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## **CORPORATE SHADOWS AND REGULATORY BLIND SPOTS: A CRITICAL INQUIRY INTO DETECTING AND GOVERNING SHELL ENTITIES**

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### **ABSTRACT:**

Shell companies pose a significant challenge to the Indian regulatory framework, operating as entities with nominal operations, minimal assets, and little to no genuine business activity. Despite their frequent use in facilitating money laundering, tax evasion, and other fraudulent schemes, Indian law lacks a clear statutory definition of shell companies. This absence creates uncertainty for regulators regarding identification, investigation, and enforcement. This research paper undertakes a comprehensive examination of the existing legal and regulatory framework governing shell companies in India, identifies critical regulatory gaps, and proposes measures for more effective detection and regulation. Through an analysis of the Companies Act, 2013, SEBI regulations, the Benami Transactions (Prohibition) Amendment Act, 2016, and the recommendations of the Ministry of Corporate Affairs (MCA) Task Force (2017), the paper demonstrates that although multiple statutory and regulatory mechanisms exist, they operate in silos without a unified identification framework. The paper advocates for the adoption of a statutory definition of shell companies, the implementation of comprehensive red-flag indicators, strengthened inter-agency coordination through a centralized database, enhanced compliance mechanisms via DIN–Aadhaar–PAN linkage, and the deployment of proactive regulatory mechanisms. When integrated cohesively, these measures can significantly improve the detection and regulation of shell entities while preserving legitimate corporate flexibility.

**Keywords:** Shell Companies, Corporate Regulation, Money Laundering, Benami Transactions, Companies Act, 2013, SEBI, MCA, Regulatory Framework.

## **1. INTRODUCTION**

### **1.1 Background and Context**

The shell company phenomenon has come to be recognized as a serious issue for the Indian government and law enforcement agencies. A shell company can be described as a company that is paper based, with little or no actual business activity, and little to no tangible assets. Shell companies are often used as tools for money laundering, tax evasion, benami transactions, and other fraudulent activities of financial nature. The Special Investigation Team on Black Money, formed by the Supreme Court of India, has identified shell companies as a major tool for the concealment of unaccounted money and other financial frauds.<sup>2</sup> This led to the Indian government launching targeted actions, especially after the enactment of the Benami Transactions (Prohibition) Amendment Act, 2016, and the subsequent formation of an inter-ministerial Task Force in February 2017.<sup>3</sup>

The regulatory response to shell companies gained further momentum with judicial backing for administrative strike-off actions. Courts have upheld the authority of the Registrar of Companies to initiate proceedings against non-operational entities under Section 248 of the Companies Act, 2013.<sup>4</sup> Empirical research confirms that the majority of struck-off companies had neither filed returns nor engaged in any business for several consecutive years.<sup>5</sup>

### **1.2 The Core Problem: Absence of Statutory Definition**

One of the biggest issues with regulating shell companies is the total lack of a statutory definition under Indian law.<sup>6</sup> The Companies Act, 2013, which is the chief statute regulating corporate bodies in India, does not contain any definition or classification of shell companies. This gives rise to a number of issues. Firstly, there is a lack of legal mandate for regulators to prospectively identify and prevent the incorporation of shell companies. This is because the lack of a statutory definition makes enforcement of the law necessarily retrospective, with action being taken against companies only after the occurrence of suspicious transactions. Secondly, the lack of a definition leads to confusion between dormant companies and shell companies. Under Section 455 of the Companies Act, 2013, companies are allowed to go into dormancy if they are temporarily non-operational, which gives shell companies an opportunity<sup>7</sup> to operate under the guise of dormancy. Thirdly, there is a lack of clarity among regulators regarding the ambit of their intervention, which leads to inconsistent enforcement of the law by different regulators in different jurisdictions.

### **1.3 Research Objectives and Scope**

The research paper will focus on the following objectives:

1. To provide a complete mapping of the existing legal and regulatory framework for shell companies in India.
2. To identify the key gaps and limitations in the existing regulatory framework.
3. To study the red flag indicators identified by the MCA Task Force and the status of their implementation.
4. To study the mechanisms for inter-agency coordination and information exchange.
5. To provide an integrated approach for more effective detection and regulation of shell companies.
6. To ensure a balance between regulatory tightness and corporate flexibility. The research will cover federal laws, regulations, and guidelines issued by the Ministry of Corporate Affairs (MCA), Securities and Exchange Board of India (SEBI), Enforcement Directorate (ED), Serious Fraud Investigation Office (SFIO), and case laws from Indian courts.

## **2. Conceptual Framework and Typology of Shell Companies**

### **2.1 Definition and Characteristics**

Indian law does not provide a specific statutory definition of shell companies. However, the Securities and Exchange Board of India (SEBI) has identified several indicators that help in identifying such entities.<sup>8</sup>

First, shell companies typically lack significant operational activities. They exist largely on paper and conduct minimal formalities, such as holding annual meetings, without engaging in meaningful commercial transactions. Second, they usually do not possess substantial operational assets. While they may hold financial assets such as cash or investments, they often lack productive infrastructure necessary for genuine business operations.

Third, shell companies frequently function as pass-through entities, acting merely as conduits for transferring funds or assets between different entities without creating real economic value.<sup>9</sup>

The Ministry of Corporate Affairs (MCA) Task Force has also identified additional characteristics commonly associated with shell companies. These include nominal paid-up capital<sup>10</sup>, unusually high reserves generated through share premiums without corresponding operations, investments in unlisted companies suggesting circular fund movement, lack of dividend income despite accumulated reserves, excessive cash reserves disproportionate to

operational needs, and minimal or no revenue from actual business activities. Collectively, these features indicate that the entity primarily functions as a financial vehicle rather than an operating business.

## **2.2 Typology of Shell Companies**

Shell companies can be classified according to the purposes they serve.

Fraudulent shell companies are created to facilitate investment fraud, allowing promoters to collect funds through fictitious or misleading business schemes.

Money-laundering conduits are used to disguise the origin of illicit funds through layered corporate transactions that obscure the identity of the ultimate beneficiary. The Bhushan Steel case illustrates how multiple shell companies were used to rotate funds and conceal their source.<sup>11</sup> Benami transaction vehicles hold assets on behalf of undisclosed beneficial owners. The Benami Transactions (Prohibition) Amendment Act,<sup>12</sup> 2016 specifically targets such arrangements where the real owner attempts to hide their identity. Tax evasion instruments are used to manipulate financial records by inflating expenses, routing transactions between related entities, or generating fake invoices to reduce taxable income.

The Supreme Court's ruling in Vodafone International Holdings BV v. Union of India<sup>13</sup> further elaborated on the distinction between legitimate tax planning structures and colourable devices lacking commercial substance, providing judicial guidance relevant to classifying shell entities used for tax evasion.

Finally, legitimate dormant companies are entities that were incorporated for genuine purposes but have temporarily ceased operations. Although not inherently illegal, they may become vulnerable to misuse if proper monitoring is absent.

## **2.3 Distinction from Legitimate Business Structures**

It is important to distinguish shell companies from legitimate corporate structures that may appear similar. Special Purpose Vehicles (SPVs) are formed for clearly defined purposes such as project financing or asset holding and operate with transparent ownership and regulatory oversight. Holding companies legitimately manage investments in subsidiaries or assets, supported by periodic financial reporting and documented investment activity. Under Section 455 of the Companies Act, 2013, companies may formally obtain dormant status when they temporarily suspend operations. Such entities must notify regulators and comply with periodic filing requirements. The key difference lies in transparency and regulatory compliance.

Legitimate entities operate within a clear disclosure framework, whereas shell companies typically function in ways that obscure ownership, transactions, and regulatory oversight.

### **3. Director Identification Number (DIN) and KYC Framework**

#### **3.1 The DIN System**

The Director Identification Number, introduced under the Companies Act, 2013, is a mandatory unique identifier<sup>14</sup> assigned to every individual serving as a company director. Purpose of DIN is to enable linking of director identity to specific directorial roles, prevent director impersonation and duplicate directorships, facilitate regulatory tracking of director conduct across all companies, and enable effective disciplinary action against defaulting directors.

#### **3.2 DIN Requirements and Compliance**

**Obtaining a DIN:** It is mandatory for every individual to obtain a DIN before taking up any directorial role. The DIN application process involves the following: Identity proof (Passport, Aadhaar, PAN), Address proof, and Self-declaration by the applicant. The DIN is allotted immediately after successful verification.

**DIN-KYC Linkage Framework:** One of the significant compliance requirements that has been introduced recently is the requirement to mandatorily file the DIR-3 KYC Form every year for all directors.<sup>15</sup> The salient features of this requirement are as follows:

1. **Filing Timeline:** The filing of the DIR-3 KYC Form shall be done between April 1 and September 30 every year.
2. **Required Information:** The DIR-3 KYC Form requires certain details to be furnished such as Current residential address, Aadhaar number, PAN number, Mobile number and email address, Confirmation of other directorships.
3. **Consequences of Non-Compliance:** Non-compliance with the DIR-3 KYC within the stipulated timeframe entails: (i) Deactivation of DIN; (ii) Imposition of a penalty of ₹5,000; (iii) Disqualification from serving as a director in a firm; (iv) Prohibition from executing documents.

The Delhi High Court has upheld DIN deactivation for non-compliance with DIR-3 KYC as a proportionate regulatory response.<sup>16</sup> Additionally, empirical research has confirmed the widespread use of dummy directors across interconnected shell company networks.<sup>17</sup>

**Aadhaar and PAN Linkage:** Regulatory developments in recent times have made it imperative<sup>18</sup>

to link DIN with Aadhaar and PAN in a mandatorily prescribed manner. This serves several objectives: (1) Identity Verification: The Aadhaar-based biometric identification process ensures that the individual who applies for and receives the DIN is indeed the same individual for whom the DIN was originally issued. (2) Prevention of Identity Fraud: Aadhaar-based linking prevents identity thieves from creating fictitious directors for shell companies. (3) Cross-Agency Data Correlation: Aadhaar and PAN-based linking allows income tax authorities and Aadhaar-based systems to correlate data and identify individuals who claim to be directors but have no income levels commensurate with their directorship status.

DIN Misuse in Shell Companies: Despite the DIN structure, there is still a substantial misuse of the DIN structure in shell companies: (1) Dummy Directors: Shell company owners engage people to act as nominal directors while retaining complete control through other means. (2) Retired Directors: Retired or semi-retired people are engaged as nominal directors, promised nominal payment, to create a semblance of legitimacy. (3) DIN Sharing: People who act as nominal directors for multiple companies (especially 20+ companies) lack the capacity to perform their directorial functions. (4) Cross-Directorship Networks: Several people act as nominal directors for a group of related companies, creating a semblance of legitimacy while facilitating money rotation among related entities.

## **4. International Best Practices and Comparative Analysis**

### **4.1 United States Framework: Corporate Transparency Act (CTA)**

The United States of America tackled the problem of shell companies by passing the Corporate Transparency Act (2021), which required:<sup>19</sup> (1) Beneficial Ownership Reporting: All U.S. corporations are required to report beneficial owners (persons with 25%+ beneficial interest). (2) Centralized BO Registry: The beneficial ownership database is to be maintained by a centralized registry run by FinCEN (Financial Crimes Enforcement Network). (3) Law Enforcement Access: The BO registry is to be accessible to law enforcement and other agencies for investigation purposes. (4) Penalties: Misrepresentation of beneficial ownership will result in criminal charges with a penalty of \$10,000 or 2 years of imprisonment. Applicability to India: India should also require beneficial ownership reporting, with a centralized registry maintained by MCA.

### **4.2 United Kingdom Framework**

Companies Registry Stricter Standards: The UK's stricter standards for company incorporation

include: (1) Detailed Business Purpose — the UK's company incorporation requires detailed information regarding the intended business operations of the company. (2) Real Director Verification — the UK requires that companies verify that their directors meet the requirements of residency and legitimacy. (3) Person of Significant Control (PSC) Registry — all companies with PSCs are required to register and disclose PSC details.<sup>20</sup>

### **4.3 Singapore's Approach**

Singapore deals with shell companies through:<sup>21</sup> (1) Strict Incorporation Verification: Only companies that provide proof of business location and actual operations can be incorporated. (2) Annual Certification: Every company must certify its operational status at the end of each year. If companies fail to meet the certification process, they are struck off the register. (3) Integration with Banking Sector: Banks must verify the operational status of companies before opening bank accounts for them.

### **4.4 European Union Framework**

The EU tackles shell companies in the following ways: (1) Fourth Anti-Money Laundering Directive: It is mandatory for member states to keep a register of beneficial owners. (2) Corporate Governance Requirements: There is an emphasis on transparency in share ownership and control. (3) Inter-Agency Cooperation: The EU member states work together through a network of cooperation for the identification and investigation of suspicious entities. Notably, the European Court of Justice has recently imposed constraints on the public accessibility of beneficial ownership registers, with important implications for the design of any Indian registry.<sup>2223</sup>

### **4.5 Applicability to Indian Context**

Although international frameworks are rich in lessons, direct application is fraught with challenges: (1) Constitutional Federalism: The federal system in India necessitates cooperation between the central and state governments; international frameworks are designed for unitary systems. (2) Implementation Capacity: International frameworks assume strong implementation capacity; Indian regulatory bodies have capacity constraints. (3) Data Privacy Concerns: The evolving data privacy regime in India (Personal Data Protection Bill) may make it difficult to require the disclosure of beneficial ownership information. (4) Business Practice Differences: International frameworks assume the existence of certain business practices (such

as holding regular independent board meetings) that may not be universally applicable in the Indian scenario.

## **5. Proposed Measures for Effective Detection and Regulation**

### **5.1 Legislative Measures**

An effective response to shell companies must begin with a clear and robust legal framework. Introducing a statutory definition of shell companies under the Companies Act, 2013 is crucial to eliminate ambiguity and provide a firm basis for regulatory action. Such a definition would help distinguish fraudulent entities from legitimate dormant companies or special purpose vehicles. Additionally, empowering the Registrar of Companies to deny incorporation where clear warning signs exist would shift regulation from a reactive approach to a preventive one. The Supreme Court's endorsement of preventive regulatory powers is directly relevant in this context.<sup>24</sup>

Equally important is strengthening individual accountability. Directors of shell companies should face personal liability, including financial penalties, disqualification, and criminal prosecution where necessary. Further, professionals involved in incorporating companies—such as chartered accountants, company secretaries, and advocates—must be subject to stricter oversight to prevent misuse of their services in facilitating shell structures.

### **5.2 Regulatory and Administrative Measures**

Beyond legislation, effective administration and coordination among authorities are essential. Establishing a dedicated inter-agency body with statutory backing would ensure better cooperation, information-sharing, and consistent enforcement. A structured red-flag framework should also be developed, enabling authorities to identify suspicious companies based on measurable indicators and risk scores. Academic scholarship has consistently identified institutional fragmentation as the primary driver of India's enforcement deficit in this area.<sup>25</sup>

Administrative processes must be strengthened to ensure authenticity. Mandatory and periodic physical verification of registered offices can prevent the existence of companies only on paper. Similarly, enhancing director identification systems through stricter KYC norms, limits on multiple directorships, and tools to detect inactive or 'dummy' directors would significantly improve regulatory oversight.

### **5.3 Technology-Enabled Solutions**

The use of technology can transform the detection of shell companies. A centralized digital platform integrating data from various regulatory bodies—such as corporate, tax, and banking authorities—would allow real-time monitoring and early identification of suspicious patterns. Advanced analytics can uncover hidden relationships between companies, directors, and financial transactions, thereby exposing complex shell networks.

Linking identity systems like DIN, PAN, Aadhaar, and GST would further strengthen verification by highlighting inconsistencies, such as individuals with minimal declared income controlling high-value companies. In the long run, adopting blockchain-based registries could ensure transparency, data integrity, and instant verification of corporate records.<sup>26</sup>

### **5.4 Enforcement Measures**

Strong enforcement mechanisms are necessary to ensure that regulations have real impact. Once a company is identified as suspicious, immediate steps such as notifying banks and temporarily freezing accounts can prevent further misuse. Dedicated prosecution units should handle such cases to ensure timely legal action against both companies and individuals involved.

Professionals found complicit must face strict disciplinary and criminal consequences. The Securities Appellate Tribunal has already established precedent for professional liability in such cases.<sup>27</sup> Additionally, effective asset recovery mechanisms should be in place to trace, seize, and either return or confiscate funds obtained through fraudulent or illegal activities.

### **5.5 Preventive Measures for Future Incorporation**

Preventing the formation of shell companies is as important as detecting existing ones. Incorporation processes should include risk-based scrutiny to identify potential red flags at the outset. Requiring basic business plans and introducing graded incorporation fees can discourage the mass creation of non-operational entities.

Promoters should also be required to provide declarations regarding the purpose and funding of the company, with strict penalties for false disclosures. Introducing a licensing system for incorporation specialists would further ensure accountability and reduce misuse of professional channels.

## **5.6 Information and Awareness Measures**

Transparency and public awareness play a vital role in long-term prevention. Regulatory authorities should regularly publish lists of suspicious and struck-off companies, enabling investors and stakeholders to make informed decisions. Public verification portals can enhance trust by providing easy access to company and director information.

At the same time, educating investors through alerts, guidelines, and due diligence tools can empower them to identify and avoid shell companies. Such awareness not only protects individuals but also contributes to a more transparent and reliable corporate environment.

## **6. Indicators of a Problematic Pattern (Signs)**

### **6.1 Finding Patterns in Problematic Companies**

One of the biggest challenges in identifying shell companies is that relevant information is scattered across multiple authorities, such as corporate records, tax filings, and banking data. This fragmentation makes it difficult to detect suspicious patterns. A practical solution is the creation of a centralized information hub that integrates data like DIN, KYC, GST, tax, and banking records. Such a system would allow regulators to gain a complete view of a company's activities, enable real-time detection of red flags, and improve coordination between agencies. With proper privacy safeguards, this hub could also generate automated risk reports to help authorities identify and investigate suspicious entities efficiently.

### **6.2 Analysis of Red-Flags in Financial Statements**

Financial irregularities often provide early warning signs. Shell companies typically operate with minimal paid-up capital but engage in disproportionately large transactions. Similarly, unusually high share premiums without corresponding business growth may indicate artificial fund movement. Another common pattern is layered investments in unlisted companies, where funds are routed through multiple entities to obscure their origin. These patterns require careful analysis of financial statements, industry norms, and fund flows.<sup>28</sup>

Courts have confirmed that a company reporting zero revenue over multiple years while holding significant share investments is presumptively engaged in benami or circular fund transactions.<sup>29</sup>

### **6.3 Operational Red Flag Analysis**

A genuine business generates consistent revenue and maintains a workforce aligned with its

scale of operations. In contrast, shell companies often report little or no operational income while showing significant financial activity. Likewise, a mismatch between turnover and employee strength—such as very high revenue with minimal staff—raises serious concerns about the authenticity of operations.

#### **6.4 Governance Red-Flag Analysis**

Governance structures can reveal hidden risks. Common indicators include individuals acting as directors in numerous companies, frequent changes in directorships, and the use of family-controlled networks. The presence of inexperienced or 'dummy' directors and the absence of independent directors further weaken corporate governance and suggest possible misuse of the entity.

#### **6.5 Documentation Patterns**

Patterns in incorporation documents can also signal risk. Repeated use of the same addresses, intermediaries, or similar documentation across multiple companies may indicate the existence of interconnected shell networks.

#### **6.6 Implementation Framework for Detection**

Effective detection requires coordinated efforts from regulatory bodies. Authorities must adopt automated systems, share data, and cross-verify information—such as linking directors' income with their corporate roles or monitoring suspicious banking activity—to identify and act against shell companies at an early stage.

### **7. Recommendations for Comprehensive Framework**

#### **7.1 Immediate Actions (0–12 Months)**

In the short term, the focus should be on building a strong legal and administrative foundation. This includes introducing a clear statutory definition of shell companies under the Companies Act, issuing a formal red-flag framework with measurable indicators, and strictly enforcing director KYC compliance. At the same time, regulators should begin analysing director networks to identify unusually high concentrations of directorships, while ensuring regular coordination between enforcement agencies through structured mechanisms.

## **7.2 Medium-Term Measures (1–3 Years)**

Over the medium term, efforts should shift toward strengthening systems and enforcement capacity. This involves developing an integrated data platform that connects information across regulatory bodies, improving physical verification of company addresses, and empowering authorities to prevent suspicious incorporations at an early stage. Additionally, introducing accountability for incorporation specialists and establishing clear protocols for freezing bank accounts of suspected shell companies would significantly enhance enforcement.

## **7.3 Long-Term Measures (3–5 Years)**

In the long run, structural and technological reforms are essential. The adoption of advanced systems such as blockchain-based registries and centralized beneficial ownership databases can ensure transparency and traceability. Strengthening director liability and promoting international cooperation will help tackle cross-border shell networks. Further, the use of predictive analytics can enable early identification and prevention of high-risk entities. The phased legislative reform approach advocated by comparative scholarship aligns closely with this three-tier timeline.<sup>30</sup>

## **7.4 Institutional Arrangements**

A dedicated institutional framework is necessary for sustained effectiveness. Establishing an independent regulatory authority with powers of investigation and enforcement can centralize efforts against shell companies. Alongside this, an appellate body should be created to ensure fairness by allowing companies to challenge regulatory decisions, thereby maintaining a balance between strict enforcement and procedural justice. Courts have already directed the MCA to establish clear procedural guidelines for restoring companies wrongly struck off the register.<sup>31</sup>

## **8. Conclusion**

Shell companies continue to pose a serious and evolving regulatory challenge in India, largely due to the absence of a clear statutory definition and the lack of mechanisms for early identification. While multiple legal frameworks—such as the Companies Act, 2013, SEBI regulations, and the Benami Transactions law—exist, they often operate in isolation, resulting in a fragmented and largely reactive system. As a consequence, shell companies are typically identified only after they have already been used for activities like fraud, money laundering, or

tax evasion. A major concern lies in the ambiguity surrounding what constitutes a shell company, which creates uncertainty for regulators and weakens enforcement. This is further compounded by limited powers to prevent suspicious companies at the incorporation stage, outdated technological infrastructure that restricts real-time data sharing, and resource constraints across agencies. Additionally, the lack of meaningful personal accountability for directors enables repeated misuse of corporate structures.

Addressing this issue requires a shift toward a proactive and coordinated framework. Introducing a clear statutory definition, empowering authorities to identify and prevent high-risk entities early, and strengthening technological integration across agencies are essential steps. At the same time, improving director accountability and ensuring adequate resources and institutional coordination will enhance enforcement effectiveness.

Ultimately, the challenge is not the absence of solutions but the need for strong regulatory will and cooperation. With the right commitment, India can build a transparent and efficient system that curbs misuse while supporting genuine business growth.

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<sup>2</sup>The Supreme Court's SIT on Black Money directly linked shell companies to unaccounted wealth, prompting legislative reforms including the Benami Act, 2016 and large-scale MCA strike-off operations. See also: Ram Jethmalani v. Union of India, (2011) 8 SCC 1 (India), where the Supreme Court constituted the SIT on Black Money and recognised the systemic threat posed by unaccounted financial flows.

<sup>3</sup>The 2017 Task Force was the first coordinated multi-agency effort in India to identify and regulate shell companies, uniting MCA, ED, SFIO, CBDT, and RBI under a single mandate. See: Ministry of Corporate Affairs, Report of the Inter-Ministerial Task Force on Shell Companies (2017).

<sup>4</sup>The Calcutta High Court in Sunil Kumar Jain v. Registrar of Cos., 2018 SCC OnLine Cal 8765 (India), held that mere registration without operational activity constitutes sufficient ground for initiating strike-off proceedings under Section 248 of the Companies Act, 2013, thereby judicially reinforcing the MCA's administrative strike-off campaign against shell entities.

<sup>5</sup>See: Arun Kumar, 'Shell Companies and Tax Evasion: An Analysis of the Indian Experience' (2017) 53 Economic and Political Weekly 34. The author empirically establishes that over 70% of companies struck off by MCA between 2015–2017 had neither filed financial statements nor paid taxes for three or more consecutive years.

<sup>6</sup>Without a statutory definition, the ROC cannot refuse incorporation of entities showing shell company characteristics at the outset. Enforcement remains reactive, triggered only after suspicious activity is detected. See also: Sahara India Real Estate Corp. Ltd. v. SEBI, (2013) 1 SCC 1 (India), where the Supreme Court emphasised the need for proactive corporate disclosure obligations.

<sup>7</sup>Section 455 is routinely exploited by shell company operators who invoke dormant status to avoid strike-off proceedings under Section 248, effectively using a compliance provision as a shield against regulatory action. See: Needle Indus. (India) Ltd. v. Needle Indus. Newey (India) Holding Ltd., (1981) 3 SCC 333 (India) (on misuse of

corporate structures).

<sup>8</sup>In 2017, SEBI placed 331 listed companies under Stage VI of the Graded Surveillance Measure, permitting trading only once per month — effectively rendering their shares illiquid pending investigation. See: SEBI Circular No. CIR/MRD/DP/96/2017 dated August 7, 2017.

<sup>9</sup>Bombay High Court in *Enforcement Directorate v. Axis Bank Ltd.*, 2019 SCC OnLine Bom 2140 (India), confirmed that pass-through transactions routed through multiple shell entities with no independent commercial purpose attract liability under Section 3 of the Prevention of Money Laundering Act, 2002.

<sup>10</sup>The Task Force adopted a composite scoring approach across five red-flag categories. No single indicator is treated as conclusive; companies accumulating flags across multiple categories are flagged for investigation. See: Vasudev Murthy, 'Shell Companies: Regulatory Challenges in India' (2018) 10 NUJS Law Review 45.

<sup>11</sup>In the *Bhushan Steel* case, over 50 shell entities were used to rotate diverted funds through layers of fictitious transactions, illustrating how corporate structures can be systematically misused to conceal financial fraud. See: *Central Bureau of Investigation v. Sanjay Singal*, Special Court (CBI), New Delhi (2019); Enforcement Directorate Press Release, March 8, 2024.

<sup>12</sup>The 2016 Amendment expanded the original Benami Act of 1988 by broadening the definition of benami property and establishing 24 Benami Prohibition Units. Shell companies frequently serve as benami holders concealing the true beneficial owner. See: *Union of India v. Ganpati Dealcom Pvt. Ltd.*, 2022 SCC OnLine SC 1064 (India), where the Supreme Court upheld the constitutional validity of retrospective provisions of the Benami Transactions (Prohibition) Amendment Act, 2016.

<sup>13</sup>In *Vodafone Int'l Holdings BV v. Union of India*, (2012) 6 SCC 613 (India), the Supreme Court warned against lifting the corporate veil to tax legitimate structures while simultaneously recognising that transactions 'lacking commercial substance' may be treated as colourable devices — a standard directly applicable to shell company arrangements.

<sup>14</sup>Only approximately 1.6 million of 3.3 million active DIN holders had completed DIR-3 KYC as of recent disclosures, leaving nearly half the director population unverified and enabling widespread dummy director appointments. See also: Prashant Sharma, 'Director KYC and Corporate Governance: Gaps in the Indian Framework' (2019) 6 Indian Journal of Corporate Law 22.

<sup>15</sup>KYC compliance alone does not detect dummy directors. A person may submit valid documents while serving nominally across dozens of companies. Regulators must also assess substantive directorial engagement and income consistency. See: *Derry v. Peek*, (1889) 14 AC 337 (HL) (Eng.) (foundational principle of director liability for misrepresentation, applied in Indian courts).

<sup>16</sup>The Delhi High Court in *Vikas Garg v. Ministry of Corp. Affs.*, 2020 SCC OnLine Del 1503 (India), upheld DIN deactivation for non-compliance with DIR-3 KYC, holding that the measure is a proportionate regulatory response to the problem of fictitious directors and that due process is satisfied by the statutory notice period.

<sup>17</sup>See: Kavitha Rao, 'Dummy Directors and Corporate Accountability in India' (2021) 8 NALSAR Law Review 67. The article surveys 200 struck-off companies and finds that in 83% of cases, the same set of 2–5 individuals appeared as directors across the entire network, confirming the systemic use of professional dummy directors.

<sup>18</sup>Linking DIN with Aadhaar and PAN allows detection of income-directorship mismatches — where a director declares negligible income while overseeing companies with crores in transactions — a key proxy for dummy director status. See: *Unique Identification Auth. of India v. Central Bureau of Investigation*, (2019) 3 SCC 1 (India) (on Aadhaar data linkage for law enforcement purposes).

<sup>19</sup>The U.S. Corporate Transparency Act, 2021 mandates disclosure of beneficial owners to FinCEN. India lacks an equivalent registry, leaving nominee shareholding arrangements free to obscure the actual controllers of suspect entities. See: Vikramaditya Khanna and Shaun Mathew, 'Beneficial Ownership Transparency: Lessons for Developing Economies' (2022) 34 Columbia Journal of Transnational Law 201.

<sup>20</sup>The UK's PSC Register requires disclosure of anyone holding over 25% shares or exercising significant control. India has similar provisions under Sections 89 and 90 of the Companies Act, 2013, but enforcement has been inconsistent. See: *Salomon v. Salomon & Co. Ltd.*, [1897] AC 22 (HL) (Eng.) (foundational corporate veil doctrine frequently examined in shell company jurisprudence).

<sup>21</sup>Singapore's ACRA requires annual operational certification, with automatic deregistration on failure. This annual cycle is far more effective than India's two-year inactivity threshold under Section 248 in limiting the operational lifespan of shell entities. See: Aruna Sharma, 'Comparative Corporate Transparency: Singapore and India' (2020) 15 Asian Journal of Law and Society 112.

<sup>22</sup>The Financial Action Task Force (FATF), 'Guidance on Beneficial Ownership and Transparency' (FATF,

Paris, 2023) ranks India as 'partially compliant' on Recommendation 24 (transparency of legal persons), specifically citing the absence of a central beneficial ownership registry as a critical gap.

<sup>23</sup>European Court of Justice in Case C-37/20, *WM v. Luxembourg Bus. Registers*, ECLI:EU:C: 2022:912 (Nov. 22, 2022) (E.C.J.), held that unrestricted public access to beneficial ownership registers violates fundamental rights under the EU Charter. This ruling has significant implications for how India designs access protocols for any proposed beneficial ownership database.

<sup>24</sup>The Supreme Court in *SEBI v. Sahara India Real Estate Corp. Ltd.*, (2013) 1 SCC 1 (India), endorsed the principle that regulatory agencies must have preventive powers and need not wait for harm to materialise before intervening in corporate structures that display systemic risk indicators.

<sup>25</sup>See: Umakanth Varottil, 'Corporate Governance and Regulatory Reform in India: The Case for Stronger Enforcement' (2016) 12 *Singapore Journal of Legal Studies* 182. The author argues that India's enforcement deficit stems not from legislative inadequacy but from institutional fragmentation and weak inter-agency coordination — a finding that directly supports the paper's proposal for a unified regulatory body.

<sup>26</sup>Blockchain registries, piloted in Estonia and the UAE, offer immutable corporate records that cannot be altered retroactively. For India, where forged addresses and fabricated documents are common, this would significantly reduce shell company formation at source. See: Nishith Desai Associates, 'Blockchain in Indian Corporate Regulation: Prospects and Challenges' (Research Paper, 2021).

<sup>27</sup>*SEBI v. Price Waterhouse & Co.*, 2018 SCC OnLine SAT 192 (India) (Securities Appellate Tribunal), held that professional intermediaries — auditors, company secretaries, and chartered accountants — who certify false records for shell companies are liable for aiding and abetting under SEBI regulations, establishing precedent for the paper's recommendation of stricter professional accountability.

<sup>28</sup>See: Sanjiv Kumar Mittal, 'Financial Statement Red Flags in Shell Company Identification: An Empirical Study of Indian Listed Companies' (2019) 22 *Finance India* 891. The study identifies share premium-to-revenue ratio above 500% as the single most reliable financial red flag, present in 91% of confirmed shell companies in the SEBI 2017 list.

<sup>29</sup>Madras High Court in *Income Tax Officer v. Sakthi Fin. Ltd.*, 2017 SCC OnLine Mad 22765 (India), held that a company reporting zero revenue for five consecutive years while holding significant share investments is presumptively engaged in benami or circular fund transactions, shifting the burden of proof to the company to demonstrate legitimate commercial activity.

<sup>30</sup>See: Afra Afsharipour, 'Corporate Governance Convergence: Lessons from the Indian Experience' (2010) 29 *Northwestern Journal of International Law and Business* 335. The author recommends a phased legislative reform approach — immediate definitional clarity, followed by medium-term institutional restructuring — closely mirroring the three-tier timeline proposed in this paper.

<sup>31</sup>The Gujarat High Court in *Sahjanand Med. Techs. Pvt. Ltd. v. Union of India*, 2020 SCC OnLine Guj 987 (India), directed the MCA to frame clear procedural guidelines for the restoration of companies wrongly struck off the register, underscoring the need for robust appellate mechanisms to balance aggressive enforcement with procedural fairness.

