



# NEWSLETTER

## STAKEHOLDERS EMPOWERMENT SERVICES

MARCH 2022 | QUARTERLY UPDATE



### ABOUT US

Stakeholders Empowerment Services (SES) is a Not for Profit Corporate Governance research and advisory firm. We are the first Company to register as Proxy Advisors under SEBI (Research Analysts), Regulations, 2014.

SES believes that active participation of stakeholders in the Corporate Governance is a pre-requisite for the Company's long-term sustainable growth.

Therefore, SES works with investors to help them analyze governance practices prevalent at listed companies, educate them on matters that pertain to Corporate Governance and empower them through governance tools that facilitate meaningful participation in Corporate Governance.

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# PROXY ADVISORY FINDINGS IN THE FIRST QUARTER OF 2022

## Promoter Nominee Directors - 'Interested Parties' just like Promoters?

A director nominated by Promoters is deemed to safeguard the interest of his nominating agency. Therefore, logically, a nomination creates a Principal and Agency relationship between the Promoter and its Nominated Director.

Therefore, SES is of the opinion that in resolutions wherever the Promoter is an interested party, the provisions applicable to interested parties should apply *mutatis mutandis* for Promoter Nominees as well. Since it is believed that the Promoter Nominee is supposed to act in the interest of his nominator, therefore, he too must be deemed to be interested in the resolution.

Detailed analysis in our PA Report at: [Click Here](#)



## Are Explanatory Statements serving their intended objective?

The intent behind requirement of 'explanatory statements' for special business is to ensure that information is provided so that shareholders understand the 'Meaning, Scope and Implications' of the resolutions placed before them for their approval in order to enable them to make an informed decision. Is this being done?

SES has observed that explanatory statements of many companies fail to communicate information on the above lines and thus, not serving the intent behind their introduction.

Henceforth, SES will keep an eye out when analysing the disclosures provided in the explanatory statements to reckon whether such disclosures meet the above parameters.

Detailed analysis in our PA Report at: [Click Here](#)

# PROXY ADVISORY FINDINGS IN THE FIRST QUARTER OF 2022

## Can Rate of Dividend be linked to Issue Price?

An EGM resolution in February 2022 proposing a Preferential Issue to a Promoter Group entity brought several questions on the table for discussion.

The Pricing Formula laid down for Preferential Issue of Equity Shares under SEBI ICDR Regulations was used for pricing Preference Shares. Also, the dividend on the Preference Shares was linked to Issue Price including premium rather than the standard practice of fixing dividends on Face Value of shares.

Also, what appeared to be securities being issued at premium would not hold true if proposed dividend was accounted for.

Post SES Report, the Company via Stock Exchange disclosure announced that the sole related party allottee of the proposed Compulsorily Convertible Preference Shares had waived its right of dividend.

Detailed analysis in our PA Report at: [Click Here](#)



## What is 'Pricing Formula' under SEBI SBEB & SE Regulations?

SEBI Regulations require that Companies must disclose 'exercise price' or 'pricing formula' of the stock options while seeking approval from shareholders. The objective is clearly to enable the shareholders of a company to estimate the possible economic benefit extended to its employees.

SES has observed that many Companies while making the above disclosure, fail to meet the objective of SEBI and end up providing a vague disclosure. Many Companies authorise their NRC to determine the exercise price as per latter's discretion, giving them such powers.

SES is of the opinion that while the SEBI regulations provide freedom to Companies to determine exercise price, however, the law also casts responsibility over the Company to disclose the same in the Notice seeking shareholders' approval.

Detailed analysis in our PA Report at:  
Report 1: [Click Here](#) | Report 2: [Click Here](#)

# REGULATORY UPDATES IN THE FIRST QUARTER OF 2022

## SEBI ICDR Amendment Regulations

### Brief Updates:

#### IPO & FPO:

- Price Bands to have a Lower Threshold: At least 105% of the Floor Price.

#### Rights Issue:

- Minimum period for which a rights issue can be kept open has been reduced to seven days from fifteen days.

#### Preferential Issue:

- Certification regarding Preferential Issues being in accordance with SEBI ICDR regulations to be obtained from a Practicing Company Secretary instead of the Company's Statutory Auditors.
- The volume weighted average price of 90 and 10 Trading Days to be considered for Pricing of Frequently Traded Shares.
- Lock-In requirements for Promoters and Promoter Group reduced from 3 years to 18 months and for Persons other than Promoters and Promoter Group reduced from 1 year to 6 months.

Full Amendment Regulations can be accessed at: [Amendment1](#)

## SEBI LODR Amendment Regulations

### Brief Updates:

- The appointment of Managers shall be required to be approved by the shareholders at the next general meeting or within 3 months, whichever is earlier.
- Appointment or re-appointment of a person who was earlier rejected by the shareholders at a general meeting, shall be done only with the prior approval of the shareholders.
- Requests for effecting transfer of securities in case of transmission or transposition of securities also shall be processed only when they are held in dematerialised form with a depository.
- The requirement of separating the positions of Board Chairperson and the Managing Director made optional by SEBI.
- The Monitoring Agency Report to be placed before the Audit Committee on a quarterly basis instead of annual basis.

Full Amendment Regulations can be accessed at:

[Amendment1](#) & [Amendment2](#)

# REGULATORY INITIATIVES IN THE FIRST QUARTER OF 2022

- Launch of New Digital Portal by National Stock Exchange for filings by Listed Entities. ([Read More](#))
- Recognized Stock Exchanges advised to display links to lodge complaints, or link to SCORES website or link to download SCORES app on the Home Page of their websites and mobile applications. ([Read More](#))
- Format for Abridged Prospectus revised in order to simplify, provide greater clarity and consistency in the disclosures across various offer related documents and to provide additional but critical information. ([Read More](#))
- Due to the multitude of information disclosed on the front outside cover page of offer documents for public issues, the front page appears to be crowded. Accordingly, disclosure requirements for front outside cover page has been revised by SEBI. ([Read More](#))

# SES IN NEWS

- Use of IPO funds to become transparent with new rules
- Natco Pharma, Thejo Engineering are the Winners of MoneyLife Foundation's 1st Corporate Governance Award
- Anil Ambani's financial empire goes under the hammer
- Regulators to seek PTC India Fin reply on exit of directors
- Promoters take over operations at KOEL after top-level exits
- NSE zooms despite hiccups: Net profit jumped 101% to Rs 3,447 crore in Dec
- Malign the individuals, not the system: JN Gupta
- Former top-level executive in private sector is the first woman to head SEBI
- Infy tops list of firms with strongest ESG scores, followed by M&M, Tech M
- Ruchi Soya FPO: Don't recall similar action by SEBI, says JN Gupta

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## **SES Research Findings** **How proxy advisory influenced Corporate Governance and Management Behaviour in India?**

An analysis on how Proxy Advisory services have evolved over the years and its role in shaping Corporate Governance Practices in the Country. ([Read More](#))

## ESG: The Way Ahead



With effect from financial year 2022-23, vide SEBI's circular dated 10th May, 2021 ([Link](#)) on Business Responsibility & Sustainability Reporting (BRSR) by listed entities, the erstwhile BRR reporting format would be replaced by the new BRSR reporting format. As ESG investing becomes more mainstream, disclosure requirements need to keep pace with this change and BRSR is a significant step towards this direction.

SEBI has also taken efforts to introduce disclosures norms for ESG Mutual Fund Schemes and ESG Rating Providers for Securities Markets via following consultation papers:

- October, 2021: Consultation Paper on introducing disclosure norms for ESG Mutual Fund Schemes ([Weblink](#))
- January, 2022: Consultation Paper on Environmental, Social and Governance (ESG) Rating Providers for Securities Markets ([Weblink](#))

All these initiatives put together, mark a significant regulatory impetus to the initiative on climate action brought onto Corporate India, which in turn, represent a strong desire to meet the 2030 deadline targets set under the enhanced Nationally Determined Contributions (NDCs) as part of the Paris Agreement of 2015.