



# Proxy Advisory Report eClerx Services Limited

BSE Code: 532927 | NSE Code: ECLERX | ISIN: INE738I01010

Sector: IT - Software | Meeting Type: Annual General Meeting

e-Voting Platform: [Karvy](#)

e-Voting Period: From 13<sup>th</sup> July, 2015 to 16<sup>th</sup> July, 2015

Meeting Date: 17<sup>th</sup> July, 2015 at 10:15 am

Meeting Venue: Walchand Hirachand Hall, Indian Merchants' Chamber,  
LNM IMC Building, Churchgate, Mumbai - 400 020

Notice: [Click here](#) | Annual Report: [FY 2014-15](#)

Company Email: [investor@eClerx.com](mailto:investor@eClerx.com)

Company Phone: +91 22 6614 8301 | Company Fax: +91 22 6614 8655

Company Registered Office: Sonawala Building, 1<sup>st</sup> Floor, 29, Bank Street, Fort,  
Mumbai - 400 023, India

SES RECOMMENDATIONS

**TABLE 1 - AGENDA ITEMS AND RECOMMENDATIONS**

S. No.	Resolution	Type	Recommendation	Focus <sup>#</sup>
1a	To receive, consider, approve and adopt standalone Financial statements of the Company	O	<u>FOR</u>	
1b	To receive, consider, approve and adopt consolidated Financial statements of the Company	O	<u>FOR</u>	
2	Declaration of dividend	O	<u>FOR</u>	
3	Re-appointment of V. K. Mundhra as a director	O	<u>AGAINST</u>	<b>G</b>
4	Ratification of appointment of Statutory Auditors	O	<u>FOR</u>	
5	Approve "ESOP 2015" plan	S	<u>AGAINST</u>	<b>C/G/T</b>
6	Extend the benefit of "ESOP 2015" plan to subsidiary(ies) of the Company	S	<u>AGAINST</u>	<b>C/G/T</b>
7	Approve incorporating Employee Welfare Trust(s)	S	<u>AGAINST</u>	<b>C/G/T</b>
8	Authorise Employee Welfare Trust(s) for acquisition of shares through secondary market	S	<u>AGAINST</u>	<b>C/F/G/T</b>
9	Approve Related Party Transaction(s)	O	<u>FOR</u>	
10	Payment of remuneration by way of commission to Non-Executive Independent Directors of the Company	S	<u>AGAINST</u>	<b>F/G</b>

O – Ordinary Resolution; S – Special Resolution

RESEARCH ANALYST: SUMIT TANK

**# Focus terminology**

**C – Compliance:** The Company has not met statutory compliance requirements.

**F – Fairness:** The Company has proposed steps which may lead to undue advantage of a particular class of shareholders and can have adverse impact on non-controlling shareholders including minority shareholders

**G – Governance:** SES questions the governance practices of the Company. The Company may have complied with the statutory requirements in letter. However, SES finds governance issues as per its standards.

**T – Disclosures & Transparency:** The Company has not made adequate disclosures necessary for shareholders to make an informed decision. The Company has intentionally or unintentionally kept the shareholders in dark.

**KEY ISSUE:**

ESOP's were granted to Independent Directors (IDs) prior to coming into force of Companies Act, 2013. Provisions of Section 197 of the Companies Act, 2013 restrict payment of remuneration to IDs other than by way of setting fees and profit linked commission. The detailed discussion in this respect is provided in Board profile "Table 7" in this Report.

PROXY ADVISORY REPORT | FOR LIMITED CIRCULATION | REPORT RELEASE DATE: 2<sup>ND</sup> JULY, 2015

## COMPANY BACKGROUND

TABLE 2 - MARKET DATA (As on 30<sup>th</sup> June, 2015)

Price (₹)	1,488.50	M Cap (₹ Cr.)	4,523.80	*Shares	3,03,50,885	#PE Ratio	20.81
-----------	----------	---------------	----------	---------	-------------	-----------	-------

Source: Capitaline

\*As on 31<sup>st</sup> March, 2015

#Based on EPS for FY 15

TABLE 3: FINANCIAL INDICATORS (STANDALONE)

(In ₹ Crores)	2015	2014	2013
Revenue	818.34	713.38	570.92
Other Income	31.81	15.76	-20.68
Total Income	850.15	729.14	550.24
PBDT	298.60	323.35	206.37
Net Profit	215.77	246.51	155.92
EPS	71.23	82.09	53.00
Dividend/Share (₹)	35.00	35.00	25.00
Dividend Pay-Out (%)	57.11	49.56	54.83
OPM %	36.49	45.33	36.15
NPM %	26.37	34.56	27.31

Dividend pay-out includes Dividend Distribution Tax. Source: BSE

TABLE 4: PEER COMPARISON

Firstsource Solution (2015)
914.14
18.67
932.81
206.35
163.75
2.47
0.00
0.00
24.79
17.91

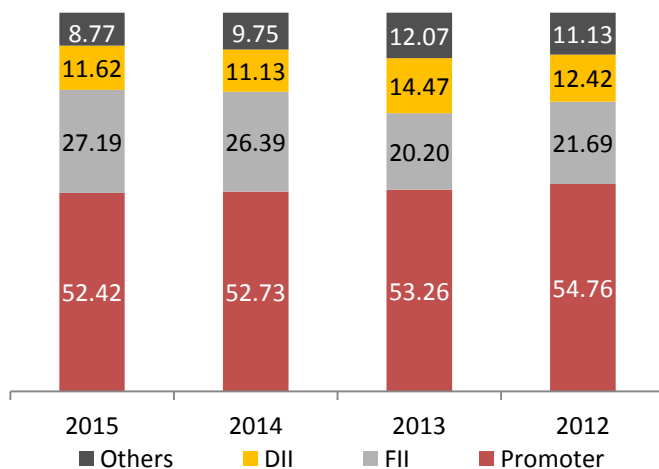
TABLE 5: MAJOR PUBLIC SHAREHOLDERS (%) (MAR'15)

Matthews India Fund	7.71
Fidelity Puritan Trust Fidelity Low Priced	4.45
Reliance Capital Trustee Co Ltd A/c	2.42
HDFC Trustee Company Ltd A/c HDFC Mid-Cap	1.95
ICICI Prudential Value Discovery Fund	1.84
Saif Advisors Mauritius Ltd A/c	1.45
Pyramis Global Advisors Trust Company	1.37

TABLE 6: MAJOR PROMOTERS (%) (MAR'15)

Anjan Malik	26.1
Priyadarshan Mundhra	26.09
Vijay Kumar Mundhra	0.11
Pawan Malik	0.08
Supriya Modi	0.05

SHAREHOLDING PATTERN (In %) (MARCH)








### DISCUSSION

During the period from 1<sup>st</sup> April 2014 till 31<sup>st</sup> March 2015, the Company has issued 1,73,978 Equity shares under ESOP Plan. No major changes have been observed in shareholding pattern of the Company during FY 2014/15.

## BOARD OF DIRECTORS

TABLE 7 - BOARD PROFILE

Director		Classification	Expertise/ Specialization	Tenure (Year)	<sup>[1]</sup> Directorship	<sup>[2]</sup> Committee Membership	Pay (Lakhs)
V. K. Mundhra	<a href="#">Up</a>	NEDP(R)(C)	Manufacturing	15	2	0 (0)	0.00 <sup>#</sup>
Anjan Malik		NEDP(R)	Investment Banking	15	1	0 (0)	0.00 <sup>#</sup>
PD Mundhra		EDP	Finance	15	2	2 (0)	229.00
Pradeep Kapoor		 ID	Operations	8	1	2 (1)	25.00 <sup>*</sup>
Anish Ghoshal		 ID	Legal	8	2	2 (0)	26.90 <sup>*</sup>
Vikram M. Limaye		 ID	Investment Banking	8	9	2 (0)	13.20
Biren C. Gabhawala		 ID	Taxation	4	2	4 (1)	35.00 <sup>*</sup>
Alok Goyal		 ID	operation	3	1	0 (0)	13.40
Deepa Kapoor		ID(W)	Information Technology	1	1	0 (0)	13.60


Reference: ID – Independent director, NED – Non-executive director, ED – Executive director, C – Chairman, P – Promoter, MD – Managing Director, R – Liable to retire by rotation, LID – Lead Independent Director, W – Woman Director, NID – Non-Independent Director Up – Director up for appointment/ reappointment

**[1]** Directorship data are as per information available on MCA website as on 24<sup>th</sup> June, 2015.

**[2]** Committee memberships include committee chairmanships

\*The Remuneration paid to Mr. Kapoor, Mr. Ghoshal and Mr. Gabhawala is high comparative to other independent directors due to exercise of stock option granted to them prior to FY 2013-14.

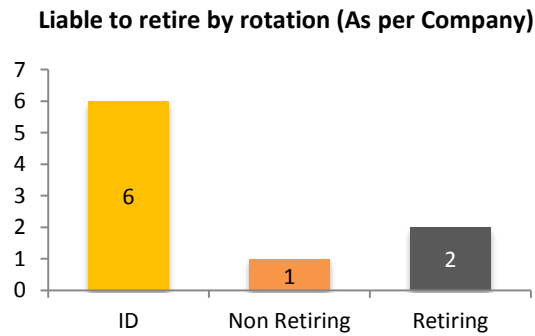
# Not drawing any remuneration from the Company. However, Mr. Malik received remuneration of ₹ 1.58 crore during FY 2014/15 from a subsidiary company.

 Items deserving attention due to contentious or governance issues

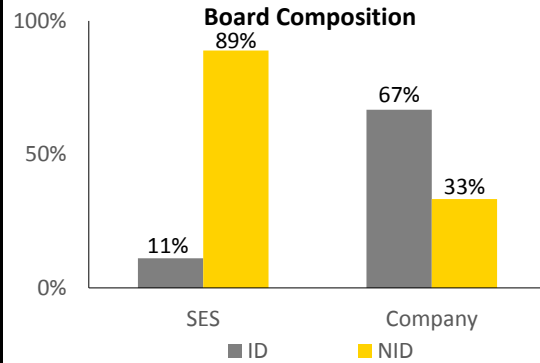
Note: Directorships, committee membership and committee chairmanship includes such positions in eClerx Services Limited

Company has granted stock options to Mr. Biren Gabhawala, Mr. Alok Goyal, Mr. Praveen Kumar, Mr. Anish Ghoshal and Mr. Vikram Limaye. Though the stock options were granted prior to the coming into effect of Section 197 of the Companies Act, 2013, SES is of the opinion that as a good governance practice, the options should be cancelled by the Company as the options in ID's hand defeat the spirit behind independence of directors and establishes pecuniary relationship between the company and IDs. The Company had mentioned in the Annual Report of FY 2014, that the Remuneration Committee has stopped granting ESOPs to the Independent Directors of the Company, in view of the (then draft) provisions of the Companies Act 2013. SES is of the opinion that the section 197 restrict the payment of remuneration to ID's other than by way of commission and sitting fees. SES believes that grant of ESOPs to independent directors may affect their independence/objectivity and therefore does not consider them Independent directors. SES had raised the same issue in its last year [Proxy Advisory Report](#) on AGM held on 10<sup>th</sup> July, 2014.

GRAPH 2 - BOARD PROFILE



As per provisions of Section 149 and 152 of the Companies Act, 2013 Independent Directors shall not be liable to retire by rotation and unless provided by the Articles of the Company at least 2/3rd of the Non-Independent Directors should be liable to retire by rotation. At present out of 9 directors 3 are non-independent, out of which 2 are retiring directors. Therefore, the Company is compliant with the provision of Section 152 of the Companies Act, 2013.



As per Clause 49(ii)(A) of the Listing Agreement, the Company should have at least 33% Independent Directors if the Chairman of the Board is a Non-Executive Director and should have at least 50% independent directors if the Board Chairman is a promoter or an executive director. As discussed in "Table 7" SES does not consider Mr. Biren Gabhawala, Mr. Alok Goyal, Mr. Praveen Kumar, Mr. Anish Ghoshal and Mr. Vikram Limaye as independent directors. Hence, as per SES, the board is only 11% independent.

TABLE 8 - BOARD COMMITTEE PERFORMANCE

Committee	#	Chairman's classification		Overall Independence		Number of Meetings	Attendance < 75%
		Company	SES	Company	SES		
Audit	4	ID	NID	75%	0%	6	0
Stakeholders' Relationship	4	ID	NID	75%	0%	4	Not disclosed
Nomination & Remuneration	4	ID	NID	50%	0%	5	*
CSR	4	ID	ID	75%	25%	Not disclosed	

Reference: ID – Independent director, NID – Non-Independent director, ED – Executive director, C – Chairman, P – Promoter, # - Number of Members \* Mr. V K Mudhra - 2/5

TABLE 9 - BOARD GOVERNANCE SCORE

Criteria	Response	Score	Maximum
What is the percentage of Independent Directors on the Board?	11%	0	10
How many Independent Directors have tenure greater than 10 years?	0	10	10
How many Independent Directors have Shareholdings > ₹ 1 Cr?	1	4	5
Is the Chairman Independent?	No	0	10
Is there a Lead Independent Director?	No	0	10
How many Independent Directors are ex-executive of the Company?	0	10	10
Have all directors been elected by the Company's shareholders?	Yes	10	10
Are any directors on the Board related to each other?	Yes	0	10
How many promoter directors are on the Board?	3	10	15
Did Independent Directors meet atleast once without management?	Yes	10	10
<b>Score</b>		<b>54</b>	<b>100</b>

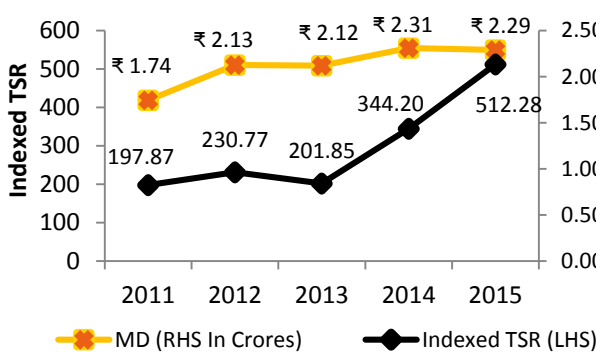
Mr. Kapoor holds 13,636 shares of the Company. The market value of his holding as on 24<sup>th</sup> June, 2015 is ₹ 2.12 crore.

## REMUNERATION ANALYSIS

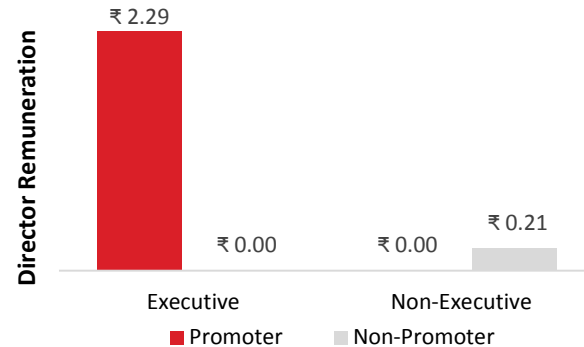
**TABLE 10 - EXECUTIVE DIRECTORS' REMUNERATION ANALYSIS**

In ₹ Crores	2015		2014		2013		Ratio
	Fixed Pay	Total Pay	Fixed Pay	Total Pay	Fixed Pay	Total Pay	
Mr. P D Mundhra	P 1.44	2.29	1.46	2.31	1.43	2.12	1.84:1

Note: Fixed pay includes basic pay, perquisites & allowances. P- Promoter, NP- Non- Promoter, Ratio- Ratio of ED's remuneration to Median Remuneration of Employees

**DISCUSSION - INDEXED TSR vs. EXECUTIVE REMUNERATION**


Graph 3: Executive Compensation vs. Total Shareholders Return



Graph 4: Average director remuneration (In Crores)

Note: Indexed TSR (Total Shareholders Return) represents the value of ₹ 100 invested in the Company at beginning of a 5-year period starting 1 April 2010. One period return is calculated as (Final Price – Initial Price + Dividend) / Initial Price.

**TABLE 11- EXECUTIVE REMUNERATION - PEER COMPARISON**

	eClerx Services	Firstsource Solution
Director Name	Mr. P D Mundhra	Mr. Subramaniam
Promoter Group	Yes	No
Remuneration (₹ Crore) (A)	2.29	3.38
Net Profit (₹ Crore) (B)	215.77	134.70
Rem. Percentage (A/B * 100)	1.06%	2.51%

DISCLOSURES

**DISCLOSURE REQUIRED IN DIRECTOR'S REPORT**

The Companies Act, 2013 requires the listed companies to make certain disclosures in Board's Report. The table below shows the status of compliance of such some important requirements, by the Company.

<input checked="" type="checkbox"/> Content of Corporate Social Responsibility Policy in prescribed format (if applicable)	<input checked="" type="checkbox"/> Statement on performance evaluation of Board, Committees and Directors
<input checked="" type="checkbox"/> Extract of the Annual Return as per Form No. MGT 9	<input checked="" type="checkbox"/> Related Party Transactions as per Form No. AOC.2
<input checked="" type="checkbox"/> Company's policy on appointment of directors and criteria for determining qualifications, positive attributes, director's independence	<input checked="" type="checkbox"/> Ratio of the remuneration of executive director to the median employees remuneration
<input checked="" type="checkbox"/> Policy on remuneration of Directors, KMP and other employees	<input checked="" type="checkbox"/> Secretarial Audit Report
<input checked="" type="checkbox"/> Statement on declaration by Independent Directors	<input checked="" type="checkbox"/> Directors' Responsibility Statement
<input checked="" type="checkbox"/> Particulars of loans, guarantees or investments	<input checked="" type="checkbox"/> Details of establishment of Vigil Mechanism
<input checked="" type="checkbox"/> Statement indicating development and implementation of a risk management policy	<input type="checkbox"/> Comments on qualifications made by Statutory Auditors/ CS*

\*Not applicable as no qualification has been made by Statutory Auditors/ Secretarial Auditors

PROXY ADVISORY REPORT | FOR LIMITED CIRCULATION | REPORT RELEASE DATE: 2<sup>ND</sup> JULY, 2015

**RESOLUTION ANALYSIS****RESOLUTION 1: ADOPTION OF ACCOUNTS**

To receive, consider, approve and adopt:

- A. The Audited Financial Statements of the Company for the financial year ended March 31, 2015, together with the Reports of the Board of Directors and the Auditors thereon;
- B. The Audited Consolidated Financial Statements of the Company for the financial year ended March 31, 2015, together with the Reports of the Auditors thereon.

**SES RECOMMENDATION**

This is a standard resolution. The Auditors have not raised any concern. No governance issues have been identified. Therefore, SES recommends that shareholders vote **FOR** the resolution.

**SES ANALYSIS**

*Note: Detailed analysis of the accounts is not within the scope of SES' activities. SES accepts the Report of the Directors and the Auditors to be true and fair representation of the company's financial position. The analysis below is aimed at enabling shareholders engage in discussions with the Board/ Management during the AGM.*

**AUDIT QUALIFICATIONS**

The Auditors' have not made any qualification in their Report.

**AUDITORS' COMMENTS ON STANDALONE ACCOUNTS**

The Auditors' report states that in the opinion of the Auditors, the Company's standalone financial statements give the information required by the Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India of the state of affairs of the Company as at 31<sup>st</sup> March, 2015, and its profit and its cash flows for the year ended on that date.

**AUDITORS' COMMENTS ON CONSOLIDATED ACCOUNTS**

The Auditors' report states that in the opinion of the Auditors, the Company's consolidated financial statements give the information required by the Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India of the consolidated state of affairs of the Group as at 31<sup>st</sup> March, 2015, their consolidated profit and their consolidated cash flows for the year ended on that date.

**ACCOUNTING POLICIES (AS STATED BY THE COMPANY)**

The Company has prepared its financial statements in accordance with generally accepted accounting principles in India (Indian GAAP) under the historical cost convention on accrual basis except derivative financial instruments which have been measured at fair value. The accounting policies adopted in the preparation of financial statements are consistent with those of previous year except for the change in accounting policy which has been disclosed below.

**(I) Derivative Instruments and hedge accounting**

From April 1, 2014 the Company has adopted the principles of Accounting Standard 30, Financial Instruments: Recognition and Measurement (AS-30) issued by Institute of Chartered Accountants of India ('ICAI') to the extent the adoption of AS-30 does not conflict with existing accounting standards specified under section 133 of the Companies Act, 2013, read with paragraph 7 of the Companies (Accounts) Rules, 2014.

**(II) Depreciation on fixed assets Depreciation on assets costing less than ₹ 5,000**

Up to the year ended March 31, 2014, to comply with the requirements of Schedule XIV to the Companies Act, 1956, the Company was charging 100% depreciation on assets costing less than ₹ 5,000 in the year of purchase. However, Schedule II to the Companies Act 2013, applicable from the current year, does not recognise such practice. Hence, to comply with the requirement of Schedule II to the Companies Act, 2013, the Company has changed its accounting policy for depreciations of assets costing less than ₹ 5,000.

**(III) Employee Stock Compensation Cost**

Till 27<sup>th</sup> October, 2014, the SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999, dealt with the grant of share-based payments to employees. Among other matters, these guidelines prescribed accounting for grant of share-based payments to employees. Hence, the Company being a listed entity was required to comply with these Guidelines as well as the Guidance Note on Accounting for Employee Share-based Payments with regard to accounting for employee share-based payments. Particularly, in case of conflict between the two requirements, the SEBI guidelines were prevailing over the ICAI Guidance Note. For example, in case of equity settled option expiring unexercised after vesting, the SEBI guidelines required expense to be reversed through the statement of profit and loss whereas the reversal of expense through the statement of profit and loss is prohibited under the ICAI Guidance Note. In these cases, the Company was previously complying with the requirements of SEBI guidelines.

From 28<sup>th</sup> October, 2014, the SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 have been replaced by the SEBI (Share Based Employee Benefits) Regulations, 2014. The new regulations don't contain any specific accounting treatment; rather, they require ICAI Guidance Note to be followed. Consequent to the application of the new regulations, the Company has changed its accounting for equity settled option expiring unexercised after vesting in line with accounting prescribed in the Guidance Note, i.e., expense is not reversed through the statement of profit and loss. The management has decided to apply the revised accounting policy prospectively from the date of notification of new regulation, i.e., 28<sup>th</sup> October, 2014.

**FINANCIAL INDICATORS**

	FY 14/15	FY 13/14	Shift	Company's Discussion
Debtors Turnover	7.18	8.71	-17.63%	-
Inventory Turnover	Not applicable as company is in Information Technology sector			
Interest Coverage Ratio	0.00	0.00	N.A.	The Company is debt free
Current Ratio	3.10	2.99	3.53%	-
Debt Equity Ratio	0.00	0.00	N.A.	The Company is debt free
Operating Profit Margin	36.49%	45.33%	-19.50%	-
Net Profit Margin	26.37%	34.56%	-23.70%	-
Operating Cash Flow/ Sales	24.33%	25.99%	-6.37%	-

Source: Company's Annual Reports

SES is of the opinion that board should take note of structural shift (positive and negative both) in various financial parameters which have a bearing on company's future performance and positioning in market place and disclose an analysis of the same to shareholders. SES believes that 25% change either way should be the threshold for triggering analysis and disclosure requirements.

**CONTINGENT LIABILITIES**

(All figures in ₹ Crore)	FY 14/15	FY 13/14
Total contingent liabilities	4.28	2.33

Net worth of the Company	646.60	538.42
Contingent liabilities as a percentage of net worth	0.66%	0.43%

Source: Company's Annual Reports

Major portion of contingent liabilities is constituted by Tax demands

#### RELATED PARTY TRANSACTIONS

Outstanding (₹ Crore)	FY 14/15	FY 13/14	Shift	Comments
Receivables	Negligible amount		N.A.	From Agilyst Consulting Private Limited
Payables	21.83	14.84	47.10%	To eClerx Limited

Source: Company's Annual Reports

#### STANDALONE VS CONSOLIDATED ACCOUNTS

(In ₹ Crore)	Standalone Accounts			From Subsidiaries etc.			Consolidated Accounts		
	FY15	FY14	FY13	FY15	FY14	FY13	FY15	FY14	FY13
Revenue	818	713	571	124	128	90	942	841	661
Net Profit	216	247	156	14	9	16	230	256	172
Total Assets	872	727	378	87	64	76	959	791	454
Net Worth	647	538	411	68	51	28	715	589	438
Net Profit/ Revenue	26.37%	34.56%	27.31%	11.24%	7.17%	17.50%	24.38%	30.40%	25.98%
ROA	24.74%	33.89%	41.26%	15.97%	14.29%	20.52%	23.95%	32.31%	37.77%
RONW	33.37%	45.78%	37.96%	20.37%	18.10%	56.85%	32.13%	43.41%	39.15%

Source: Company's Annual Reports

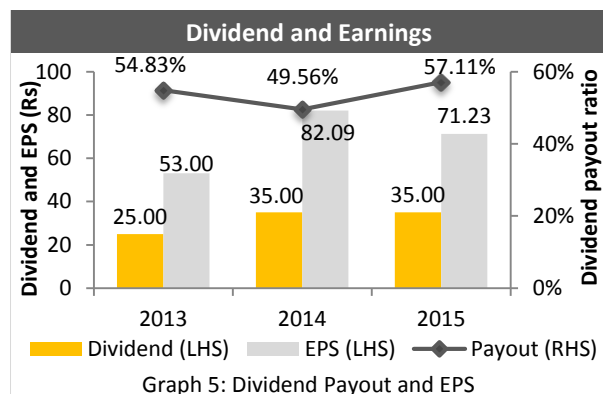
Profitability and Return Ratios of Standalone accounts are far better compared to operations at subsidiaries. The Company must explain the reasons to shareholder in next year's Annual Report for better understanding of performance of the Company.

**RESOLUTION 2: DECLARATION OF DIVIDEND**

To declare dividend for the year ended March 31, 2015 amounting to ₹ 35/- per share.

**SES RECOMMENDATION**

This is a standard resolution. No concern has been identified. The Company has sufficient cash to pay the dividend. SES recommends that shareholders vote **FOR** the resolution.

**SES ANALYSIS**


For FY 2014/15, the Company has recommended a dividend of ₹ 35.00 per share (350% on face value of ₹ 10 each). The total cash outflows toward proposed dividend amount to ₹ 106.22 Crore (excluding dividend distribution tax of ₹ 22.20 crore). The Company has sufficient cash and cash equivalent to pay the dividend.

**RESOLUTION 3: REAPPOINTMENT OF NON-EXECUTIVE DIRECTOR**

To appoint Mr. V. K. Mundhra, who retires by rotation and being eligible, offers himself for re-appointment.

**SES RECOMMENDATION**

The attendance record of Mr. V. K. Mundhra at the Board/committee meetings has been low as discussed below. Considering the fact that he is the Chairman of the Board, SES is of the opinion that Mr. V. K. Mundhra has not been able to devote sufficient time to the affairs of the Company, therefore recommends that shareholders vote **AGAINST** the resolution.

**SES ANALYSIS**

**DIRECTOR'S PROFILE**

Criteria	Mr. V. K. Mundhra
Current full-time position	None
Functional Area	Industry
Education	B.Com.
Past Experience	Has over 37 years of varied experience in manufacturing units in the field of steel, engineering and chemicals.
Committee positions in the Company	Nomination & Remuneration Committee (M)
Retirement by rotation?	Yes
Part of promoter group?	Yes
<b>SES' Recommendation</b>	<b>AGAINST</b>

**DIRECTORS' TIME COMMITMENTS: NO CONCERN**

Criteria	Mr. V. K. Mundhra
Total Directorships	2
Total Committee memberships	0
Total Committee Chairmanship	0
Full time role/ executive position	0

Note: committee memberships include committee chairmanships

**DIRECTORS' PERFORMANCE**

Attendance record	Mr. V. K. Mundhra
Last 3 AGMs	3/3
Board meetings held last year	63%
Board meetings in last 3 years (avg.)	68%
Nomination & Remuneration Committee meetings	40%
Nomination & Remuneration Committee meetings in last 3 year (avg.)	67%

Mr. V. K. Mundhra attended only 5 of the 8 board meetings and 2 out of 5 Nomination and remuneration committee meetings held last year. He attended 15 of the 22 board meetings held in the last three years. The nomination committee of the Company has proposed the reappointment of Mr. V. K. Mundhra. As observed in above table, Mr. V. K. Mundhra's attendance at board/committee meetings of the Company has been low. Considering his attendance records SES is of the opinion that Mr. V K Mundhra has not able to devote sufficient time to the affairs of the Company more so considering the fact that he is the Chairman of the Board.

**DIRECTOR'S REMUNERATION**

Mr. V. K. Mundhra does not draw any remuneration from the Company since 2011.

**RESOLUTION 4: APPOINTMENT OF AUDITORS**

To ratify the appointment of M/s. S. R. Batliboi & Associates LLP, Chartered Accountants, Mumbai as Statutory Auditors of the Company.

**SES RECOMMENDATION**

No concern has been identified in relation to ratification of Statutory Auditors' appointment and their remuneration for FY 2015-16. SES recommends that shareholders vote **FOR** the resolution.

**SES ANALYSIS**

**DISCLOSURES**

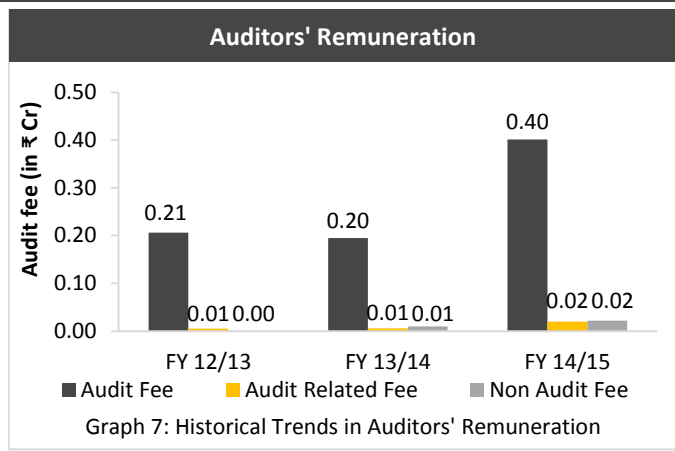
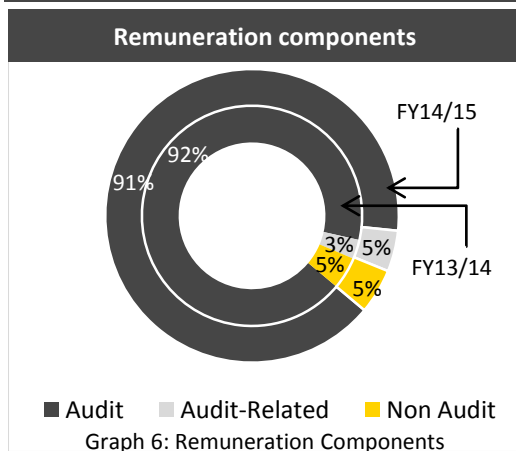
Name of the auditor up for appointment	Disclosed in notice and annual report
Auditors' independence certificate	Disclosed

**AUDITORS' INDEPENDENCE**

Auditors		Audit Partners	
S. R. Batliboi & Associates LLP	Tenure: 1 years	Amit Majmudar	Tenure: 1 years
Auditor's Network	Ernst & Young		

Financial interests in or association with the company: Not disclosed

**AUDITORS' REMUNERATION**



This is an enabling resolution as the Company had appointed M/s. S. R. Batliboi & Associates LLP in the last AGM for a period of 5 years under Section 139 of the Companies Act, 2013. Therefore, the Company is seeking shareholders' approval for ratification of their appointment. No other concern has been identified.

Further, Section 142 (1) of Companies Act, 2013 states that remuneration of the Auditors of a Company shall be fixed in its general meeting. No concern has been identified

**RESOLUTION 5 & 6 AND 7 & 8: APPROVAL OF ESOP SCHEME AND ESTABLISHMENT OF TRUST**

# 5: To institute Employee Stock Scheme/Plan 2015 for the Employees of the Company.

# 6: To institute Employee Stock Scheme/Plan 2015 for the Employees of subsidiary(ies) of the Company.

# 7: To approve incorporating Employee Welfare Trust(s) mechanism within Employee Stock Scheme/Plan 2015 to enable secondary market transactions.

# 8: To set up and authorise Employee Welfare Trust(s) for acquisition of shares of the Company through secondary market.

**SES RECOMMENDATION**

#5 & 6: The resolution proposed by the Company is in violation of SEBI (share based employee benefits) Regulation, 2014 as discussed below. Further, the resolutions provides the Board with the discretion to modify, change, vary, alter and amend the scheme as it may, in its absolute discretion, deem fit. SES is of the opinion that the Company should place adequate restrictions on such discretionary powers and disclose the required information to the shareholders as discussed here under to enable them to take informed decision. Therefore, SES recommends that shareholders vote **AGAINST** the resolutions.

#7 & 8: As SES has recommended the shareholders to vote against resolutions #5 & 6, SES recommends the shareholders to vote **AGAINST** resolutions #7 & #8 as well because if Resolutions with respect to ESOP Scheme are not carried through, then the issue of secondary market acquisition will not arise. Further the resolution lacks disclosure requirements under the Regulation as discussed in detailed analysis below.

**SES ANALYSIS**
**ESOP DISCLOSURES**

Disclosure requirement	Disclosure
Total options in ESOS	16,00,000
Employee eligibility	All permanent employees of the Company and its subsidiaries and whether in India or abroad, but excluding the promoters and independent directors
Vesting period	1 year to 5 years from the date of grant of options,
Exercise period	Commence from the date of vesting and will expire on completion of three years from the date of vesting of options
Exercise price	Determined by Nomination and Remuneration Committee
Appraisal process	The grant shall be based on certain performance metrics, length of service with the Company, past performance record, future potential of the employee and/or such other criteria that may be determined by the Nomination and Remuneration
Max options/employee	More than 16,00,000 options, being the maximum number of option available under the scheme
Conformity with accounting policies	Yes
Valuation methodology	As required under the Act/Rules/Regulation, the Company has not disclosed the actual method used to account for ESOS - Intrinsic or fair value
Transferability of options	Not disclosed
Dilution	5% due to the proposed Scheme and 5.18% due to unutilized options of existing schemes which will lead to a total dilution of 9.70% of existing shareholders
Route of issue	Direct or through trust

The clause 3(1) of the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 Provide that;

3. (1) A company may implement schemes either directly or by setting up an irrevocable trust(s): Provided that if the scheme is to be implemented through a trust **the same has to be decided upfront at the time of taking approval of the shareholders for setting up the schemes:**

The Company is seeking shareholders' approval to adopt ESOP scheme either through Direct route or Trust route. The proposed resolution is in violation of clause 3(1) of the said regulation as the Company has not disclosing the exact route of issue to be followed by the Company.

SCHEME ADMINISTRATION	
Criteria	Comments
Compensation committee independence	As per Company, the committee is 50% independence, However as per SES the committee is 0% independent as SES does not consider Mr. Ghoshal and Mr. Goyal to be independent due to their holding stock options.
Accelerated vesting	Not disclosed
Discretion to board to modify scheme	Yes, the board is authorised for modifications, changes, variations, alterations or revisions in the said Scheme in full discretion in conformity
Option re-pricing	Yes, provided the same is not detrimental to the interests of shareholders.

**Total outstanding options across all schemes:** The total outstanding options across the all the existing scheme is 16,61,204.

#### ACQUISITION FROM SECONDARY MARKET

The Company has sought shareholders' approval to buy shares of the Company from secondary market not exceeding 2% of the paid up capital as at the end of the previous Financial Year and that the total number of shares under secondary acquisition held by the Trust shall at no time exceed 5% of the paid up capital as at the end of the Financial year immediately prior to the year in which the shareholder approval is obtained for such secondary acquisition.

#### FUNDING FOR THE ACQUISITION OF SHARES BY TRUST FROM THE SECONDARY MARKET

The Company is seeking Shareholders' approval to grant loan to enable the trust to acquire, purchase, subscribe, buy, transfer and/or hold the securities of the Company, from secondary market.

#### SES VIEW

The resolution provides discretionary powers to the Board to modify, change, vary, alter the Scheme as it may in its absolute discretion deem fit. SES is of the opinion that such provisions defeat the entire purpose of having the scheme approved by the shareholders and are against the principles of good corporate governance. While SES agrees that certain powers to modify scheme is required for administering the scheme, the Board must disclose the extent of such discretionary powers and the conditions under which the board shall exercise such powers. Further the Company has not disclosed the composition of Trust, the amount of loan to be provided to the trust for acquisition of shares from the secondary market. The Company has also not provided a statement to the effect that difference between the employee compensation cost would be under fair value or intrinsic method and the impact of this difference on profits and on earnings per share.

SES is of the opinion that the disclosures made by the Company are not adequate/ transparent and may lead to conflict of interest situations. Further, as a good governance practice, the Company should include an exercise price (either as a price band or as a % discount to market price) in the scheme.

**RESOLUTION 9: RELATED PARTY TRANSACTION**

To approve Related Party Transaction(s).

**SES RECOMMENDATION**

No major concern has been identified. SES recommends that shareholders vote **FOR** the resolution.

**SES ANALYSIS**

**PROPOSED RELATED PARTY TRANSACTIONS**

Disclosures	Details of disclosure
Name of the Related Party	eClerx LLC
Relationship with the Company	Wholly owned subsidiary
Consideration for Transaction	Maximum amount of ₹ 120.00 crore in FY
Ordinary Course of business	Yes
Arm's length	Yes, Based on Transfer pricing guidelines
Nature of Transaction	Provide marketing support & front end support services on behalf of the Company including inter-se reimbursement of expenses and related activities
Audit Committee Approval	Yes
Duration	Ongoing

**DETAILS OF TRANSACTION WITH RELATED PARTY IN THE PAST**

Disclosures (₹ in Crores)	FY 2015	FY 2014	FY 2013	FY 2012	FY 2011
Sales and Marketing Services	92.27	62.62	47.01	35.37	22.23
Expenses incurred by holding Company on behalf of subsidiary	0.17	0.03	0.64	0.30	0.20
Amount received by holding Company on behalf of the subsidiary	0.23	0.00	0.00	0.00	0.00
Total RPTs' Value	92.67	62.65	47.05	35.67	22.43
Outstanding Balance as at year end	9.27	6.06	3.37	8.71	5.87
Growth in RPTs' value	<b>47.92%</b>	<b>33.16%</b>	<b>31.92%</b>	<b>59.03%</b>	<b>24.43%</b>
Turnover of the Company	818.34	713.38	570.92	472.47	341.91
<b>RPTs as a % of Turnover</b>	<b>11.32%</b>	<b>8.78%</b>	<b>8.24%</b>	<b>7.54%</b>	<b>6.56%</b>
Net Profits of the Company	215.77	246.51	155.92	157.33	118.56
<b>Net Profits as a % of Turnover</b>	<b>26.37%</b>	<b>34.56%</b>	<b>27.31%</b>	<b>33.30%</b>	<b>34.68%</b>

**PURPOSE OF THE RESOLUTION**

Not disclosed by the Company.

**RELATED DIRECTORS/ KMPS**

Mr. Anjan Malik, Non-executive promoter director of the Company is a common Director and eClerx LLC is a subsidiary of the Company.

**SES VIEWS**

The Company seeks shareholders' approval for related party transaction with eClerx LLC, a wholly-owned subsidiary of the Company for an amount not exceeding ₹120 Crores. The Company has disclosed that these transactions are on on-going basis. SES is of the opinion that instead of taking perpetual approval for related party transaction, the Company should take approval for a specified duration say for 3/ 5 years. The approval for perpetuity of related party transactions defeat the purpose of taking shareholders' approval. However, SES

is not raising concern on this case because the amount of related party transaction is for ₹120 Crores and as can be seen from the above table the related party transactions with the subsidiary company is approximately ₹93 crores during the FY14-15. Further, there is consistent increase in RPTs' value over the last five years. However, there is a cap on total amount of transaction i.e. ₹120 crores p.a. Additionally, Eclerx LLC is a wholly owned subsidiary company and is generating business for the Company. In view of these reasons, SES is not raising any concern.

**RESOLUTION 10: PAYMENT OF COMMISSIONS TO NON-EXECUTIVE INDEPENDENT DIRECTORS**

To approve payment of remuneration by way of commission to Non-Executive Independent Directors of the Company.

**SES RECOMMENDATION**

The resolution seeks approval of shareholders for payment of commission up to ₹ 18.00 p.a. to the Independent directors of the Company. However, the Company is seeking shareholders' approval for perpetuity, providing unfettered power to the Board to determine the commission to each IDs. Such resolutions defeat the purpose of shareholder approval, and provide unfettered power to the Board of Directors, even in a situation when the Company's performance changes in future in any manner. SES normally recommends voting against the resolutions seeking shareholders' approval for perpetuity, however in this case since the Company has proposed a limit of payment of commission of ₹ 18.00 lacs to each ID, therefore SES not raising any concern and recommends that shareholders vote **FOR** the resolution.

**SES ANALYSIS****COMMISSION PAYABLE**

**Remuneration Limits:** Not exceeding 1% of the net profit of the Company cumulatively, subject to maximum of ₹ 18.00 lacs p.a. per independent director

**Commission distribution criteria:** On performance of the Company will decide the actual amount payable to the Non-Executive Independent Directors in terms of commission, which may not necessarily be ₹ 18 Lacs p.a. but may even be lower than that.

**Directors' covered under the resolution:** Independent directors.

As per the resolution, the Board (including the IDs) will have the discretion to determine the amount of commission to be paid for each financial year to each ID within the limit of 1% of the net profit subject to ceiling of ₹ 18.00 lac per annum per independent director. Objective criteria for determining the quantum of commission payable to individual IDs has not been disclosed by the Company. SES believes that in absence of disclosure on commission distribution criteria, conflict of interest situations may arise and to remove such conflict of interest situations and to maintain the independence and objectivity of the independence of IDs, the Company should disclose the objective criteria to be used to distribute commission amongst IDs.

**DISTRIBUTION OF COMMISSION**

The Company has paid commission only to independent directors. The total commission paid to independent directors for FY 2014/15 is ₹ 72.00 lacs and for FY 2013/14 is ₹ 40.00 lacs. Prior to 2014, the Company did not pay any commission based remuneration to IDs. The Company has been fair in remunerating independent directors for the last two years.

The Company has proposed the resolution in supersession of the earlier resolution passed at the AGM held on 22<sup>nd</sup> August, 2013 for payment of commission to non-executive independent directors a sum not exceeding 1% of the net profit of the Company. By superseding the earlier resolution passed at the AGM held in 2013, the Company is seeking fresh approval of shareholders for payment to non-executive independent directors, in accordance with Section 197 of the Companies Act, 2013, in order to continue the payment of commission to NEDs **for each year**, commencing from 1<sup>st</sup> April, 2015.

**SES VIEWS**

Shareholders may note that the proposed resolution seeks shareholders' approval for payment of commission to IDs for perpetuity, without any requirement for further approval of the shareholders. SES believes that as owners of the Company, shareholders have full right to approve or disapprove payment of remuneration/ commission to directors of the Company. SES normally recommends voting against the resolutions seeking shareholders' approval for perpetuity, however in this case since the Company has proposed a limit of payment of commission of ₹ 18.00 lacs to each ID, therefore SES not raising any concern.

**DISCLAIMERS****Sources**

Only publicly available data has been used while making the report. Our data sources include: BSE, NSE, SEBI, Capitaline, Moneycontrol, Businessweek, Reuters, Annual Reports, IPO Documents and Company Website.

**Analyst Certification**

The analysts involved in development of this report certify that no part of any of the research analyst's compensation was, is, or will be directly or indirectly related to the specific recommendations or views expressed by the research analyst(s) in this report.

**CAUTIONARY STATEMENT**

The recommendations made by SES are based on publicly available information and conform to SES's stated Proxy-Advisory Guidelines. Further, SES analysis is recommendatory in nature. SES understands the different investment needs of our clients. Therefore, SES expects that the clients will evaluate the effect of their vote on their investments independently and diligently and will vote accordingly. Subscribers may also carry out an impact analysis of their votes and keep the same as an addendum for their records. In our opinion, Institutional investors are positioned significantly differently from other shareholders due to their ability to engage the board and the management to bring out desired result. As a firm, it is our endeavour to improve the level of corporate governance while not causing any disruption in company's proceedings and therefore we respect the independence of investors to choose alternate methods to achieve similar results.

**Disclaimer**

While SES has made every effort and has exercised due skill, care and diligence in compiling this report based on publicly available information, it neither guarantees its accuracy, completeness or usefulness, nor assumes any liability whatsoever for any consequence from its use. This report does not have any approval, express or implied, from any authority, nor is it required to have such approval. The users are strongly advised to exercise due diligence while using this report.

This report in no manner constitutes an offer, solicitation or advice to buy or sell securities, nor solicits votes or proxies on behalf of any party. SES, which is a not-for-profit Initiative or its staff, has no financial interest in the companies covered in this report except what is disclosed on its website.

The report is released in India and SES has ensured that it is in accordance with Indian laws. Person resident outside India shall ensure that laws in their country are not violated while using this report; SES shall not be responsible for any such violation.

All disputes subject to jurisdiction of High Court of Bombay, Mumbai

**Company Information**

This Report or any portion hereof may not be reprinted, sold, reproduced or redistributed without the written consent of Stakeholders Empowerment Services

**Contact Information****Stakeholders Empowerment Services**

A 202, Muktangan,  
Upper Govind Nagar,  
Malad East,  
Mumbai – 400 097

Tel +91 22 4022 0322

[research@sesgovernance.com](mailto:research@sesgovernance.com)

[info@sesgovernance.com](mailto:info@sesgovernance.com)

[www.sesgovernance.com](http://www.sesgovernance.com).