India:

Role of Institutional Investors in the Corporate Governance of their Portfolio Companies

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Finance and Private Sector Development Unit South Asia Region

THE WORLD BANK
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## Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AFG-ASFFI</td>
<td>The French Asset Managers Association</td>
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<td>AMFI</td>
<td>Association of Mutual Funds of India</td>
</tr>
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<td>AUTIF</td>
<td>Association of Unit Trusts and Investment Funds (UK)</td>
</tr>
<tr>
<td>CalPERS</td>
<td>California Public Employees' Retirement System</td>
</tr>
<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>CG ROSC</td>
<td>Corporate Governance Report on the Observance of Standards and Codes</td>
</tr>
<tr>
<td>CII</td>
<td>Confederation of Indian Industries</td>
</tr>
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<td>CIS</td>
<td>Collective Investment Schemes</td>
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<td>CMIE</td>
<td>Centre for Monitoring Indian Economy</td>
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<td>CMVM</td>
<td>The Portuguese Securities Market Commission</td>
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<tr>
<td>DFI</td>
<td>Development Financial Institution</td>
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<tr>
<td>EDLI</td>
<td>Employees' Deposit Linked Insurance</td>
</tr>
<tr>
<td>EPF</td>
<td>Employees' Provident Fund</td>
</tr>
<tr>
<td>EPFO</td>
<td>Employees' Provident Fund Organisation</td>
</tr>
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<td>ERISA</td>
<td>Employee Retirement Income Security Act</td>
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<td>FII</td>
<td>Foreign Institutional Investor</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
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<td>GIC</td>
<td>General Insurance Corporation of India</td>
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<td>GOI</td>
<td>Government of India</td>
</tr>
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<td>HDFC</td>
<td>Housing Development Finance Corporation Ltd.</td>
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<tr>
<td>ICICI</td>
<td>Industrial Credit and Investment Corporation of India</td>
</tr>
<tr>
<td>IDBI</td>
<td>Industrial Development Bank of India</td>
</tr>
<tr>
<td>IFCI</td>
<td>Industrial Finance Corporation of India</td>
</tr>
<tr>
<td>IFSIA</td>
<td>Investment and Financial Services Association</td>
</tr>
<tr>
<td>INR</td>
<td>India Rupee</td>
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<tr>
<td>IRCI</td>
<td>Industrial Reconstruction Corporation of India Ltd.</td>
</tr>
<tr>
<td>IRDA</td>
<td>Insurance Regulatory and Development Authority</td>
</tr>
<tr>
<td>LIC</td>
<td>Life Insurance Corporation of India</td>
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<tr>
<td>MCA</td>
<td>Ministry of Company Affairs</td>
</tr>
<tr>
<td>MOF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>NIA</td>
<td>The New India Assurance Company Ltd.</td>
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<tr>
<td>NIC</td>
<td>National Insurance Company Ltd.</td>
</tr>
<tr>
<td>NIFTY</td>
<td>S&amp;P Nifty (index of 50 stocks listed on the National Stock Exchange of India)</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<tr>
<td>OIC</td>
<td>The Oriental Insurance Company Ltd.</td>
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<tr>
<td>PFRDA</td>
<td>Pension Fund Regulatory and Development Authority</td>
</tr>
<tr>
<td>PSU</td>
<td>Public Sector Undertaking</td>
</tr>
<tr>
<td>RBI</td>
<td>Reserve Bank of India</td>
</tr>
<tr>
<td>S&amp;P CNX 500</td>
<td>Index of 500 stocks listed on the National Stock Exchange of India</td>
</tr>
<tr>
<td>SEBI</td>
<td>Securities and Exchange Board of India</td>
</tr>
<tr>
<td>SFA</td>
<td>Swiss Fund Association</td>
</tr>
<tr>
<td>SGR</td>
<td>Italian Asset management Companies</td>
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<tr>
<td>SRO</td>
<td>Self-regulatory Organization</td>
</tr>
<tr>
<td>UII</td>
<td>United India Insurance Company Ltd.</td>
</tr>
<tr>
<td>UTI</td>
<td>Unit Trust of India</td>
</tr>
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Currency Equivalents

As of June 1, 2005, US$1 = INR 43.71
I. Executive Summary

This Policy Paper was prepared by the World Bank in cooperation with the Confederation of Indian Industries (CII), at the request of the Ministry of Company Affairs (MCA), Government of India (GOI), following the completion of the country’s corporate governance ROSC\(^1\) assessment by the World Bank in April 2004 (the CG ROSC assessment).

The paper falls within the framework of cooperation on matters of corporate governance between the World Bank and the GOI, through the MCA and the newly founded National Foundation for Corporate Governance (NFCG). NFCG was set up under the auspices of the MCA, with the cooperation of CII, the Institute of Company Secretaries of India (ICSI), and the Institute of Chartered Accountants of India (ICAI). Its mandate is to increase awareness of good corporate governance practices through workshops and seminars, sponsor academic research, and set up a training program for board members. NFCG’s work program includes technical assistance from the World Bank for the preparation of policy notes.

The 2004 CG ROSC assessment conducted by the World Bank benchmarks India’s corporate governance framework to the OECD Principles of Corporate Governance (The OECD Principles). It focuses on the rights of shareholders, the equitable treatment of shareholders, the role of stakeholders, disclosure and transparency, and the duties of the board of listed companies. The assessment found that over the last decade or so, a series of legal and regulatory reforms have improved the Indian corporate governance framework markedly; the level of responsibility and accountability of insiders have been strengthened, fairness in the treatment of minority shareholders has been enhanced, together with board practices, and transparency. Nonetheless, enforcement and implementation of laws and regulations remain important challenges.

The areas flagged as a high priority for India in the CG ROSC assessment were: a) the compliance by corporations with the new corporate governance framework and the need for strict enforcement by regulators for corporate governance violations; b) the clarification of regulatory and supervisory responsibilities between the securities regulator and the stock exchanges as far as monitoring and surveillance; c) the role of institutional investors in the corporate governance of their portfolio companies and the need for more transparency on their policies on corporate governance and voting decisions; and d) the creation of a credible directors’ training institution.

This paper addresses the third, and indirectly the first priority areas. Its purpose is to review current market practices regarding the exercise of ownership rights of institutional investors in their portfolio of companies; and to propose policy recommendations to the GOI to strengthen the incentives of institutional investors for monitoring the corporate governance of their portfolio companies.

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Executive Summary

The rationale underlying the policy recommendations is that increased monitoring of Indian listed corporations by institutional investors will drive the former to enhance their corporate governance practices, and ultimately their ability to generate better financial results and growth for their investors. Positive externalities for the whole corporate sector can also be expected.

Based on the experience of countries where shareholders activism is vibrant, such as for example Australia, France, the UK, or the United States, it is reasonable to expect that Indian institutional investors could in some circumstances, enhance the value of their portfolio by undertaking a reasonable amount of analysis and by using their ownership rights more actively. Failure to exercise their ownership rights may in some cases result in a loss for their investors. The purpose of the policy recommendations is therefore to encourage institutional investors to factor such value enhancements/losses in their costs/benefits analysis. In addition, institutional investors, especially those acting in a fiduciary capacity, are better positioned than retail investors to play a monitoring role in their portfolio companies because they do not face the collective action (free-rider) problem to the same extent.

The policy recommendations focus exclusively on the role of institutional investors in the corporate governance of their portfolio companies. They do not address the more complex issue of the corporate governance of institutional investors themselves which was not part of the World Bank mandate.

Based on the findings from two questionnaires sent to institutional investors and companies, complemented by interviews with market participants, it was found that most domestic mutual funds take a passive role in the corporate governance of their portfolio companies. They seldom if ever review the agenda of shareholders meetings, do not attend shareholders meetings, and do not exercise their voting rights, unless something goes drastically wrong, or if a takeover situation occurs. Nor do they disclose their voting records. Foreign institutional investors tend to exercise their ownership rights more actively. Insurance companies and banks are somewhat more active than domestic mutual funds but less active then foreign institutional investors. The latter institutions do attend shareholders meetings, vote at shareholders meetings or through postal ballot and convene informal meetings with management on an ad hoc basis, but like the first group, they support incumbent management. They sometimes consult with other institutional investors.

The framework of the policy recommendations are the revised OECD Principles of Corporate Governance of 2004 (the OECD Principles), which concern primarily those institutions acting in a fiduciary capacity, the activities of which have a clear public good dimension which justify policy makers’ intervention. The recommendations are less relevant to private financial institutions owned by small groups of “qualified investors”. Whether and how these institutions decide to exercise their ownership is ultimately a private matter, largely outside the realm of policy makers’ concerns. However, the paper also discusses the idiosyncratic practice of “nominee directors”.

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The policy recommendations address four main issues: (1) the disclosure by institutional investors of their corporate governance and voting policies and voting records; (2) the disclosure of material conflicts of interests which may affect the exercise of key ownership rights; (3) measures to facilitate the exercise of shareholders rights by institutional investors; and (4) the practice of nominee directors. In addition, it is recommended that the GOI urgently focuses on the corporate governance of institutional investors themselves.

The remainder of the paper contains four sections. Section II below identifies the various types of institutional investors active in the Indian market. It includes a brief summary of the historical context in which they have evolved and provides recent statistical information on their assets under management, their relative size, and historical growth. Section III summarizes the legal and regulatory framework governing the various types of institutional investors operating in the Indian market, together with a summary of the relevant sections of Clause 49 and a discussion on nominee directors. Section IV contains a description and an analysis of market practices as far as the exercise of ownership rights of the various institutional investors. This section is based on two questionnaires which were sent to institutional investors and listed corporations respectively, complemented by a series of interviews with market participants and policy makers. CII provided advice and logistical support for the second questionnaire. Section V sets out the policy recommendations.
II. Topology of the institutional investors’ community in India

Historical Background

Institutional investors providing external finance to Indian listed companies can be broadly classified as lending institutions and investment institutions. Mutual Funds and Foreign Institutional Investors fall in the category of investment institutions. Financial Institutions and Banks fall in the category lending institutions. Unit Trust of India, the government owned mutual fund also had the character of a lending institution until recently as it made term loans to companies in addition to investing in companies through the equity market. Banks often can have both a lending as well an investment relationship.

Until 1991, the main institutional investors were the Development Financial Institutions (DFIs), the Industrial Finance Corporation of India (IFCI), the Industrial Credit and Investment Corporation of India (ICICI), the Industrial Development Bank of India (IDBI), Unit Trust of India (UTI), Life Insurance Corporation (LIC), General Insurance Corporation (GIC), and the Public Sector Banks. All these institutions were government owned. Post-liberalization and the introduction of competition in the Indian financial sector, private sector mutual funds and foreign institutional investors (FIIs) entered the market and transformed the institutional investor landscape. Currently, there are three distinct sets of institutional investors in India: the old institutional investors (DFIs, LIC, GIC and UTI), the new institutional investors viz. private sector mutual funds/insurance companies, and the FIIs.

Development Financial Institutions

Starting in 1948 and throughout the 1950s and 1960s, the Government of India (GOI) established three Development Financial Institutions (DFIs) to cater to the long-term finance needs of the country’s industrial sector. These were IFCI, the first DFI set up in 1948, ICICI, established in 1955 and IDBI, which was established in 1964.²

The Reserve Bank of India (RBI) and the GOI nurtured these three DFIs through financial incentives and other supportive policy measures. They were provided with low-cost funds which they on-lent to industry at subsidized rates. They were also allowed to issue bonds guaranteed by the Government. The Reserve Bank of India

² Other major development banking institutions include the Small Industries Development Bank of India (SIDBI), set up in 1990 as the principal financial institution to cater to the SME sector, the Infrastructure Development Finance Company Ltd. (IDFC) set up in 1997, and the Industrial Investment Bank of India (IIBI), which was the erstwhile Industrial Reconstruction Bank of India (IRBI). However, these DFIs either have very little or no exposure to equity investments in listed companies.
(RBI) allocated a substantial part of its National Industrial Credit (Long Term Operations) funds to IDBI.³

During the 1970s and 1980s, the availability of subsidized loans and tax incentives gave rise to mushrooming of new projects with meagre capital inputs from promoters⁴. This created a moral hazard problem, and the resultant accumulation of non-performing assets in the DFI portfolios. For example, IFCI reported 32.3 percent of total assets to be non-performing as of March 2004.

Since the early 1990s, there have been several changes in the Government’s attitude towards the DFIs when financial sector liberalization began. The DFIs no longer have access to subsidized funds or budgetary support⁵. In addition, they faced competition in the areas of term finance from banks offering lower rates. The change in operating environment coupled with accumulation of nonperforming assets caused serious financial stress to the term-lending institutions, particularly for IFCI.⁶ A restructuring package has been put into effect by the GOI and endorsed by the IFCI Board which has agreed in principle to a merger with Punjab National Bank.⁷ In 2002, ICICI merged with ICICI Bank and is now a widely-held listed bank with foreign institutional investors holding 43.64 percent of the equity as of March 31, 2005⁸. Similarly, in December 2003, the IDBI (Transfer of Undertaking and Repeal) Act 2003 was passed by Parliament to transform IDBI into a banking company. IDBI Ltd. is now registered as a company under the Companies Act, 1956 to carry out banking business in accordance with the provisions of the Banking Regulation Act, 1949.

Two other major groups of Government-owned financial institutions have had a major impact on equity investment trends in India. The first group consists of state-owned life and non-life insurance corporations; the second group is made up of the public sector mutual funds.

**State-owned insurance companies**

The nationalization of insurance business in India resulted in the establishment of the Life Insurance Corporation (LIC) in 1956 as a wholly-owned corporation of the Government of India. The Government of India consolidated 240 private life insurers and provident societies, and LIC came into being. LIC currently offers over 50 plans to cover life at various stages through a network of 2,048 branches. Besides conducting insurance business, LIC invests a major portion of its funds in Government and other approved securities, extends assistance to infrastructure projects and

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⁶ Report of the Working Group on Development Financial Institutions, Reserve Bank of India, May 2004
⁷ IDBI, “Report on Development Banking in India-2003-04”
⁸ ICICI
provides financial assistance to the corporate sector through term loans and underwriting/direct subscription to corporate shares and debentures.\(^9\)

The nationalization of the non-life insurance sector resulted in the formation of the General Insurance Corporation (GIC) in 1973. GIC was set up as a holding company with four subsidiaries (de-linked since 2000), New India Assurance (NIA), National Insurance Corporation (NIC), Oriental India Insurance (OIC), and United India Insurance (UII). NIC, incorporated in 1906, was nationalized in 1973 following the amalgamation of 22 foreign and 11 Indian insurance companies. NIA, incorporated in 1919 and nationalized in 1973, had a pioneering presence in the Indian insurance sector. It insured India’s first domestic airlines and was responsible for the entire satellite insurance program of the country. UII was formed in 1973 following the merger of 22 private insurance companies. As of March 31, 2004, it had a market share of 22 percent among PSU insurers. OIC was incorporated in 1947 and nationalized in 1973. It offers special covers for large projects like power plants, petrochemical, steel and chemical plants. GIC and its erstwhile subsidiaries also provide financial assistance to the corporate sector through term loans and direct subscription to corporate shares and debentures.\(^{10}\)

**Private sector insurance companies**

In 1993, the Malhotra Committee was set up to evaluate the insurance industry and recommend future directions. The committee submitted its report in 1994. Its major recommendations included (i) reduction of Government shareholding in the state-owned insurance companies to 50 percent, and a break up of GIC; (ii) allowing private companies with a minimum paid up capital of INR 1 billion to enter industry, as well as foreign companies in collaboration with domestic companies; and (iii) setting up an insurance regulatory body\(^{11}\). In 2000, GIC’s supervisory role over its subsidiaries was extinguished and GIC was re-designated “Indian Re-insurer” to function exclusively as life and non-life re-insurer. In March 2002, GIC ceased to be a holding company for its subsidiaries and their ownership was vested with the Government of India.\(^{12}\) In April 2002, the Insurance Regulatory and Development Authority (IRDA) came into being. IRDA is responsible for registering private insurance companies and framing regulations for the industry\(^{13}\).

The Insurance Regulatory and Development Authority (IRDA) Act allows foreign companies a 26 percent equity stake in Indian insurance companies. As on June 2005, there were 14 life insurance companies, 14 non-life insurance companies, and one re-insurer (GIC) registered with IRDA. The Life Insurance Corporation of India (LIC) is the only life insurer in the public sector. Eleven of the 13 private companies have an FDI owning 26 percent of their equity, one (HDFC) has an 18.60 percent foreign shareholder, and Sahara India is wholly Indian owned. Seven of the eight private companies in the

\(^{9}\) IDBI, “Report on Development Banking in India-2003-04”

\(^{10}\) IDBI, “Report on Development Banking in India-2003-04”

\(^{11}\) CII

\(^{12}\) IDBI, “Report on Development Banking in India-2003-04”

\(^{13}\) CII
general insurance sector have foreign equity holdings of 26 percent. The only one that does not is Reliance General Insurance Co. Ltd. Of the 13 companies in the private life insurance sector, only one, namely Sahara India, does not have a foreign promoter\textsuperscript{14}.

The public sector still holds the overwhelming market share of premiums underwritten. Of the total premiums (first year premiums and renewal premiums) in 2002-03, the LIC had 95.29 percent of the market share while the private sector had just 4.71 percent. In the non-life segment, the new insurers held a market share of 13 percent\textsuperscript{15}.

**Mutual funds and FIIs**

The Indian mutual fund industry came into being in 1963 with the formation of Unit Trust of India, at the initiative of the Government of India and RBI. The history of mutual funds in India can be broadly divided into four distinct phases\textsuperscript{16}. In the first phase from 1964 to 1987, UTI was the only mutual fund operating in India. In the second phase between 1987 and 1993, public sector banks and insurance companies were permitted to set up mutual funds. State Bank of India, Punjab National Bank, Canara Bank, Indian Bank, Bank of Baroda, Bank of India, LIC and GIC all set up mutual funds. The third phase between 1993 and 2003 saw the entry of private sector mutual funds. As of January 2003, there were 33 mutual funds with total assets of INR 1218.05 billion. The Unit Trust of India with INR 445.41 billion of assets under management was the largest. The fourth phase starting in 2003 saw the beleaguered UTI being split into two separate entities\textsuperscript{17}.

India opened its stock markets to foreign institutional investors (FII) in September 1992. FIIs include, among others, pension funds, mutual funds, asset management companies, investment trusts, institutional portfolio managers, banks and insurance companies, proposing to invest in India as “broad-based funds” (with at least 20 investors, each of them not holding no more than 10 percent of the FII fund). The total number of FII registered with SEBI crossed 700 in May 2005\textsuperscript{18}.

The entry and dominance of private sector mutual funds and FIIs in the last decade completes the transition from a highly leveraged Indian corporate sector heavily dependent on the DFIs, to an increasingly market-based system.

\textsuperscript{14} IRDA, The Hindu, June 2005
\textsuperscript{15} IRDA, The Hindu, June 2005
\textsuperscript{16} Association of Mutual Funds of India
\textsuperscript{17} In 1998, UTI suffered substantial problems and outflows when the equity market declined and the reserves backing its “assured” return schemes, like US-64, turned negative. There were also problems in the investments in unlisted companies. A committee on US-64, under the chairmanship of Deepak Parekh recommended an end to “assured return” schemes, conversion of US-64 into a net asset value (mutual) fund, removal from its books of its equity holdings in partially privatized, public sector firms and its “investments” (which had deteriorated substantially in value), a capital injection and a number of governance improvements, notably bringing UTI under the purview of SEBI (UTI had been created by an act of Parliament that preceded the creation of SEBI). However, the market improved and most of these recommendations, with the notable exception of the purchase of some of UTI’s holdings of equity in public sector enterprises, were not adopted. When the market fell again, UTI once again encountered significant withdrawals. In 2002, the Government approved a reform package that split UTI into the “assured” return schemes—UTI-I, and the net asset value, market based schemes—UTI-II, and issued an Ordinance placing both under SEBI. The government supported a limited redemption of UTI I shares at prices below the “assured” return and the remainder of the fund was converted into a net asset value scheme with an Asset Reconstruction Fund to improve recovery of NPLs.
\textsuperscript{18} Financial Express, May 20, 2005
How corporations fund their operations

In most developed countries with mature economies, retentions or internal resources constitute the most important source of funds for corporations, followed by bank financing\(^\text{19}\). Developing countries on the other hand, rely on external finance, to a larger extent. For India, the external finance, prior to 1985 came largely from the DFIs as seen in the following chart.

**Figure 1 Trend in resource mobilization by the Indian Corporate Sector**

![Trend in resource mobilisation by the Indian Corporate Sector](image)

*Includes only disbursements by the three principal DFIs, ICICI, IDBI and IFCI

Source: RBI/IDBI

The above chart highlights the dominance of the DFIs and a near absence of other sources of external finance such as equity issues until the mid 1980s. The capital markets gained importance in the latter half of the eighties and peaked in the mid-nineties. Both equity and debenture issues seem to have thrived during 1985-95 as sources of funds for private sector corporations. However, since 1995, there has been a decline in equity funding and also a diversion of corporate debentures to the private placement market, reflecting a decline in the importance of capital markets. In fact, non-government non-financial companies have been increasingly relying on internal sources since 1997, as evident from the chart below. The recent shift to internal

resources in Indian corporate funding, however, appears to be a short-term phenomenon arising from the poor performance of primary markets in the near-past.\textsuperscript{20}

Figure 2 Pattern of Sources of Funds- Indian Corporations

<table>
<thead>
<tr>
<th>Year</th>
<th>% of total sources</th>
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<tbody>
<tr>
<td>1984</td>
<td>80</td>
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<tr>
<td>1986</td>
<td>70</td>
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<td>1988</td>
<td>60</td>
</tr>
<tr>
<td>1990</td>
<td>50</td>
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<td>1992</td>
<td>40</td>
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<td>1994</td>
<td>30</td>
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<td>1996</td>
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<td>1998</td>
<td>10</td>
</tr>
<tr>
<td>2000</td>
<td>0</td>
</tr>
<tr>
<td>2002</td>
<td>-10</td>
</tr>
<tr>
<td>2004</td>
<td>-20</td>
</tr>
</tbody>
</table>

Source: RBI

Equity, as a source of funding for \textit{non-government non-financial} public companies went up from 3.9 percent of funds from all sources (internal & external) in 1984-85 to a peak of 29.6 percent in 1993-94, but since then it has been declining. Over the last ten years it has been hovering around 10 percent.

An analysis of the capital structure of listed companies between 1988 and 2004, indicates that debt financing has grown in parallel with the equity market. Except for a couple of short patches in the mid and late nineties, banks and financial institutions have constituted a steady source of funds, contributing roughly 20-25 percent of the funding requirements of \textit{non-financial} companies in the private sector (see chart above). An analysis of the major sources of industrial finance during 1970-2002\textsuperscript{21}, reveals that assistance from/investments by banks and financial institutions which represented 2.1 percent of GDP (at current prices) in the 1970s, represented 4 percent of GDP during 1997-98 to 2001-02.

\textsuperscript{20} Following a series of scams and price rigging incidents in the stock markets during the early-mid nineties, SEBI, in 1996 instituted strict entry and disclosure norms for companies accessing the capital markets. This may also have caused a decline in the number of issues and amount raised in the primary market (Handbook of Statistics on the Indian Securities Market, SEBI, 2004)

Considering all companies (listed and unlisted) in the CMIE database for selected industrial sectors, and looking at their debt-equity ratios (equity at book value) during 1988-2004, there seems to have been some shift away from debt towards equity in some sectors, particularly in the financial services and construction sectors. In case of the manufacturing sector, the average debt-equity ratio declines modestly during 1992-97 but this trend is reversed after 1997. However, if equity is taken at market value, the manufacturing sector debt-equity ratio declines substantially after 2001.

Note: equity has been taken at book value

Note: equity was taken at book value
In summary, the ascendance of equity as a significant source of finance for the industrial sector was confined to the period 1985-95. Corporate debentures grew apace with equity during this period (except for 1993-95), and even as equity finance declined in the subsequent years, debt issues thrived through the vehicle of private placement. Banks and financial institutions have constituted a stable source of funds across decades, although the nature of these institutions themselves has undergone radical changes since the nineties, as discussed earlier.

24 Note: Equity taken at book value
25 Note: Equity taken at market values
Assets under management

Even though banks hold the largest share (52 percent) of all investments held by institutional investors, their equity portfolio is not substantial—over 80 percent of their investments are in Government and other approved securities. On the other hand, insurance companies in the public sector, LIC, GIC and its former subsidiaries (New India Assurance, Oriental Insurance, National Insurance, United India Insurance), have a relatively large presence in the equity sector. As of June 2005, the total investments of insurance companies amounted to about 22 percent of institutional investor investments. The third largest constituent was the Foreign Institutional Investors (FII). These investors were primarily invested in equity, particularly in liquid stocks (NIFTY/S&P CNX 500). Their share of the institutional investor asset base was 14 percent. Mutual funds accounted for about 9 percent of the overall institutional investor investments.

Equity Portfolio of Institutional Investors:
As of December 31, 2004, institutional investors held 21 percent (in market capitalization) of all listed stocks. Of this, FIIs held 12 percent, Indian financial institutions (including insurance companies) 6 percent, and mutual funds 3 percent. The charts below depict trends in institutional investors’ investment over the last four years. These charts show that the relative importance of each of the institutional investor groups has been relatively constant in the recent years. The major investors within each institutional investor group are set out in Annex 1.

Figure 7-Institutional Investor Investment Trends [percent of market capitalization]

Source: CMIE

26 Source: CMIE/IRDA/SEBI
Typical size of equity investments

Typically, the equity stakes of FIIs in Indian corporations are in the range of 1-5 percent. These institutions seem to be comfortable with stakes in the upper half of the range for NIFTY and other liquid stocks in the S&P CNX 500 index.

As of June 2005, the most significant equity investors were the public sector insurance companies. LIC’s average stakes hovered around 10 percent, in practically all NIFTY stocks and a majority of the S&P CNX 500 stocks. GIC and its subsidiaries typically had individual stakes of 1-3 percent in several NIFTY and other S&P CNX 500 companies, but they seem to be investing in unison and their typical combined stakes could be as much as 5-10 percent.

Regarding mutual funds, UTI stakes were in the range 1-3 percent. Private sector mutual funds do not have major stakes (larger than 1 percent) in NIFTY stocks, but they have fair-sized investments in non-NIFTY CNX 500 stocks. Among the private sector mutual funds, HDFC Mutual is a dominant investor (with 3-5 percent stakes in several S&P CNX 500 companies), as is Reliance Capital Mutual Fund, which invests selectively but has stakes in the range 3-5 percent. Prudential ICICI has diversified investments in the range 1-3 percent.

There are isolated instances of large equity investments by banks (Annex 2) and DFIs in a few manufacturing companies. IFCI and IDBI seem to be investing as a consortium, usually one of them leading and the other following, with a combined stake.

27 Capitaline Database
of around 10-15 percent. ICICI Bank invests by itself and in consortium with other DFIs. However, most public sector banks and financial institutions invest through their mutual fund affiliates. For instance, ICICI Bank invests through Prudential ICICI Mutual Fund, ICICI Prudential Life and ICICI Securities. And SBI invests almost entirely through SBI Mutual Fund; the latter has major stakes in several CNX 500 stocks. Individual stakes of a sample of major institutional investors in NIFTY stocks are tabulated in Annex 3.

Apart from the institutional investors described above, two other types of investors are expected to have an increasing presence in the equity markets in the future, provident funds and pension funds. Currently provident funds in India do not invest in equities. However, this is set to change as the GOI issued revised guidelines in January 2005 for investments by non-government provident funds, superannuation funds and gratuity funds, allowing them to invest up to five percent of their total portfolio in shares of companies that have an investment grade debt rating from at least two credit rating agencies. The current corpus of the provident funds is about INR 1,390 billion. Five percent of this amount would inject approximately INR 70 billion into the Indian equity market; a relatively modest figure compared to total equity investments by institutional investors of around INR 3,500 billion. With regard to pension funds, policy makers have embarked on reforming the pensions system for government civil servants. It is expected that the new legislation will allow investments in equity of listed companies. However, the reforms are currently awaiting approval of the Parliament.

In the short run, the small equity stakes of provident and pension funds’ will likely keep them not very influential in the corporate governance issues of their portfolio companies but over time their size and influence will grow. As discussed in Section V, they may follow practices similar to international pension providers like Principal in the US, or Fidelity in the UK which disclose voting policies/records and/or exercise voting rights somewhat systematically. Given that only a small fraction – currently 30 percent or approximately INR 1 trillion of equity investments by institutional investors exert an active role in corporate governance, the increasing presence of pension funds is likely to have a perceptible influence on corporate governance practice of Indian companies in the future.

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28 Social Security Division, Ministry of Labor, Government of India
29 The new system will be based on the establishment of a defined contribution scheme with members offered a variety of investment options including the equity market, fixed income instruments etc.
III. Legal and regulatory framework for Institutional Investors

Institutional Structure of Regulation

Banks and DFIs

Banks and DFIs fall under the oversight of the RBI, with an implicit regulatory role played by the Ministry of Finance. The main legislation governing banks and DFIs is the Reserve Bank Act, 1934 and the Banking Regulation Act (1949). As discussed in the previous sections, the Acts of Parliament governing IDBI and UTI were repealed in 2002 and 2004 to facilitate conversion of IDBI into a banking entity and into market-linked mutual fund respectively.

Insurance companies

In the insurance sector, the two largest government-owned insurance companies- LIC and GIC were set up under Acts of Parliament. Both these institutions fall under the regulation and supervision of both the Ministry of Finance and the insurance regulator, the Insurance Regulatory and Development Authority (IRDA). Other public sector insurers and private sector insurers fall under the purview of the Insurance Act and regulations issued by the regulator IRDA in 1999.

Mutual Funds and Foreign Institutional Investors

The regulatory framework for domestic mutual funds and foreign institutional investors consists of the Mutual Fund Regulations (1992) and the FII Regulations (1994), issued and enforced by SEBI. The regulations lay down the minimum eligibility criteria for entry, net worth standards, and disclosure norms. In addition mutual funds and foreign institutional investors are expected to follow a code of conduct that conforms to guidelines issued by SEBI. The code of conduct lays out the broad principles of proper business conduct and functioning of the intermediaries (Annex-4).

In 1996, all mutual funds except UTI came within the purview of the SEBI (Mutual Fund) Regulations, 1996. UTI which was set up under an Act of Parliament was not under the regulatory purview of SEBI until 2002 when the UTI Act was repealed and the fund was split into UTI-I and UTI-II. Thereafter, UTI I and II were brought under the regulatory purview of SEBI.

The Association of Mutual Funds of India (AMFI) is the self-regulatory organization (SRO) set up in 1997. It is involved in a) recommending and promoting best business practices and code of conduct to be followed by mutual funds; and b) interacting with

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30 The Ministry of Finance is represented on the Board of Directors of Banks and DFIs
SEBI on all matters concerning the industry. In addition AMFI is addresses specific technical issues faced by the mutual fund industry such as developing valuation norms for illiquid securities. Amongst other activities conducted by the AMFI are administering the certification examinations for persons involved in the mutual fund industry which includes employees of the asset management companies and the various brokers, distributors of mutual fund products. The AMFI is also involved in investor education and awareness building.

SEBI issued the FII regulations in November 1995, based on guidelines issued by the GOI in 1992. The regulations mandate the registration of foreign institutional investors with SEBI. The FIIs were initially permitted access to primary and secondary markets for securities and mutual fund products, with a stipulated minimum 70 percent investment in equity. The initial ceilings on the ownership of any firm were 5 percent for a single FII and 24 percent for all FIIs taken as a group. Individual ceiling on ownership has been eased to 10 percent since February 2000, and the overall ceiling for all FIIs was removed in September 2001 in favor of sectoral caps subject to shareholder resolution. FIIs have also been permitted to invest in corporate and government bonds, and in derivative securities. Further, foreign firms and individuals have been permitted access to the Indian markets through FIIs as “sub-accounts” since February 2000. In the year 2003, earlier limitations on FII hedging currency risk using currency forwards were removed, and FII approval was streamlined and vested solely in SEBI, instead of SEBI and RBI as required earlier.31

**Pension Funds Industry**

A new Defined Contribution pension system has been introduced, which is applicable to all Government employees recruited after January 1, 2004. This New Pension System will be regulated by Pension Fund Regulatory and Development Authority (PFRDA) promulgated through an ordinance on December 30, 2004.32 The PFRDA’s role is to license and supervise pension fund managers, lay down guidelines on the number of market participants, prudential norms, investment criteria and capital requirements of pension fund managers. PFRDA is also expected to issue FDI caps for the pension sector. It is expected that initial investments in equity will be somewhat limited. All pre-January 2004 employees can also voluntarily join the new scheme to get an additional benefit. Similarly, all those covered by the Employees Provident Fund (EPF) will continue in it, but can voluntarily join the new scheme to. To a large extent, the new pension schemes will resemble mutual funds, and subscribers will have a choice of parking their savings (a) predominantly in equity, (b) debt & equity mix, or (c) entirely in debt instruments and Government paper.33 Many of the major players in the mutual fund and the insurance industry are set to enter the pension sector, expected to grow to INR 500 billion by 2010.

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31 SEBI; Shah, Ajay and Ila Patnaik, “India’s experience with capital flows: The elusive quest for a sustainable current account deficit”, April 2005
32 This ordinance was sought to be replaced by a Bill in Parliament on March 21, 2005. However, the bill has been referred to the Standing Committee on Finance for further deliberation and debate. The pensions reforms have been held in abeyance until necessary clearances are received by the Standing Committee and thereafter the Parliament.
33 Source: The Hindu, January 2005
The Association of Mutual Funds of India (AMFI) is in talks with PFRDA to allow mutual funds to offer pension schemes.\(^\text{34}\)

### Table 1 Legal and Institutional Framework for Institutional Investors

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**Board representation/Clauses 49**

The regulatory framework governing the boards of directors of Indian corporations is set out in Chapter II (sections 252 to 269) of the Companies Act, 1956. In addition, Clause 49 of the Listing Rules issued by SEBI, which is implemented on a “comply or explain” basis, also provides a framework for the board of directors of listed companies. Board members have a fiduciary obligation to treat all shareholders fairly. At least two-thirds of the board of directors should be rotational.\(^\text{35}\) One-third of the board consists of permanent directors. These include promoters, executive directors and nominee directors. Clause 49 applies to all listed companies with paid up share capital of at least INR 30 million\(^\text{36}\) (USD 660,000) or that have had a net worth of INR 250 million (USD 5.5 million). There are mandatory and non-mandatory requirements.

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\(^{34}\)Source: Economic Times, March 2005

\(^{35}\)Section 255 of the CA. Of these, one-third retires every year and is eligible for reappointment.

\(^{36}\)
Independent Directors

One of the fundamental innovations of Clause 49 was to introduce the concept of independent directors in the Indian corporate governance framework, further to the recommendation of the Kumaramangalam Birla Committee Report on Corporate Governance (The Kumaramangalam Committee) in 2000, and the additional recommendations of The Narayana Murthy Committee in 2003. In this framework, the members of the modern Indian board are jointly and severally accountable to all shareholders without distinction, and hold the fiduciary position of a trustee for the company. They ensure the strategic guidance of the company and monitor management. Stakeholders, including creditors, are protected by contract law and specific legislation. Section IA of Clause 49 requires issuers to have at least one-third independent directors on their boards, if the functions of chairman of the board and CEO are decoupled, and 50 percent otherwise.\(^{37}\)

The updated Clause 49 defines an independent director as a non-executive director who, (a) apart from receiving director’s remuneration, does not have any material pecuniary relationships or transactions with the company, its promoters, its senior management or its holding company, its subsidiaries and associated companies; (b) is not related to promoters or management at the board level or at one level below the board; (c) has not been an executive of the company in the immediately preceding three financial years; (d) is not a partner or an executive of the statutory audit firm or the internal audit firm that is associated with the company, and has not been a partner or an executive of any such firm for the last three years. This will also apply to legal firm(s) and consulting firm(s) that have a material association with the entity; (e) is not a supplier, service provider or customer of the company. This should include lessor-lessee type relationships also; and (f) is not a substantial shareholder of the company, i.e. owning two percent or more of the voting shares.\(^{38}\) It also caps to three terms of three years the mandates of independent directors.\(^{39,40}\)

Nominee Directors

As discussed earlier, a series of DFIs were created by Acts of Parliament to support the development of industrial companies, by extending loans to the latter or subscribing to debentures issues. To protect the public institutions’ investments and equip it with effective risk management tools, each founding Act of Parliament of the DFI stipulated that the latter should insert two specific clauses in their loan agreements, systematically: (1) a convertibility clause, which allowed the DFI to convert its loan/debenture into

\(^{37}\) It is not common practice for the positions of chairman and CEO to be held by the same person.

\(^{38}\) The latest revision of Clause 49 which is currently being finalized stipulates that independent directors cannot own more than 2 percent of the voting shares of the company and cannot be material suppliers, service providers or customers of the company.

\(^{39}\) Clauses V and IF(i) of Clause 49.

\(^{40}\) In 2002, the Naresh Chandra Committee while examining the prevailing definition of independent directors made by the Birla Committee felt that the definition of independent directors needs to be further tightened and extended the definition to exclude relatives, suppliers, vendors, substantial shareholder, employees etc. The Narayan Murthy Committee endorsed this recommendation in its report in 2003.
equity (and hence allowed the DFI to take control of the corporation), if the company defaulted on its debt obligation to the DFI; and (2) a “nominee director clause”, which gave the DFI the right to appoint one or more directors to the board of the borrowing company.

In March 1984, the Banking Division of the Ministry of Finance, Department of Company Affairs issued its Policy Guidelines relating to Stipulation of Convertibility Clause and Appointment of Nominee Directors. The guidelines specified that “IDBI, IFCI, ICICI and IRCI should create a separate Cell the exclusive and whole-time function of which would be to represent the institutions on the Boards of Companies. Outsiders should be appointed as nominee directors only as additional directors were needed. Nominee directors should be appointed on the Boards of all MRTP companies assisted by the institutions. As regard non-MRTP companies, nominee directors should be appointed on a selective basis, especially when one or more of the following conditions prevail: (a) the unit is running into problems and is likely to become sick; (b) institutional holding is more than 26 percent; and (c) where the institutional stake by way of loans/investment exceeds INR 50 million.

The Guidelines further stipulated that “nominee directors should be given clearly identified responsibilities in a few areas which are important for public policy”. An illustrative list of such responsibilities was provided, including (a) financial performance of the company; (b) payments of dues to the institutions; (c) payment of government dues, including excise and custom duties, and statutory dues; (d) inter-corporate investment in and loans to or from associated concerns in which the promoter group has significant interest; (e) all transaction in shares; (f) expenditure being incurred by the company on management group; and (g) policies relating to the ward of contracts and purchase and sale of raw materials, finished goods, machinery, etc. In addition the Guidelines specified that “the nominee directors should ensure that the tendencies of the companies towards extravagance, lavish expenditure and diversion of funds are curbed. With a view to achieve this object, the institutions should seek constitution of a small Audit sub-committee of the board of directors for the purpose of periodic assessment of expenditure incurred by the assisted company, in all cases where the paid-up capital of the company is INR 50 million or more. The institutional nominee director will invariably be a member of this Audit Sub-committee.

Considering that the practice of audit committees only became accepted internationally as best practice in the late 1990s, the Ministry of Finance (MOF) Guidelines were in some respect ahead of their time. However, Section 30.A of the Industrial Development Bank of India Act, (1964) stipulated that nominee directors would not (1) be subject to “the provisions of the Companies Act, or to provisions of the memorandum, articles of associations or any other instrument relating to the industrial concern, nor any provisions regarding share qualifications, age-limit, number of directorships, or removal from office”; and (2) incur any obligation or liability be reason only of his being a director or for anything done or omitted to be in good faith in the discharge of his duties as a director or anything in relation thereto”. Hence, nominee directors were not jointly and severally responsible to shareholders for the actions of the board.
In 1991, the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act) was amended. Provisions relating to concentration of economic power and pre-entry restrictions with regard to prior approval of the Central Government for establishing new undertaking, expanding on existing undertaking, amalgamations, mergers and takeovers of undertakings were all deleted from the statute through the amendments. The causal thinking in support of the 1991 amendments is contained in the Statement of Objects and Reasons appended to the 1991 Amendment Bill in the Parliament.

Finally, in December 2003, the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003 provided for the transfer and vesting of the undertaking of the Industrial Development Bank of India to, and in IDBI Bank. However, Section 15 of Act 53 grandfathered the immunity extended to nominee directors. Specifically, section 15 stipulated that “notwithstanding the repeal of the Industrial Development Act, 1964, the provisions of Section 30A of the Act so repealed will continue to be applicable in respect of the arrangement entered into by the Development Bank with an industrial concern up to the appointed day and the Company [Industrial Development Bank of India] will be entitled to act upon and enforce the same as fully and effectually as if this Act has nor been repealed”.

In 2003, The Kumara Mangalam Birla Committee recommended that institutions should appoint nominees on the boards of companies only on a selective basis, where such appointment is pursuant to a right under loan agreements or where such appointment is considered necessary to protect the interest of the institution. It further recommended that when a nominee of an institution is appointed as a director of the company, he should have the same responsibility, be subject to the same discipline and be accountable to the shareholders in the same manner as any other director of the company. In addition, if the nominee director reports on the affairs of the company to a department of the institution that nominated him on the board of the portfolio company, the institution should ensure that there exist Chinese walls between such department and other departments which may be dealing in the shares of the company in the stock market.

The Narayan Murthy Committee felt that the institution of nominee directors whether from investment institutions or lending institutions creates a conflict of interest. The Committee recommended that nominee directors should not be considered as independent and stressed that it is necessary that all directors, whether representing institutions or otherwise, should have the same responsibilities and liabilities as other directors. However, as discussed in Section V, the final guidelines issued by SEBI in Clause 49 suggest that nominee directors whether from lending or investment institutions shall be deemed to be independent directors.

\[\text{Source: Dr. S. Chakravarthy}\]
IV. Description of market practices

This section is based on two sets of surveys, complemented by a series of interviews with institutional investors, SEBI, and the National Stock Exchange (NSE) in Mumbai, and a review of academic literature and articles in the financial press\textsuperscript{42}. The first survey (Annex 5) was targeted at 25 institutional investors, representative of those institutional investors acting in a fiduciary capacity, as described in section II, with an additional criterion that their investment portfolio should include at least one company which was recently involved in a takeover situation. Only ten completed questionnaires were received. Private equity and venture capital funds were not included in the survey, even though market pundits reported that they increasingly take an active part in the corporate governance of their portfolio companies\textsuperscript{43}. The second survey (Annex 6) was targeted at listed companies. Its purpose was to corroborate the information received by institutional investors. This second questionnaire was submitted to 25 corporations, of which only eight completed questionnaires were received. From the limited surveys and the discussions with respondents, the following summary of market practices emerges.

**Institutional Investors**

Domestic mutual funds are sleepy or dormant, in the sense that they do not take an active part in the corporate governance of their portfolio companies. Respondents and interviewees argued that they scrutinize management before making an investment but once they have invested in a company, they support management or “vote with their feet”. They typically do not look at the agenda of shareholders meetings, do not attend shareholders meetings, and do not exercise voting rights, unless something goes drastically wrong or if a takeover situation occurs. They have never participated actively in setting the agenda of the board/shareholders meeting, nor participated in a requisition of an extraordinary shareholders meeting, or led or joined a coalition for the purpose of producing specific changes. When questioned about the number of times a respondent had voted against management on matters related to dividend distribution, remuneration of executives, capital increases, takeovers, mergers and acquisitions, disposals and change in business, the answer was “never”.

With regard their investment criteria, all respondents ranked market capitalization, firm performance and liquidity, highest. Corporate governance was ranked low. Likewise, the decision to harvest an investment was essentially based on firm performance, and/or a belief that the company was overvalued. However, transparency in accounting practices was deemed important for both the decisions to invest and harvest. When asked whether they receive sufficient information to formulate investment decision, most respondents said yes. Some investors relied on investor analysts’ coverage whilst other carried out


\textsuperscript{43} The reason for this omission is that there is no clear rationale for policy makers intervention regarding the way such investors decide to exercise their ownership rights.
their own research. Interestingly, the discovery of self-dealing activities by management or controlling shareholders was often ranked as an important decision to disinvest.

Most institutional investors did not consider the presence of independent directors on the board an important factor in their investment decision. Likewise, the existence of an audit committee attached to the board was not considered essential. Mutual funds do not take board seats. They are not interested in promoting independent directors on the boards of their portfolio companies.

Ease of attending shareholders meetings and exercising voting rights were not considered important criteria. According to many of respondents the costs of exercising voting rights is not very high though some respondents confirmed that companies continue to “play games” by convening shareholder meetings in remote locations. Interestingly, those who do exercise their voting rights systematically, for example a prominent pension fund\textsuperscript{44}, which has recently begun investing in India, indicated that the costs associated with such voting rights to be high! In contrast, many of the institutional investors that do not exercise their voting rights described the associated costs to be low! However, they also mentioned, somewhat contradictorily, that given their relatively small holdings, it was not cost-effective for them to expend resources in exercising their voting rights meaningfully.

Domestic mutual funds typically participate in analyst meetings/investors conference. They rarely consult with other institutional investors in order to take a common voting position. Such consultation is scarce and appears limited to matters related takeover or demerger situations, or asset sales or corporate actions like bonus issues, stock splits etc. However, some respondents said that that the current regulatory framework restricts their ability to consult with other institutional investors and said that there is a need for SEBI to clarify the circumstances under which consultation is allowed.

Proxy solicitation is extremely rare. Class action suits have been initiated in mergers where shareholders were unsatisfied by the proposed share-swap ratio.\textsuperscript{45} However, according 2004 CG ROSC, “prolonged delays are the norm in court proceedings [and] it is not unusual for the first hearing to take six years and the final decision up to 20 years. The Indian investors association has started filing cases on behalf of minority shareholders as “public interest litigation.” This approach reportedly speeds up the judicial process.

Not surprisingly, the foreign pension fund that participated in the survey, which has only recently begun investing in the Indian securities market, was idiosyncratic in several respects. In contrast with domestic mutual funds, the pension fund does disclose its voting policy together with its voting record on its website and directly to beneficiaries upon their request. In addition to listing firm performance, liquidity, transparency in accounting practices and timely disclosure of important firm decision as important factors for the formulation of investment decision, the US pension fund also ranked the existence of independent board members and the audit committee as critical. For the latter the ease

\textsuperscript{44} Registered in India as a foreign institutional investor

\textsuperscript{45} In some of these cases, the judges have seen merit in the shareholders’ arguments and have ordered the companies to modify the ratio.
of exercising voting rights was also considered essential. As a matter of policy, the pension fund does vote on all resolution put to the shareholders vote. Unlike domestic investors, there has been a few instances where the pension fund has voted against management on matters related to remuneration of executives, capital increases, takeovers and mergers, and disposals and spin offs. As mentioned above, when questioned about the costs of exercising voting rights, the pension fund said that the most expensive item was the time needed to read proxy statements. The pension fund also said that it does not receive sufficient information to formulate voting decisions and complained about the ease of attending shareholders meetings. On the other hand, it considered that it is easy to vote in absentia and said that the procedures were sufficiently clear. Like domestic institutional investors the pension fund generally organizes one to one meetings with the management of their portfolio companies once a year.

The other set of institutional investors, consisting of Indian financial institutions and private sector insurance companies, held roughly 30 percent of the total institutional investment in equities at the end of 2004. As seen in Section II, their relative presence and importance has declined over the years. Some of these institutions, for example LIC, do exercise their ownership and voting rights more actively. They do attend shareholders meetings, vote at shareholders meetings or through postal ballot and convene informal meetings with management on an \textit{ad hoc} basis, but like the first group, they support incumbent management. Sometimes these institutions hold both equity and debt in their portfolio companies.

The state-owned insurance corporation does nominate non-rotational board members.\footnote{Of the \textasciitilde 1500 companies in the state insurer’s portfolio, it nominates directors on about 10 percent of the companies i.e. in about 150 companies.} Its threshold to nominate directors on the board of their portfolio companies is 5-10 percent which is the typical size of its investment in all NIFTY/CNX 500 stocks. The minimum attendance requirement for its nominees for board and committee meetings is reportedly 75 percent. In routine matters, the state-insurer mostly votes in concert with the management, but in cases of takeovers, mergers, disposals and spin-offs, there have been instances where it voted against the management of their portfolio companies. It does not report any instance where it acted in concert with other institutional investors against the management. The most important element of voting cost for the state-insurer is reported to be senior management time and it has reported that so far it has not initiated a proxy solicitation.

\subsection*{4.2 Institutional Lenders}
Notwithstanding the repeal of the legislation, DFI\textsc{s} continue to insist on appointing nominee directors to the boards of borrowing companies.\footnote{This erstwhile DFI had a policy of appointing nominee directors on the boards of certain borrower companies based on loan covenants, with a view to enable monitoring of the operations of those companies. Subsequent to its merger with its banking subsidiary, the merged entity [which is a private commercial bank] continues to nominate directors on the boards of assisted companies. Apart from the Bank's employees, experienced professionals from the banking, government and other sectors are appointed as nominee Directors. This Bank has 112 nominee Directors of who 66 are employees of the Bank on the boards of 214 companies. It also has a Nominee Director Cell for maintaining records of nominee directorships.} Some corporations have
complained that nominee directors representing DFIs crowd out their boards, do not always bring specialized knowledge to the deliberation of the boards, are not senior enough in their institution, and do not always attend important board meetings diligently. It has also been argued that nominee directors face conflicts of interest in situations such as when the repayment of loans is discussed by the board. However, there does not appear to be a consensus on the matter. Other respondent corporations argued that nominee directors do bring added value to their board, particularly in terms of advice to management on corporate governance policies/practices. There is an on-going debate as to whether this idiosyncratic feature of Indian boards of directors should be maintained. According to respondents, nominee board members are compensated by the company of which they are a director, in the form of fees and sometimes stock options. They usually do not receive a specific emolument from their own company that appointed them on the board.

When questioned about whether a nominee director has refused to discuss certain topics/issues concerning the portfolio company that he/she represent on the grounds that the information in his/her possession was confidential, institutional investors responded negatively. However, all respondents said that they have not put in place firewalls within their institution to reduce the impact of conflicts of interest.
V. Policy recommendations

The recommendations of the Kumaramangalam Birla Committee on the issue of Institutional shareholders provide the framework for policy makers’ intervention in India. The Committee highlighted that institutional shareholders, who own shares largely on behalf of the retail investors, have acquired large stakes in the share capital of listed Indian companies; they have or are in the process of becoming major shareholders in many listed companies and own. The Committee called for institutional investors to play a bigger role in the corporate governance of their portfolio companies, and stressed that retail investors are relying on them for positive use of their voting rights. The Committee highlighted practices elsewhere in the world where institutional shareholders influence the corporate policies of their portfolio companies to maximize shareholder value, and recommended that institutional investors follow suit. The Committee stressed that it is important that institutional shareholders should put to good use their voting power.

The Committee recommends that the institutional shareholders should take an active interest in the composition of the board of directors of their portfolio companies; be vigilant; maintain regular and systematic contact at senior level for exchange of views on management, strategy, performance and the quality of management; ensure that voting intentions are translated into practice; and evaluate the corporate governance performance of their portfolio companies. These were non-mandatory recommendations.

Incentives for institutional investors to play a more active role in the corporate governance of their portfolio companies: It has long been recognized that institutional investors, especially those acting in a fiduciary capacity, are better positioned than retail investors to play a monitoring role in their portfolio companies because they do not face the collective action (free rider) problem to the same extent (See Box-1 for a description on free rider and collective action). The potential returns from their equity investment can outweigh the monitoring costs. However, as discussed in Section IV, at present most Indian institutional investors take a passive role in the corporate governance of their portfolio companies. Even those institutions who exercise their ownership rights more actively, to a large extent share the same view with regard to the monitoring of management. Management is primarily screened ex-ante, at the time of deciding to take an equity position in a company. Once an institution has taken the decision to invest in a company, it supports its management. If and when it loses confidence in management, it sells its shares.
Box-1: Free Riding and Collective Action

When ownership is dispersed, shareholder control tends to be weak because of poor shareholder monitoring. The inadequacy of shareholder monitoring is due to the so-called free-rider problem. A small shareholder would not be interested in monitoring because he or she would bear all the monitoring costs, but only share a small proportion of the benefit. Consider a hypothetical motion to vote, which could result in each of the 1000 voters gaining or losing $1,000. The total corporate gain would be $1 million. If each voter is certain that the results of the election will be the same, whether or not s/he participates, then the voter's optimal investment in information is zero. Still, if a voter thinks that his/her vote could make a difference, s/he may be willing to invest up to $1000 to make certain that s/he makes the right choice. However, an investment of $1000 may not be sufficient to determine the appropriate vote that will increase the corporate value by $1 million. Thus, there is a danger that the voter who invests $1000 dollars will be acting on insufficient information, even though a single investment of $10,000 in information might be adequate. Those who have more shares, such as institutional investors, do not face the collective action problem to the same extent. Nonetheless, no shareholder, no matter how large his/her stake, has the right incentives unless that stake is 100 percent.

From a cost/benefit standpoint, institutional investors consider that the potential benefits of taking an active role in the corporate governance of their portfolio companies are not commensurate with the costs associated with such monitoring role. This approach may be legitimate, given the concentrated ownership structure of listed companies, the small equity stakes of each individual institutional investor, and the lack of cooperation between institutional investors.

However, the experience of OECD countries and the most dynamic emerging market countries suggests that corporate governance practices of listed companies and their voluntary compliance with Clause 49, and ultimately the protection of shareholders rights, could be improved if institutional investors acting in a fiduciary capacity could be induced to participate more actively in the corporate governance of their portfolio companies.

From a policy standpoint, it is desirable that institutions acting in a fiduciary capacity, such as pension funds, collective investment schemes and insurance companies should consider the right to vote an intrinsic part of the value of the investment being undertaken on behalf of their client. Failure to exercise the ownership rights could result in a loss to their investors who should therefore be made aware of the policy followed by the institutional investors.

In the United States, under the Employee Retirement Income Security Act (ERISA), a pension plan fiduciary obligation includes the voting of proxies. In addition, the Department of Labor considers that “a pension plan sponsor’s fiduciary duty in managing plan assets includes a duty to vote proxies in the interests of plan beneficiaries, and a positive duty to actually vote on issues that may affect the value of the plan’s investments. Pension plans are urged to develop written voting guidelines. The Department of Labor also advocates that pension plan sponsors undertake activities

48 For example Korea or Chile
designed to monitor or influence corporate management where warranted, to enhance the value of the plan’s investments”.

The US requirement to vote is most appropriate for pension funds that have long term assets and liabilities on their balance sheets, and must therefore follow long term investment strategies. They have less of an incentive than mutual funds to maximize short term returns. Voting with their feet is only one possible strategy if they are dissatisfied with the management of a portfolio company. It can be more appropriate instead to induce management to change its behavior. For example institutions might become concerned about potential conflicts of interests on the board of their portfolio company. Or they might wish to intervene to object to a proposed restructure of the board, or to a particular transaction that the company proposes to enter into, or express concerns about executive share option schemes or the level of benefits being given to non-executive directors.

At present, there are no private pension funds in India, although the Pension Fund Regulatory and Development Authority has been established and is currently developing regulations for the private pension fund industry. The establishment of private pension funds is expected in the near future. Currently, the main public pension fund is not allowed to invest in equity. An obligation for Indian institutional investors to exercise voting rights would therefore not be appropriate in India.

In the UK, the Myners Report of March 2001 recommended that the principles of the US Department of Labor regarding the exercise of voting rights by pension funds be embedded in the law of the land. To pre-empt government action, in 2004, the National Association of Pension Funds issued its guidelines of voting which recommended that pension funds exercise their voting rights. As a result, the government decided to wait and see if a voluntary approach would work. This approach seems to have been successful. In its Progress Report of March 2005, Mr. Paul Myners commented that “of the 34 [fund] managers that were asked about voting, 32 had a policy to vote all their UK shares and, in the majority of instances, this policy was public. They also report quarterly to their clients and explain their voting decisions, particularly when voting against the recommendations of the board, or consciously withholding their vote.”

The question for Indian policy makers is how to create incentives for those institutional investors that invest in equities to become more active in the exercise of their ownership rights, without coercion, without imposing illegitimate costs on them, and given India’s specific situation?

49 Department of Labor Pension and Welfare Benefits Administration, Interpretative Bulletin 94-2, July 29, 1994, [mention the UK regulation].
50 However, the Myners Report noted that “[It] does not believe that the [US] Department of Labor principle means compulsory voting in all cases; nor [is it desirable that] manager should exercise votes on all shares, however unthinkingly. But voting is one of the central means by which shareholders can influence the companies in which they have holdings, and [the Report] believes that a culture in which informed voting was more universal is very much to be desired”.
51 See http://www.napf.co.uk/servicesdownload/votingmadesimple/votingmadesimple.pdf
Several countries mandate their institutional investors acting in a fiduciary capacity to disclose their corporate governance policies to the market in considerable details. Such disclosure requirements include an explanation of the circumstances in which the institution will intervene in a portfolio company; how they will intervene; and how they will assess the effectiveness of the strategy. In most OECD countries, Collective Investment Schemes (CIS) are either required to disclose their actual voting record, or it is regarded as good practice and implemented on an “apply or explain” basis. Table 2 below summarizes current practices in Australia, France, Italy, Portugal, Sweden, Switzerland, the UK, and the US.

### Table 2-CIS Disclosure of Voting Policies

<table>
<thead>
<tr>
<th>Country</th>
<th>Current Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>There is no obligation under applicable law for fund managers or trustees to attend shareholders meetings or vote on resolutions. However, the Investment and Financial Services Association (IFSA) recommends that its members, as a matter of good practice, should […] vote on all material issues at all Australian company meetings where they have the voting authority and responsibility to do so; and have a written policy on the exercise of proxy voting.</td>
</tr>
<tr>
<td>France</td>
<td>The French association AFG-ASFFI considers it very important for asset management portfolio companies to develop voting guidelines, including voting criteria on resolutions. The AFG-ASFFI also strongly encourages CIS operators to exercise voting rights and account for this exercise in CIS annual reports.</td>
</tr>
<tr>
<td>Italy</td>
<td>The Italian Asset management Association has issued guidelines “requiring asset management companies to formalize and keep appropriate records showing the decision-making process followed in exercising the voting and other rights attached to financial instruments under management and the reasons for the decisions where the vote concerns a company belonging to the same group as the SGR. The position adopted in a shareholders’ meeting shall be reported, in relation to their importance, to investors in the CIS annual report or in some other appropriate manner previously established”.</td>
</tr>
<tr>
<td>Portugal</td>
<td>CIS must disclose to the CMVM, the regulatory agency, and the market, how the CIS exercised its voting rights when the latter holds more than 2 percent of the voting rights of an issuer. In addition, its annual report, the management company must identify and justify any deviation on the voting policy, when it holds more than 1 percent of the voting rights of an issuer. Disclosure is either to their clients (only with respect to the securities of each client) or, in the case of investment advisor, to the registered investment companies, or to the market, which is less costly.</td>
</tr>
<tr>
<td>Sweden</td>
<td>The Swedish Association recommends that CIS operators […] establish and publicize policies on corporate governance containing principles for exercising voting rights and for electing board members. CIS operators should also disclose to investors their standpoint in certain corporate issues and the reason for their position.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>The Swiss Fund Association (SFA) emphasizes the obligation of CIS operators to exercise shareholders rights pertaining to the investments of the CIS independently and exclusively in the interest of investors. CIS are required to be able to provide investors with information on their exercise of their rights. Delegation is permitted to custodian banks or other third parties, except where the exercise of the right could have lasting impact on the interest of the investors. In such cases the CIS</td>
</tr>
<tr>
<td>Country</td>
<td>Current Practice</td>
</tr>
<tr>
<td>---------</td>
<td>------------------</td>
</tr>
<tr>
<td>UK</td>
<td>The UK Association of Unit Trusts and Investment Funds (AUTIF) emphasizes in its Code of good Practice that fund managers should become involved in governance matters and should report to their investors on their policy on voting and other governance issues.</td>
</tr>
<tr>
<td>US</td>
<td>The SEC recently issued a ruling mandating CIS to disclose their proxy voting policies and proxy voting records. The ruling requires registered management investment companies to file with the SEC and to make available to shareholders the specific proxy votes that they cast in shareholder meetings of issuers of portfolio securities.</td>
</tr>
</tbody>
</table>

Source: IOSCO

In addition, Principle 1G of the OECD Principles calls for institutional investors acting in a fiduciary capacity to disclose their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights.

The experience of OECD countries where institutional investors take an active role in the election of independent directors to the board, scrutinize compensation policies, and more generally, monitor closely the management of their portfolio companies by voting almost systematically on all resolutions submitted to shareholders vote at shareholders meetings, and if necessary by initiating proxy solicitations to force an item to be put shareholders vote, show that institutional investors can play a complementary role to the role of watchdog institutions in the protection of shareholders rights. Moreover, many investors have concluded that positive financial returns and growth can be obtained by undertaking a reasonable amount of analysis and by using their rights.

Policy Recommendation # 1 : Based on discussions with policy makers, market regulators and market participants, and taking into account the current topology of India’s institutional investment community, a least cost, voluntary approach to compliance with OECD Principle 1.G seems most appropriate for India, at least for the next few years. Such an approach would introduce “soft” incentives for institutional investors to differentiate themselves from each other and leave market forces to drive the process. It is therefore recommended that the Securities and Exchange Board of India for mutual funds and FIIs, and the Insurance Regulatory and Development Authority for insurance companies, and the Pension Fund Regulatory and Development Authority for pension funds (when these are set up) issue some guidelines, on a stand alone basis or as part of their code of conduct as appropriate, recommending that the institutions that fall under their oversight, should disclose to the market, on a comply or explain basis, via their company website, their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights. It should also be recommended that these institutions post annually on the same website, their voting records, on an ex-post basis.
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It is important that institutions should disclose the procedures that they have put in place for deciding on the use of its voting rights to avoid window dressing. Indeed, unless an institution has made the necessary investments in terms of financial and human resources to implement its corporate governance and voting policies in an informed manner, such policies would become empty words.

One of the advantages of this approach is that it sets the framework for institutional investors to start cooperating more actively with each other. Indeed, an institutional investor inclined to vote against management on a specific issue could more easily contact those institutional investors who have expressed the same prima facie concerns on this type of issue, publicly. Such discussions would allow the institutional investor to establish with greater certainty the likelihood that his vote would be “pivotal”, with the support of those institutional investors with whom he has spoken. On this basis, he might be encouraged to cast his vote.

Over the medium term, as the market starts paying attention to the manner in which institutional investors exercise their voting rights, new incentives could be introduced so that institutional investors start disclosing their voting intentions ahead of shareholders meetings, i.e. on ex-ante basis. This practice could in time, foster the emergence in the market place, of an independent private organization (perhaps an offshoot of the financial analyst industry), that would aggregate voting records information for the benefit of all investors, including retail investors, who could then align their votes with those of institutional investors, without having to perform costly sophisticated analysis themselves, rather than abstaining or systematically supporting incumbent management. This might also introduce more efficiency in the market for corporate control, as an added disciplinary mechanism. In addition, the disclosure of voting records by institutional investors acting in a fiduciary capacity could foster the emergence of one or several private watchdog institutions, similar to Institutional Shareholder Services Inc, a US based company, or PIRC in the UK, that issue informed research and objective vote recommendations on listed companies.

Conflicts of interest: Over the last decade and a half, market forces have driven Indian financial services companies to seek critical mass. Large financial conglomerates have been created that include insurance companies, commercial banks, investment banks, non-banks financial institutions, and mutual funds. Whilst this transformation created vast synergies, and made the groups more competitive, it also created potential conflicts of interests between a group’s fiduciary institution and its other components.

Such conflicts of interest occurs when a fiduciary institution which is a subsidiary or an affiliate of an integrated financial group, holds and interest in a portfolio company, whilst the latter has a contractual relationship with another company of the group. For example, a mutual fund belonging to a financial conglomerate that includes a commercial bank, an investment bank, and an insurance company, may face conflicts of interests if the insurance company manages the provident fund of the portfolio company; or if the commercial bank is also a lender to the portfolio company, or if the investment bank is
underwriting an issue of shares by the portfolio company\textsuperscript{52}. In such cases, its voting
decision might be influenced by the interests of other companies within the group.

In order to minimize such conflicts of interest, most OECD countries require that
collective investment schemes (CIS) identify and disclose them in their prospectuses,
their financial statements, or both. (see Table 3 below). Some countries, like Canada and
Austria, even require the prior approval of scheme members in circumstances where the
intermediary owner seeks to confer a financial benefit on itself or a related party.

**Table 3-Disclosure of conflicts of interests of CIS to investors in the OECD**

<table>
<thead>
<tr>
<th>Country</th>
<th>Current Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Yes, in the prospectuses, the annual report and Product Disclosure Statements. In addition, when the operator of the CIS seeks to confer a financial benefit on itself or a related party, it may only do so with the prior approval of the scheme members.</td>
</tr>
<tr>
<td>Austria</td>
<td>No.</td>
</tr>
<tr>
<td>Belgium</td>
<td>Yes, in the annual reports.</td>
</tr>
<tr>
<td>Canada</td>
<td>Yes, in the prospectus, the annual and semi-annual financial statements. In certain circumstances, prior approval is required form investors in advance of the transaction.</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Yes, in the prospectus.</td>
</tr>
<tr>
<td>Denmark</td>
<td>Yes, in the annual reports. The prospectus must disclose information on contracts with related parties, including the management company</td>
</tr>
<tr>
<td>Finland</td>
<td>Yes, in semi-annual and annual reports.</td>
</tr>
<tr>
<td>France</td>
<td>Yes, in the annual reports.</td>
</tr>
<tr>
<td>Germany</td>
<td>Yes, in semi-annual and annual reports.</td>
</tr>
<tr>
<td>Greece</td>
<td>No.</td>
</tr>
<tr>
<td>Honk Kong China</td>
<td>Yes, in the annual reports and offering documents.</td>
</tr>
<tr>
<td>Hungary</td>
<td>No.</td>
</tr>
<tr>
<td>Italy</td>
<td>Yes, the directors’ statements accompanying the CIS annual reports must include a description of the dealings with other companies belonging to the same group, and information on participation in placements carried out by companies within the group.</td>
</tr>
<tr>
<td>Japan</td>
<td>Yes, in the financial statements</td>
</tr>
<tr>
<td>Korea</td>
<td>Yes, the Trust Property Management Report is provided to investors every six months. The report includes the details of management of trust property, details on investment in securities issued by an affiliated company, and details on transactions made by a management company or connected party with trust property.</td>
</tr>
<tr>
<td>Luxemburg</td>
<td>No.</td>
</tr>
<tr>
<td>Mexico</td>
<td>Yes, in the prospectus.</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Yes, in the prospectus, semi-annual and annual reports</td>
</tr>
<tr>
<td>Norway</td>
<td>Yes, in the prospectus, semi-annual and annual reports</td>
</tr>
<tr>
<td>Poland</td>
<td>Yes, in the prospectus, semi-annual and annual reports</td>
</tr>
<tr>
<td>Portugal</td>
<td>Yes.</td>
</tr>
<tr>
<td>Singapore</td>
<td>Yes, in the prospectus, semi-annual and annual reports</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Yes, in the semi-annual and annual reports.</td>
</tr>
</tbody>
</table>

\textsuperscript{52} Conflicts of interest can sometimes be commercially sound. An example of a commercially sound conflict of interest is when an institution decides to abstain from voting because the costs of exercising its voting rights outweigh the potential benefits. The ultimate owner of the shares might prefer the fiduciary institution to vote the shares, but it does not make sense for the latter to do so.
Policy Recommendations

<table>
<thead>
<tr>
<th>Country</th>
<th>Current Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spain</td>
<td>Yes, in the prospectus and quarterly reports.</td>
</tr>
<tr>
<td>Sweden</td>
<td>No.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Yes, in the annual reports.</td>
</tr>
<tr>
<td>Turkey</td>
<td>Yes, in the prospectus, semi-annual and annual reports</td>
</tr>
<tr>
<td>UK</td>
<td>Yes</td>
</tr>
<tr>
<td>US</td>
<td>Yes. However, disclosure may be used to deal only with conflicts of interest situations that are otherwise not addressed through specific provisions of the Investment Company Act of 1940.</td>
</tr>
</tbody>
</table>

Source: OECD

Policy recommendation # 2: In line with international best practice, the Securities and Exchange Board of India for Mutual Funds and the Insurance Regulatory and Development Authority for Insurance Companies should mandate the disclosure by institutions under their oversights of how they manage material conflicts of interests that may affect the exercise of key ownership rights regarding their investments. More generally such disclosure should extend to all institutional investors acting in a fiduciary capacity. The disclosure should be made in the prospectuses and in the periodic financial statements.

Facilitating the exercise of shareholders rights: To support the previous recommendation, it is essential that policy makers ensure that the exercise of ownership rights by shareholders is facilitated. Voting should be made as easy as possible to encourage institutional investors to exercise their voting rights. The following deficiencies have been identified in this respect: (1) The 2004 CG ROSC assessment mentioned that some companies have taken advantage of Article [] of the Companies Act, which stipulates that shareholders meetings must be convened at the location where the company is registered, to deter shareholders from attending shareholders meetings. These companies register their administrative headquarters in remote locations, and choose the most inconvenient dates and times for their shareholders meetings, to dissuade shareholders from attending the meetings. According to interviewees, this conspiratorial practice continues to occur. (2) Over the last ten years, electronic communication has profoundly transformed the means through which shareholders can cast their votes. Most OECD governments have recognized this and have introduced legislation to enable electronic voting. In the words of eponymous Mr. Paul Myners, “electronic voting lies at the heart of a more efficient voting system”. International good practice consists of allowing the electronic appointment of proxies instead of organizing electronic polls. This practice does not exist in India at present. (3) In addition, the 2004 CG ROSC assessment mentioned that holders of depository receipts do not have the same rights and opportunities to vote as holders of underlying shares.

Finally, a complementary approach to participating at shareholders meetings is to engage in a continuous dialogue, on a one to one basis, with the management of portfolio companies. This approach allows investors to increase their level of comfort with management and to better understand the context in which the company operates. It also provides a channel for investors to air their grievances in private. Such meetings occur

53 See for example the Companies Act (electronic Communication) Order (2000) in the UK. See also the recent Review of the Impediments to Voting UK shares of March 2005."
Policy Recommendations

routinely in the most developed securities markets\textsuperscript{54}. In some OECD countries there are also principles calling for the nomination of a contact person on the board who retains close contact with such investors and form an intermediary between the institutions and the management.

The OECD Principles emphasize that such “a dialogue between institutional investors and companies should be encouraged” and stress that unnecessary regulatory barriers should be lifted, notwithstanding the need for issuers to treat all shareholders equally and not to divulge information to the institutional investors which is not in the public domain.\textsuperscript{55}

As discussed in section IV, Indian institutional investors seldom convene such meetings although most of them do attend analysts meetings. However, when questioned about a hypothetical disagreement with management, all respondents answered that they would endeavor to express their views to the former privately. If a satisfactory compromise could not be reached in private, they would prefer to sell their shares rather than making their views public. As Indian institutional investors start exercising their ownership rights more actively, it is to be expected that such meetings will occur more frequently.

Policy recommendation # 3: (1) Consider including a provision in the Companies Act currently under to review to prevent companies to convene shareholders meeting in far away locations. (2) Policy makers should review the Information Act 2000 to ensure that there are no legal impediments to the electronic appointment of proxies. (3) In line with OECD Principle II.A.3, policy makers should ensure that holders of depository receipts are provided with the same ultimate rights and practical opportunities to participate in corporate governance as are accorded to holders of the underlying shares, in line with the recommendations of the International Corporate Governance Network. (4) SEBI should issue a directive to clarify the nature of the information that can be exchanged at meetings between institutional investors and companies, in compliance with the Insider Trading Regulations of 1992 and its 2002 amendment. The directive should stress that it does not condone the selective disclosure of information by companies to institutions and clearly set the principle of equality of treatment of all shareholders by corporations.

Facilitating cooperation between institutional investors while safeguarding market integrity: Institutional investors do not face the collective action (free rider) problem to the same extent as retail investors because they have the capacity to make larger investments. Nevertheless, the free rider problem can never be eliminated completely. If an institution invests resources in monitoring activities, others will gain without having contributed. One way around this problem is for institutions, particularly those acting in a fiduciary capacity, to increase their ownership stakes in individual companies to more economic levels, rather than simply diversify. The potential returns from their equity

\textsuperscript{54} In Australia for example, the IFSA encourages direct contacts with companies, including communication with senior management and board members about performance, corporate governance and other matters affecting shareholders’ interests; and

\textsuperscript{55} Commentary to OECD Principle 1G.
investment can then outweigh the monitoring costs. However, in many countries, including India, they are prevented from doing this for prudential reasons.

In addition, it may be difficult for institutions that are unhappy with the corporate governance of a company simply to sell their investment. Because of the size of their shareholdings, it may not be possible to sell the holding quickly and also obtain a reasonable price. Or the shares may be trading below the company’s asset backing (possibly due to the very conduct about which the institution is unhappy) and this may mean that selling is not an attractive option. The ability of index funds to sell may be limited by the extent to which they can depart from the index.56

One solution around this problem is to allow and even facilitate shareholders to cooperate in exercising a strong monitoring role in a target company. This approach allows institutions to increase their leverage over management without having to acquire more shares. The practice has become quite common in Australia, the US and the UK in particular. Such practice is to be encouraged since it provides a means of overcoming the free rider problem. As discussed in section IV, Indian institutional investors currently almost never consult with each other on matters of corporate governance of their portfolio companies.

The danger, however, is that such cooperation could be used to manipulate markets and to obtain control of a company without being subject to takeover regulations. To prevent such occurrence SEBI, like other market regulators around the world, has issued a series of takeover rules and market manipulations guidelines. Like the SEC in the US and the FSA in the UK, SEBI allows cooperation where it is not for the purpose of obtaining control of the company.58 However, some countries, for example Australia, have issued specific guidelines for collective actions by institutional investors.59

**Policy recommendation # 4 : SEBI might consider issuing a ruling clarifying the circumstances under which consultation and voting agreements between institutional investors may take place without triggering the provisions of the SEBI Act 1992 regarding substantial acquisitions of shares, or those concerning market manipulation.**

**Nominee directors:** *Stricto censō*, a lending institution is a service provider to the company. Therefore, a board member representing a lending institution should not be deemed to be independent. However, Explanation (ii) to the definition of independent director in Clause 49 stipulates that “institutional directors on the boards of companies shall be considered as independent directors whether the institution is an investing institution or a lending institution”. This annotation is somewhat confusing and needs to be clarified.

56 In addition, some institutions are so-called value investors and may deliberately buy into a company experiencing corporate governance (or other) problems with the intention of fixing those problems.
57 [details of market manipulation]
58 Market participants confirmed that there is no legal/regulatory restriction to cooperation between institutional investors, as long as they are not ‘acting in concert’ to take over a company
The Narayan Murthy Committee of 2003 considered that the institution of nominee directors whether from investment institutions or lending institutions creates a conflict of interest and should not be considered as independent. It further argued that it is necessary that all directors, whether representing institutions or otherwise, should have the same responsibilities and liabilities.

There is also a debate on the special treatment accorded to nominee directors. As mentioned in Section III, nominee directors appointed by Financial Institutions are not subject to retirement by rotation, as are directors appointed by shareholders. The appointment, retirement and functions of nominee directors of FIs are governed by the respective parent Acts. In addition, it has been argued that nominee directors sometimes convey the confidential price-sensitive information they have received at board meetings to other departments of their own institution, involved in buying and selling securities.

The recently released report of the Ministry of Company Affairs on Company Law has raised the debate on these issues. The Ministry is expected to factor in public comments received on this report before presenting a revised company law legislation for ratification by Parliament later this year. Some of the salient recommendations of this report which have a bearing on the role and responsibilities of the non-executive directors are:

- **Nominee directors** appointed by any institution or in pursuance of any agreement or Government appointees representing Government shareholding should not be deemed to be independent directors.
- **Liabilities of independent and non-executive directors.** A non-executive/independent director should be held liable only in respect of a violation of the law which had taken place with his knowledge (attributable through Board processes) and where he has not acted diligently, or with his consent or connivance.
- **Knowledge Test.** If the independent director does not initiate any action upon knowledge of any wrong, such director should be held liable. Knowledge should flow from the processes of the Board. Additionally, upon knowledge of any wrong, follow up action/dissent of such independent directors from the commission of the wrong should be recorded in the minutes of the board meeting.

**Policy recommendation # 5 :** It is difficult to reconcile how nominee directors of financial institutions, which are service providers to a company or hold significant equity stakes, can be considered “independent”, according to the definition of Clause 49. It is therefore recommended that the explanation to the definition of independent directors of Clause 49 should be amended to rectify this point. Lending Institutions may legitimately wish to continue to negotiate the appointment board members on the boards of companies in which they hold a significant equity stake or have lent significant sums of money. But such directors should not be counted as independent. Such clarification would create an incentive for lending institutions to

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60 Source: J.J.Irani Committee Report on Company Law released for public comment on May 31, 2005 by the Ministry of Company Affairs
take an active part in the nomination of qualified independent directors, capable of protecting their rights.

The internal corporate governance of institutional investors: Finally, as highlighted at the beginning of this policy paper, the World Bank’s terms of reference for this study did not include a review of the corporate governance of institutional investors themselves. Nevertheless, it is impossible to consider the role of institutional investors in the corporate governance of their portfolio companies without being confronted to several features of their own internal corporate governance. From the limited amount of information gathered during this exercise, it appears that Chinese walls between lending and investing activities of the same financial institution are not always strictly enforced, and that several types of related party transactions, such as the sales and purchases of funds units from insiders and affiliated entities, or dealings with affiliated entities such as brokers, may not be adequately covered by the existing legislation or enforced by regulatory agencies. Without detailed analysis, it is impossible to opine on whether the risk management systems of mutual funds and insurance companies, including their supervisory structures, internal controls, and the procedures for approving new investment strategies and instruments, and the standards of financial reporting, comply with international best practice.

Furthermore, policy makers are currently preparing the legislation that will permit the introduction of private pension funds in the institutional landscape. It is reasonable to expect that the integrity and efficiency of the Indian capital market improves markedly over the next few years. It will then become desirable to allow public and private pension funds to invest in domestic equities. Therefore, over the medium term, it is likely that these institutions will become major investors in the domestic capital market, including the equity market. It therefore is important that corporate governance considerations be included in their investment guidelines and code of conduct.

Policy recommendation #6: the corporate governance of institutional investors acting in a fiduciary capacity should be a high priority for the GOI.
References:

Annexes

Annex 1 Major Investors within each Institutional Investor Group

<table>
<thead>
<tr>
<th>INSTITUTIONAL INVESTOR TYPE</th>
<th>TOP 5 INVESTORS</th>
</tr>
</thead>
</table>
| Foreign Institutional Investors | • Aberdeen Asset Managers  
• HSBC Global Investment  
• Templeton Global Advisors  
• Morgan Stanley  
• Goldman Sachs Investments |
| Mutual Fund | Public Sector  
• UTI  
• SBI Mutual  
Private Sector  
• HDFC Mutual Fund  
• Reliance Capital Mutual Fund  
• Prudential ICICI Mutual Fund  
• Templeton Mutual Fund  
• HSBC Mutual Fund |
| Banks and DFI | • IDBI  
• IFCI  
• ICICI Bank  
• HDFC  
• State Bank of India |
| Insurance Companies | • LIC  
• GIC & Subsidiaries |

Source: Capitaline Database
## Annex 2 Major Shareholding of Banks in S&P CNX 500 companies

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Holder's Name</th>
<th>% stake</th>
<th>Market cap(Rs billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3M India</td>
<td>Bank of Punjab Ltd</td>
<td>1.15</td>
<td>5.94</td>
</tr>
<tr>
<td>Adani Exports</td>
<td>Bank of India</td>
<td>11.00</td>
<td>16.76</td>
</tr>
<tr>
<td>Adani Exports</td>
<td>State Bank of India CAG</td>
<td>4.08</td>
<td>16.76</td>
</tr>
<tr>
<td>Ajanta Pharma</td>
<td>ICICI Bank Ltd</td>
<td>1.61</td>
<td>0.81</td>
</tr>
<tr>
<td>Asian Hotels</td>
<td>Canara Bank</td>
<td>1.10</td>
<td>7.23</td>
</tr>
<tr>
<td>Bhushan Steel</td>
<td>Punjab National Bank</td>
<td>1.15</td>
<td>6.67</td>
</tr>
<tr>
<td>BSL</td>
<td>Oriental Bank of Commerce</td>
<td>4.43</td>
<td>0.36</td>
</tr>
<tr>
<td>BSL</td>
<td>Syndicate Bank</td>
<td>6.34</td>
<td>0.36</td>
</tr>
<tr>
<td>Can Fin Homes</td>
<td>Canara Bank</td>
<td>29.32</td>
<td>0.92</td>
</tr>
<tr>
<td>Can Fin Homes</td>
<td>National Housing Bank</td>
<td>2.44</td>
<td>0.92</td>
</tr>
<tr>
<td>Federal Bank</td>
<td>ICICI Bank Ltd</td>
<td>20.76</td>
<td>10.05</td>
</tr>
<tr>
<td>Flex Inds.</td>
<td>ICICI Bank Ltd</td>
<td>8.52</td>
<td>2.52</td>
</tr>
<tr>
<td>Flex Inds.</td>
<td>UTI Bank Ltd</td>
<td>1.44</td>
<td>2.52</td>
</tr>
<tr>
<td>Himachal Futuris</td>
<td>ICICI Bank Ltd</td>
<td>10.92</td>
<td>3.84</td>
</tr>
<tr>
<td>Ispat Inds.</td>
<td>State Bank of India</td>
<td>1.00</td>
<td>13.03</td>
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<tr>
<td>IVRCL Infrastruc</td>
<td>Indian Overseas Bank</td>
<td>1.05</td>
<td>5.39</td>
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<tr>
<td>Karur Vysya Bank</td>
<td>Indian Bank</td>
<td>1.74</td>
<td>7.51</td>
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</table>
## Annex- 3 Analysis of Stakes of Major Institutional Shareholders

<table>
<thead>
<tr>
<th></th>
<th>% of total equity in the portfolio company</th>
<th>Frequency</th>
<th>Frequency</th>
<th>Frequency</th>
<th>Frequency</th>
<th>Frequency</th>
<th>Frequency</th>
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<tbody>
<tr>
<td></td>
<td>1-2%</td>
<td></td>
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<tr>
<td>Foreign Institutional Investor</td>
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<tr>
<td>Aberdeen Asset Managers</td>
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<td>5</td>
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<td>HSBC Global Investment</td>
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<td>7</td>
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<td>Templeton</td>
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<td>Morgan Stanley</td>
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<td>Goldman Sachs Investments</td>
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<td>Insurance companies</td>
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<td>3</td>
<td>7</td>
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<td>General Insurance Corporation</td>
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<tr>
<td>New India Assurance Company</td>
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<tr>
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<td>United India Insurance Company</td>
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<td>Mutual Funds</td>
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<td>UTI</td>
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<td>9</td>
<td>3</td>
<td>1</td>
<td></td>
<td>1</td>
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</table>

Source: Capitaline Database
Annex-4 Code of Conduct for FIIs and Mutual Funds

SECURITIES AND EXCHANGE BOARD OF INDIA
(FOREIGN INSTITUTIONAL INVESTORS), REGULATIONS, 1995.

CODE OF CONDUCT
(Regulation 7A)

Third Schedule

1. A Foreign Institutional Investor and its key personnel shall observe high standards of integrity, fairness and professionalism in all dealings in the Indian securities market with intermediaries, regulatory and other government authorities.
2. A Foreign Institutional Investor shall, at all times, render high standards of service, exercise due diligence and independent professional judgment.
3. A Foreign Institutional Investor shall ensure and maintain confidentiality in respect of trades done on its own behalf and/or on behalf of its sub-accounts/clients.
4. A Foreign Institutional Investor shall ensure the following:
   a) clear segregation of its own money/securities and sub-accounts’ money/securities.
   b) arms length relationship between its business of fund management/ investment and its other business.
5. A Foreign Institutional Investor shall maintain an appropriate level of knowledge and competency and abide by the provisions of the Act, regulations made there under and the circulars and guidelines, which may be applicable and relevant to the activities carried on by it. Every Foreign Institutional Investor shall also comply with award of the Ombudsman and decision of the Board under Securities and Exchange Board of India (Ombudsman) Regulations, 2003.
6. A Foreign Institutional Investor shall not make any untrue statement or suppress any material fact in any documents, reports or information furnished to the Board.
7. A Foreign Institutional Investor shall ensure that good corporate policies and corporate governance are observed by it.
8. A Foreign Institutional Investor shall ensure that it does not engage in fraudulent and manipulative transactions in the securities listed in any stock exchange in India.
9. A Foreign Institutional Investor or any of its directors or manager shall not, either through its/his own account or through any associate or family members, relatives or friends indulge in any insider trading.
10. A Foreign Institutional Investor shall not be a party to or instrumental for –
   a) creation of false market in securities listed or proposed to be listed in any stock exchange in India.
   b) price rigging or manipulation of prices of securities listed or proposed to be listed in any stock exchange in India;
   c) passing of price sensitive information to any person or intermediary in the securities market.”]
CODE OF CONDUCT

1. Mutual fund schemes should not be organised, operated, managed or the portfolio of securities selected, in the interest of sponsors, directors of asset management companies, members of Board of trustees or directors of trustee company, associated persons as in the interest of special class of unitholders rather than in the interest of all classes of unitholders of the scheme.

2. Trustees and asset management companies must ensure the dissemination to all unitholders of adequate, accurate, explicit and timely information fairly presented in a simple language about the investment policies, investment objectives, financial position and general affairs of the scheme.

3. Trustees and asset management companies should avoid excessive concentration of business with broking firms, affiliates and also excessive holding of units in a scheme among a few investors.

4. Trustees and asset management companies must avoid conflicts of interest in managing the affairs of the schemes and keep the interest of all unitholders paramount in all matters.

5. Trustees and asset management companies must ensure schemewise segregation of bank accounts and securities accounts.

6. Trustees and asset management companies shall carry out the business and invest in accordance with the investment objectives stated in the offer documents and take investment decision solely in the interest of unitholders.

7. Trustees and asset management companies must not use any unethical means to sell; market or induce any investor to buy their schemes.

8. Trustees and the asset management company shall maintain high standards of integrity and fairness in all their dealings and in the conduct of their business.

9. Trustees and the asset management company shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment.

10. The asset management company shall not make any exaggerated statement, whether oral or written, either about their qualifications or capability to render investment management services or their achievements.
(11) (a) The sponsor of the mutual fund, the trustees or the asset management company or any of their employees shall not render, directly or indirectly any investment advice about any security in the publicly accessible media, whether real-time or non-real-time, unless a disclosure of his interest including long or short position in the said security has been made, while rendering such advice.

(b) In case, an employee of the sponsor, the trustees or the asset management company is rendering such advice, he shall also disclose the interest of his dependent family members and the employer including their long or short position in the said security, while rendering such advice.

Foot notes


Annex 5- Questionnaire to Institutional Investors

Type of institutional investor:

Domestic  Foreign

Please identify the category of institutional investor you belong to?

Banks  Other lending institutions  Insurance companies
Mutual funds  Venture capital funds  Private equity funds
Provident and Pension funds  Any other, please specify----------------

PART I

Decision to Invest:

1. Country Level Factors:
How important are following factors in your decision to invest in companies in a given country?

   a. Political Stability
      1  2  3  4  5
      Not important  Very important
   b. Exchange Rate Policy
      1  2  3  4  5
      Not important  Very important
   c. Legal Framework and Institutions
      1  2  3  4  5
      Not important  Very important
   d. Investor Protection
      1  2  3  4  5
      Not important  Very important
   e. Investment Regulations
      1  2  3  4  5
      Not important  Very important
   f. Availability of Independent Research
      1  2  3  4  5
      Not important  Very important

2. Firm Level factors:
   a. Do you have discretion on whether or not to invest in the stock of a particular company?
      Yes  No
b. If yes, what are the underlying reasons for choosing the companies in which you make an investment are?

1. Market capitalization of the company
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

2. Firm performance measures
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

3. A belief that the company’s share price is “undervalued”
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

4. A belief that the company’s share price will improve because of future improvements in corporate governance
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

5. Traded on a major stock exchange
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

6. Liquidity of Traded Securities
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

7. Dual Listing/ADR/GDR on a foreign stock exchange
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

8. Analyst Coverage
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

9. Transparency in Accounting Practices
   | 1 | 2 | 3 | 4 | 5 |
   | N | V |

10. Timely Disclosure of Important Firm Decisions
    | 1 | 2 | 3 | 4 | 5 |
    | N | V |

11. Importance of Independent Directors on the Board
    | 1 | 2 | 3 | 4 | 5 |
    | N | V |

12. Importance of Independent Audit Committee
    | 1 | 2 | 3 | 4 | 5 |
    | N | V |

13. Prior relationship with existing board members
    | 1 | 2 | 3 | 4 | 5 |
    | N | V |
14. Prior relationship with company executives
   1  2  3  4  5
   Not important Very important
15. Ease of attending board/shareholders meetings
   1  2  3  4  5
   Not important Very important
16. Ease of exercising voting rights
   1  2  3  4  5
   Not important Very important
17. What are the chances of your investing in an MNC?
   1  2  3  4  5
   Low High
18. What are the chances of your investing in a family-managed company?
   1  2  3  4  5
   Low High
19. If the promoter and investors acting in concert with the promoter have a controlling interest in the company, would you invest?
   1  2  3  4  5
   Unlikely Extremely likely
20. If the company has issued non-voting shares or shares with differential voting rights, would you invest?
   1  2  3  4  5
   Unlikely Extremely likely
21. If foreign institutional investors currently hold significant stakes in the company, would you invest?
   1  2  3  4  5
   Unlikely Extremely likely
22. If domestic institutional investors currently hold significant stakes, would you invest?
   1  2  3  4  5
   Unlikely Extremely likely
23. Any other reason; please specify --------------------------------
PART II

Involvement in governance of portfolio companies

1. Board Representation- Representatives of your institution: Qualifications/Conflicts of Interest/Remuneration

a. Does your institution have a policy to nominate directors to the boards of companies in which you hold equity above a predetermined threshold?
   
   Yes  
   No

b. If yes, what is your typical threshold for a portfolio company (your holding as a percentage of the company’s total equity)?
   
   1-2%  2-5%  5-10%  10-20%  >20%

   Not Applicable

c. What levels of management are your nominees to the Board typically drawn from?
   
   Top  Senior  Middle  Other

   Not Applicable

d. Are these directors rotational?
   
   Yes  No

   Not Applicable

e. Do you appoint “independent” directors?
   
   Always  Never  Sometimes

   Not Applicable

f. If yes, how would you describe what constitutes independence?
   
   SEBI definition of independent director (Clause 49)\textsuperscript{61}

\textsuperscript{61} a) apart from receiving director’s remuneration, no material pecuniary relationships or transactions with the company, its promoters, its directors, its senior management or its holding company, its subsidiaries and associates which may affect independence of the director; b) is not related to promoters or persons occupying management positions at the board level or at one level below the board; c) has not been an executive of the company in the immediately preceding three financial years; d) is not a partner or an executive or was not partner or an executive during the preceding three years, of any of the following: i) the statutory audit firm or the internal audit firm that is associated with the company, and ii) the legal firm(s) and consulting firm(s) that have a material association with the company. e). is not a material supplier, service provider or customer or a lessor or lessee of the company, which may affect independence of the director; and f) is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares.
Annex-5

Any other (please describe)----------
Not Applicable

g. Does your institution request representation on the Audit Committee of Boards in companies in which you hold equity above a predetermined threshold?
    Yes
    No

h. If yes, what is your typical threshold for a portfolio company (your holding as a percentage of the company’s total equity)?
    1-2%  2-5%  5-10%  10-20%  >20%
    Not Applicable

i. What is your policy regarding your nominee’s attendance of meetings of the Board and committees of the Board?

1. Minimum attendance requirement: all Board meetings
   25%  30%  50%  75%  100%
   Not Applicable
2. Minimum attendance requirement: all Committee meetings
   25%  30%  50%  75%  100%
   Not Applicable
3. Minimum attendance requirement: Remuneration Committee
   25%  30%  50%  75%  100%
   Not Applicable
4. Minimum attendance requirement: Audit Committee
   25%  30%  50%  75%  100%
   Not Applicable
5. Attendance requirement for Board meetings that consider dividends
   25%  30%  50%  75%  100%
   Not Applicable
6. Attendance requirement for Board meetings that consider extraordinary decisions such as takeovers, acquisitions, mergers, disposals, spin-offs, capital increase, and change in business.
   25%  30%  50%  75%  100%
   Not Applicable

j. Do Board members representing your institution receive any training with respect to their Board duties (Duration of training?)
< 1 month  1-3 months  3-6 months  6 months-1 year  >1 year  Not Applicable

k. In your opinion, how qualified are your nominees/representatives in:
   1. Advising management on business decisions
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NQ | VQ  |
      | N A |

   Not Applicable

2. Monitoring to ensure protection of your institution’s interests
   
<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>NQ</td>
<td>VQ</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N A</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   Not Applicable

l. How do you view your role/the role of your nominee directors/representatives in your portfolio companies?
   1. Monitoring to ensure protection of your institution’s interests
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NI | VI  |
      | N A |

   2. Monitoring to ensure protection of shareholder interests
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NI | VI  |
      | N A |

   3. Monitoring to ensure protection of minority shareholders
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NI | VI  |
      | N A |

   4. Active involvement in business strategy/operations
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NI | VI  |
      | N A |

   5. Advisory to management on future business plans
      
      | 1  | 2  | 3  | 4  | 5  |
      |----|----|----|----|----|
      | NI | VI  |
      | N A |

   6. Advisory to management on corporate governance policies/practices
1  2  3  4  5
Not important  Very important

7. Lead role in establishing good corporate governance
1  2  3  4  5
Not important  Very important

m. How are your representatives, in particular, those who serve as nominee directors in portfolio companies, compensated for their time and effort?
1. By the (portfolio) company in which they so serve: director fees
   Yes  No

   Not Applicable

2. By the portfolio company: stock or stock options
   Yes  No

   Not Applicable

3. By your institution: fees separately credited
   Yes  No

   Not Applicable

4. By your institution: appropriate weight assigned in overall employee evaluation, for purposes of compensation
   Yes  No

   Not Applicable

n. Do you have policies in place to track/prevent inappropriate use of privileged information on your portfolio companies by your nominee directors/representatives?
   Yes  No
How are such policies implemented?

1. Through specific clauses in the nominee/representative’s employment contracts
   Yes No

2. Through independent communication loops with other institutional investors/non-executive directors/management of portfolio companies
   Yes No

3. Any others, please specify---------------------------

   o. In the past two years, have there been instances where your nominees/representatives have refused to discuss certain topics/issues concerning the portfolio company that they represent due to confidentiality reasons?
      Yes No

   p. Do you sometimes engage external portfolio managers to ameliorate conflicts of interests?
      Yes No

   q. Have you deployed fire-walls within your institution to reduce the impact of conflict-of-interest situations?
      Yes No

2. Voting: As a shareholder

   a. Who exercises the voting rights of your institution in portfolio companies?
      Asset Manager VP/Director-Treasury Trustee Other
      Do not exercise

   b. Does your institution exercise its voting rights/proxies on a regular or systematic basis?
      Yes No

   c. Has your institution established any procedures for deciding on the use of the voting rights that you hold in your portfolio companies
      Yes No
d. *During the last two years, on average, what percentage of the votes in respect of the following events have you participated in?*

<table>
<thead>
<tr>
<th>Event</th>
<th>Less than 25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75%-100%</th>
<th>100%</th>
</tr>
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<tr>
<td>1. Board Appointments</td>
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<tr>
<td>Not applicable</td>
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<td>2. Board Remuneration</td>
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<tr>
<td>3. Appointment/removal of auditors</td>
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<tr>
<td>Not applicable</td>
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<td>4. Distribution of dividends</td>
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<td>Not applicable</td>
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</tbody>
</table>

e. *During the last two years, on average, what percentage of the votes in respect of the following extraordinary events have you participated in?*

<table>
<thead>
<tr>
<th>Event</th>
<th>Less than 25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75%-100%</th>
<th>100%</th>
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<td>3. Takeovers, mergers and acquisitions</td>
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<td>4. Disposals and spin-offs</td>
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<td>5. Change in business</td>
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<td>6. Employee Stock Options</td>
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<tr>
<td>7. Financial restructuring</td>
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<tr>
<td>Not applicable</td>
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</tbody>
</table>
8. **Issue of shares with differential voting rights**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Less than 25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75%-100%</th>
<th>100%</th>
</tr>
</thead>
</table>

Not applicable

**f. During the past two years, in what percentage of decisions concerning your portfolio companies, have you voted in concert with the management?**

1. **Dividend distribution**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

2. **Remuneration of executives**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

3. **Capital increase**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

4. **Takeovers, mergers and acquisitions**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

5. **Disposals and spin-offs**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

6. **Change in business**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

**g. During the past two years, in what percentage of decisions concerning your portfolio companies, have you voted against the management, on your own?**

1. **Dividend distribution**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

2. **Remuneration of executives**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>0%</th>
<th>0-5%</th>
<th>5-10%</th>
<th>10-25%</th>
<th>&gt;25%</th>
</tr>
</thead>
</table>

Not applicable

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62 When a company increases capital, existing shareholders usually have a preferential right of subscription. If the capital increase is reserved for a new shareholder, existing shareholders are asked to waive their preferential right.
3. Costs/benefits of voting
   a. What are the costs associated with exercising of your voting rights (check all that apply)?
      - Reading proxy statements
      - Sending to oversight boards for evaluation
      - Hiring outside experts
      - Professional fees of lawyers
      - Time cost of senior management
      - Any others; Please specify--------------
   b. In your opinion, how onerous are these costs?
      1. Reading proxy statements
         1  2  3  4  5
         Not onerous Very onerous
      2. Sending to oversight boards for evaluation
         1  2  3  4  5
         Not onerous Very onerous
      3. Hiring outside experts
         1  2  3  4  5
         Not onerous Very onerous
      4. Professional fees of lawyers
         1  2  3  4  5
         Not onerous Very onerous
      5. Time cost of senior management
         1  2  3  4  5
         Not onerous Very onerous
   c. Do you receive sufficient information to formulate your voting decision?
      Yes  No
d. Are shareholder meetings easy to attend?
   Yes                     No

e. In your experience, does management ‘play games’ with the meeting location (e.g., choose a location that is difficult to attend, change location at the last moment etc.)?
   Yes                     No

f. Do you sometimes vote in absentia?
   Yes                     No

g. If yes, is it easy to vote in absentia?
   Yes                     No
   Not applicable

h. Are the procedures for voting in absentia clear enough?
   Yes                     No
   Not applicable

i. At what threshold of your investment in the company would you consider the benefit of exercising voting rights outweighing the costs?
   1-5%  5-10%  10-20%  20-30%  >30%

4. Disclosure policy for voting actions
   a. Do you disclose/announce your voting policy with regard to specific events/decisions that affect your portfolio companies?
      Yes                     No

   b. Is there a regulatory requirement that you disclose/announce your voting policy with regard to specific events/decisions that affect your portfolio companies?
      Yes                     No

      If yes, please specify----------------------.

   c. Do you disclose your voting records in connection with your portfolio companies?
      Yes                     No

   d. If yes, how do you disclose them?
      • By posting them on your institution website
         Yes                     No
      • By providing them on request to your beneficiaries
Annex-5

- By contributing the information to an institutional shareholder organization database
  - Yes
  - No
- Any other; Please specify----------

5. Interaction with /knowledge of other major shareholders in your portfolio companies

a. What is your view on the following approaches to intelligence gathering about the “self-dealing” activities of other major shareholders in your portfolio companies?

1. Continuous interaction with the management
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important

2. Continuous interaction with independent directors
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important

3. Continuous interaction with other institutional investors
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important

4. Systematic in-house research
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important

5. Availing of services of independent financial research agencies
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important

6. Accessing databases maintained by institutional investor associations/forums or corporate governance networks
   - 1
   - 2
   - 3
   - 4
   - 5
   - Not important
   - Very important
b. How important are the following actions in cases where you discover such "self-dealing" activities?

1. Publicize the information
   1 2 3 4 5
   Not important Very important
2. Disinvest
   1 2 3 4 5
   Not important Very important
3. Negotiate with parties concerned to curtail such actions in the future
   1 2 3 4 5
   Not important Very important
4. Requisition a Shareholder Meeting to discuss the issue
   1 2 3 4 5
   Not important Very important
5. Form coalitions with other shareholders to address the issue
   1 2 3 4 5
   Not important Very important
6. Consider other means to effect change of control
   1 2 3 4 5
   Not important Very important

c. Does your institution sometimes consult with other institutional shareholders in order to take a common position?
   Yes  No

d. If yes, during the past two years, in what percentage of decisions concerning your portfolio companies, have you voted against the management, in concert with other institutional investors?

1. Dividend distribution
   0% 0-5% 5-10% 10-25% >25%
   Not applicable
2. Remuneration of executives
   0% 0-5% 5-10% 10-25% >25%
   Not applicable
3. Capital increase  
   0%  0-5%  5-10%  10-25%  >25%  
   Not applicable

4. Takeovers, mergers and acquisitions  
   0%  0-5%  5-10%  10-25%  >25%  
   Not applicable

5. Disposals and spin-offs  
   0%  0-5%  5-10%  10-25%  >25%  
   Not applicable

6. Change in business  
   0%  0-5%  5-10%  10-25%  >25%  
   Not applicable

e. Does the current regulatory framework restrict your ability to consult with other institutional shareholders?  
   Yes  No

f. Is yes, do you believe there is a need to clarify the circumstances under which consultation is allowed?  
   Yes  No  
   Not Applicable

6. Convening Shareholder Meetings/Conferences

a. How many times during the past two years has your institution taken the following actions in connection with specific issues relating to your portfolio companies?  
   1. Participated actively in setting the agenda for board/shareholder meetings  
      0  1-2  2-5  5-10  >10

   2. Participated in a requisition of an Extraordinary General Meeting of Shareholders  
      0  1-2  2-5  5-10  >10

   3. Convened or attended shareholder conferences for the purpose of discussing specific concerns  
      0  1-2  2-5  5-10  >10

   4. Led or joined institutional shareholder coalitions for the purpose of producing specific changes  
      0  1-2  2-5  5-10  >10
7. **Meetings with Management**
   
   a. *How often does your institution meet with the senior management of the companies you invest in?*
      
      Once a quarter  Once a year  Once in two years  < once in two years  Not at all

   b. *Are these meetings normally on a one-to-one basis?*
      
      Yes  No  Not applicable

   c. *What level of management in your institution are these representatives drawn from?*
      
      Top  Senior  Middle  Other  Not applicable

   d. *How senior are the company representatives?*
      
      CMD/CEO  VP/Director-Finance  Middle Management  Other  Not applicable

   e. *On average, how often, during the past two years, have you discussed the following matters in meetings with the management of each of your portfolio companies?*
      
      1. **Financial performance**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      2. **Operational performance**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      3. **Future business plans**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      4. **Risk management**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      5. **Capital structure-capital increase plans**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      6. **Expansion/Diversification/rationalization plans**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable

      7. **Executive remuneration**
         
         Never  Once or twice  2-5 times  5-10 times  >10 times  Not applicable
8. **Shareholder voting rights/procedures**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

9. **Audit committee and procedures**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

10. **Board composition**
    - Never
    - Once or twice
    - 2-5 times
    - 5-10 times
    - >10 times
    - Not applicable

8. **Other actions to improve corporate governance practices in general**
   
a. **How many recent (in the past five years) legislative/regulatory initiatives to improve corporate governance practices, has your institution participated in?**
   
   - 0
   - 1-2
   - 2-5
   - 5-10
   - >10

   b. **What has been your level of participation? (Initiator/Advisor/Liaison between Government bodies and corporate sector/Commentator)**

   - Initiator
   - Advisor
   - Liaison
   - Commentator
   - Not applicable

   c. **Have you been a prime mover in the formulation of any voluntary corporate governance code/standard by industry/professional associations?** Please specify ____________________________.

   - Not applicable

   d. **Have you contributed in any other way to the formulation of such codes/standards?** Please specify ____________________________

   - Not applicable

   e. **Have you taken any initiatives to foster independent financial research economy-wide or in specific sectors of the economy?**

   1. **Set up an independent financial research agency**
      - Yes
      - No

   2. **Join a coalition of institutional investors to set up an independent financial research agency**
      - Yes
      - No

   3. **Funded financial market research in academic institutions**
      - Yes
      - No
9. **Constraints**

a. *How severe are the constraints you face in exercising your rights as an investor*

1. **Legal constraints**
   1. Constraints on voting
      1 2 3 4 5
      Not severe Very severe

2. **Constraints on appointment of nominees to the Boards of portfolio companies**
   1 2 3 4 5
   Not severe Very severe

3. **Constraints on disinvestments**
   1 2 3 4 5
   Not severe Very severe

2. **Constraints imposed by your internal byelaws/policies**
   1. Constraints on appointment of nominees to the Boards of portfolio companies
      1 2 3 4 5
      Not severe Very severe

2. **Constraints on disinvestments (overall fund composition /index-linked strategies/ Government-mandated investment**
   1 2 3 4 5
   Not severe Very severe

3. **Lack of appropriate incentive structure to facilitate performance of your nominee directors/representatives in portfolio companies**
   1 2 3 4 5
   Not severe Very severe

3. **Pressures from external agencies**
   1. Pressures from representatives of Government/quasi-Government bodies
      1 2 3 4 5
      Not severe Very severe

2. **Pressures from the entrenched management of portfolio companies**
   1 2 3 4 5
<table>
<thead>
<tr>
<th>Not severe</th>
<th>Very severe</th>
</tr>
</thead>
</table>

3. Pressures from other institutional investors whose interests are not perfectly aligned with those of your institution

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<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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<tbody>
<tr>
<td>Not severe</td>
<td>Very severe</td>
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</table>
PART III

Decision to exit

1. In how many cases have you decided to disinvest (significantly) in a portfolio company?

0  0-5  5-10  10-20  >20

2. What were the principal factors that led you to disinvest your stakes in a portfolio company?

- Business Performance
  1  2  3  4  5
  Not important  Very important

- Return Performance
  1  2  3  4  5
  Not important  Very important

- A belief that the company share price was “overvalued”
  1  2  3  4  5
  Not important  Very important

- A belief that the company share price would have worsened because of deteriorating corporate governance
  1  2  3  4  5
  Not important  Very important

- Changes in ownership
  1  2  3  4  5
  Not important  Very important

- Changes in control/management
  1  2  3  4  5
  Not important  Very important

- Unsatisfactory disclosure practices
  1  2  3  4  5
3. What are the principal factors that may lead you to disinvest (significantly) your stakes in a portfolio company?

- **Business Performance**
  
  1  2  3  4  5
  
  Not important  Very important

- **Return Performance**
  
  1  2  3  4  5
  
  Not important  Very important

- **A belief that the company share price is “overvalued”**
  
  1  2  3  4  5
  
  Not important  Very important

- **A belief that the company share price will worsen because of deteriorating corporate governance**
  
  1  2  3  4  5
  
  Not important  Very important
<table>
<thead>
<tr>
<th>Issue</th>
<th>Scale</th>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
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<tr>
<td>Changes in ownership</td>
<td>Not important</td>
<td>Very important</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Changes in control/management</td>
<td>Not important</td>
<td>Very important</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unsatisfactory disclosure practices</td>
<td>Not important</td>
<td>Very important</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sub-optimal board composition</td>
<td>Not important</td>
<td>Very important</td>
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</tr>
<tr>
<td>Management action unfavorably affecting shareholder voting rights</td>
<td>Not important</td>
<td>Very important</td>
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<tr>
<td>“Self-dealing” activities by management</td>
<td>Not important</td>
<td>Very important</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>“Self-dealing” activities by other major shareholders</td>
<td>Not important</td>
<td>Very important</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any other reason; please specify</td>
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</table>
Annex 6- Questionnaire to Corporations

To be completed by representatives of portfolio companies

1. **Board Representation- Nominee Directors of Institutional Investors**

   a. *Do institutional investors with stakes in your company typically nominate representatives to your Board?*
      
      Yes  No

   b. *If yes, what levels of management of the institutional investor organization are these nominees to your Board typically drawn from?*
      
      Top  Senior  Middle  Other

   c. *Are these directors rotational?*
      
      Yes  No

   d. *Are they “independent” directors?*
      
      Always  Never  Sometimes

   e. *If yes, how would you describe what constitutes independence?*
      
      SEBI definition of independent director (Clause 49)\(^63\)

      Any other (please describe)  

   f. *Do you have institutional investor representation on the Audit Committee of your Board?*
      
      Yes  No

   g. *What would you say is the typical attendance rate of institutional investor nominees at your Board and committee meetings?*

---

\(^63\) a) apart from receiving director’s remuneration, no material pecuniary relationships or transactions with the company, its promoters, its directors, its senior management or its holding company, its subsidiaries and associates which may affect independence of the director; b) is not related to promoters or persons occupying management positions at the board level or at one level below the board; c) has not been an executive of the company in the immediately preceding three financial years; d) is not a partner or an executive or was not partner or an executive during the preceding three years, of any of the following: i) the statutory audit firm or the internal audit firm that is associated with the company, and ii) the legal firm(s) and consulting firm(s) that have a material association with the company. e). is not a material supplier, service provider or customer or a lessor or lessee of the company, which may affect independence of the director; and f) is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares.
• All Board meetings
  25%  30%  50%  75%  100%
• All Committee meetings
  25%  30%  50%  75%  100%
• Remuneration Committee
  25%  30%  50%  75%  100%
• Audit Committee
  25%  30%  50%  75%  100%
• Board meetings that consider dividends
  25%  30%  50%  75%  100%
• Board meetings that consider extraordinary decisions such as takeovers, acquisitions, mergers, disposals, spin-offs, capital increase, and change in business.
  25%  30%  50%  75%  100%

h. In your opinion, how qualified are institutional investor nominees in advising your company’s management on business decisions

  Not qualified  1  2  3  4  5  Very qualified

i. What do you think should be the role of the institutional investor nominees on your Board? How appropriate, in your view, are the following types of actions of such nominees?

  i. Monitoring to ensure protection of their institution’s interests
     1  2  3  4  5
     Not important  Very important

  ii. Monitoring to ensure protection of shareholder interests
     1  2  3  4  5
     Not important  Very important

  iii. Monitoring to ensure protection of minority shareholders
     1  2  3  4  5
     Not important  Very important

  iv. Active involvement in business strategy/operations
     1  2  3  4  5
     Not important  Very important

  v. Advisory to management on future business plans
     1  2  3  4  5
     Not important  Very important
vi. Advisory to management on corporate governance policies/practices
   
<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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<tr>
<td>Not important</td>
<td>Very important</td>
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vii. Lead role in establishing good corporate governance
   
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<th>5</th>
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<tbody>
<tr>
<td>Not important</td>
<td>Very important</td>
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j. Do you compensate nominee directors representing institutional investors for their time and effort, in one or more of the following forms?

i. Director fees
   
   Yes
   No

ii. Stock or stock options
   
   Yes
   No
Participation in Shareholders’ Meetings

k. In general, how diligent are institutional investors in attending your company’s shareholders’ meetings?
   i. Annual General Meetings
      Diligent Not Diligent
   
   ii. Extraordinary Shareholders’ meetings
      Diligent Not Diligent

l. To the best of your knowledge, what is the typical rate of direct participation of institutional investor nominees in votes on each of the following events?

3. Board Appointments
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

4. Board Remuneration
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

5. Appointment/removal of auditors
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

6. Distribution of dividends
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

m. To the best of your knowledge, what is the typical rate of direct participation of institutional investor nominees in votes on each of the following extraordinary events?

1. Capital Increase
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

2. Takeovers, mergers and acquisitions
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

3. Disposals and spin-offs
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

4. Change in business
   Less than 25% 25-50% 50-75% 75%-100% 100%
   Not applicable

5. Employee Stock Options
6. **Financial restructuring**

<table>
<thead>
<tr>
<th>Percentage Range</th>
<th>Less than 25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75%-100%</th>
<th>100%</th>
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7. **Issue of shares with differential voting rights**

<table>
<thead>
<tr>
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<th>Less than 25%</th>
<th>25-50%</th>
<th>50-75%</th>
<th>75%-100%</th>
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n. **Has any of your shareholders initiated a proxy solicitation?**

Yes  
No

o. **If, yes, please describe the nature of the solicitation and its outcome in each case.**

p. **If your company ever faced a hostile takeover attempt, i.e., which was not supported by your management, have institutional investors voted against the management?**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Never</th>
<th>Once</th>
<th>More than once</th>
<th>Not applicable</th>
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q. **Has any of your company’s attempt to acquire a target company resisted by institutional investors?**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Never</th>
<th>Once</th>
<th>More than once</th>
<th>Not applicable</th>
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r. **If yes, please describe the event and its outcome?**

2. **Meetings with Institutional Investor Nominees**

1. **Do you have an investors’ relations department?**

Yes  
No

2. **How often do you meet with representatives of institutional investors with stakes in your company?**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Once a quarter</th>
<th>Once a year</th>
<th>Once in two years</th>
<th>&lt; once in two years</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

Not at all

3. **Are these meetings normally on a one-to-one basis?**

Yes  
No

4. **What level of management in the institutional investor organisation are their representatives drawn from?**

<table>
<thead>
<tr>
<th>Level of Management</th>
<th>Top</th>
<th>Senior</th>
<th>Middle</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

5. **How senior are your company representatives in such meetings?**

<table>
<thead>
<tr>
<th>Level of Management</th>
<th>CMD/CEO</th>
<th>VP/Director-Finance</th>
<th>Middle Management</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

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6. **On balance, how would you characterize such meetings?**
   - Helpful
   - Not Helpful

7. **During such meetings, has any of the institutional investors exerted pressure to disclose market-sensitive information?**
   - Yes
   - No

8. **On average, how often, during the past two years, have you discussed the following matters in meetings with the representatives of institutional investors?**
   
   **i. Financial performance**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **ii. Operational performance**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **iii. Future business plans**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **iv. Risk management**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **v. Capital structure-capital increase plans**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **vi. Expansion/Diversification/rationalization plans**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **vii. Executive remuneration**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **viii. Shareholder voting rights/procedures**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **ix. Audit committee and procedures**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable

   **x. Board composition**
   - Never
   - Once or twice
   - 2-5 times
   - 5-10 times
   - >10 times
   - Not applicable
### List of institutions met during the mission

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ministry of Company Affairs</td>
</tr>
<tr>
<td>2</td>
<td>Confederation of Indian Industry</td>
</tr>
<tr>
<td>3</td>
<td>Life Insurance Corporation of India</td>
</tr>
<tr>
<td>4</td>
<td>Birla Sun Life Mutual Fund</td>
</tr>
<tr>
<td>5</td>
<td>S B Billimoria</td>
</tr>
<tr>
<td>6</td>
<td>Amarchand Mangaldass &amp; Suresh A. Shroff &amp; Co.</td>
</tr>
<tr>
<td>7</td>
<td>Principal PNB Asset Management Company Principal Financial Group</td>
</tr>
<tr>
<td>8</td>
<td>ICICI Prudential Life Insurance</td>
</tr>
<tr>
<td>9</td>
<td>UTI Mutual Fund</td>
</tr>
<tr>
<td>10</td>
<td>National Stock Exchange of India Limited</td>
</tr>
<tr>
<td>11</td>
<td>ICICI Bank Ltd</td>
</tr>
<tr>
<td>12</td>
<td>Securities and Exchange Board of India</td>
</tr>
<tr>
<td>13</td>
<td>International Financial Corporation</td>
</tr>
</tbody>
</table>