Proxy Advisory Guidelines

PA Season FY 2022-23

Stakeholders Empowerment Services

To ensure that the voting recommendations made by SES are consistent, fair, transparent, Independent, and conflict-free, SES has developed a Proxy Advisory policy containing general principles and guidelines to be considered while analyzing resolutions put to vote at shareholders' meetings. This document contains the guidelines to be followed by SES analysts while making Proxy Advisory Reports as well as provides guidance to analysts on the report format and contents.

Stakeholders Empowerment Services

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ABOUT SES PROXY ADVISORY GUIDELINES

SES' Proxy Advisory (PA) Services are primarily aimed to facilitate meaningful shareholder engagement at general body meetings of listed Companies. Through its PA reports, SES offers voting recommendations and detailed analysis for resolutions proposed in the general meetings, thereby equipping shareholders to engage in meaningful discussion with the Company on key strategic and governance issues.

Although our voting recommendations are made on a case by case basis, to ensure that they are consistent, fair, transparent, Independent, and free from any conflict, SES has developed a Proxy Advisory Policy containing the general principles and guidelines to be considered while analysing resolutions that are put to vote at the shareholders' meetings. SES may, however, deviate from the policy based on various factors that arise while analysing a Company and its governance practices. The reasons for such deviation will be well explained in the PA Reports.

In our Policy, we have ensured that compliance with all applicable (and relevant) laws/regulations are considered while making voting recommendations. SES takes non-compliance with any law (including but not limited to the (SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015 ('Listing Regulations'), the Companies Act, 2013 ('the Act') or any other applicable legislation, very seriously and considers it to be an indicator of poor Corporate Governance. Accordingly, our recommendations for Companies that are non-compliant in any manner, will reflect such concerns.

SES is of the opinion that in addition to compliance with the law in letter, Companies should imbibe good Corporate Governance in spirit. We have researched Corporate Governance guidelines and regulations in various jurisdictions around the world, analysed their relevance in the Indian markets and developed a set of principles that guide our Proxy Advisory mechanism. Our guidelines adequately address issues such as board structure and performance, Directors' Independence, auditor's responsibility and accountability, executive remuneration, related party transactions and other governance issues. SES policy is not set in stone and continues to evolve, with changing regulatory landscape as also experience gained by SES, therefore the annual policy undergoes changes appropriate to incorporate new developments, without waiting for annual exercise. However SES ensures that all changes are properly documented.

In order to keep all stakeholders updated with policy changes, effective 1st January, 2021, SES has been circulating through email interim material changes made to its Proxy Advisory Guidelines to all its clients as also to the concerned person of the Companies (under SES coverage) as per the email address available in SES database created on the basis of information contained in last AGM notice.

SES POLICY ADVISORY COMMITTEE

SES has constituted an Independent and empowered Advisory Committee, comprising of erudite and eminent personalities in the field of Corporate Governance, to provide unbiased and objective perspective, and shape SES policy guidelines. The collective wisdom and Independence of the Committee has enhanced the content and robustness of SES policy while the diversity of the Committee has enabled us to consider various viewpoints and interests of all stakeholders while formulating the policy. The Advisory Committee has recently been reconstituted in 2020. The composition of the Committee for the FY 2022-23 is as follows:

Member	Role	Brief Description
Dr. V R Narasimhan	Chairman	Former Chief Regulatory Officer at NSE
Mr. Ananth Narayan	Member	Professor at SPJIMR and former Regional Head of Financial Markets for ASEAN and South Asia of Standard Chartered Bank
Mr. Sandip Bhagat	Member	Partner at S&R Associates, Advocates
Mr. J N Gupta	Invitee	Managing Director, SES
Mr. Devendra Bhandari	Invitee	Non-Executive Director, SES

Disclosure: All the Committee members provide advice to SES on *pro-bono basis* and have no day to day responsibility at SES. The Advisors may have personal investments and hold directorships in listed Companies. While directorships are in public knowledge, investments are not known publicly. However, such investments

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and positions neither affect SES policy nor impacts any of SES analysis. It is made abundantly clear that SES reports are not shared with advisory board members neither individually nor collectively. SES' policy and guidelines are generic in nature and SES is entirely responsible for adherence to the guidelines. In case SES does not follow/adhere to its own policies in respect of its advisory reports, responsibility for such failure solely rests with SES and cannot be attributed to any member of the Advisory Committee. It is also certified that there has been no and there will be no financial transaction or compensation of any type between SES and Independent Advisors.

CORPORATE ENGAGEMENT POLICY

Our Proxy Advisory Reports and recommendations are based solely on research conducted by us, using authentic and reliable publicly available information. We do not rely on any information available in public domain which is not authenticated by the concerned company or any Regulatory or Government Agency. In rare cases, we may rely on public information which is not authenticated by the concerned Company, however, in all such cases, we give full opportunity to the company to explain their position. We do not use information that is not in public domain. We encourage Companies to provide comprehensive and clear disclosure about the relevant issues for consideration by shareholders in a holistic manner without any asymmetry among the recipients regarding the timing and content of such disclosures. SES as a policy, right from its inception has been following practice of sharing its report with concerned companies simultaneously upon its release to SES clients. **SES in accordance with SEBI directive does not share any draft report with the companies.** However, SES gives full opportunity and equal space to company concerned post release of SES Report. In case after release of SES Report, the concerned company provides any additional input by written communication, which is not in public domain, SES in such cases will not take that information in account for purpose of its recommendation. However, following its policy of transparency, information so disclosed will be reproduced in verbatim in SES addendum to be issued, enabling investors to take a note of the same. SES would advice the Company to share such additional information to shareholders / public at large by way of communication through stock Exchange.

Post the release of the report, in case the Company poses a question on any of the issues raised by SES in the report, SES will make best efforts to respond to such queries.

In case the Company responds to PA Report, highlighting any factual error, in such case, in line with SEBI Circular dated 3rd August, 2020 (weblink), such email communication of the Company would be forwarded to all the SES Clients 'as it is' within 24 hours from the date of such receipt.

Appropriate SES Comments/ reply to such Company's response would be provided through an Addendum which shall be issued as soon as possible. In case of any material revision to SES PA Report, then, Addendum shall be issued within 3 working days from the date of such receipt.

The Addendum to the report would contain details of interactions with the company and explain the nature of all revisions (if any) - including changes to our recommendations (if any) and notify all the recipients of the original report. It may be noted that only responses, queries or notifications **made over email** will be considered by SES, although interaction may take place through audio or video call.

Further, the right to make such changes in the reports lies solely with SES and will be decided on case-to-case basis. SES will generally not change its recommendation, if the Company provides new disclosures (which are not available to the shareholders at large) to fill the shortcoming of disclosures raised in SES report only to SES. However, such new disclosure will be mentioned in the addendum. In case such disclosures are provided to public at large SES will take these additional disclosures in account and relook at recommendations afresh. SES believes that the notice and initial communication by the Company (to the shareholders) should be self-sufficient for the shareholders to make an informed decision. SES will publish its reports well in advance of shareholder voting deadlines/ meetings ensuring that stakeholders have sufficient time to review our analysis including any revisions and make a voting decision well before the deadline/meeting.

SES will adhere to the following policy during the **black-out period.**

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Black-out period is observed from the date of announcement of the Notice of the shareholders' meeting by the Company to the date of release of a report by SES. During this period, SES shall avoid any communication with the Company or its officers, unless SES requires some important clarification without which the content of the PA Report may not indicate a true and fair analysis.

SES may, in case it requires clarifications from a Company over an issue, reach out to the concerned company over email. Any such interaction will be adequately recorded for maintaining an audit trail, and the details of the interaction, (if any), will be disclosed to the stakeholders[1] in the report.

Additionally, prior to releasing its Report, SES may wherever require, seek clarification from the Company regarding any disclosure made in the public domain. Companies will generally be given two working days to respond or such suitable timeline (based on the issue) as may be mentioned in the communication with the Company. In case the Company does not respond, SES reserves the right of forming its own opinion without any further attempts to elicit response.

Upon receiving the Company's comments, SES will publish the comments verbatim in the report (unless the Company's response contains any offensive or objectionable content in which case SES reserves the right to omit or suitably edit the response with due disclosure of such omission/edition). SES endeavors that entire communication be done over email. Record of such interactions will be maintained for an audit trail and disclosed in our Report to the Stakeholders. In extreme cases, SES may interact with the Company over phone to seek clarifications; however, SES would consider only those communication which are sent/clarified on the mail. No other channel of communication will be encouraged for the interaction. SES does not encourage meeting company representatives prior to the release of the report. However, in exceptional case(s), if the company representative(s) meets us, the same will be recorded in our report. All our terms and conditions relating to the meeting will be followed i.e. transparency, audit trail and no confidentiality conditions. Only matters that are in public domain and general governance best practices would be discussed in such a meeting.

Apart from the interactions listed above, no other contact will be established with the Company during the black-out period.

SES as a policy, does not share its report with the concerned company prior to issuing the same to all the Stakeholders. This is primarily done to avoid any perceived influence. Once released to the Stakeholders, the report is shared simultaneously with the concerned company with full opportunity to them to express their opinion.

Further, outside the black-out period, SES may meet/discuss with any company to provide clarifications on the reports, guidelines or to learn more about specific aspects of the Company.

It may be noted that SES never charges any fee or claim remuneration for any such interaction from the Company. SES also provides its report free of cost to the concerned companies at the time of its release to its clients.

SES does not provide consultation services to listed companies and avoids all "off the record" discussions with companies whether about pending proxy proposals or otherwise.

[1] ***Stakeholder***: *A Stakeholder refers to a person or an entity that subscribe for Proxy Advisory Services of SES.*

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SES PROXY ADVISORY PRINCIPLES

SES gives overarching importance to major governance issues related to Fairness, Transparency, adequacy and quality of Disclosures, Related Party issues and impact on minority shareholders/ equitable treatment of all shareholders, while examining the matters placed before shareholders for their consideration (in addition to checking on legal compliance and ethical issues). In these guidelines, we have highlighted cases which directly/ indirectly do not pass the litmus test, and hence our recommendation is either **AGAINST** or left to the discretion of the shareholders in such cases. In all other cases (where Litmus test is successful), we recommend the shareholders to vote **FOR** the resolution.

If a company does not provide the e-Voting facility, we recommend voting **AGAINST** all the Resolutions in the Notice of that general meeting, however, we still do the analysis of the Resolutions (on merits) based on our guidelines.

PRINCIPLE 1 – FINANCIAL STATEMENTS

SES' analysis of the resolutions for the adoption of financial statements will be aimed at enabling shareholders to engage in meaningful discussions with the management during the AGM while approving the resolution. The focus of SES' analysis will be on integrity of Financial Statements, Related Party Transactions, significant shift in key financial ratios, deviations from Accounting Standards, if any, Applicable Financial Reporting Framework, analysis of Auditors' Report including qualifications and adequacy of Board's responses thereto etc. SES may highlight major governance and accounting issues in the Auditors' Report and financial statements (if any). SES may also discuss audit qualifications (if any) and evaluate boards' response or the management explanation to such audit qualifications. **Unless there are concerns about the integrity of the financial statements or reports, and such other concerns raised by the Auditors in their report, SES will not recommend voting against such resolution.**

SES will also analyse mandated disclosures made by companies in respect of subsidiaries financials on website, selected financial ratios and comments on any significant deviation. SES will critically analyse the sufficiency of explanations given, whether the compliance is in letter or spirit.

PRINCIPLE 2 - DIVIDEND

SES is of the opinion that payment of a dividend or conserving cash is a strategic decision best taken by the Board of the company which has diversified shareholding such as a public listed company, keeping in view, the long-term goals of the Company. In the normal course, SES will recommend voting **FOR** the resolution. An exception may be made for cases where concerns over the Company's ability to pay the proposed dividend are observed especially if the Company neither has cash nor the ability to pay such dividend(s) or significantly contradicts Company's dividend policy and no reason for such deviation is provided. SES may also relate decision on dividend to other corporate actions which might appear to be in conflict with resolution on dividend.

PRINCIPLE 3 – AUDITORS

Auditors are the first level of protection for all stakeholders in general and for non-participative shareholders in particular. The Auditors owe a fiduciary duty to the shareholders especially the public shareholders. The Auditor's role is crucial in ensuring the integrity and transparency of the financial statements. Accordingly, SES is of the opinion that the Auditors should be independent, well-qualified, objective, unbiased and free from conflict of interests. Therefore, while analysing resolution(s) for the appointment of statutory Auditors, SES will consider factors such as compliance with law, association/ affiliations with the Company/ promoters/ directors or management, tenure of association, proposed fee, Basis of recommendation along with credentials disclosed, and non audit engagements with the company that may prevent the Auditors from carrying out their duty in objective & independent manner.

In exceptional cases, **based on analysis of Financial statements**, if SES finds that Auditors did not fulfill their role/ responsibility properly, SES would recommend a vote **AGAINST** appointment of same auditor.

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Since ratification of appointment on yearly basis is no more required and appointment is once in 5 years, in case SES finds that Auditors have not done their duty, SES would make an observation in its report highlighting Audit failure and request shareholders to take appropriate action to protect their interests. In case SES finds that Auditors have failed on continuous basis in protecting interest of shareholders SES may report the same to concerned regulators at its option.

PRINCIPLE 4 – BOARD COMPOSITION

SES is of the opinion that ideally, the board of directors of a Listed Company must comprise of 7 – 12 directors, depending upon the size and complexities of the business operations. The Board should be independent, qualified and diversified, have a record of efficient and effective performance, and have capable members with an in-depth experience and expertise in diverse fields. Ideally, Boards should have a majority of independent directors and have a Non-Executive, preferably an independent Director as its Chairman. The Board must also comprise of woman director(s) who are independent of the management. Therefore, SES' recommendations on the appointment of directors are aimed towards the formation of reasonably independent, diverse and effective board. While analysing proposals for appointment/ reappointment of directors, SES would also consider past performance of directors in respect of meetings attended by them, their time commitments considering their number of directorships, committee chairmanships and memberships, any non-compliance, frauds and regulatory actions against the Director and such other information disclosed in Board's report etc. While SES may not be in a position to evaluate suitability of the proposed appointee, however it will evaluate the proposal keeping in mind education, experience, age and other relevant factor while framing recommendation.

SES in its reports will also mention other issues related to the Board which is not specific to the appointment of a Director. Such issues include conditions affecting the independence of the Independent Directors due to long tenure or outstanding ESOPs, high remuneration to promoter Directors, the pecuniary relationship of the Directors and such other concerns which may affect the governance of the Company and affects the shareholders' value. SES will also take into account performance (attendance) of directors as member of various committees.

Promoter classification: While certain directors may not be classified as Promoter directors by the Company in its Annual Report, SES believes that director's relationship with the Promoter Company / Promoter Family could potentially lead to, the director acting under influence of the Promoters and may potentially act in interest of promoter. While it is impossible for SES to forecast behaviour pattern of any appointee, yet SES feels that such relationship needs to be highlighted in the PA Report.

Thus, SES in its Report will classify directors (NID) as Promoter directors if any of the following condition is satisfied:

i. He is holding any whole-time position, whether on the Board or otherwise, in the concerned 'Group'; or
ii. He is holding directorship (other than independent Directorship) in any of the Promoter (group) Company; or
iii. He is a relative of any Promoter Director.
iv. Or he is a nominee of promoter

Provided that if he has resigned or ceased to hold the positions under clause (i) or (ii) as on date of the report, then, he shall not be considered to be a Promoter anymore. Wherever possible SES would differentiate between Promoter Shareholder director & Promoter professional director.

Explanation: (i) The term "Group" under clause (i) refers to all the Companies, other than the subsidiaries of the reporting Company, that are under the control of the Ultimate Holding / Promoter Company. Additionally, Associate Companies having common Promoters will also be considered as part of the Group for this purpose.

However, in cases where SES is analysing the remuneration drawn by the Promoter family, then, such directors who are not related to the Promoter Family (but technically classified as promoter due to their association), but are professionally engaged with the Company may be excluded from calculation, depending upon nature of their association.

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PRINCIPLE 5 – DIRECTORS' INDEPENDENCE

SES examines directors' relationship/ association (including tenure) with the Company, its promoters, its other directors, its senior management or its holding company, its subsidiaries and associates, to determine if there are relationships which may potentially affect the independence/ independent decision making of such directors due to conflicts of interest. SES will also raise concern if any independent director (ID) of the Company, is a partner or proprietor of any consultancy / Law Firm that provides services to the Company. SES strongly feels that ideally an Independent Director of the Company must not have any pecuniary relationship with the Company, except for Directors' remuneration. With regards to the tenure of IDs, any ID who had been associated with the Company or Group Company for tenure of more than 10 years, would be reckoned non-independent by SES irrespective of whether he was appointed as such, post the commencement of the Companies Act, 2013 or not.

PRINCIPLE 6 – BOARD COMMITTEES

SES is of the opinion that the Board Committees are vital constituents in the governance structure of a Company. Every Board Committee (including the Audit Committee, Nomination & Remuneration Committee) should comprise of competent and qualified people with relevant experience and be sufficiently independent of the management, promoters and other related parties. Additionally, such committees should be empowered and have a well-defined role/ mandate. As a good governance practice, the Company should have a rotation policy for members of the Committees fit for such role, especially Audit Committee Chairman, and its members. However, as of now SES does not analyse this in its PA Reports.

Since, the Committees of the Board, especially Audit and NRC generally comprises of higher percentage of Independent Directors than the Board, therefore, recommendations made by such committees is expected to be conflict free and independent. In case, the board has not accepted any recommendation of any committee of the board, such instance would be scrutinised by SES closely.

PRINCIPLE 7 – DIRECTORS' REMUNERATION

SES is of the opinion that the Companies should have remuneration policy that not only attracts and retains competent directors/executives but also motivates them to enhance the Company's long-term stakeholders' value. SES looks at the structure of the remuneration package, quality of disclosures, link between performance and remuneration, and overall compensation relative to peers while recommending voting action on directors'/executive remuneration. SES emphasizes that remuneration should be aligned with the performance of the individual as well as the performance of the Company. It must include performance related variable component of remuneration. Special focus is placed on skewness/ biases in remuneration practice(s). Ownership should not be a criteria for higher remuneration.

PRINCIPLE 8 – STOCK OPTION PLANS

ESOPs are a useful tool for retaining employees and aligning their interests with that of the shareholders' interests. SES will evaluate the terms of such schemes and the quality of disclosures made by the Company while making voting recommendations. SES will analyse schemes for their objective and will be critical of any such scheme which aims to reward only selected few. SES will analyse any amendments in ESOPs, considering the fairness and impact of the proposed amendment. Proposals seeking absolute discretion to the Board to modify, alter, vary the ESOP scheme is not viewed as a good governance practice by SES. SES expects the Companies to make objective disclosure, so that the shareholders could take an informed decision.

PRINCIPLE 9 – RELATED PARTY TRANSACTIONS

A Related Party Transaction (RPT) is a transfer of resources, services or obligations between a reporting entity and a related party. SES as a policy does not view RPT *per se* bad unless it is an abusive and unfair transaction. SES will evaluate the quality of disclosures made by the Company along with justification, while making voting recommendations, without passing a value judgment on the transaction, unless *prima facie*, the transaction

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looks unfair or abusive. If disclosures made by the company explain the need for the transaction and appears to be at arm's length and fair in the interests of the Company and other shareholders, SES would recommend **FOR**. Having said that, RPTs with Promoters of the Company shall invite additional scrutiny by SES. Approvals for RPT for perpetuity or without placing any absolute cap on the transaction amount is not viewed as a good governance practice by SES. SES will also examine closely all-encompassing resolution and recommend based on merit. Terms like "arm's Length" & "ordinary Course" would not be accepted at face value unless the resolution provides information as to how transactions confirm to the same.

PRINCIPLE 10 – CORPORATE ACTIONS

SES is of the opinion that corporate actions are entirely the prerogative of management and expects that the management must share its perspective on all corporate actions with shareholders in a transparent manner. SES evaluates such proposals on a case-by-case basis. SES expects companies to provide a specific and detailed rationale for such proposals. While SES may analyse the merit/ adequacy of the rationale, check compliance of the disclosures with regulatory requirements, transparency regarding the resolution and analyse governance issues (if any) in the proposal, SES will place special emphasis on related party issues (if any). SES, in cases of sale of asset/ business/ mergers, will consider the disclosures provided in the valuation Report and Fairness Opinion with regard to the monetary value of such assets/business and the manner of computing the Valuation. In the normal course, SES will recommend voting **FOR** the resolution, unless specific issues are identified. However, SES may recommend voting **AGAINST** resolutions that effectively provide unlimited authority to the Board to act at its discretion, as it dilutes the authority of the shareholders of the Company.

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SES POLICY ON PUBLIC SECTOR UNDERTAKINGS (PSUs) WITH NON - COMPLIANT BOARD

SES has observed that many of the PSUs do not comply with the applicable requirements of the Companies Act, 2013 and provision of the SEBI Listing Regulations in entirety. The Board of various PSU Companies, Audit Committee and Nomination and Remuneration committee does not have required number of Independent Directors (including woman independent director) and hence, are non-compliant with the law. SES, in such cases recommends that shareholders vote AGAINST all the resolutions seeking appointment/re-appointment of Executive/Non-Executive Non-Independent Directors, Approval of remuneration of Cost Auditors. Further, it is observed that some PSU Companies appoint IDs but for an uncertain term or such term as desired by the Government of India i.e. the promoter of the Company. In such cases, SES recommends shareholders to vote AGAINST such resolutions as such a condition not only vitiates Independence of the Directors but also seeks a blanket approval from the shareholders.

SES understands that recommending a vote AGAINST these resolutions if successful, can result in disruption of operations. The objective of SES is to bring about improved governance and not to disrupt operations. SES wishes to achieve good governance through engagement by shareholders and without disruption as SES is the view that a lot of value could be lost due to disruption. SES recommends AGAINST in such cases not on the basis of the merit of Directors, Auditors or Cost Auditor but due to non-compliance and/ or inadequate disclosures by the Company. SES is of the opinion that a non-compliant board raises a question mark over board oversight mechanism and the Independence of decision-making of the board. In case of PSUs a negative vote by minority shareholders will not disrupt operations as a vote of majority shareholders (Promoters) would certainly re-elect these Directors/Auditors but aims to strongly convey the dissatisfaction of public shareholders. SES is of the view that PSUs should set a higher benchmark with respect to corporate governance practices for other Companies to follow them.

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PRINCIPLE 1: APPROVAL OF FINANCIAL STATEMENTS

SES is of the opinion that analysis of adoption of financial statements is an integral part of financial analysis. Therefore, detailed analysis of financial statements is not within the scope of SES' work. SES' analysis will be aimed at enabling shareholders to engage in meaningful discussions with the management over the Company's financial statements. Unless there are concerns about the integrity of the financial statements or reports or serious governance issues, SES in normal course will not recommend voting **AGAINST** such resolutions.

Further, SES would also check whether the Company has placed the financial statements of its subsidiaries on its website or not, as required under the law. In absence of such information, SES would recommend **AGAINST** adoption of consolidated financial statements. SES will also examine CARO, 2020 compliance and analyse data.

KEY CONSIDERATIONS

1. Audit qualifications (if any)
   a. SES may analyse qualifications raised by the Auditors and the clarifications/comments made by the Management/ Board on the same.
   b. SES may also present its opinion on the qualifications to highlight governance/fairness issues related to the qualification.
   c. SES may also analyse the estimate on qualification (where the impact of the qualification cannot be precisely quantifiable), provided by the management and review of the Auditor on the same, wherever applicable.
2. Auditors' comments
   a. SES may analyse comments made by the auditors in the standalone or consolidated audit report, the Annexure to the Auditors' Report and Notes to Financial statements.
   b. SES may look at the consolidation principles used by the auditor to determine whether any material unaudited financial statements have been used for consolidation. However, if the Principal Auditor has carried out additional audit procedures, then, SES will not raise any concern.
3. SES may analyse any material variations in accounting policies from the accounting standards (if disclosed in Audit Report)
4. SES will analyse structural shifts in key financial indicators and the disclosures made by the management to explain the shift if the variation is >25%.
5. Exceptional write offs by the Company for which the management has not provided satisfactory explanation.
6. Exceptional spending by the Company and proper disclosure on the timing/need of such spends by the Company.
7. Related Party Transactions including loans, receivables and royalty payments and the trends observed therein vis a vis requirement of Listing Regulations and Companies Act, 2013.
8. Contingent liabilities and impact of contingent liabilities, important legal cases by and against the Company, on the Company (Not applicable in case of Banks and NBFCs). SES may also analyse whether the money raised from Banks/ Financial Institutions, were utilized for the stated purpose.
9. SES would also raise concern if the Company proposes adoption of the Standalone and Consolidated Financial Statements under a single resolution.
10. Audit Process
    a. Audit Committee's independence/ composition and comments (if any) on the Auditors' report/financial statements.
    b. Auditors' independence
11. Other issues that SES may highlight
    a. Any material issue related to accounting practices, disclosures and transparency
    b. While normally SES will not do any comparative analysis with any company, however, in case any governance issue is found, to highlight the same SES may carry out competitor analysis. The underlying objective will be to bring to shareholders notice relevant information.
12. Separate Financial Statements of the subsidiaries of the Company available on the website of the Company.

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13. Cause for concerns in the performance of the Company such as continuous losses, all increase in borrowing utilised in investments etc.
14. SES may also analyse Loans and advances and any item of Balance Sheet & Profit & Loss statement, if any item appears to be important and raises questions in mind of SES Analysts.

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PRINCIPLE 2: DECLARATION OF DIVIDEND

SES is of the opinion that the option of paying dividend or conserving cash is a strategic decision, which is best taken by the Board of Directors of the Company, keeping in view the growth plans and long-term goals of the Company.

SES is of the opinion that the Board is responsible for the future plans of the Company and therefore, is in the best position to decide the amount of profits (cash) to be retained for future use and the amount of profits to be distributed as dividend. Therefore, SES would normally recommend voting FOR the resolution declaring dividend (as the intrinsic shareholders' value is the same), unless strong reasons are found (like Company has defaulted in servicing its debt obligations for more than a year). However, SES does expect companies to have consistent dividend payouts (based on a publicly disclosed policy) and explain any deviations from the historical dividend pay-out policy to the shareholders.

SEBI vide Regulation 43A to the Listing Regulations, has mandated disclosure of dividend distribution policy on website and Annual Report for Top 1,000 Companies by market capitalization (as on 31st March of every financial year), SES is of the opinion that as a good governance policy, all the Listed Companies should disclose their dividend policy. If the Company has not provided dividend policy in its Annual Report and Website where it is mandated to do so, SES will highlight the same in its report.

Further, SES will refer to the following key considerations while analyzing the resolution on declaration of dividend on a case to case basis.

KEY CONSIDERATIONS

1. Consistency of dividend payment
    a. Does the Company have a stated dividend Distribution Policy, including a proposed dividend pay-out ratio? If yes, then is the dividend paid consistent with the stated policy or if it is not, has the Company explained the deviation to the shareholders?
    b. If there is no stated dividend policy, has the dividend pay-out been consistent in the last 3 years? If not, has the Company explained the deviation? SES is of the opinion that as a good governance policy, all the Companies should disclose the Company's dividend policy.
2. Capacity to pay the dividend to be questioned in following cases
    a. The Company's current ratio < 1 and debt equity ratio > 2 (not in case of capital intensive projects or financial institutions or if adequate justification given, where case by case analysis is done)
    b. Is the Company making losses and/or the Company has high debt equity ratio + low debt coverage ratio but paying/increasing dividend?
    c. Does the Company have sufficient cash flow from operations and/or sufficient cash & cash equivalents to pay the proposed dividends?
    d. Has the Company defaulted on any of its debt obligations/ undergone restructuring and has still declared dividend?
    e. Is the Company required to conserve resources to fund large upcoming capital expenditure?
    f. High dividend associated with high promoters' equity, with high pay out ratio with high leverage-borrowing specially in cases where capital expenditure is high
    g. preferential offer to promoters and High dividend
3. Low dividend
    a. Is the Company consistently making large profits and has large cash balance but its dividend pay-out ratio is consistently very low?
    b. Has the Company decreased the dividend pay-out to an exceptionally low level (or eliminated dividend pay-out altogether) without sufficient explanation? For Example, Oracle case.
    c. Has the growth in dividend been consistent with the growth in royalty payments and/or executive remuneration? In such case we highlight this point in the discussion on dividend page)
    d. Is low dividend after a buy back?

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4. SES shall also consider the disclosure of Dividend Distribution Policy of the Company and analyze whether the same is based on objective criteria and whether the dividend payout is as per its stated Policy or not.

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PRINCIPLE 3: AUDITORS' APPOINTMENT

Auditors play crucial role in ensuring the integrity and transparency of the financial statements, which is necessary for protecting shareholders' value. Auditors have a duty towards all stakeholders, to bring to their notice; instances of non-compliance, any accounting practice which is in deviation from the Accounting Standards already set or any other aspect of the financial statements which could adversely affect the interest of various stakeholders. Stakeholders rely on the auditors to do a thorough audit of the Company's financial statements to ensure that the information provided is complete, accurate, fair, and is true representation of the Company's financial position.

SES is of the opinion that keeping in view the important role played by the Auditors, an independent Auditor effectively strengthens the hands of board in discharging its duty towards shareholders and reducing risks. Accordingly, we believe that the Auditors' should be independent, well-qualified, objective, unbiased and free from any conflict of interests. SES expects that the Company disclose, the proposed fee payable to the Statutory Auditors and in case of a new auditor, material changes in the fee payable to the new auditor from that paid to the outgoing auditor be explained, if any. SES will also consider the basis of recommendation and Credentials of the proposed Auditor provided by the Company for appointment of the statutory auditor(s) proposed to be appointed.

In cases where the existing Auditor has resigned, SES will pay attention to the disclosure made by the Company, that is the detailed reasons for resignation of auditor as given by the said auditor as required under clause 7(B) of Part A of Schedule III to the SEBI LODR.

SES will keep in mind provisions of the Companies Act, 2013, SEBI & RBI Regulations and other applicable provisions in the matter regarding tenure and independence of Auditors.

KEY CONSIDERATIONS

1. Tenure of Auditors
   1.1. Has the Auditors' tenure (tenure includes tenure of firm with common partners/same umbrella or Branch or Internal audit assignment) exceeded 10 years/ will exceed 10 years post the completion of proposed term?
   1.2. Has the audit partner(s) tenure exceeded 3 years?
   1.3. Basis of recommendation provided in the Notice.
   1.4. Disclosure of proposed fee and any material change in case of new appointment.
   1.5. Whether previous auditor not re-appointed for 5 years despite being eligible to the same.
2. Certificates obtained from the Auditors for:
   2.1. Proportion of the Non-Audit Fee to the Total remuneration paid to the Auditors. Ascertaining their independence
   2.2. Ascertaining their eligibility for the proposed role
3. Does the non-audit fee constitute more than 75% of the total audit fees paid to the Statutory Auditors in previous year? Has the non-audit fee been higher than 50% in two of the last three years? (SES may make allowances for fees for one-time transactions and due diligence work related to merger, acquisition or disposal provided that their provision of such services does not persist.)
4. SES will also note the total fees paid by the Companies and its subsidiaries, on a consolidated basis, to the statutory auditor and all entities in the network firm/ network entity of which the statutory auditor is a part.
5. Do the Auditors have any financial interest in or association with the Company which may lead to conflict of interest situations?
6. Have material unaudited financial statements been used by the Company for consolidation (definition of material same as that in the Listing Regulations)?
7. Has the Company disclosed the name of the Auditors up for reappointment?
8. Has there been any recent material restatement of financial statements, including those resulting in the reporting of material weaknesses in internal controls?

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9. Auditors not appointed on the recommendation of the Audit Committee/ The Company has not disclosed whether the Auditors are appointed on the recommendations of the Audit Committee
10. Statutory Certificates/ prescribed condition for appointment of Auditors not disclosed in the Notice/ Annual Report

FIRMS UNDER COMMOM MANAGEMENT/ TIE-UPS

Deloitte Group	Price Waterhouse Group	EY Group	KPMG Group	Walker Chandiok & Co LLP (Grant Thornton)
1. Deloitte Haskins & Sells 2. Deloitte Haskins & Sells LLP 3. P C Hansotia & Co 4. C C Chokshi & Co 5. SB Billimoria & Co 6. Fraser & Ross 7. A.F. Ferguson & Co	1. Price Waterhouse 2. Price Waterhouse & Co. 3. Price Waterhouse & Co Chartered Accountants LLP 4. Price Waterhouse & Co Bangalore 5. Price Waterhouse Bangalore 6. Price Waterhouse Coopers 7. Dalal & Shah 8. Dalal & Shah LLP 9. Dalal & Shah Chartered Accountants LLP 10. Lovelock & Lewes	1. Ernst & Young LLP 2. SR Batliboi & Co LLP 3. SR Batliboi & Co 4. SR Batliboi & Associates LLP 5. SV Ghatalia & Associates LLP 6. SRBC & Co LLP	1. BSR & Co LLP 2. BSR & Associates LLP 3. BSR & Company 4. BSR & Associates 5. BSR & Co 6. KPMG	1. Walker Chandiok & Co LLP

AUDITORS' REMUNERATION CLASSIFICATION

1. Statutory audit
2. Audit Related
   - 2.1. Tax audit / Audit of tax accounts
   - 2.2. IFRS Audit
   - 2.3. Statutory reporting for consolidated financial statements / Group reporting
   - 2.4. Audit of interim financial statements
   - 2.5. Certifications under SOX Audit (Sarbanes-Oxley Act of 2002 - Applicable to all Companies (like Infosys) that are under jurisdiction of U.S. Securities and Exchange Commission (the "SEC"))
   - 2.6. Limited review
   - 2.7. Statutory certifications (certifications required to be done by the Auditor under any law)
   - 2.8. Any representation before an authority
3. Non-Audit
   - 3.1. Management Consultancy
   - 3.2. Certifications other than those covered under clause 2.7 above.
   - 3.3. Advice concerning tax matters
   - 3.4. Company Law matters
   - 3.5. Taxation matters
   - 3.6. Other Services

Note: Reimbursements for out of pocket expenses shall be ignored for calculating the remuneration for Statutory Auditors.

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APPOINTMENT OF AUDITORS AT PSU

Since, the Auditors at PSUs are appointed by CAG, a constitutional body appointed under Article 148 of the Constitution of India, SES will recommend voting FOR the resolutions for appointment of Auditors at PSUs, if appointed on recommendation of CAG provided that the disclosures made by the Company are adequate and the Board/ Audit Committee of the Company are compliant with the statutory requirements and SES does not discover shortcomings of audit process.

APPOINTMENT OF AUDITORS AT BANKS/ NBFCS

Since, the Auditors at Banks are appointed by RBI (a Regulator), SES will recommend voting for the resolutions for appointment of Auditors at Banks, if approved by RBI provided that the Board/ Audit Committee of the Company are compliant with the statutory requirements. However, SES would recommend that Auditors be appointed in Bank/NBFCs for a term of 3 years at one go (as per RBI Circular dated 27th April, 2021 - Weblink), instead of seeking fresh appointment at every AGM. Further, the Auditor of the bank must serve a cooling off period of at least 6 years, in line with RBI norms. SES will also check whether the entity has appointed the minimum number of joint auditors as per the asset size of the Company as required in terms of the RBI Circular.

Particulars	Term	Cooling off period
Companies	5 years	5 years
Banks	3 years	6 years

RATIFICATION OF REMUNERATION OF COST AUDITOR

Cost Auditors play a crucial role in ensuring the integrity and transparency of the Cost Accounts of the Company.

The Cost Auditors are appointed by the Board on the recommendation of the Audit Committee, SES will check the Independence and composition of the Audit Committee with regards to the resolution. Further, SES will check if the Company has made proper disclosures with regards to name/audit fee of the cost auditor. SES will also link the remuneration payable to the Cost Auditor with the size and operations of the Company. SES will raise concern if the remuneration so proposed to be ratified does not appear to be commensurate with the size of the Company.

Since, the Ministry of Corporate Affairs (MCA) during Nov 2012 (weblink) raised concern over the integrity of the Cost Audit Report and cited low audit fee as one of the key reasons, SES will analyze the fee paid / payable to the Cost Auditor vis-à-vis the minimum suggested fee recommended by the Council of Institute of Cost Accountants of India (ICAI) in 2019 (Weblink), previously known as the Institute of Cost & Works Accountants of India (ICWAI). Therefore, SES would expect the Company to provide details of its turnover (based on recent data) that is subject to Cost Audit or maintenance of Cost Records, as the case may be, so that the shareholders could understand the scope of the Cost Auditor and take an informed decision. In case the proposed Cost audit fee is significantly lower than the suggested fee of the institute, SES shall recommend voting AGAINST such resolution. For the purpose of judging significant deviation of Cost Audit fee vis-à-vis suggested fee, any fee lower than 80% of suggested fee shall be reckoned as significant.

KEY CONSIDERATIONS

1. SES will consider following to be provided by the Company while analysis the resolution for Cost Auditor:
   a) Name of the Cost Auditor(s)
   b) Audit fees to be paid to each Auditor
   c) Approval sought for Cost Audit or only maintenance of Cost Records
2. Compliance of the Audit committee/Board of the Company.
3. Approval sought for ratification of remuneration of Cost Auditor for the previous year.

SES will check if the remuneration is in line with minimum profession fees recommended by the Council of ICAI.

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APPOINTMENT OF BRANCH AUDITORS

As per Section 143(8) of the Companies Act, 2013, accounts of the branch offices have to be audited either by the Statutory Auditors or by Branch Auditors appointed under Section 139 of the Companies Act, 2013. Further, in case of appointment of branch Auditor for a foreign branch, the provisions shall be governed by the legislation of that country, therefore, SES will not raise any concern in such cases.

SES would recommend voting **AGAINST** the appointment of the Branch Auditor if the Company does not disclose the name of the Branch Auditor in the resolution. However, in case of a Bank, as the same is regulated by RBI, therefore, SES may not raise any concern.

SES will analyze the resolution regarding appointment of Branch Auditors on the basis of disclosures i.e. name of the Auditor, tenure of the Auditors, term of appointment of such auditors etc.

If SES is able to find the association of Branch Auditor with the Company, then the recommendation will be based as per SES policy applicable for Statutory Auditors. If SES is not able to find such association, then SES will recommend **FOR** the resolution given that Company has provided proper disclosures and is appointing the Branch Auditors as the terms of Section 139 of the Companies Act, 2013.

REMOVAL OF AUDITORS

Considering the critical role played by auditors in maintaining the integrity of the financial reporting process, SES is of the opinion that any resolution proposing to remove auditors should be backed by adequate rationale and disclosure. Further, the procedure laid down in the Companies Act, 2013 in this regard should be strictly adhered. SES would analyze the disclosure and recommend vote on the proposal on a case-by-case basis.

Further, reduction in audit fee by the Company forcing the Statutory Auditors to resign would be viewed as an instance of removal of auditors. SES would raise concern in such cases.

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PRINCIPLE 4-6: DIRECTORS' APPOINTMENT

Directors are custodians of stakeholders' interests. They help shape a Company's strategy and steer the Company forward. SES is of the opinion that to drive performance of the Company and create shareholders' value, boards should be independent, competent with proper leadership, have a record of positive performance, and have members with varied/considerable knowledge and experience. Ideally, boards should have a majority of Independent Directors (including an Independent woman director) and an Independent Chairman.

Further, SES supports board diversity (including gender diversity). Therefore, our recommendations on Directors' appointment are geared towards formation of an Independent, diverse and well performing board. Directors' appointment is one of the mandates of Nomination and Remuneration Committee.

Executive Chairperson or Chairman related to ED/ MD/ CEO

SEBI had, on the recommendation of Kotak Committee on Corporate Governance introduced provision relating to separation of powers (that is to segregate the role of Chairman and EDs and any relationship thereto) in the Listing Regulations. However, owing unsatisfactory level of compliance achieved, pandemic situation, etc, SEBI has made such provision 'voluntary'.

Notwithstanding the above relaxation by SEBI, given the mission of SES in advocating good corporate governance, SES would continue to raise concern wherever the Board is Chaired by an ED, or where the Board chair is related to EDs / MD/ CEO, since SES is of the opinion that such position / arrangement may lead to concentration of power.

Wilful Defaulter: If anyone has been declared wilful defaulter as per definition of RBI, in that case SES would recommend the shareholders vote AGAINST regardless of any other factor howsoever compelling.

Attendance of Directors in Board & Committee Meetings: One of the primary indicators of performance of Directors is their attendance in Board & Committee Meetings. In this regard, the following Table provides the criteria for assessing performance of the Directors based on their attendance in the Board meetings and Committees thereof. SES expects NEDs (other than IDs) to attend at least 50% of the Board meetings, only in such case SES would consider a favourable voting recommendation.

Further, the benchmark for IDs and EDs have been set at 75% which is comparatively higher than that of NID NEDs. SES is of the opinion the presence of IDs in the Board meetings is very vital as it ensures that it is not only board structure which complies with independence norms, the quorum at the Board meetings also meets independence norm. It only then the agenda items are discussed and passed in the presence of sufficient number of IDs. Additionally, presence of EDs in the Board meetings is also vital, as they are the link between executive management of the Company with the Board and are required to present to the Board performance of the Company and the future projections/ plans as far as the operations of the Company are concerned.

Attendance Criteria for Directors for Board and NRC Committee Meetings:

Minimum attendance for ED & ID in Board meetings and Chairman of NRC		
Criteria No	**Attendance during the FY**	**Recommendation**
1	75% and above	**FOR**
2	50% to 75% Less than 50% but reason for absence provided	**FOR** if avg. attendance for previous 2 FY (excluding current FY) is 75% or more ('*grace included**')
3	Less than 50% and reason for absence **not** provided	**AGAINST**

***Explanation for '*Grace Included*':** The Analyst may give an additional grace meeting to the director, in case where the attendance is marginally short in AGMs and other Committee meetings. In case the director's attendance is short only in the Company but is good in other companies, where he is a director in that case no grace/ no relaxation.

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Minimum attendance for NED NID in Board meetings and members of NRC		
Criteria No	Attendance during the FY	Recommendation
1	50% and above	**FOR**
2	40% to 50%	**FOR** if avg. attendance for previous 2 FY (excluding current FY) is 75% or more
	Less than 40% and reason for absence provided	
3	Less than 40% and reason for absence **not** provided	**AGAINST**

Attendance Criteria for IDs in Audit Committee Meetings – At least 75% (Members and Chairperson)

SES is of the view that since the Audit Committee plays a very critical role in the governance process, only those IDs who are able to devote sufficient time, must be members of such a committee. Thus, as per SES criteria, any ID who is unable to attend at least **75% Audit Committee meetings**, must step down from such committee and make way for another ID.

Directors with advanced age: SES has spelt out its view regarding appointments / re-appointments of directors with advanced age. Kindly click here to view the same.

Shareholders' approval within 3 months for appointment and re-appointment of all Directors: SEBI LODR states that shareholders' approval must be obtained within 3 months from the date of appointment by the Board. Further, NSE Circular (click here) has clarified that the provision is applicable to re-appointments also. Therefore, SES would follow NSE view in this regard.

NON-EXECUTIVE DIRECTORS

Non- Executive Directors (NEDs) i.e. Independent NEDs and Non-Independent NEDs (except chairman) of a Company do not participate in the day-to-day management of the Company. Their participation is limited to discussions in the board meetings and Committee meetings. At times, they may be assigned some specific tasks which do not conflict with their roles.

Certain Independent Directors are classified Non-Independent by SES either due to their association with the promoter group or because they have been associated with the Company either in executive role or as former promoter or are related party.

Further, click here to read SES view on transition of IDs to NID. (Read more)

INDEPENDENT DIRECTORS

Independent Non-Executive directors are those directors, who apart from receiving directors' remuneration, do not have any material pecuniary relationship with the Company, its promoters, its directors, its senior management or its holding Company, its subsidiaries and associates, which may affect Independence of such Directors. SES is of the opinion that any such pecuniary relationships other than directors' remuneration, may make it difficult for a Director to put shareholders' interests above personal or related party interests. Therefore, SES discourages any pecuniary relationship, other than directors' remuneration of the Independent Directors with the Company. Ideally, IDs must not have any relationship (whether pecuniary or otherwise) with the Company other than that as a Board member of the Company. In cases where the Independent Director has any relationship with the Company, then, SES shall test the independence of the ID on various parameters referred as '**Significant relationship**' on a case to case basis, which include:

- Professional fee payable to Firm where ID vis-à-vis ID's remuneration during that Financial Year;
- Nature of association of the ID's Firm with the Company (on a retainer basis or otherwise);
- Relationship of the ID Firm with other Companies where such ID is a director;

Based on the materiality of the relationship and possible conflict of interest, SES would categorise the ID as NID in the Report.

SES is of opinion that the Board of Companies should have at least 1/3rd or half of the Board as Independent Directors, as required under law, including an independent woman director. Therefore, SES will analyze the impact of appointment/reappointment of Non-Independent Directors on the basis of the impact of the

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appointment on the Board Composition. SES would insist that the Board of the Company must be chaired by a Non-Executive Director, preferably an Independent Director.

In case, any Independent director resigns from the Company, SES will also examine the reasons provided for such resignation.

Additionally, SES shall recommend AGAINST in case re-appointment of ID is done by the Board, without seeking prior shareholders' approval by way of a special resolution. (Please see SES Proxy Note by clicking here)

Association of IDs

The law provides that a term of an ID must not exceed 5 years. Further, IDs can be appointed for a maximum of 2 terms, post that they need to serve a cooling off period of 3 years, before being eligible for appointment as ID on the Board of the same Company / Group Company. This means that a person cannot be appointed as ID on the Board for more than 10 years.

The law also states that any term of the ID prior to 1st April, 2014 shall be ignored for the computation of 5 years, indicating that the countdown of first term starts from 1st April, 2014 itself.

In line with this view, SES is of the opinion that the term of an ID who was already an ID as on 31st March, 2014 ('existing IDs') must begin from 1st April, 2014, therefore, the first term cannot exceed beyond 31st March, 2019. Appointment of existing IDs who were appointed post 1st April, 2014 for a term of 5 years whose tenure extend beyond 31st March, 2019 is considered by SES, to be not in accordance with the law. SES would raise such concern in the report. Accordingly, appointment of any ID, who is on the Board of the Company prior to 1st April, 2014 and whose term is extending beyond 31st March 2024, then, again SES would raise similar concern.

Past Employees as ID

Appointment of past employees (including in a Group Company) as Independent Director can lead to conflict of interest issues, given the fact that such employees would have possibly served in senior management positions in the Company in the past. Without questioning the integrity of such employees, SES is of the opinion that such individuals may still wield significant influence of the Company without them realizing it and also may not always be objective in their judgment, given past experiences. Therefore, SES would not favour such appointments on the Board as Independent Director.

SES would also examine and raise concern in the following instances:

- when the proposed ID is either related to the outgoing ID or
- when the proposed ID & the outgoing ID are both part of the same law/ consulting firm which acts as a legal advisor/ consultant to the company.

SES is of the view that that the position of IDs should be truly independent in spirit and not just in letter and merely sticking to a tick box approach to ID independence would undermine the intent behind the creation of ID position on the board.

Following are some of the key considerations that would be analysed by SES in the above circumstances:

i. Past skewness in board remuneration
ii. Remuneration of Promoter NEDs from group companies in aggregate
iii. Link between pay and performance
iv. Absolute and/or percentage cap on remuneration
v. Overall distribution of remuneration between NEDs

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KEY CONSIDERATIONS

SES would recommend the following, as an example of good governance practice:

- A director should not be a member of more than 3 Audit Committees, especially if the director is the Chairman of one or more of the Committees
- A director should limit his committee memberships to 6, including a maximum of 3 committee chairmanships
- Chairman of the Board of listed companies must ideally be an ID
- Diversity of the Board in terms of education, expertise and gender as per the chart / matrix provided under the SEBI Listing Regulations
- Time commitment in terms of other directorships, of the Directors.
- Full-time positions of directors including whole-time directorships, employment in parent Company or otherwise or partner in any Firm / LLP.
- Age of the Director /Board members to ascertain succession planning

1. SES will also analyze, the list of core skills/expertise/competencies identified by the board of directors as required by the Company for it to function effectively and those actually available with the board.
2. SES will further analyze the remuneration of the Non-Executive Directors and will check the following:
    - Amount of remuneration vis-à-vis the financial performance of the Company (turnover/ profits/ growth)
    - Remuneration of director of the peer Companies
    - Variable pay and its linkage with the performance of the Company
    - Remuneration paid to the director vis-à-vis other directors within the Board
3. SES will consider the following points in case of appointment related to Independent Directors:
    - Aggregate tenure of the individual with the Company or that with the Group Companies
    - No. of equity shares of the Company held by the individual.
    - No. of Stock Options held by the Director
    - Reasons of resignation provided by the ID who resigned
4. In case a Firm where the proposed ID is a partner is involved with the Company for providing Legal / Professional / Consultation services, SES recommendation would be based on the following 3 parameters:
    - Average remuneration paid to the Firm is significantly higher than the ID remuneration (see past 3 years data at least)
    - The ID Firm appears to be engaged as a retainer (one-time services to be ignored)
    - ID Firm provides services as retainer to the majority of the Companies, where such partner is an ID.
5. SES will also verify with the details provided by MCA, whether the proposed director is by any chance, disqualified under the Law.
6. SES may also verify the certificate obtained by the Company from a company secretary in practice that none of the directors have been debarred or disqualified from being appointed or continuing as directors of companies by the Board/ MCA or any such statutory authority.
7. In case of (re)appointment of Promoter Directors in Companies where SES suspects such Companies to have conducted their operations prejudicial to the interest of its shareholders.

    While, this is may be highly subjective, however, certain parameters on which such analysis could be made are:

    - Peer Companies in the same industries have done comparatively better.
    - Substantial shares of Promoters being pledged.
    - The Company has defaulted on its Borrowings;
    - Bankers have been restructuring the debt package without any use.
    - The Company has a negative Net-Worth;
    - The Company has been incurring huge losses and Statutory Auditors have raised concerns such as going concern, adverse remark, on the financial statements;
    - Debt-levels of the Company are rising, which is not in consonance with its performance and profitability.
    - Company has acknowledged major fraud in its financial statements;
    - Auditors have reported siphoning off of funds by management/ promoters;
    - Such other conditions that SES may feel appropriate.

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EXECUTIVE DIRECTORS

SES will broadly consider five criteria i.e. time commitments, remuneration, board composition, attendance, and directors' evaluation as appended in the Report, for analyzing resolutions related to appointment of an Executive Director.

Further, SES is of the opinion that EDs above 70 years of the age cannot be appointed by the Board, without prior approval by shareholders. Therefore, such direct appointments by the Board would be considered non-compliant.

KEY CONSIDERATIONS

1. Disclosure in Explanatory statement
    a. Profile and Experience of the candidate
    b. Age of the ED
    c. Term of appointment
    d. Time Commitment
    e. Past performance in terms of attendance
    f. Rotation or Non-rotational basis
    g. Notice period & severance pay
    h. Fixed vs Variable Pay
2. In case the age of ED is above 70 years, is there any other ED on the Board who is younger (say 40-50 years of age), indicating succession policy.

ALTERNATE DIRECTORS

SES is of the opinion that directors have a fiduciary duty to devote sufficient time for Company's affairs. If a director is unable to do so, he/she should give up his/her directorship. Generally, companies appoint alternate directors for foreign directors because of time constraints and travel involved in attending the meetings. However, since the regulations now allow attendance at board meetings through videoconferencing, this is no longer a valid reason. Therefore, SES may generally recommend voting AGAINST the appointment of alternate directors unless the Company provides strong justification for doing so.

Additionally, the Companies Act, 2013 (Section 165) now includes Alternate Directorships for counting the maximum number of directorships which was not included in the Companies Act, 1956 with an objective to limit the number of directorships, so that Directors can devote time.

Since, the Companies (Amendment) Act, 2017 also prohibits appointment of a director to act as alternate in the same Company, therefore, SES will also raise compliance issue.

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SHAREHOLDERS' DIRECTORS (ONLY IN CASE OF BANKS)

Under section 9(3)(i) of the Bank Nationalisation Act 1970, public shareholders of nationalised Banks (other than private Sector banks), have a right to elect a director for every 16% of the shareholdings or fraction thereof. SES generally recommends **FOR** such resolutions seeking approval for conducting an election among all the nominees received from the small shareholders, who meet the specified Fit & Proper criteria. However, SES is of the opinion that the Banks must disclose full profile containing education/ experience etc. of all the candidates in the Newspaper notice which is published after the full process of finalising the candidates contesting election, by the banks. SES would analyse the candidature based on the Master Direction of RBI on 'Fit and Proper' Criteria for Elected Directors on the Boards of PSBs) Directions, 2019. Click here to view the direction.

KEY CONSIDERATIONS

1. Whether the shareholders' director meets the criteria of fit and proper candidate as per the RBI Guidelines which inter-alia includes the following:
   (i) Age: 35 to 67 years as on the cut-off date for nominations.
   (ii) Educational Qualifications: At least a Graduate.
   (iii) Experience and field of expertise
   (iv) No Disqualifications
   (v) Tenure: 3 years, subject to a maximum of 6 years
   (vi) Professional Restrictions
   (vii) Track record and integrity

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PRINICIPLE 7: DIRECTORS' REMUNERATION

SES is of the opinion that remuneration is an important tool to motivate and engage the management and the Board of the Company. While recognizing that fixing remuneration is prerogative of board however, SES believes that Remuneration should not only be commensurate with the efforts but should be aligned with the performance of the Company also. Further, remuneration should be such that it channelizes the energy of employees/ directors on long term value creation for all stakeholders of the Company and discourages excessive/ unnecessary risk taking. In nutshell remuneration should be fair, reasonable and commensurate with qualification experience and efforts and tied with long term value creation for company **including ESG factors**. While, the performance of Executive Directors is reflected in the profits earned by the Company, the same cannot be a strict benchmark for measuring performance of NEDs, at least in the short-run. SES is of the opinion that performance of NEDs (including IDs) can be evaluated by assessing various non-financial parameters. These include achievement of the strategic goals, adoption of good corporate governance practices and the likes.

SES would analyze remuneration paid to directors including remuneration paid to them at Group level (from subsidiaries) and listed holding company, if any, in its Analysis.

EXECUTIVE DIRECTOR'S REMUNERATION (NOT APPLICABLE TO PSUs)

The Remuneration for executive directors of the Company should comprise of fixed and variable performance-based pay, with **greater percentage** allocated to performance-based pay. Accordingly, as a good governance practice, the Company should enlist the performance criteria for the employees/ directors for the payment of proposed remuneration and incentivize the employees/ directors to continue with the company. To align remuneration with long term performance of the Company, such performance criteria should be on a multi-year basis.

SES will analyze the past remuneration paid to the Promoters and Non-Promoter Executive Directors and in case of asymmetry in their remuneration, SES will recommend AGAINST further increase in Director's remuneration. As a guidance, SES will *inter-alia* consider the parameters provided under the Listing Regulations for assessing the Promoter ED remuneration. Further, if the remuneration exceeds the below limit, then, SES would expect the Company to seek specific resolution by the shareholders.

Single Promoter ED remuneration:

- Exceeds ₹ 5 crores or 2.5% of the Net Profits, whichever is higher;

Total Promoter EDs remuneration:

- Exceeds 5% of the total Net Profits.

Approval sought for individual ED shall be valid till the expiry of his term and approval for all Promoter EDs shall be valid till such time, there is no change in the Promoter EDs on the Board.

Any resolution for approval for payment of remuneration of **Promoter EDs** beyond the aforesaid limits must include an absolute cap on the overall remuneration. In cases where there is no such cap on the overall remuneration or individual absolute cap on the fixed and variable pay, SES would recommend voting AGAINST. unless in past even with such approval in place remuneration has been fair.

Explanation: The term 'change' refers to appointment, re-appointment and cessation of Promoter EDs.

KEY CONSIDERATIONS

1. Is the remuneration given to the director excessive?
   a. 3 years' remuneration growth Annual Growth Rate is excessive as compared to 3 years' net profit growth and the 3 years' growth in shareholders' return. In this case, excessive increase would refer to benefit to director(s) disproportionate to shareholder returns. The analyst should take into account the base salary and compare it with the Company's size.
   b. Remuneration as a percentage of net profits is excessive compared to peer companies.

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   c. Remuneration is more than 3 times the average executive directors' remuneration at the company (excluding the director being analyzed)
   d. In comparison to growth in remuneration of employees.
2. Does the Company have an independent remuneration committee (without any ED as member) to oversee the executive remuneration process?
3. Does the Board have absolute unfettered discretion to change terms of appointment / remuneration without shareholder approval?
4. Does the remuneration paid to executive directors include performance-based pay?
5. Remuneration has increased in a year in which the company has made losses, defaulted on debt obligations, underwent a CDR or defaulted in payment of statutory dues (not applicable in case the Company has appointed as new director for turnaround).
6. Attendance of director in Board / Board Committee meetings
7. Remuneration package structure
   a. Are all the components of the remuneration package defined and capped?
   b. Has the Company disclosed performance criteria for payment of variable pay?
   c. Is the hike in remuneration > 25% of the existing salary? If yes, has the Company justified the same in the explanatory statement?
   d. Is the minimum remuneration payable to the director aligned with the requirements of the Companies Act 2013? If not, does it include any component other than basic pay, allowances or perquisites?
   e. Has the Company disclosed the notice period and severance pay?
   f. Does the director receive guaranteed bonus/commission?
   g. Commission / bonus distribution skewed
8. The Company has not disclosed all the elements of remuneration package such as salary, benefits, bonuses, stock options, pensions etc., in CG report/ Performance criteria not disclosed in CG report/ Not Disclosed service contracts, notice period, severance fees/ Stock Options Details
9. Two or more Director's receive exact/near same remuneration (SES is of the view that in such cases the remuneration may not be linked to the performance and experience of the individual)
10. The Company seeks approval for minimum remuneration for a period of more than 3 years.
11. Does any Director receive remuneration from any of the group Companies?
12. Remuneration payable to Promoter Executive Directors is higher than:

   a) ₹ 5 crores or 2.5% of the Net Profits (u/s 198) in case of 1 Promoter ED, whichever is higher; or
   b) 5% of the Net Profits (u/s 198) in case of more than 1 Promoter ED.

Note: Skewness and reasonableness of the remuneration shall be analysed based on the following parameters:

- Amount of remuneration
- Various components of the remuneration package
- Remuneration paid to the Directors of the peer Company(ies).
- Size and operations of the Company.
- Remuneration paid to other Executive Director(s) of the Company.
- Fixed pay vs Variable pay proposed to be paid.
- Remuneration paid to the director in the past.
- Whether unfettered power sought by the resolution?
- Increase in the remuneration vis-à-vis performance of the Company.
- Role and contribution of the director for the Company.
- Remuneration Policy of the Company.
- Remuneration paid to the Director vis-à-vis the ceiling under the law.
- Growth in remuneration of Employees

The remuneration paid to the director will be analyzed on case to case basis, based on the above factors and based on the benchmarks research out of Nifty 500 Companies for past 3 years as set from time to time.

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NON-EXECUTIVE DIRECTORS' COMMISSION

SES is of the opinion that commission payable to non-executive directors should have an absolute cap on amount (overall or otherwise) and the Company should clearly disclose criteria and performance benchmarks which will be used to determine the actual commission to be paid to the non-executive directors within the cap. Perpetual approval sought for payment of commission will be voted AGAINST by SES unless the Company has a past record of payment of reasonable and fair commission.

Any remuneration paid to any single Promoter NED constituting more than 50% of the entire NED remuneration put together during a financial year, would be recommended AGAINST vote, unless compelling reasons for such payment is provided by the Company. However, in case such payment to Professional NED, SES would evaluate the proposal on a case-to-case basis including at group level. SES would also consider remuneration drawn by the NEDs from subsidiaries of the Company.

REMUNERATION TO NON-INDEPENDENT NON-EXECUTIVE DIRECTORS

If the Company proposes to pay remuneration to any non-executive director for any additional service provided by the director to the Company, SES will make recommendations on a case-by-case basis after analyzing the provisions of the Companies Act, 2013 as well as the terms of payment of such remuneration (whether the remuneration being paid is one-time event or it is recurring), quality of disclosures and the following:

1. Qualification/expertise of the Director vis-à-vis service provided by the director to the Company and the time committed by the director for the said service
2. Remuneration paid to the director for the service and the fairness of the remuneration, including its comparison with remuneration paid to other directors of the Company
3. Whether the services rendered by such director is of executive nature
4. Will the total remuneration of the board, if such payments to NEDs were included in Board remuneration, breach ceiling of maximum remuneration payable under Companies Act, 2013.

However, if such remuneration is paid to a Promoter NED, SES will recommend AGAINST such proposal, unless compelling reasons provided. SES is of the opinion that professional service taken from promoter NEDs will lead to conflict of interest. SES is of the view that the Company should seek professional services from Independent professionals other than from promoters to avoid conflict of interests. Even if the Company feels that the promoter is an industry veteran and no better professional is available to provide such services, the Company should provide objective and adequate justification and the selection process for the same.

Further, SES will also raise concern if the annual remuneration paid to the Promoter NED is more than 50% of the total remuneration paid to entire NED(s) during a particular financial year, unless compelling reasons are provided.

REMUNERATION TO INDEPENDENT DIRECTORS

SES is of the opinion that post the commencement of the Companies Act, 2013, the onus cast by the law on Independent Directors (IDs) has increased manifold. Therefore, every Company must adequately remunerate their IDs, not only to retain the best brains available, but also to ensure parity between responsibility shouldered by IDs and remuneration paid to them. At the same time, SES is of the view that the remuneration to IDs must be linked with their performance. Since, the IDs are not directly engaged in the day-to-day affairs of the Company, therefore, it may be difficult to link the performance of the ID with the profits earned by the Company during a particular year. Having said that, SES strongly believes that the Board is responsible for attaining the overall strategic goals of the Company and ensure adoption of good governance practices. Therefore, any lapse in the setting the strategic goals or poor governance practices in the Company, may raise question over the performance of the IDs. In the longer run, such lapse may invariably impact the profits of the Company over a period of time.

Therefore, SES is of the opinion that the remuneration paid to IDs must be based on Board related assignment and their individual performance. In view of this, any pre-determined or pre-fixed payment to Independent Director not linked with his / her performance, in the opinion of SES, may vitiate independence of the ID. While,

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SES principally recommends that the remuneration of IDs must not be fixed, however, this logic may not work in case of Chairpersons of Banks. SES understands that RBI approves payment for Chairman of Banks which at times may be fixed and contrary to the intent behind the remuneration provisions under the Companies Act, 2013. However, SES would not recommend an AGAINST vote based on such fixed remuneration only in case of Banks.

Further, in case the Company proposes to remunerate an independent director for any professional services (apart from board related service) provided by the director to the Company, SES is of the opinion that such payment may lead to conflict of interest situation, therefore, shall evaluate it based on quantum of fee vis-à-vis Board commission.

SES would also recommend against the appointment of IDs who are holding or has converted their ESOPs into shares having market value in excess of **₹ 20 crores**. In cases where the Independent Directors have any pecuniary relationship with the Company.

Additionally, SES will categorise the Independent Director as Non-independent Director if any of the above 3 conditions are breached. SES will also explain reasons for such classification in its Report.

KEY CONSIDERATIONS

1. Remuneration component comprise of commission which is related to the performance of the Company.
2. Absolute cap over the overall remuneration payable to NEDs.
3. Resolutions is sought for a definite term.
4. Is the remuneration given to the director excessive/ disproportionate?
5. Remuneration paid to other NEDs on the Board.
6. Responsibilities of the director including holding office of chairperson of the Board / Committees.
7. Remuneration paid to director of the peer Company(ies).
8. Whether the director is paid remuneration for services, provided by him in Professional capacity?
9. Is the remuneration paid to a single NED exceeding 50% of the total NED remuneration?
10. Remuneration is paid in accordance with the provisions of the Companies Act.

Note: Skewness and reasonableness of the remuneration shall be analyzed based on the following parameters:

- Amount of remuneration
- Remuneration paid to the Directors of the peer Company(ies).
- Size and operations of the Company.
- Remuneration paid to Director(s) having full-time position of the Company.
- Remuneration paid to the director in the past.
- Whether unfettered power sought by the resolution?
- Role and contribution of the director to the growth of the Company.
- Remuneration Policy of the Company.
- Remuneration paid to the Director vis-à-vis the ceiling under the law.

The remuneration paid to the director will be analyzed on case to case basis, based on the above factors and based on the following benchmarks research out of Nifty 500 Companies for past 3 years as set from time to time.

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WAIVER OF EXCESS REMUNERATION

SES would analyze such proposal(s) on the basis of justification(s) provided by the Company and make its recommendations on a case to case basis. If the excess remuneration includes any variable pay and total remuneration is not within Schedule V of the Companies Act, 2013 (enhanced limit after passing special resolution) or proper disclosure is not made, SES will recommend voting AGAINST the resolution. The law has done away with the provision relating to approval of such excess remuneration from the Central Government. Companies would require only shareholders' approval for the same.

KEY CONSIDERATIONS

1. Quantum of waiver of remuneration sought.
2. Whether the director is Promoter or Professional.
3. Original remuneration approved by the shareholders contained absolute cap.
4. Did the remuneration paid contained any substantial fixed and guaranteed bonus.
5. Reasons stated by the MCA for disapproving the waiver.
6. Fairness of the Remuneration practice and Policy at the Company.
7. SES had originally determined unfairness in proposed remuneration

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PRINCIPLE 8 – EMPLOYEE STOCK OPTIONS SCHEME

ESOPs are useful for retaining employees and aligning their interests with shareholders' interests. SES will evaluate the terms of the scheme (including exercise price, vesting period, maximum no. of options per employee, dilution to existing shareholders, route of issue, maximum potential benefit to a single employee) and the quality of disclosures made while making voting recommendations. SES will analyze any amendment(s) in ESOPs taking into account the fairness and impact of the proposed amendment. SES expects that the Company make an objective based disclosure in the Notice proposing implementation of the ESOP scheme. Similar parameters would be used to evaluate ESPS, SARs and other schemes intending to provide equity-based benefits to the employees.

SES expects the Company to objectively disclose exercise price such that shareholders are able to estimate per option benefit generated for employees. Schemes where complete power is granted to NRC / Board with respect to exercise price is not viewed as transparent disclosure, hence, SES would raise concern.

In cases stock options / RSUs are proposed to be offered at deep discount, then, SES would evaluate the scheme based on various factors including concentration of allotment, past practice, maximum per employee benefit, employee coverage, maximum potential benefit to a single employee, vesting conditions, etc.

APPROVAL OF ESOP SCHEME / RATIFICATION OF PRE-IPO SCHEME

SES will look at the disclosures made by the Company to judge compliance with the SEBI (Share based employee benefit) Regulation, 2014, potential dilution to shareholders due to the scheme and the fairness of the exercise price.

ESOP REPRICING

Shareholders have substantial risk in owning stocks, and SES is of the opinion that the employees who receive stock options should be similarly positioned to align their interests with shareholder interests. SES is of the opinion that the safety net provided by re-pricing of stock options may incentivize management to take unjustifiable risks. Additionally, a predictable pattern of option re-pricing by the Company alters the option's value because such options will practically never expire out of the money.

SES may recommend vote FOR proposals to re-price ESOPs in case the Company's stock declined dramatically due to macroeconomic or industry trends rather than Company specific issues and adequate justification is provided by the Company. SES will compare the stock performance vis-a-vis broad and sectoral benchmarks to determine if the cause of fall in the share price was Company specific or not.

KEY CONSIDERATIONS

1. Performance of the share price vis-à-vis the performance of the Company.
2. Performance of the Sectoral Index and broad Markets.
3. Justification provided by the Company for re-pricing.
4. Adequate disclosure for Objective exercise price (revised).
5. Number of re-pricings done in the last 5 years
6. Quantum of options vesting with the Executive Directors
7. Whether a moratorium period is provided?
8. Other terms of ESOP (except the option price) should remain unchanged
9. Number of options already vested covered under re-pricing.

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PRINCIPLE 9: RELATED PARTY TRANSACTIONS (RPTs)

SES agrees that RPTs are areas of Board oversight and SES as an outsider may not be in a position to question the business prudence of such transactions. At the same time, since RPT due to their very nature carry an inherent conflict of interest, therefore, SES will evaluate the quality of disclosures made by the Company, while making voting recommendations, without passing a value judgment on the transaction, unless *prima facie*, the transaction looks unfair or inadequate justification is provided. SES' analysis will be aimed at the disclosure aspects of RPT in the notice of AGM/EGM/PB as well as independence of Audit Committee. Unless there are concerns about the impact of RPT on shareholders' value (net worth), fairness issue of the proposal, disclosure aspects of RPT or the resolution allows the Company to carry on RPTs for perpetuity, SES will not recommend voting **AGAINST** such resolutions. In nutshell, SES shall look for abusive nature of transaction or lack of disclosure/ rational to oppose RPTs. The Company should ideally elaborate the benefits / advantages that it would derive from such RPT.

Shareholders' approval in case of payment of Royalty or fee for technical know-how or brand usage fee will be scrutinised by SES on a case to case basis. Only in cases where it appears to SES, that the payment of such fee in the past has resulted in enhanced turnover or profitability, SES will support such resolution, therefore, SES analysis will be based on case-to-case basis.

Listing Regulations, 2015 require all RPTs to have prior approval of Audit Committee, either singularly or through an omnibus approval which will be valid only for a period of 1 year. The material RPTs and those exceeding ₹ 1,000 crores in value must be approved by the non-related shareholders (by ordinary resolution). Further, SES would evaluate disclosure based on SEBI Circulars and best practices, apart from Legal requirements.

KEY CONSIDERATIONS

1. Disclosure in the resolution/ explanatory statement of the notice of AGM/EGM/PB.
    a) Name of the Related Party
    b) Name of the Director or Key Managerial Personnel who is related, if any
    c) Nature of Relationship
    d) Nature, Duration of the contract and particulars of the contract or arrangements.
    e) Details of comparative advantage gained from RPT vis-à-vis transaction from any other unrelated party.
    f) The material terms of the contract or arrangement including the monetary value, if any
    g) Any advance paid or received for the contract or arrangement, if any
    h) The manner of determining the pricing and other commercial terms, included as part of contract (Valuation Report/ Fairness Report)
    i) Any other information relevant or important for the members to take a decision on the proposed resolution
    j) Impact of transaction on the Company's financials
    k) Reason for entering into transaction including justification for the same
2. Audit qualifications (if any) related to the entity with which transaction is taking place
    a. SES may analyse qualifications raised by the Auditors and the clarifications/comments made by the management/board on the same.
    b. SES may also present its opinion on the qualifications to highlight governance/fairness issues related to the qualification.
    c. Any negative news / qualification by the Auditors on the Financial Statements of the counterparty.
3. Audit Process
    a. Audit Committee's independence and comments (if any) on auditor's report/accounts.
    b. Auditors' independence
4. Other issues that SES may highlight
5. Conflict of interest issues.

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   a. Net worth of the entity with which transaction is taking place is less than the monetary value of the transaction especially if full consideration is not received upfront or post transaction there would be business dealing (USL case)
   b. The Company has not disclosed some relevant information which can help shareholders in decision making process
   c. Independence of audit committee/ Auditors according to SES classification
   d. Suitability of the entity with whom the transaction is taking place. For instance, Technical expertise, price advantage, experience, market share, etc.
   e. Prior transactions with the entity for last 3 years.
6. Review of the Policy on Related Party Transaction at least once in 3 years.
7. Review the disclosures of transactions of the Company with any person or entity belonging to the promoter/promoter group which hold(s) 10% or more shareholding in the listed entity.
8. **Recommendations made by the Working Group on RPT formed by SEBI, which *inter-alia* include:**
   a. Summary of information provided by the Management to the Audit Committee.
   b. Justification supporting the need for such transaction
   c. Disclosure of whether the approval in Audit Committee unanimous.
   d. Valuation Report, in case such report has been relied upon.
   e. Percentage of the counter-party's annual total revenues, total assets and net worth, that is represented by the value of the proposed RPT.

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PRINCIPLE 10.1 – INTERCORPORATE LOANS/ GUARANTEES/ INVESTMENTS

SES is of the opinion that making investments/ guarantees/ loans is a business decision best taken by the Board. However, SES believes that such decisions must be rationale and in the interest of the Company. The decision must be taken after considering financial health of the Company and its ability to service loans. In case of guarantees, what is the benefit accruing to the company must be clearly enumerated. For such proposals, SES will analyze the disclosures to determine the need for the proposal and examine transparency of disclosures and fairness of the proposed transaction. SES will evaluate all proposals for inter-corporate loans/ guarantees and/or investments on a case-by-case basis. Transactions with related parties (especially promoter-controlled companies) will attract additional scrutiny. As per Section 186 of the Companies Act, 2013, the scope for investment and loan is not only limited to inter corporate loans and investment but is also extended to include to any person. Furthermore, cases of intercorporate loans/guarantees/investments between promoter companies for personal use and where promoters have pledged their shareholding would attract additional scrutiny.

Generally, any proposal for umbrella approval for granting of loans/ guarantees/ investments would be recommended AGAINST by SES, however, carve outs may be drawn for NBFCs, CICs, Companies engaged in real estate / Infra and those engaged in Venture Capital on a case-to-case basis.

KEY CONSIDERATIONS

1. Examine and evaluate ability of company to sustain such transaction. Examination will include quantum of proposed transaction vis a vis current financial health of the Company such as Debt-Equity ratio, current ratio and cash flow, fixed assets etc., (to judge whether the Company has the financial capacity to give the loan/guarantee or make investment)?
2. Whether the financial statements of the recipient Company provided?
3. Financial health of the recipient (to judge whether the recipient would be able to repay the amount)?
4. How is the Company going to fund the proposed transactions?
5. Is the amount proposed disproportionate?
6. Management’s rationale for entering the said transaction
7. If the loan is being made to an unlisted Company, are other shareholders making a pro-rata contribution to the proposed transaction?
8. Objective and Benefits of such transactions
9. Has the Company written-off any transaction with the entity?
10. Financial health of the Company post transaction/ Impact of transaction on Company’s financials such as Debt Equity/ interest coverage ratio, profit etc.
11. Quantum of the Loans/ investments/ guarantees vis-à-vis the size and operations of the Company.

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PRINCIPLE 10.2 – SCHEME OF ARRANGEMENT/ AMALGAMATION

SES will review and evaluate the merits and drawbacks of the proposal on a case by case basis. Our recommendations will focus on the fairness and transparency of the proposed scheme. Although, SES is not a Valuation Expert, however, wherever possible SES would undertake a fair valuation (**'SES Fair valuation'**) in order to ascertain whether the exchange ratio is unfair or abusive. Therefore, SES recommendation would generally be based on SES fair valuation undertaken and also disclosure made by the Company.

SES as a policy will recommend voting AGAINST the scheme of arrangement if the Company has not provided e-voting in the CCM (no concern if it is provided in the Postal Ballot). A comprehensive checklist has been annexed as Schedule II to this Policy Guideline. Read about SES policy on e-voting here.

KEY CONSIDERATIONS

1. Disclosures
    1.1. What is objective, how is it beneficial and Why now?
    1.2. Has the Company disclosed the process it followed to approve the scheme?
    1.3. Has the Company obtained an independent valuation report and a fairness report?
    1.4. Has the Company disclosed a certificate from the Company's auditor stating that the accounting treatment proposed in the scheme conforms to the prescribed accounting standards?
    1.5. Has the Company disclosed the impact the scheme will have on the shareholding pattern of the Company?
    1.6. Audit committee approval
2. Strategic rationale for the scheme
3. Valuation of the deal
    3.1. Has the Company disclosed valuation report and fairness opinion report?
    3.2. Fairness & transparency of the valuation process
    3.3. Independent fairness opinion and valuation opinion
    3.4. Payment terms for the consideration and source of funds
4. Financial impact of the deal
    4.1. Impact on leverage ratios
    4.2. Impact on liquidity ratios
    4.3. Impact on top and bottom line
    4.4. Balance Sheet Size (Asset & Liability), Turnover, Profit and Loss
5. Conflicts of interest
    5.1. Is any class of shareholders benefitted more at the cost of others, directly or indirectly? Extra scrutiny in cases where promoter entity is involved.
    5.2. Are there any potential conflicts which may lead the directors to vote for the scheme?
6. Impact on minority shareholders
    6.1. Potential dilution to minority shareholders
    6.2. Is the Scheme fair to minority shareholders?
7. Are there any governance/ fairness issues in the deal?
8. In case of allotment of shares only to a select group of shareholders or shareholders of unlisted companies pursuant to such schemes, has the Company followed the pricing provisions of Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009?
9. Would the proposed scheme lead to a change in control at the Company?
10. Has the Company disclosed key financials of all the entities involved in the transaction?
11. Have the requirements of SEBI Circulars and NCLT Rules on Scheme on Arrangements as provided under 'Schedule II', been complied with?
12. Has the Company made adequate disclosure relating to financial details of its Wholly Owned Subsidiary, while merging the same within itself.
13. In cases of demerger

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13.1. Whether the proposed demerger is a measure aimed at risk isolation and parent company shareholder protection or at unlocking value to benefit a group of shareholders disproportionately

13.2. Whether the demerger is resulting in formation of an unlisted company

13.3. Fairness of exit options, if any, given to shareholders of the Company

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PRINCIPLE 10.3 – CORPORATE ACTIONS

A. STOCK SPLIT

In general, SES will recommend voting FOR a stock split if it meets regulatory requirements and if the historical share price is in a range where a stock split would enhance liquidity.

KEY CONSIDERATIONS

1. Company's justification for the stock split
2. Trends in the historical pre-split stock price
3. Whether the stock is currently quoting below par

B. SHARE BUY-BACK

A share buy-back plan is often used by the Company to increase the company's stock price, to distribute excess cash to shareholders, or to offset dilution of earnings caused by the exercise of stock options.

SES would do an objective analysis and present the correct picture to the shareholders including potential dilution/potential increase in Promoters shareholding and recommend based on other governance issues and regulatory disclosures as well. SES would raise concern in the Report related to drafting if the Notice does not clearly indicate the number of shares to be tendered by the Promoters under the buy back scheme, however, SES would recommend voting in favour of the resolution.

SES in normal course would recommend voting FOR the proposal, however, could deviate from the policy on case to case basis especially if there is a disproportionate increase in the promoter shareholding or buy back is being used to consolidate the Promoter shareholding. In such cases SES would flag the issue rather than opposing the proposal.

SES will also analyse the Capital Structure of the Company in terms of the its post buy back debt equity ratio, etc. on both standalone and consolidated basis.

KEY CONSIDERATIONS

1. Company's justification/ objective for the buy-back (Check Compliance with SEBI & Companies Act, 2013)
2. Is the size of the buy-back 25% (as per amendment in SEBI buy-back regulation or less of the aggregate of paid-up capital and free reserves of the company?
3. Disclosure required under the SEBI Buy-Back Regulations.
4. Is the ratio of the aggregate of secured and unsecured debts owed by the company after buy-back more than twice the paid-up capital and its free reserves?
5. Has the Company made another buy-back in the preceding one year?
6. Has the Company issued any securities in the last 6 months (except bonus issue, ESOP, conversion of warrants, preference shares or debentures)
7. Shareholding pattern of the Company
   a. Increase in promoter shareholding
   b. % of public shareholding will it decrease more than 25%?
8. Financial position of the Company
   a. Impact on the debt-equity ratio
   b. Company's profitability and cash position

C. CAPITAL REDUCTION

SES in normal course of business would recommend voting FOR proposals for capital reduction unless specific governance issues are identified, and the Company has not defaulted in repayment of deposits. Is the capital reduction uniform to all shareholders or it differentiates between same class of shareholders?

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D. DEBT RESTRUCTURING

SES in normal course of business would recommend voting FOR proposals for recapitalization plans as per RBI norms unless specific governance issues are identified.

E. VARIATION IN TERMS OF USE OF IPO/ FPO PROCEEDS

SES will analyze such resolutions on a case by case basis. SES expects the Company to disclose a strong justification for such proposals including how the change in use of IPO/FPO proceeds may benefit the shareholders of the Company.

F. INCREASE IN BORROWING LIMITS

The Companies Act, 2013 allows companies to borrow up to a limit of aggregate of its paid-up share capital, free reserves and securities premium account. However, the company may intend to increase its borrowing limits for various purposes, which may or may not be strategic in nature. SES in normal course would recommend voting FOR proposals for increasing borrowing limits unless specific governance issues are identified. Highly leveraged companies and companies increasing their borrowings by over 50% would attract additional scrutiny. Analysis will focus on existing limits, unutilized limits, capability to sustain increased borrowings, objective for fresh borrowing and impact on financials. The resolution for additional borrowings shall be analyzed based on sustainability, urgency of such funds, overall debt equity mix, past repayment records, rate of interest, etc., especially in cases where amount proposed to be borrowed is significant when compared with the size and operations of the Company.

If the increase in borrowing limits is pursuant to a CDR package, SES would generally recommend voting FOR the resolution unless specific governance issues are identified.

G. ISSUE OF NON-CONVERTIBLE DEBENTURES

Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 provide that a company which intends to make a private placement of its Non-Convertible Debentures (‘NCD’), shall, obtain approval of its shareholders by means of a special resolution. It shall be sufficient if the company passes a special resolution only once in a year for all the offers or invitations for such non-convertible debentures during the year.

Generally, Companies as an enabling provision seek approval for issuance of NCDs from shareholders by providing generic reasons. In such cases, SES would analyze the resolution on a case to case basis and if the amount so proposed to be borrowed by way of NCDs is substantial considering the size and operations of the Company, then, SES would recommend AGAINST issuance of such NCDs. However, if the Company provides specific reasons in support of issuance of NCDs, then, SES may not raise any concern.

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KEY CONSIDERATIONS

1. Compare current borrowings versus existing and proposed borrowing limits
2. The Company has high cash balance and the Company is debt free and has not disclosed any usage
3. Disclosure on the broad purposes for the proposed increase and whether the purpose is aligned with business objectives of the company. If not, whether the management has disclosed reasons for the strategic shift.
   a. Details of the proposed utilization of funds
   b. Terms of the proposed borrowings (short term/ long term)
4. Has the Company defaulted on any of its current debt obligation? Has the company undergone a debt restructuring?
5. Whether the amount borrowed by Banks/ Financial Institutions in the past, been utilized for the purpose for which it was raised.
6. Potential increase in debt equity ratio and comparison of the ratio with peers
7. Are there large loans to related parties other than 100% subsidiaries? Have they increased recently?
8. Amount of borrowing is not consistent in the resolution and explanatory statement of the Notice i.e. amount of borrowing proposed differs.
9. Impact on cash flow and capability to sustain and service the borrowing.
10. Proposed NCD with the Asset size of the Company.
11. Latest obtained credit rating updated on the website of the Company?

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H. CREATION OF SECURITY/ MORTGAGE OF PROPERTY TO SECURE BORROWINGS

SES will recommend voting on such proposals on a case-by-case basis.

KEY CONSIDERATIONS

If the resolution is linked with a corresponding resolution seeking an increase in borrowing limits, SES will recommend voting FOR the resolution only if SES recommends voting FOR the resolution seeking an increase in borrowing limits.

1. If the resolution is a standalone resolution, SES expects the Company to disclose the following:
    a. Details of the assets being mortgaged
    b. Details of the borrowings being secured through the assets
    c. Beneficiary of the borrowings - Company or a related party?
2. Borrowings for 100% owned subsidiaries
    a. Financial Performance of the subsidiary – has the subsidiary defaulted on any of its existing debt obligations, has it undergone a debt restructuring in the last two years, or does the subsidiary have a negative net-worth or it has made losses in the last two financial years
    b. Has the Company disclosed the purpose of the said borrowings?
    c. Impact on the parent company in case the subsidiary defaults
    d. Size of borrowing vs. current and fixed assets of the Company (and/or subsidiary company as required)
    e. Past use of funds by subsidiary- whether funds are being used by others
3. Borrowings by other related parties
    a. If liability is shared proportionally, same analysis as 100% owned subsidiaries. If not, vote AGAINST the resolution
    b. Impact on the Company in case of default
    c. How the Company is secured?
    d. What benefits the Company is getting?

I. SALE OF ASSETS/BUSINESS/UNDERTAKING

Since sale of assets/business is a strategic decision best taken by the Board, SES in normal course of action, will recommend voting FOR such resolutions unless specific governance issues are identified. Sale to a related party will attract additional scrutiny. SES will always require the Company to disclose the valuation Report although, the same may not be required in terms of the law.

KEY CONSIDERATIONS

1. Need and justification for sale.
2. Identification of assets being sold.
3. Fair valuation of the asset (independent fairness opinion/ ID opinion on sale) and its disclosure.
4. Price of the sale.
5. Details of the buyer – relationship with promoters (if any).
6. Material nature of the assets/ business being sold (25% of the net block or 25% of revenues).
7. Impact on turnover, profits and working capital.
8. Anticipated use of funds.
9. Conflicts of interest (Consider RPT issues as well).

J. CONVERSION OF LOAN INTO EQUITY

In order to address the rising NPA issues in the Banks, the Reserve Bank of India ('RBI') had released a "framework for Revitalising Distressed Assets in the Economy" in its document dated 30th Jan, 2014. The framework outlines a corrective action plan that will incentivise early identification of problem cases, timely restructuring of accounts which are considered to be viable and taking prompt steps by banks for recovery or sale of unviable accounts.

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One of the modes of the restructuring was to undertake a '**Strategic Debt Restructuring (SDR)**' by converting loan dues of the lenders to equity shares. This would require the Bank to incorporate such provisions relating to the conversion of loan into equity in the terms and conditions of the Loan Agreement, which in turn requires approval by the shareholders of the Company by way of a special resolution.

However, in view of the enactment of Insolvency and Bankruptcy Code (IBC), the RBI vide its Circular dated 7th June, 2019 (superseding the earlier Circular dated 12th February, 2018 which was struck down by the Supreme Court) has withdrawn its instructions related to Corporate Debt Restructuring Scheme, Strategic Debt Restructuring Scheme, the Joint Lenders' Forum (JLF), etc.

As per the revised Circular, all lenders must put in place a Board approved policy for the resolution of the stressed assets including the timelines for resolution referred to as the Resolution Plan ('RP'). The Circular inter-alia includes:

- RPs involving restructuring / change in ownership in respect of 'large' accounts (i.e., accounts where the aggregate exposure of lenders is ₹ 1 billion and above), shall require **independent credit evaluation (ICE)** of the residual debt by credit rating agencies (CRAs) specifically authorised by the Reserve Bank for this purpose.
- Accounts with aggregate exposure of ₹ 5 billion and above shall require two such ICEs, others shall require one ICE.
- Pricing of Equity shares in case of conversion of debt into equity shall be lower of the following:
    - Volume weighted average price Market Price method; or
    - Book Value method
- In case the latest audited balance sheet is not available the shares are to be collectively valued at Re.1 per company.

Since, the existing Debt Restructuring schemes of RBI has been withdrawn, SES will examine such resolutions on a case to case basis and in accordance with the RBI Circular dated 7th June, 2019. Shareholders resolutions will be analysed based on the various disclosures provided by the Company and the prevailing provisions under the RBI and IBC framework.

KEY CONSIDERATIONS

1. Amount of Loan.
2. Duration of the Loan.
3. Pricing of the conversion as per statutory laws.
4. Parties to which equity shares shall be issues in lieu of the loan.
5. Objective based disclosure in the Notice in case the Company already has a negative Net Worth regarding;
    a. A clear road-map stating how such conversion will help the Company overcoming its existing problems.
    b. Whether a Holistic revival plan been disclosed in the Notice.
    c. Justification for continuing with the Existing management to control the Company;

K. PROFIT SHARING AGREEMENT WITH SHAREHOLDERS

Profit-sharing agreements between management of the Company and Private Equity Investors are entered into to encourage the management of the Company to meet certain targets. These agreements are often linked to the internal rate of return (IRR) that the private equity investor makes at the time of exit.

While, there was no regulation regarding the same until 2016, however, SEBI vide notification dated on 4th Jan, 2017, amended Regulation 26 of the Listing Regulations and stipulated that every such agreement with the management of the Company and shareholders / third party, requires shareholders' approval.

SES is of the opinion that, while sharing of profits with the shareholders' may encourage the Promoters, employees or KMPS of the Company, it may also give rise to potential conflict of interest issues. Therefore, SES will analyse such resolutions in light of the beneficiaries of the agreement. SES will raise concern if the agreement

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appears to be benefitting only selected section of individuals of the Company at the cost of the others. SES will also examine the justification provided by the Company.

KEY CONSIDERATIONS

1. Terms of the Agreement.
2. Beneficiaries of the Agreement.
3. Amount of benefit being transferred. Where the same is against the interest of the Company?

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PRINCIPLE 10.4 – ISSUE OF SECURITIES

SES is of the opinion that proper capitalization allows a company to efficiently take advantage of business opportunities and effectively operate as a business. SES is of the opinion that such issues are best left to the judgment and discretion of the Board. However, issuing an excessive number of additional shares and/or convertible securities to investors other than existing shareholders can potentially dilute holdings of the existing shareholders. Therefore, SES is of the opinion that companies should seek shareholder approval to justify their raising funds and its use from issue of additional shares rather than seeking a blanket authority in the form of discretionary powers to issue shares or convertible securities as the Board deems fit.

ISSUE OF SECURITIES (GENERAL)

SES will look at proposals to raise equity on a case by case basis. In normal course, SES will recommend voting AGAINST proposals that seek blanket approval for issuance of securities without giving adequate justification for the same. SES would expect Companies to make specific disclosure regarding their fund raising proposals, including rationale and object of the capital raising.

SES will evaluate the rationale provided by the Company, the size of the Company vis-à-vis its fund requirement. SES would encourage Companies to opt for Rights Issue of equity shares, with an option of renunciation. Only in case of urgent need of funds or participation of any strategic investor, Companies must consider preferential issue of equity shares, since, such issues result in dilution of shareholding of the existing shareholders.

Additionally, SES would raise concern in case the Company opts to raise funds by issuance of naked warrants (i.e., not attached with NCDs), unless compelling reasons are provided in support of the same or the warrants are issued at a significant premium. This is because in case of warrants entire money may not be received upfront and is only received once the warrant is proposed to be converted into equity shares by the holder of the instrument.

PUBLIC ISSUES

In case of omnibus approval for follow on/ Further Public Issue (FPO), as resolution for FPOs is monitored by SEBI, SES will generally recommend voting FOR such resolutions unless any other governance issues are noticed. Further, SES expects the Company to disclose adequate rationale for raising capital and the potential change in the shareholding pattern of the Company post the issue.

PREFERENTIAL ISSUE

SES in the normal course of action will recommend AGAINST proposals for preferential issue and/or private placement of shares and/or convertible securities due to their dilutive effect on other shareholders unless compelling reasons/ justification for the issue has been disclosed by the Company or such investment is being made by a Strategic investor which may be positive for the Company.

SES generally recommends that Companies must undertake Rights Issue to raise capital, however, in cases where the price of equity shares offered to select persons under preferential issue of significantly higher than the market price of the share, then, SES may take a lenient view and recommend voting in favour of the resolution.

KEY CONSIDERATIONS

1. Objective and justification of the issue including urgency of fund requirements.
2. All disclosures as specified in the SEBI-ICDR regulations have been made.
3. Dilution of existing shareholders' position (Post conversion dilution for convertible securities).
4. Identity the allottee and any change in control issues.
5. Conflicts of interest (including RPT considerations).
6. Has the allottee sold any equity shares of the issuer during the six months preceding the relevant date?
7. Whether the issue is being made to promoters or strategic investors?
8. Securities being issued – shares / convertible securities / warrants.
9. Has the Company made a buy-back of equity shares 1 year before the issue of securities?

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10. In case of Banks, SES shall also consider the present CRAR requirements along with the growth in NPAs and Advances.
11. Details of utilization of funds raised through preferential allotment or qualified institutions placement.
1. Valuation Report sought by the Board (As per AoA requirements, if any)

BONUS ISSUE

SES in normal course of business will recommend FOR proposals for bonus issues unless specific issues are identified. SES may recommend voting AGAINST such resolutions if the Company is such issue is not incompliance with the law or if:

2. The Company has defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it.
3. The Company has undergone debt restructuring.
4. The Company has defaulted in respect of the payment of statutory dues.

ISSUE OF PREFERENCE SHARES

SES in normal course of business may recommend FOR proposals for issue of preference shares unless specific issues are identified. SES will specifically look into the financial position of the Company and its ability to pay regular dividends to the preference shareholders.

KEY CONSIDERATIONS

1. Objective of the issue.
2. Financial performance of the Company (ability to pay dividends to the preference shareholders).
3. Coupon rate paid on the Preference shares.
4. Whether the Company has defaulted on any debt obligation / undergone debt restructuring?
5. Company's leverage ratio compared to peers.
6. Whether the preference shares are redeemable or not. Redemption period should not exceed 20 years except in Banks?
7. Whether the Company is paying dividend on Preference shares to Promoters and not paying dividend on equity shares to other shareholders.

ISSUE OF SHARES WITH DIFFERENTIAL VOTING RIGHTS

In case of an equity issue of shares with differential voting rights, SES will analyze the differential rights given under the said issue, along with the other considerations as specified above on a case to case basis.

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ALTERATION IN MOA/ AOA

SES will evaluate proposed amendments to a company's articles of association or memorandum of associations on a case-by-case basis. SES does not support bundling of several amendments into a single proposal, unless all such modifications are being made due to a single event/change. In case several amendments are bundled into a single resolution, we will analyze each amendment individually. We will recommend voting for the proposal only if no issue is identified in any of the proposed amendment. Additionally, we will provide voting advice on each individual amendment in case the Company decides to hold individual voting for each proposed amendment.

GENERAL CONSIDERATIONS

In case the changes in AoA/ MoA have been necessitated due to a transaction/ proposal on which SES has provided a FOR recommendation, SES may recommend a FOR vote for all the proposed changes, even if the said changes have been bundled into a single resolution.

In case the amendments have been necessitated by a regulatory change, we may recommend voting FOR the proposed changes even if the said amendments have been bundled into a single resolution.

In case the Company does not disclose the alteration proposed to be made in the AoA/MoA, SES will recommend that shareholders vote AGAINST the resolution.

As a good governance practice, SES will recommend the Company to present a comparative analysis between the existing AoA/MoA and the proposed one. If the Company does not present the comparative table, although it has presented the entire draft of the new AoA/ MoA, SES will recommend the shareholders to vote AGAINST the resolution.

CHANGE IN "OBJECTS CLAUSE"

SES will analyze proposals to modify the objects clause of the Company on a case-by-case basis.

KEY CONSIDERATIONS

If the proposed new business is in line with the existing businesses of the Company, SES will recommend voting FOR the resolution

If the proposed new business is not aligned with the existing businesses of the Company, SES expects the Company to provide adequate rationale for entering the new business. In such cases, SES will make recommendations based on the analysis of the Company's rationale.

SES will not make any comment on the feasibility/potential profitability of the proposed business nor will it endorse the business decision taken by the Company.

CHANGE IN AUTHORIZED CAPITAL

Having adequate capital is important to a Company's operations. Resolutions to increase authorized capital are normally enabling resolutions. In normal course of business, SES may recommend voting FOR the proposals to increase authorized capital.

CHANGE IN NAME OF THE COMPANY

SES will recommend voting FOR proposals to change company names unless there is compelling evidence that the change in company name would adversely impact shareholders' value or is misleading.

KEY CONSIDERATIONS

1. Is the proposed name consistent with the Company's brand? Would the change in name result in loss/gain in brand value?
2. Do the names sound similar to other successful Companies?

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3. Is the name aligned with the objects of the Company?
4. Has the Company taken a certification from the registrar of companies that the proposed name is available?
5. Has the company changed its name in last one year?
6. Is the suggested name in compliance with SEBI guidelines on the same? SEBI Circulars April 2004 (weblink) and SEBI Circular June, 2011 (weblink)

CHANGE IN QUORUM REQUIREMENTS

SES will recommend voting AGAINST proposals to reduce quorum requirements for shareholder meetings unless compelling reasons to do the same are disclosed by the Company.

CHANGE IN REGISTERED OFFICE OF THE COMPANY

SES will recommend that shareholders vote FOR resolutions proposing change in the registered office of the Company unless there are compelling reasons to believe that the said change will cause inconvenience to the shareholders of the Company. SES will look into such proposals very carefully if the registered office of the Company is being shifted to a remote location or a location which is not easily reachable.

KEY CONSIDERATIONS

1. Utilization of the existing authorized capital during the last two years
2. Disclosure on the specific objectives for the proposed increase in authorized capital

INCREASE IN BOARD STRENGTH

Generally, SES will recommend voting FOR proposals seeking to fix the board size or designate a range for the board size provided that the board size ranges from a minimum of 6 members to a maximum of 15 members.

If the proposed board size is outside this range, SES expects that the Company would provide a rationale for the same. In such cases, SES would analyze the Company's justifications and make recommendation on a case-by-case basis.

SES will recommend voting AGAINST proposals that give the board discretion to alter the size of the board without taking further shareholder approval.

SPECIAL RIGHTS TO CERTAIN PARTIES IN AOA

SES has always maintained that Board positions must be governed by the principle of Corporate Democracy, therefore, SES generally opposes clauses in AoA which grant preferential treatment / or provide special rights to shareholders, especially controlling shareholders, to nominate persons on the Board ('**Controlling Interest**').

SES is of the opinion that such powers are not only against minority shareholders, they also undermine the role of NRC in identifying potential candidates for directorship. Also, exceptions may be drawn in case there is no identified ultimate beneficial owner of the controlling shareholder.

Further, SES may take a lenient view in case such provisions in AOA are made for an Institutional Investor / Lender (being Non-Promoter), since such provisions are in the nature of '**Safeguard Interest**'.

CHANGES DUE TO SHAREHOLDERS' AGREEMENTS

SES will analyze such proposals on a case-by-case basis to determine if special privileges are being provided to a particular investor. SES will assess the impact of such rights on other shareholders of the Company and make its recommendations accordingly.

REMOVAL OF ARTICLES / CLAUSES DUE TO TERMINATION OF SHAREHOLDERS' AGREEMENT

SES would generally vote FOR the resolutions to remove articles that grant special rights/privileges to a strategic/institutional investor of the Company upon termination of agreement. As a policy, SES strongly advocates against such agreements.

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FII INVESTMENT LIMITS

As per the New FEMA Rules (weblink), the RPI limits with respect to their investment in Listed Company shall be the respective sectoral limit. However, in case the Company intends to cap the FPI limits below the sectoral limit, they shall obtain approval of shareholders by way of a special resolution.

Analysis of such proposal shall be made on a case to case basis by SES.

DELISTING OF SHARES

Delisting of shares can have a significant impact on the minority shareholders of the Company. Post delisting, shares of the entity become illiquid, reducing the exit options available to minority shareholders. Therefore, SES expects Companies to provide 1) adequate rationale for delisting of shares and 2) favorable exit options to investors. SES will analyze the Company's proposal on these lines, analyze the impact of the proposal on minority shareholders and make its recommendation on a case-by-case basis. SES will examine compliance with SEBI delisting regulations not only in letter but in spirit as well. Furthermore, cases where the acquirer provides an indicative price for delisting, then, SES would analyse based on such indicative price.

CORPORATE SOCIAL RESPONSIBILITY / DONATIONS TO CHARITABLE FUNDS / POLITICAL PARTIES

The Companies Act, 2013 mandates that at least 2% of the average net profits of the Company, made during the three immediately preceding financial years, should be used for corporate social responsibility (CSR) activities. Further, Section 181 & 182 of the Companies Act, 2013 provides that a Company may make contributions to Charitable Funds and Political Parties.

SES strongly believes that every company should make sufficient contributions to the society through CSR spending. Such activities improve the society and the community that the Company operates in and benefit the company in the long run by providing a sustainable business environment to operate in and enhancing the Company's long-term value through increased reputation, brand image and goodwill. While, donations/ contribution, are typically provided without any consideration in return, however, in case of political donations, some degree of favour from parties may be sought through donations, both legitimately and illegitimately. Therefore, SES is of the opinion that, companies should avoid making political contributions as this may be an area of potential controversy, unless a comprehensive Policy in this regard is framed and disclosed.

Since, such contributions result in outflow of cash from the Company, excessive contributions may have a negative impact on shareholders' value. SES recommends that the Board should calibrate its contribution by balancing impact on the society with the impact on shareholders' value. Therefore, while evaluating proposals for making contributions over and above the authority of the Board, SES will analyze the potential impact on shareholders' value and make its recommendation on a case-by-case basis.

KEY CONSIDERATIONS

1. Financial position of the Company
   a. Did the Company make profits in the last three years? Have the profits grown in the last 3 years?
   b. Has the Company's borrowing increased in the last three years? Has the Company's debt-equity ratio improved in the last three years?
   c. Has the Company paid dividends to its shareholders in the last three years?
2. Conflict of interest issues
   a. Has the Company disclosed the exact amount of contributions it plans to make and the proposed recipients of the said contributions?
   b. Is any director/KMP interested in the recipients of the said contributions?
   c. Is the recipient entity part of the promoter group or promoter controlled?
   d. Company's Policy on making Political Contributions.

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OFFICE OF PROFIT

While SES is principally not opposed to the appointment of relatives of directors/ promoters in the Company, SES does believe that such appointments may lead to conflict of interest issues / allegations of nepotism. Therefore, SES expects the Company to institute independent processes for the selection of a relative of a director for holding office or place or profit in the Company to minimize such issues. SES will analyse the fairness and transparency of the proposed appointment and Remuneration and make its recommendation on a case-by-case basis.

KEY CONSIDERATIONS

1. Does the Company have an independent committee which oversees the selection of a relative of a director for holding office or place or profit?
2. Is the director interested in the appointment part of the selection committee? If yes, did the director participate in the discussion pertaining to the said appointment?
3. Is the remuneration payable to the person being appointed comparable to other employees of the Company occupying similar positions/ grades?
4. Has the profile of the person being appointed disclosed?
5. Does the person appointed possess relevant qualification and experience for the position and was capable of being appointed regardless of association?

FEES TO BE CHARGED FOR SERVICE OF DOCUMENT

SES is principally against the fees charged to the shareholders for service of any document by the Company in ordinary course. However, the Company may charge reasonable fee, if the member specifies any particular mode of delivery, provided such fee or method of computation is approved by the members of the Company at the AGM. Therefore, SES will raise concern on any resolution which does not specify the fee to be charged in such cases. SES will not raise any concern if the Company proposes to charge the members fee equivalent to the actual cost incurred by the Company for such delivery.

SES believes all the documents like Annual Report, shareholding patterns, quarterly results etc. should duly be placed on the website of the Company as required under the law. At the same time, SES also understands that various documents such as Register of Members, etc. cannot be made available on the website of the Company. Therefore, SES is of the view that a reasonable fee be charged only in case if the investor requires copy of the document in print mode through a particular mode of delivery.

KEY CONSIDERATIONS

1. Does the Company charge fees for service of document by all modes?
2. Is the document available on the website?
3. Has the Company disclosed the fees to be charged/ method of calculation of such fees?
4. Are the fees charged reasonable and/or includes courier charges/printing charges only?

PLACE OF MAINTAINING STATUTORY REGISTERS

Every Company is required to maintain its Statutory Registers and annual returns at its Registered Office. However, the Companies are permitted to maintain such registers or copies of return at a place other than the Registered Office where more than 1/10th of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company.

SES will generally not raise any concern in change place of maintaining the statutory registers, unless the Company fails to specify exact place where the documents shall be maintained. SES will also recommend voting AGAINST if the Company is seeking an omnibus approval from the members relating to maintaining the Statutory Registers at such place where the Registrar and Share Transfer Agent situate from time to time.

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APPOINTMENT OF CHAIRMAN EMERITUS

Certain Companies designate a senior member who generally is an Ex-Director or former Chairman of their Board as 'Chairman Emeritus' which is a designation used to indicate respect for his contribution. However, in some cases, the person to be appointed as Chairman Emeritus is not a director on the Board, however, he may be privy to the Board discussions. SES understands that while on one hand, his experience and knowledge will benefit the Company, since this is not a legally recognized position, there is no accountability on the person so appointed under the law. SES in such case will consider the appointment on case to case basis, based on the profile of the person who is proposed to be appointed so.

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BANKS - RESOLUTIONS FOR ISSUE OF SECURITIES UNDER BASEL III NORMS

With respect to Banks proposing resolutions to raise funds during FY 2022-23 to maintain their (Capital Adequacy Ratio) CRAR / BASEL III Norms, SES shall generally analyse the resolutions on a case to case basis keeping in view the financials of the Bank and whether or not such fund raising would be within prudent limits.

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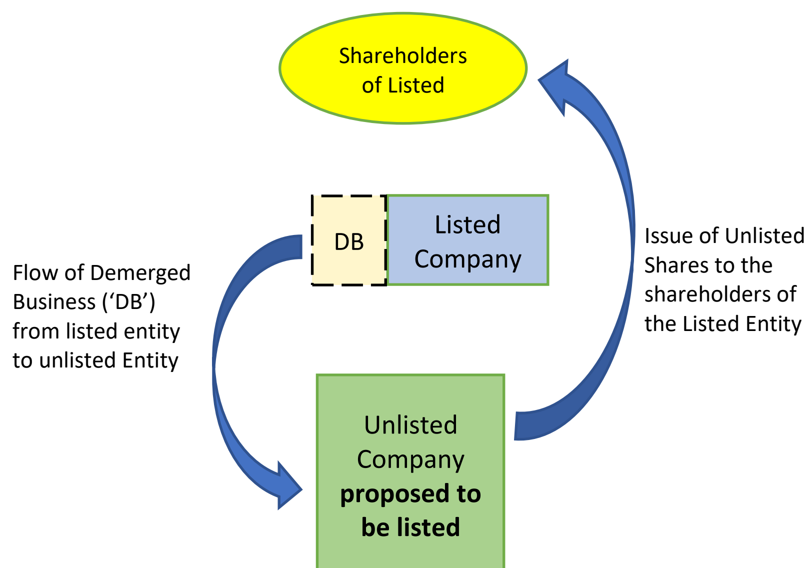
APPROVAL OF SCHEME OF ARRANGEMENT

Case I: Entities seeking relaxation from the strict enforcement of clause (b) to sub-rule (2) of rule 19 of Securities contracts regulations Rules, 1957 (requirements for an IPO), for listing of its equity shares on a recognized Stock Exchange without making an initial public offer including cases where companies are entering into a scheme of arrangement involving a listed company as a party.



Case II: Any Scheme of Arrangement that involves an Unlisted Company, except in cases where the schemes which solely provides for merger of a wholly owned subsidiary ('WOS') or a division of WOS with the Parent Company.

Case III: All cases other than Case I and Case II. Schemes which solely provides for merger of a wholly owned subsidiary with the Parent Company are also exempt from the provision of this Checklist.

The SEBI Circular dated 10th March, 2017 (weblink) spelt out various compliance requirements to be endured by listed Companies involving in a scheme of arrangement. A broad checklist for the same is provided in the table below.

S. No.	Particulars	Scheme of Arrangement		
		Case I	Case II^	Case III
1	The Scheme shall not violate any provision of the Securities Law and requirement of Stock Exchanges.	✓	✓	✓
2	Draft scheme shall be filed with the Stock Exchange for obtaining Observation Letters, before the same is filed with the NCLT.	✓	✓	✓
3	Shares allotted by Unlisted Entity to shareholders of Listed Entity shall be pursuant to Scheme, and not otherwise	✓		
4	At least 25% of the post scheme paid up capital of Transferee Entity shall be allotted to Public Shareholders of Transferor Entity	✓		
5	Shares not to be issued/ reissue any shares not covered in the Scheme	✓		
6	No outstanding instruments that can be converted into equity, if yes, 25% public capital (Under Point 2 above) shall be computed considering such instruments be converted into equity.	✓		
7	Lock-in provisions relating to shares shall be, as provided in the 10th March, 2017 SEBI Circular	✓		

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8	Draft Scheme of Arrangement	✓	✓	✓
9	Valuation Report from Independent CA, where there is change in shareholding pattern.	✓	✓	✓
10	Report from the Audit Committee recommending the Draft Scheme	✓	✓	✓
11	Fairness opinion by SEBI Registered Merchant banker	✓	✓	✓
12	Pre and post-amalgamation shareholding pattern of unlisted company	✓	✓	✓
13	Audited financials of last 3 years of the Unlisted Company	✓	✓	✓
14	Auditors Certificate on Accounting Treatment as prescribed	✓	✓	✓
15	Disclosure of Draft Scheme of Arrangement & Observation Letters from Stock Exchanges on the website	✓	✓	✓
16	Detailed Compliance Report as per the format specified in Annexure IV of the 10th March 2017 SEBI Circular	✓	✓	✓
17	Report on Complaints	✓	✓	✓
18	Approval through e-voting in all schemes	✓	✓	✓
19	Voting by Public Shareholders only in specific cases mentioned in the Clause 9(b) of the 10th March, 2017 SEBI Circular.	✓	✓	✓
20	Details of the Unlisted Entity/ies shall be included in the Explanatory Statement in the format specified for abridged prospectus as provided in Part D of Schedule VIII of the ICDR Regulations	✓	✓	
21	Pre-scheme Public shareholders of Listed Entity and QIBs of Unlisted Entity, in the merged entity shall not be less than 25%.		✓	
22	Details of director who voted in favour and against of the proposal of scheme of arrangement	✓	✓	✓
23	Inter-se Relationship between all the Companies involved in the Scheme of Arrangement	✓	✓	✓
24	Pending investigations or proceeding against the Company under the Companies Act, 2013	✓	✓	✓
25	Details of approvals, sanctions or no-objection(s), if any, from regulatory authorities required, received or pending.	✓	✓	✓

Note: *The above provisions of the SEBI Circular 10th March, 2017 shall not apply to schemes which solely provides for merger of a wholly owned subsidiary with the parent company.*

^Despite, fulfilling all the conditions, if the scheme does not disclose the financial details of the Wholly Owned Subsidiary, then in such cases, SES shall recommend shareholders to vote **AGAINST** the resolution.

ID Committee Recommendation to Scheme and other amendments:

Furthermore, vide SEBI Circular (Weblink) dated 3rd November, 2020, all schemes filed with the stock exchanges after 17 November 2020 would be required to obtain a report from the committee of independent directors recommending the draft scheme, considering, inter alia, that the scheme is not detrimental to the shareholders of the listed entity.

In addition to the requirement of recommending scheme after taking into account valuation report, now the audit committee report is also required to comment on the following:

- Need for the merger/demerger/amalgamation/arrangement
- Rationale of the scheme;
- Synergies of business of the entities involved;
- Impact on the shareholders; and
- Cost benefit analysis.

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