Corporate Governance and Board Accountability In AI-Based Decision Making: Emerging Compliance Challenges in India

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***Abstract*—Artificial intelligence has moved from the periphery of corporate operations to the centre of strategic and operational decision-making, touching credit underwriting, trading, hiring, surveillance and risk management. This shift raises an unresolved question for Indian corporate law: who is accountable when an algorithm, rather than a human director, drives a consequential decision? This paper critically examines the interface between corporate governance norms under the Companies Act, 2013 and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, and the rapidly evolving soft-law and sectoral AI governance architecture in India, including the Ministry of Electronics and Information Technology's India AI Governance Guidelines, the Reserve Bank of India's Framework for Responsible and Ethical Enablement of Artificial Intelligence, and the Securities and Exchange Board of India's AI/ML governance measures. It argues that while these instruments impose a nominal requirement of board-approved AI policies, they leave the underlying question of directorial standard of care, liability allocation, and algorithmic explainability substantially unresolved, creating a widening accountability gap that Indian corporate law is presently ill-equipped to close.**

I. INTRODUCTION

Corporate governance has traditionally rested on the premise that a natural person — a director or key managerial personnel — exercises informed, deliberate judgment and can therefore be held to a standard of care, skill and diligence. Artificial intelligence-based decision-making disturbs this premise. When a lending algorithm denies a loan, a trading system executes a flash transaction, or a recruitment tool filters candidates, the decision is the product of a statistical model whose reasoning is often opaque even to its designers. Boards of directors, who are legally charged with

oversight of corporate affairs[1], increasingly approve, delegate to, or rely upon such systems without a settled legal vocabulary for describing their own responsibility in the process.

India's response to this challenge has, so far, been characteristically incremental. Rather than enacting a horizontal AI statute akin to the European Union's AI Act[2], India has layered soft guidance and sector-specific circulars onto its existing corporate and securities law framework. The Ministry of Electronics and Information Technology released the India AI Governance Guidelines in November 2025[3]; the Reserve Bank of India published its FREE-AI Committee Report in August 2025[4]; and the Securities and Exchange Board of India has moved from a consultation paper to concrete amendments inserting an AI-specific chapter into the SEBI (Intermediaries) Regulations, 2008[5]. Each instrument gestures towards board-level accountability, yet none squarely resolves how existing fiduciary duty doctrine — including the business judgment rule — should apply when the decision-maker is, in substance, a machine.

This paper undertakes a critical analysis of that emerging compliance landscape. It proceeds in six parts. Part II sets out the conceptual tension between algorithmic decision-making and classical governance theory. Part III outlines the existing statutory architecture of corporate governance in India. Part IV examines how AI is actually being deployed in board and management decision-making. Part V analyses the doctrinal strain these places on directors' fiduciary duties. Part VI maps the emerging regulatory instruments in detail. Part VII offers a critical assessment of the gaps in this framework, situates it against comparative developments, and proposes reform measures.

II. CONCEPTUAL FRAMEWORK: CORPORATE GOVERNANCE, AI, AND THE ACCOUNTABILITY PROBLEM

Corporate governance is conventionally understood as the system of rules, practices and processes by which a company is directed and controlled, structured around the separation of ownership and control and the fiduciary obligations owed by directors to the company and, derivatively, its stakeholders. Accountability within this system depends on traceability: a decision can be attributed to an identifiable person who exercised judgment and who can be examined against a standard of reasonable care.

AI-based decision-making disrupts this traceability in at least three ways. First, opacity: many AI systems, particularly those built on machine learning rather than fixed rule sets, produce outputs

[1]Companies Act, 2013, §§ 166, 179, No. 18, Acts of Parliament, 2013 (India).

[2]Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence, 2024 O.J. (L 1689).

[3]Ministry of Elecs. & Info. Tech., Gov't of India, India AI Governance Guidelines (Nov. 5, 2025).

[4]Reserve Bank of India, Framework for Responsible and Ethical Enablement of Artificial Intelligence (FREE-AI): Report of the Committee 1 (Aug. 13, 2025).

[5]Securities & Exch. Bd. of India (Intermediaries) (Amendment) Regulations, 2025, Gazette of India, pt. III § 4 (India).

that cannot be fully reconstructed or explained even by their developers, a problem commonly termed the 'black box' issue. Second, distributed responsibility: an AI system used by a company is typically designed by one entity, trained on data supplied by another, deployed by the company's management, and approved at the board level, meaning that no single actor possesses complete knowledge of the system's behaviour. Third, adaptive behaviour: unlike static software, many AI systems evolve through continued training on live data, so a system approved as compliant at inception may drift into non-compliant or biased behaviour without any fresh act of managerial approval.

These features generate what may be termed an accountability gap: a mismatch between the law's assumption of a deliberating human decision-maker and the operational reality of statistically generated, adaptive, multi-party outputs. Indian corporate law, built around directors' duties[6] and disclosure obligations under the SEBI (LODR) Regulations, 2015[7], was not drafted with this gap in contemplation, and the emerging AI-specific guidance discussed in Part VI has, at best, begun to address it.

III. THE STATUTORY ARCHITECTURE OF CORPORATE GOVERNANCE IN INDIA

The core of Indian corporate governance law is found in the Companies Act, 2013. Section 166 codifies directors' duties, requiring a director to act in good faith to promote the objects of the company for the benefit of its members as a whole, and to exercise duties with due and reasonable care, skill and diligence[8]. Section 134(5) requires the board's report to contain a directors' responsibility statement confirming that adequate internal financial controls were laid down and were operating effectively[9] — a provision that SEBI's AI/ML governance framework has since drawn upon by analogy in requiring board-approved AI governance frameworks. Section 149 and the accompanying rules mandate independent directors for listed companies[10], intended to provide an internal check on management, while Section 177 requires an audit committee to oversee the company's risk management and internal control systems[11].

The SEBI (LODR) Regulations, 2015-layer additional obligations onto listed entities, including risk management committee requirements under Regulation 21[12] and extensive disclosure obligations concerning material events. None of these provisions refer to artificial intelligence, automated decision systems, or algorithmic risk in terms. Their application to AI-based decisions

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

[7]Securities & Exch. Bd. of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Gazette of India, pt. III § 4 (Sept. 2, 2015) (India).

[8]Companies Act, 2013, § 166, supra note 6.

[9]Companies Act, 2013, § 134(5), No. 18, Acts of Parliament, 2013 (India).

[10]Companies Act, 2013, § 149, No. 18, Acts of Parliament, 2013 (India).

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

[12]Securities & Exch. Bd. of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Regulation 21, Gazette of India, pt. III § 4 (Sept. 2, 2015) (India).

therefore proceeds by analogy and interpretation rather than by express statutory text, a gap that the sector-specific instruments examined later in this paper attempt, only partially, to fill.

IV. AI IN BOARD-LEVEL AND CORPORATE DECISION-MAKING

AI is now embedded across multiple layers of Indian corporate decision-making. In the financial sector, the Reserve Bank of India's own 2025 survey of regulated entities found that a meaningful proportion of banks and non-banking financial companies were already deploying AI in customer support, sales, credit underwriting and cybersecurity functions, with adoption expected to accelerate[13]. In capital markets, SEBI-regulated intermediaries use AI and machine learning tools for algorithmic trading, client identification, advisory services and market surveillance[14]. Beyond regulated finance, companies across sectors use AI for recruitment screening, performance management, fraud detection, supply-chain optimisation and, increasingly, for board-level analytics dashboards that inform strategic decisions on capital allocation and risk appetite.

The critical governance point is that AI is rarely confined to a purely advisory role. Where a system directly executes a decision — approving or declining a transaction, flagging or clearing a trade, ranking candidates for hiring — the board's oversight function shifts from reviewing a human decision to reviewing the design, testing and monitoring of a decision-making system. This is a materially different oversight task, requiring directors to develop at least a working fluency in model governance, data quality, bias testing and vendor risk, none of which forms part of the traditional company-law competency expected of a director under Indian law.

V. BOARD ACCOUNTABILITY: FIDUCIARY DUTY AND THE BUSINESS JUDGMENT RULE IN THE AGE OF ALGORITHMS

The business judgment rule, though not codified in the Companies Act, 2013, has been recognised in substance by Indian courts, most notably in Miheer H. Mafatlal v. Mafatlal Industries Ltd.[15], where the Supreme Court held that it would not interfere with a director's conduct that was just, fair and reasonable from the standpoint of a reasonable businessman taking a commercial decision beneficial to the company. The rule presupposes that a director actually applied their mind to the decision at hand. AI-based decision-making complicates this presupposition in two distinct scenarios.

The first scenario concerns the board's decision to adopt or approve an AI system in the first place — for instance, approving a credit-scoring model or a trading algorithm. Here, the business judgment rule can meaningfully apply if the board can demonstrate that it was informed: that it received adequate briefing on the model's design, limitations, testing results and risk controls

[13]Reserve Bank of India, supra note 4.

[14]Sec. & Exch. Bd. of India, Consultation Paper on Guidelines for Responsible Usage of AI/ML in the Indian Securities Market 3 (June 2025).

[15]Miheer H. Mafatlal v. Mafatlal Indus. Ltd., AIR 1997 SC 506 (India).

before approval. The second, more troubling scenario concerns the individual outputs generated by the AI system after deployment — the specific loan denied, the specific trade executed. No director, in the ordinary course, reviews these individual outputs before they occur, meaning the classical requirement of informed, deliberate judgment simply does not attach to them. If harm results from such an output, attributing liability to the board requires either a finding that the board failed in its upstream duty of designing adequate controls, or an acceptance that no natural person exercised judgment over the specific harmful decision at all.

This creates a doctrinal strain that Indian company law has not resolved. Section 166(4) requires a director to exercise independent judgment[16], yet an AI system built to reduce human discretion for efficiency reasons is, by design, meant to displace that very judgment. The result is a structural tension between the efficiency rationale for adopting AI and the independent-judgment rationale underlying directors' duties, which existing statutory text does not reconcile.

VI. THE EMERGING REGULATORY AND COMPLIANCE LANDSCAPE IN INDIA

6.1 The India AI Governance Guidelines, 2025

In November 2025, the Ministry of Electronics and Information Technology released the India AI Governance Guidelines[17], developed by a committee tasked in mid-2025 with balancing innovation and risk. Rather than proposing standalone AI legislation, the Guidelines adopt a 'techno-legal' approach that leverages existing statutes and sector regulators, organised around seven guiding principles or 'sutras': trust as the foundation, people-first design, innovation over restraint, fairness and equity, accountability, understandability by design, and safety and resilience. The Guidelines are explicitly advisory and non-binding, carrying no penalties for non-compliance, with binding force left to sector regulators such as the Reserve Bank of India, SEBI and the Insurance Regulatory and Development Authority of India acting within their own domains.

6.2 The RBI FREE-AI Framework, 2025

The Reserve Bank of India's Framework for Responsible and Ethical Enablement of Artificial Intelligence, released on 13 August 2025 following the work of a committee chaired by Professor Pushpak Bhattacharyya of IIT Bombay, is the most developed sectoral instrument to date[18]. Built around the same seven sutras later adopted at the national level, the report makes twenty-six recommendations across pillars including infrastructure, governance, protection and assurance. On governance specifically, it recommends that regulated entities frame board-approved AI policies covering the full model lifecycle, from approval and testing through to monitoring and vendor oversight, and that boards receive periodic reporting on AI initiatives and incidents. The framework also recommends AI-specific contractual safeguards in vendor agreements addressing

[16]Companies Act, 2013, § 166(4), No. 18, Acts of Parliament, 2013 (India).

[17]Ministry of Elecs. & Info. Tech., supra note 3.

[18]Reserve Bank of India, supra note 4.

bias, accountability and data use, recognising that most regulated entities procure AI capability from third-party providers rather than building it in-house.

6.3 SEBI's AI/ML Governance Measures

SEBI has moved on a parallel track for capital markets. Its July 2025 consultation paper proposed that market participants using AI and machine learning maintain a board-approved AI Governance Framework, designate senior management with the technical expertise to oversee AI performance, and maintain model validation, documentation and interpretability standards, alongside testing for fairness and bias and adherence to data privacy and cybersecurity norms[19]. SEBI subsequently issued amendments to the SEBI (Intermediaries) Regulations, 2008 inserting a dedicated chapter on the use of artificial intelligence, under which any regulated person using AI or machine learning tools bears sole responsibility for the privacy, security and integrity of investor data and for the outputs generated by such tools, regardless of whether the tools were built in-house or procured from a third-party vendor[20]. A May 2026 circular extended these expectations to a large population of regulated entities, requiring AI-aware threat modelling as part of their compliance obligations[21].

6.4 The Digital Personal Data Protection Act, 2023, and Proposed AI-Specific Legislation

The Digital Personal Data Protection Act, 2023[22] governs the processing of personal data used to train and operate AI systems, imposing consent, purpose-limitation and data-fiduciary obligations that intersect directly with AI governance even though the Act does not mention AI by name. Separately, an Artificial Intelligence (Ethics and Accountability) Bill was introduced as a private member's bill in the Lok Sabha in December 2025[23], and a broader Digital India Act, expected to overhaul the Information Technology Act, 2000 and introduce risk-based classification of digital platforms alongside specific AI and deepfake provisions, remains under discussion. Neither has yet been enacted, leaving India's AI accountability framework presently constituted by sectoral circulars and advisory guidelines rather than binding, cross-sectoral legislation.

VII. CRITICAL ANALYSIS: COMPLIANCE GAPS AND STRUCTURAL CHALLENGES

Read together, these instruments reveal a consistent pattern and a consistent limitation. The pattern is convergence on the same governance mechanism: a board-approved AI policy, paralleling the internal-financial-controls certification already required under Section 134(5) of the Companies Act, 2013[24]. The limitation is that none of the instruments defines a standard of care for directors

[19]Sec. & Exch. Bd. of India, Consultation Paper (June 2025), supra note 14.

[20]Securities & Exch. Bd. of India (Intermediaries) (Amendment) Regulations, 2025, supra note 5.

[21]Sec. & Exch. Bd. of India, Circular No. HO/13/19/12(1)2026-ITD-1_CIMGI/10873/2026 (May 5, 2026).

[22]Digital Personal Data Prot. Act, 2023, No. 22, Acts of Parliament, 2023 (India).

[23]The Artificial Intelligence (Ethics and Accountability) Bill, 2025, Lok Sabha (India) (introduced Dec. 2025).

[24]Companies Act, 2013, § 134(5), supra note 9.

or compliance officers approving or supervising such systems, leaving open the question of what constitutes reasonable diligence when a board approves a model it cannot fully audit.

A second gap concerns explainability. Both the RBI framework and SEBI's proposals call for interpretability and disclosure, yet neither specifies a minimum technical threshold of explainability that a system must meet before board approval, nor the consequences of approving a system that later proves inexplicable in a specific instance of harm. This leaves boards with a compliance checklist — 'approve a policy, appoint oversight, commission audits' — without a corresponding substantive benchmark against which the adequacy of that policy can be judged in litigation or regulatory enforcement.

A third gap is sectoral fragmentation. Because India has chosen to regulate AI through existing sectoral regulators rather than a horizontal statute, a company operating across financial services, e-commerce and health-adjacent data analytics may simultaneously face RBI's FREE-AI expectations, SEBI's intermediary rules, and no binding AI rule at all in a third line of business, despite functionally similar AI risks across all three. This fragmentation increases compliance cost for diversified corporate groups and creates the possibility of regulatory arbitrage, where AI-driven decision functions migrate to the least-regulated part of a corporate structure.

A fourth and more fundamental gap concerns enforceability. The MeitY Guidelines are, by design, advisory and carry no penalty for non-compliance[25]. Even the more developed RBI and SEBI instruments are largely principles-based rather than prescriptive, and, as observed in contemporaneous commentary, do not articulate a defined standard of care for boards or compliance officers when approving or supervising AI/ML systems, in contrast to the European Union's tiered, risk-classified obligations[26]. Consequently, in the event of AI-driven harm — a discriminatory credit denial, a flash-crash-style trading error, a data breach traceable to an AI vendor — an aggrieved party in India presently has recourse primarily to general company law remedies (such as an oppression and mismanagement petition or a derivative action) or sectoral consumer-protection and data-protection remedies, rather than any AI-specific statutory cause of action.

VIII. A COMPARATIVE NOTE

The European Union's AI Act, by contrast, adopts a risk-based classification of AI systems and imposes tiered, binding obligations on 'providers' and 'deployers' of high-risk systems, including mandatory conformity assessments, human oversight requirements and documented risk-management systems, with penalties for non-compliance[27]. Placing corporate credit-scoring, recruitment and biometric systems within the 'high-risk' category under that regime gives boards a comparatively clear compliance benchmark and a defined liability trigger. India's preference for

[25]Ministry of Elecs. & Info. Tech., supra note 3.

[26]From Algorithms to Accountability: Analysing SEBI's AI/ML Governance Framework, IndiaCorpLaw (July 16, 2025).

[27]Regulation (EU) 2024/1689, supra note 2.

a lighter-touch, sector-led model preserves flexibility and innovation space, consistent with the stated rationale of the MeitY Guidelines, but it does so at the cost of the very clarity that would allow boards, courts and regulators to assess directorial conduct against an objective standard. The Indian approach may prove more adaptable as AI technology evolves, but it currently leaves boards operating in a zone of genuine legal uncertainty regarding the scope of their own accountability.

IX. RECOMMENDATIONS

- Codify a director's duty of algorithmic oversight: Amend the Companies Act, 2013 rules or SEBI (LODR) Regulations to require, for listed companies deploying AI in material business functions, an explicit board-level AI risk disclosure within the directors' responsibility statement under Section 134(5), mirroring the existing internal-financial-controls certification.
- Define a minimum standard of care: Sector regulators should specify, at minimum, the categories of information (model purpose, training data provenance, bias-testing results, human-override mechanisms) that a board must have reviewed before approval, converting the current open-ended 'board-approved AI policy' requirement into an auditable checklist.
- Harmonise sectoral instruments: A coordinating mechanism between MeitY, RBI, SEBI and IRDAI — potentially formalised through the proposed Digital India Act — should align definitions of 'high-risk' AI use cases across sectors to reduce fragmentation and arbitrage.
- Mandate vendor accountability clauses: Given that most AI capability is procured rather than built in-house, corporate governance codes should require standard-form contractual protections allocating liability for biased or erroneous AI outputs between the company and its technology vendor, building on RBI's FREE-AI recommendation.
- Introduce independent algorithmic audit requirements: Audit committees under Section 177 of the Companies Act, 2013 should be statutorily tasked with commissioning periodic, independent algorithmic audits for AI systems used in material decision-making, with findings reported to the full board.
- Build director AI-literacy requirements into continuing education: The independent directors' databank and mandatory director training programmes should incorporate baseline AI-governance literacy, so that reliance on AI system outputs can be treated as an informed, rather than a passive, board decision.

X. CONCLUSION

India's corporate governance framework was built for a world in which decisions could be traced to an identifiable, deliberating human being. The rapid integration of AI into credit, trading, hiring and strategic decision-making has outpaced that assumption, and the country's emerging response — a mosaic of advisory guidelines from MeitY, a detailed but non-binding framework from the RBI, and incremental, still-developing rules from SEBI — has begun to name the problem without yet solving it. Each instrument converges on the same instinct: push accountability upward to a board-approved policy. Yet without a defined standard of care, harmonised sectoral thresholds,

and enforceable consequences for inadequate oversight, that instinct risks producing box-ticking compliance rather than genuine accountability. As AI's role in Indian corporate decision-making deepens, closing this gap — through clearer statutory anchoring of directors' algorithmic oversight duties and calibrated, cross-sectoral enforcement — will determine whether board accountability remains a meaningful legal concept or becomes a formal recital detached from how corporate decisions are actually made.