:

- Related-party transactions
- Internal control failures
- Financial misstatements
- Governance controversies

Indian regulators are increasingly holding individuals accountable for endorsement or inaction.

Practical insight

Directors are often required to justify decisions with evidence of independent reasoning, even when acting on shareholder instructions.

From a practical standpoint, nominee directors appointed by overseas shareholders frequently face tension between group instructions and statutory fiduciary obligations — a disconnect that has surfaced repeatedly in regulatory enquiries and shareholder disputes.

GC responsibility: *Board appointments in India are strategic risk decisions, not symbolic positions.*

The Expanding Compliance Matrix

Data Privacy and the Digital Personal Data Protection Act, 2023

India's privacy framework operates under the Digital Personal Data Protection Act, 2023 ([DPDP Act](#)), shifting compliance from advisory practice to enforceable statutory accountability.

Commercial impact includes:

- Influence on platform architecture and data localisation strategies
- Heightened scrutiny of cross-border data transfer models
- Increased risk exposure through cloud and vendor outsourcing
- Valuation risks in M&A and fundraising processes
- Reputational damage following data incidents

Key obligations include:

- Lawful and informed consent mechanisms
- Purpose limitation and data minimisation
- Mandatory breach reporting
- Accountability of data fiduciaries
- Protection of individual data rights

Several multinational organizations have found that reconciling global data governance policies with India's evolving privacy standards requires not just technical compliance, but a fundamental rethink of consent design, data architecture, and operational accountability at the Indian subsidiary level.

Anti-Corruption and Integrity Controls

India's anti-bribery standards intersect with the U.S. Foreign Corrupt Practices Act (FCPA) and domestic anti-corruption regimes.

High-risk areas include:

- Third-party consultants and agents
- Government-facing activities
- Facilitation payments
- Procurement and licensing processes

Even indirect payments through intermediaries can trigger enforcement exposure under both U.S. and Indian law.

ESG and Sustainability Compliance

ESG obligations in India primarily operates on two distinct levels:

- SEBI-led sustainability reporting requirements for listed entities; and
- Mandatory Corporate Social Responsibility obligations under the Companies Act, 2013 for qualifying companies, including large unlisted subsidiaries of multinational groups.

CSR in India is not voluntary or aspirational; it is a board-governed statutory obligation involving prescribed spending thresholds, utilisation oversight, and regulatory reporting.

For U.S. corporations with significant Indian operations, CSR compliance therefore represents not merely reputational stewardship but a defined governance responsibility with financial, disclosure, and board-accountability ramifications.

Employment and Workforce Governance – India's Newly Enforced Labour Codes

India has recently operationalised its consolidated Labour Codes governing wages, industrial relations, social security, and occupational safety. These changes have fundamentally reshaped employer obligations.

While often viewed as an HR issue, these reforms carry direct governance, cost, and compliance implications for U.S. parent companies overseeing Indian workforces.

For general counsels, the new framework impacts workforce structuring, employment documentation, classification of employees (permanent, fixed-term, contract and gig workers), payroll composition, termination risk, and social security exposure.

These changes are particularly relevant in M&A diligence scenarios, where workforce-linked liabilities are increasingly scrutinised as governance red flags.

From a governance perspective, general counsel should reassess employment contracts, compensation structures, termination protocols, and compliance controls to ensure alignment with India's modernised labour law regime.

Bridging Global Governance Frameworks with Indian Compliance Reality

Global compliance templates frequently fail to reflect Indian statutory nuance.

Effective integration requires:

- India-specific policy adaptation
- Localised whistle-blower and grievance mechanisms
- Targeted employee training
- Periodic compliance audits and gap analysis
- Alignment of anti-bribery frameworks with Indian enforcement thresholds

A hybrid local–global compliance architecture ensures operability without diluting enforceability.

The Commercial Impact of Weak Governance

Weak governance in Indian entities typically results in:

- Deal renegotiations and valuation discounts
- Exit delays or restructuring requirements
- Increased indemnity exposure
- Regulatory penalties
- Loss of investor credibility

In “live” transactions, governance lapses frequently shift negotiations away from growth strategy into risk containment mode — resulting in prolonged diligence cycles, heavier indemnity baskets and re-priced valuation models.

Conversely, strong governance enables:

- Higher valuation multiples
- Faster transaction execution
- Strengthened board credibility
- Sustained stakeholder confidence

Quick Compliance Checklist for U.S. General Counsels

Corporate & Investment Compliance

- Validate Foreign Exchange Management Act compliance
- Verify sector-specific foreign investment approvals
- Review shareholder agreement enforceability

Board Governance

- Assess director independence standards
- Monitor related-party transaction approvals
- Review governance documentation and decision records

Regulatory Filings

- Track statutory reporting timelines
- Verify accuracy and completeness of disclosures

- Monitor financial reporting consistency

Data Privacy

- Audit DPDP compliance
- Implement lawful consent architecture
- Review cross-border transfer protocols
- Establish breach response mechanisms

Anti-Bribery Controls

- Align FCPA and Indian corruption standards
- Conduct third-party due diligence
- Maintain monitored reporting channels

ESG Governance

- Strengthen sustainability reporting controls
- Monitor supply chain ESG compliance
- Track ESG disclosure timelines

Risk Oversight

- Schedule periodic governance reviews
- Conduct India-focused compliance audits
- Establish escalation and crisis response protocols

Strategic Playbook for U.S. General Counsels

To future-proof Indian operations, General Counsels should:

- Treat governance as a commercial value driver
- Embed compliance into transactional planning
- Strengthen board-level accountability
- Monitor regulatory evolution proactively
- Invest in India-specific legal intelligence

Having worked closely with both U.S. and Indian leadership teams through complex cross-border transactions, we have seen that governance failures most often emerge not only from board-level lapses but equally from workforce misalignment, privacy exposure and CSR non-compliance.

Early calibration across these pillars consistently proves to be the most cost-effective and reputation-preserving investment.

Final Strategic Insight

Governance sophistication is no longer optional — it is a defining differentiator encompassing board oversight, workforce compliance, data integrity and social responsibility, all of which directly shape enterprise resilience and investor confidence.

For U.S. in-house leaders, effective governance in India reflects foresight, leadership maturity and enterprise resilience.

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