

Webinar



2021 India Proxy Season Preview Webinar

Wednesday, June 2, 2021 | 3:00 P.M. AEST / 10:30 A.M. IST



Jeff Jackson

Director of Asia Research
Glass Lewis

Team Leadership

Team Leadership

Jeff Jackson | Director, Asia Research

- Joined Glass Lewis in 2012
- Originally started in Glass Lewis's San Francisco headquarters
- Took over India research in 2013
- Moved to the Sydney office in 2017 to expand the Southeast and South Asia team and research, which currently encompasses 10 different capital markets
- Became Director, Asia Research, in August 2020, which now includes overseeing Glass Lewis's research team covering mainland China, Hong Kong and Taiwan
- Is responsible for managing two research teams that covered approximately 9,500 shareholder meetings in 2020.



Agenda

Housekeeping

- The webinar will be available on-demand through your registration link
- We will send out a copy of the slide deck in a follow-up email
- View additional webinars at www.glasslewis.com/webinars

Agenda

- About Glass Lewis
- The Impact of COVID-19 on India and the AGM Season
- Updates on Indian Corporate Governance Practices and Regulations
- Considerations for the Indian AGM Season
- Meetings to Watch
- Q&A

About Glass Lewis

The World's Choice for Governance Solutions

We enable institutional investors and publicly listed companies to make sustainable decisions based in research and data.

- Our customers include the majority of the world's largest pension plans, mutual funds, and asset managers, collectively managing over \$40 trillion in assets.
- We have teams located across the United States, Europe, and Asia-Pacific giving us global reach with a local perspective on the important governance issues.
- We cover 30,000+ meetings each year, across approximately 100 global markets.
- Our offerings include Proxy Paper proxy research reports, Viewpoint Proxy voting platform, and extensive thought leadership (learn more at [GlassLewis.com](https://www.glasslewis.com)).
- For public companies, our Governance Hub provides easy access to tools and resources, including Glass Lewis research and thought leadership, to help companies optimize their corporate governance programs and ESG strategies.

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grow@glasslewis.com (institutional investors) | engage@glasslewis.com (public companies)

India Research

A diverse market and unique corporate governance practices:

- 2013 saw the joining of India research as part of Glass Lewis's Southeast and South Asia research team
- 2017 was the year when India research moved to Sydney from San Francisco, where most research is published
- India research includes support from Glass Lewis's Limerick-based research office
- India forms one of the anchors of Southeast and South Asia research

Going forward, the Southeast and South Asia research teams aims to:

- Expand engagement activities, meeting with boards and IR professionals and other relevant stakeholders in India
- Grow a bench of market facing Lead and Senior Analysts, focusing on regional corporate governance practices.

The Impact of Covid-19 on the Upcoming AGM Season

COVID and the AGM Season

Virtual Meetings

- All shareholder meetings will be held on a virtual basis through December 31, 2021
- SEBI extended the use of virtual meetings from January which were permitted for most of 2020
- The Ministry of Corporate Affairs issued practices for virtual meetings in 2020 which serve to protect shareholder rights

AGM Timeline

- Normally, the AGM season lasts from June-September, with most companies needing to have their AGMs by September 30, 2021
- In 2020, the AGM season was allowed to be extended until December 31, 2020
- Companies currently were extended an additional month – up to June 30, 2021, to report their annual financial results
- Unknown if the AGM season will extend past September 30, for companies with financial year end date of March 31, 2021

Updates on Indian Corporate Governance Practices and Regulations

New SEBI Regulations and Companies Act Updates

SEBI Regulations – From May 5

- Greater focus on the role of the Risk Management Committee
- Extended the committee to top 1,000 companies by market capitalization from the top 500 companies
- Expansion of minimum committee meetings from 1 to 2 per year
- Updated the committee composition to majority directors with one INED; SR share companies to have 67% INED

Companies Act Updates

- Expansion of Schedule V of the Companies Act, 2013, to include non-executive directors for the determination of remuneration when companies have insufficient or no profits
- Expansion of Schedule V could be a prelude to including non-executive directors on waiver of excess remuneration proposals

Future ESG Practices

Business Responsibility Report

- Top 1,000 companies by market capitalization will need to file a Business Responsibility Report to provide an overview of environmental, social and governance perspectives
- Will take effect from FY 2022-23, when it will become mandatory
- For FY 2021-22, the top 1,000 companies may submit separate business responsibility and sustainability reports on a voluntary basis
- SEBI has issued [circulars](#) on the [formatting](#) of reporting for business responsibility and sustainability reporting

New RBI Regulations (effective Oct 1, 2021)

Director Tenure

- NED tenure: limit of 8 years - including INEDs, which is a reduction from 10 years for INEDs
- Executive director tenure: 12 years for promoter/major shareholders who are CEO/MDs; otherwise, 15 years for other executive directors
- Age limits: 70 years for executives; 75 years for NEDs

Board Committees

- Audit committee: committee chair may not be chair of another committee; board chair may not be a committee member
- Risk management committee: majority NEDs one director with risk management expertise/qualification and at least 4 meetings/year
- Nomination and remuneration committee: no insiders, board chair not to serve as committee chair

Non-Executive Director Remuneration

- NEDs other than board chairs may receive fixed fees of up to INR 2 million in addition to sitting fees and expenses for attending board/committee meetings

Considerations for the Indian AGM Season

Possible Trends

Are Foreign Portfolio Investors Returning?

- Net foreign portfolio investment in Indian equities has varied over the past several calendar years
 - In 2017, FPIs increased net equity investments by US\$7.768 billion, decreased by US\$4.390 billion in 2018
 - Increased by US\$14.367 billion in 2019, then US\$23.013 billion in 2020, while as of May 28, net FPI equity investment was still higher by US\$5.894 billion, despite reductions of US\$1.747 billion in April and May
- How might the current Covid crisis impact foreign investment in India?
- Will foreign portfolio investors bring their own set of expectations on voting at AGMs?

Remuneration Proposals

- Due to the pandemic, there is a distinct possibility that some companies are loss-making, which could lead to companies seeking approval of proposals to
 - Waive excess remuneration in due to losses or set minimum remuneration in anticipation of future losses
- Other remuneration proposals for executive directors may present themselves if executives receive remuneration exceeding 5% or 10% of net profits, especially if profits are lowered
- NEDs may also be subject to waiver of excess remuneration proposals, due to changes to Schedule V
 - Some NEDs will also be subject to proposals if one NED receives more than 50% of all rem paid to all NEDs

Possible Trends

Changes to Board Composition

- Commercial banks will likely look to make changes to comply with new RBI regulations
- From April 2022 – top 500 companies will need to have a non-executive board chair, while the clock is ticking
- As 2024 approaches – which is 10 years from the commencement of INED tenure under the Companies Act, 2013, more INEDs will begin to be termed out of Indian boards
- Boards for the top 1,000 companies will need to upgrade their risk management committees

Public Sector Undertakings (PSUs) and Compliance with Existing CG Practices

- PSUs have the Government of India as either a major or the controlling shareholder
- Board appointments and nominations are controlled ministries instead of nomination and remuneration committees, while remuneration for executives are determined by ministries
 - Does this mean nomination and remuneration committees for these companies are essentially worthless?
- PSUs have been seen to not play by the same rules as other companies, such as:
 - Insufficient board and committee independence
 - Failure to meet board gender diversity requirements
 - Apparent disregard for public free float requirements – especially PSU banks
- Do investors really care if they can't make meaningful changes against the government's shareholding strength?

Meetings to Watch

Meetings to Watch

Apollo Hospital Enterprises and Fortis Healthcare

- These hospital operators have been thrust back to forefront of public health matters in India with the deadly second COVID-19 wave, and now have the burden of dealing with a rise in black fungus cases, in amongst dealing with non-COVID-19 cases
- For Fortis, COVID-19 has compounded matters ongoing with the company, as it is in the middle of an acquisition by Malaysian healthcare giant IHH Healthcare, itself delayed by ongoing disputes with its previous promoters who undertook fraudulent transactions through the company.

Dr. Reddy's Laboratories, Cadila Healthcare, Cipla Ltd, Sun Pharmaceuticals Industries Ltd

- Several of these companies are involved with the production of COVID vaccines, with Dr. Reddy's producing the Sputnik V vaccine. Cadila Healthcare's subsidiary Zydus-Cadila, is in Phase 3 trials for its vaccine, ZyCov-Di.
- Cipla Limited, in conjunction with Swiss company Roche Holding AG, have begun selling an antibody drug cocktail to treat at risk, non-hospitalized COVID-19 patients. Cipla and Sun Pharmaceuticals, among other companies, have had their application cleared by the Drugs Controller General of India to manufacture drugs to counter black fungus.

Pfizer Ltd

- As Pfizer Limited's Indian subsidiary, the ability for India to access its vaccine has been complicated. Talks in November 2020 were a non-starter, and a declining of emergency authorization for Pfizer's mRNA vaccine by India's drug regulator in February 2021 led to Pfizer withdrawing their application, the unfortunate timing of which saw India have a low-level of vaccine-readiness heading into the second wave in April 2021.

Meetings to Watch

Adani Group – Adani Enterprises, Adani Ports and Special Economic Zone

- Both Adani Group companies are involved in the project to develop the Carmichael Mine in Queensland, Australia.
- The Carmichael Mine is so controversial that banks and insurance companies globally refuse to support the project due to ESG concerns, while the Adani Group is having to spend more on the project, but will the project be profitable in the long run?

Vedanta Limited

- In 2020, Vedanta sought to delist, which has either stalled or even failed outright. In 2021, it will be a company to watch as its future ambitions of a future listed company become known.
- Vedanta has been locked in litigation to reopen a smelting facility in the state of Tamil Nadu, which was shut down by the state government over issues relating to environmental pollution. That facility was also the site of significant protests and a pitched battle between police and protestors.

Oil and Natural Gas Corporation Ltd

- ONGC may face scrutiny over recent operations in the Arabian Sea following Cyclone Tauktae, where some barges and vessels either sank, capsized or broke off their anchorages, leading to the loss of life of ONGC and contractor personnel. While an investigation into the impact of Cyclone Tauktae is underway, this could lead to scrutiny over the Company's safety practices.

Thomas Cook India Ltd

- The COVID-19 pandemic has been a challenging period for this Company. Earlier in 2021, the Company sought approval to issue optionally convertible cumulative preference shares to meet working capital and general corporate purposes. The preference share issuance followed the withdrawal of a share repurchase which the Company sought to conduct from February 2020, when the Company's financial performance was much stronger.

Meetings to Watch

Jammu and Kashmir Bank

- The bank has been embroiled in loan and fraud scandals over the past two years, leading action by the Anti-Corruption Bureau, Central Bureau of Investigation, the Enforcement Directorate and even the dismissal and arrest of the former board chair
- Following changes by the Indian government, the Ministry of Finance and Reserve Bank of India now have greater powers to nominate and appoint directors to the board

Yes Bank Ltd

- Following issues relating to bank performance and non-performing assets, the Reserve Bank of India dismissed MD/CEO Rana Kapoor then the rest of the board
- New chair Sunil Mehta and MD/CEO Prashant Kumar will have their work cut out for them, especially with State Bank of India now controlling 43% of Yes Bank's share capital

Dhanlaxmi Bank and Lakshmi Vilas Bank

- In 2020, there was significant shareholder protests against these banks for poor management practices. In 2021, we are seeing the RBI have significantly tighten corporate governance practices. Will these new muscular regulations safeguard against future mismanagement and fraud?

Nandan Denim Ltd

- In 2020, Nandan Denim had two fires in its factories during a six-month period. The first fire resulted in seven fatalities while the second had no fatalities. While some individuals connected to the Company were arrested following the first fire, while there may be lingering questions about worker safety and if changes have been made to its operations.

What's Next at Glass Lewis

- Focus on further engagement with Indian issuers in 2021 and beyond.
- New features in **Viewpoint** and **Proxy Paper**.
- New **Thematic Policies** – Climate Policy.
- **Issuer Data Report (IDR)** - Registration for public companies is always open and available to companies that disclose their meeting documents at least 24 days in advance of their meeting date.
- Using the **Governance Hub**, public companies can access the Proxy Paper for their company and for their peers, with watchlists and alerts for immediate notification as research is published.
- Included with the Governance Hub is the ability to provide a **Report Feedback Statement (RFS)**, which enables public companies to have their opinions on our research and recommendations delivered directly to investor customers.

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Q&A

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