



PROXY ADVISORY FIRMS - 'CHAMPIONS'



OF GOOD CORPORATE GOVERNANCE
OR

OBSTRUCTIONISTS



What are Proxy Advisors?

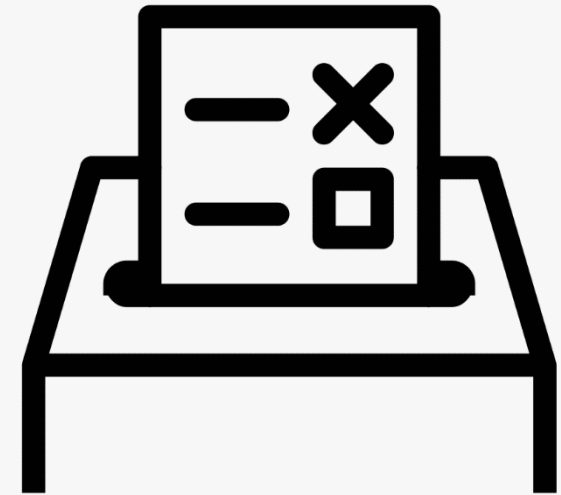


What are Proxy Advisory Firms:

As per SEBI (Research Analysts) Regulations, 2014

As per Regulation 2(1)(p): '**Proxy Adviser**' means:

- Any person who provide advice, through any means, to institutional investor or shareholder of a company, in relation to exercise of their rights in the company including—
 - ◆ **Recommendation on Public Offer; or**
 - ◆ **Voting Recommendation on Agenda Items.**



Why need for PAs was felt?



To Improve Corporate Governance Standard and Choices



To further Shareholders' Activism



PAs are economically viable for Institutional Investors



PAs can look into matters which Investors cannot see

Impact/Influence of PAs



PAs provide information blended with financial data, law and best practices. Thus, influence shareholders' voting choices and decisions.



Studies suggest that Corporates adopt better Governance parameters in order to receive positive recommendations from PAs



Institutional Investors prefer to invest more in jurisdictions where PAs are actively present



Retail investors also benefit from research & recommendations of PAs.



International Landscape of Proxy Advisory Firms



Proxy Advisory Firms: **International Landscape**



INSTITUTIONAL SHAREHOLDER SERVICES (ISS)



GLASS, LEWIS & CO



MANIFEST



NORDIC INVESTOR SERVICES

When did PAs appear on Indian Map?



2010



InGovern

- Founded in **2010**
- Headquarters: **Bengaluru**
- Founded by **Mr. Shriram Subramanian**
- Shareholders: **Individuals**
- **First Indian Proxy Advisory Firm**



Institutional Investor Advisory Services (IIAS)



- Founded in **2010**
- Headquarter: **Mumbai**
- Founded by **Mr. Anil Singhvi and Mr. Amit Tandon;**
- **1000+** Companies covered
- **71000+** Voting recommendations
- **13000+** Shareholder Meetings
- Shareholders: **Banks, PE and Individuals**

Stakeholders Empowerment Services (SES)

- Founded in **2012**
- **Section 8 Company**
- Headquarter at **Mumbai**
- Founded by **Mr. J. N. Gupta, Mr. Arjun Gupta and Mr. Amarendra Singh**
- **800 (approx.)** Companies covered



Institutional Shareholder Services (ISS)



- Part of ISS, **United States**
- India Presence since, **2019**
- Indian office at **Mumbai**



Regulatory Framework



Indian Regulatory Landscape for PAs



- India was the first jurisdiction to introduce Regulation for Proxy Advisors.
- The proxy advisory firms are defined under regulation 2(i)(p) of the **SEBI (Research Analysts) Regulations, 2014**.
- Indian Securities Law Framework provides for—
 - ◆ Eligibility Norms
 - ◆ Registration
 - ◆ Code of Conduct
 - ◆ Disclosures and Reporting
 - ◆ Procedural Guidelines - **w.e.f. 1st January 2021**
 - ◆ Grievance Resolution Mechanism - **w.e.f. 1st January 2021**

SEBI's Procedural Guidelines for Proxy Advisors

- Formulate, update, disclose voting recommendation policies and methodologies.
- Establish process and timeline to communicate with clients and company.
- Share Report with clients and company at the same time, and include company's comments/clarifications in report.
- Clearly disclose in recommendations the legal requirement vis-à-vis higher standard, and the rationale of such higher standard.
- Disclose, manage and mitigate potential conflict of interest.



SEBI's mechanism for Grievance Resolution between listed entities and PAs



SEBI recognizes that due to the inherent nature of the work, it is probable that PAs and listed entities may have different views on any agenda item of the listed entity, leading to grievances.

- Grievance Resolution Mechanism - Listed entities may approach SEBI.
- SEBI will examine the non-compliance by proxy advisors with—
 - ◆ Code of Conduct
 - ◆ Procedural guidelines **w.e.f. 01.01.2021**

Who usually are the clients of PAs



Mutual Funds



Insurance Firms



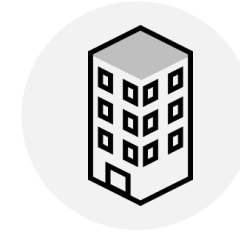
Private Equity



Pension Funds



Custodians



Corporates



Foreign Institutional Investors



Hedge Funds



Family Offices



Commercial Banks



Private Wealth Management Firms



High Networth Individuals

What PAs actually do: India vis-à-vis International Landscape

INDIA

- Proxy Advisory
- Corporate Governance Report/Scorecard
- Corporate Governance Consulting and Education
- Environmental, Social and Governance (ESG) Analysis
- Risk monitoring and Investor Protection

INTERNATIONAL

- Proxy Research
- Governance Services
- Proxy Voting
- Corporate Governance Reporting & Disclosure
- E&S Services (Environment & Social factors)
- Class Action
- Compensation Modelling
- Data & Analytics
- Market Analytics



Guidelines by PAs



Major Areas where PAs have issued Guidelines

**Adoption of
Financial
Statements**

**Auditor
(Re)Appointment**

**Dividend
Declaration**

**(Re)Appointment
of Independent
Directors**

**(Re)Appointment
of Non-
Independent
Directors**

**Removal of
Director**

**Change in Board
Size**

**Remuneration of
Executive
Directors**

**Pay in case of
Inadequate
Profits**

**Remuneration of
Non-Executive
Directors**

**Alteration to
charter
documents**

**Issuance of
Equity Shares**

Delisting

**Increase in
Borrowing Limits**

**Issuance of Debt
Instruments**

**Issuance of
Preference
Shares**

**Related Party
Transactions**

**Appointment to
office of profit**

Royalty Payment

**Sale of Assets/
Slump Sale**

**Reclassification
of Promoters**

BuyBacks

**Mergers &
Amalgamations**



Major Activism through PA Firms



Major Activism through PA Firms: PNB Housing Finance Preferential Issue

- **PNB Housing Finance** proposed a preferential allotment of ₹4,000 crore in June 2021 to a group of investors led by Carlyle Group, which included funds managed by Ares SSG and General Atlantic.
- Stakeholders Empowerment Services (SES), issued advisory against the deal.
- The preferential allotment was proposed at ₹390 per share, which proxy firms believed was significantly lower than the company's intrinsic value.
- (SEBI) intervened and ordered PNB Housing Finance to halt the deal and reassess the valuation using an independent valuer, which further delayed the process.
- Facing increasing scrutiny, legal challenges, and proxy firms' advisories, PNB Housing Finance ultimately withdrew the resolution for the preferential issue.



Major Activism through PA Firms: **Vedanta Delisting**



- **Vedanta Limited** announced plans to delist from the stock exchanges, offering shareholders ₹87.50 per share.
- SES and IAS advised against the delisting, arguing that the offer price grossly undervalued the company and was not in the best interest of minority shareholders.
- The delisting attempt eventually failed, as Vedanta was unable to secure enough shares from the public, partly due to the resistance from institutional investors who followed proxy firms' recommendations.

Major Activism through PA Firms: **Fortis Healthcare Acquisition**

- The bidding war for **Fortis Healthcare** attracted offers from multiple suitors, including Manipal Hospitals, IHH Healthcare, and Hero Enterprise, leading to intense scrutiny of the board's decision-making process.
- liAS advised shareholders to reject the initial offer by Manipal Hospitals, arguing that it undervalued the company. The firm suggested shareholders should wait for a better offer.
- Eventually, IHH Healthcare came in with a higher bid, and proxy firms supported this deal as it offered better value for shareholders.
- IHH Healthcare won the bid, and the case underscored the importance of transparency in the decision-making process during mergers and acquisitions.

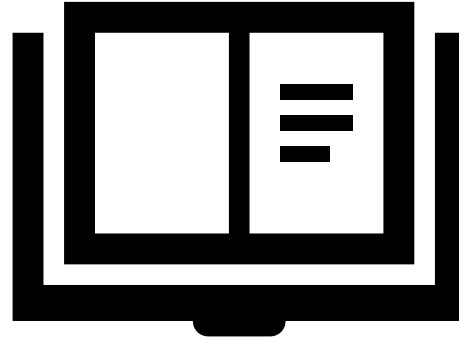




Dependency of Institutional Investors on PA Firms



Dependency of Institutional Investors on PA Firms



Leading mutual funds and institutional investors have a clear voting policy in their **stewardship code** that they must relies on recommendations made by proxy advisory firms.



Proxy Advisory Firms: Controversies



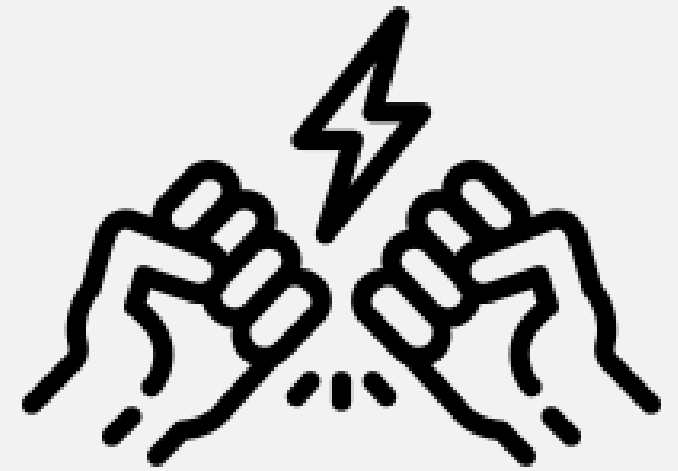
Indian Proxy Advisory Firms: **Controversies**

Allegations of Bias and Conflicts of Interest

Corporate entities have raised concerns that proxy advisory firms may favor institutional investors who are their clients over the companies whose governance they evaluate, leading to biased reports or undue influence in key voting matters like mergers, acquisitions, and executive compensation.

Disagreements with Corporates on Voting Recommendations

In 2021, companies criticized advisory firms like IAS and SES for opposing key resolutions related to business strategy, such as executive reappointments and RPT approvals.



Indian Proxy Advisory Firms: **Controversies**

Questioning Methodology and Transparency

Corporate boards worry that some proxy advisors issue negative recommendations without engaging deeply with companies, leading to unintended governance consequences.

Involvement in Hostile Takeovers

During corporate battles between promoters and institutional investors, such as the Essel Group and YES Bank disputes, there were reports of proxy advisors recommending changes that were perceived as tilting the balance in favor of activist shareholders.



Indian Proxy Advisory Firms: **Controversies**

Lack of Accountability and Regulation

The SEBI circular in 2020 aimed to regulate proxy advisors by asking them to disclose their policies, potential conflicts of interest, and processes. However, many corporates argue that the guidelines do not go far enough in ensuring accountability and preventing negative impacts on corporate decision-making.

Influence on Corporate Governance

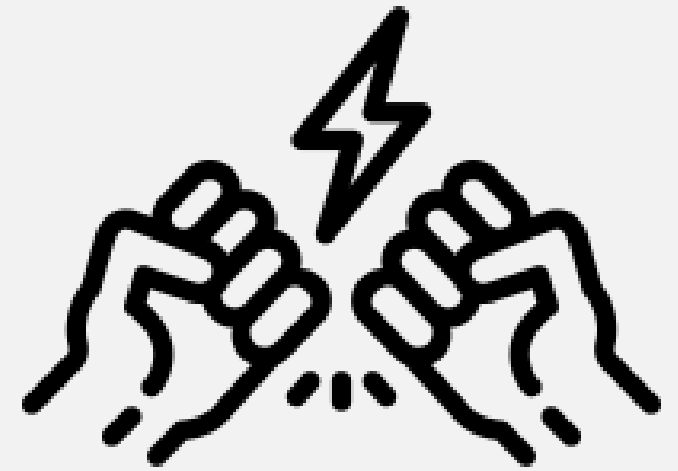
In 2020, several companies criticized proxy advisors for opposing executive remuneration policies or board appointments. Firms like IiAS and SES issued recommendations that were not in line with the management's vision, thereby influencing institutional shareholders to vote against these proposals.



Indian Proxy Advisory Firms: **Controversies**

Pushback on ESG Voting Recommendations

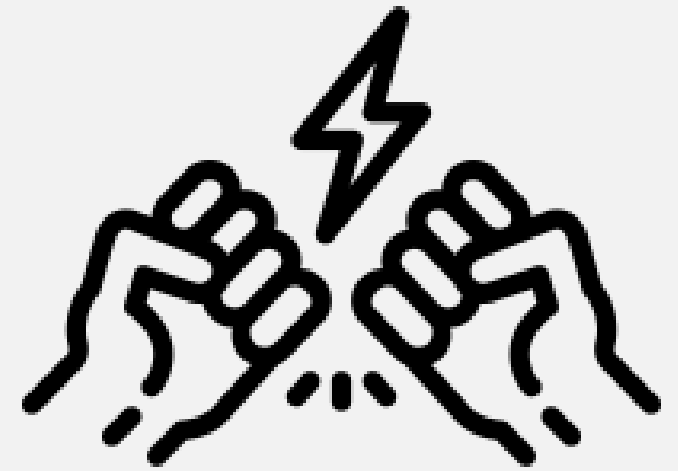
Certain companies have expressed concern that ESG recommendations are being imposed without considering the local context, which may lead to misalignment with business objectives, especially for industries where regulatory frameworks for ESG are still evolving in India.



International Proxy Advisory Firms: **Controversy**

Economic Lawsuit Against ISS (2022, US)

- In a landmark case, a US-based energy company filed a lawsuit against ISS, accusing it of issuing biased recommendations and misrepresenting facts in its voting guidance.
- The lawsuit highlighted the legal risks faced by proxy advisory firms, particularly when their influence directly affects corporate actions.



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Focal Points for Discussion?





**How Proxy Advisory Firms (PAs) formulate their Policies
and How are their Standards Tougher?**



How do Proxy Advisory Firms ensure the accuracy of their analysis and recommendations?



To what extent is it right for Proxy Advisory Firms to form an opinion on disputable matters like interpretation of law ?



What mechanisms are in place for companies to challenge incorrect or biased reports from Proxy Advisory Firms?



How are Proxy Advisory Firms leveraging data analytics and artificial intelligence to improve their advisory services?



Why is it that, in many instances, Proxy Advisory Firms recommend a negative opinion on a resolution, but the resolution has passed at the general meeting?



- **How PAs Champion Good Governance in Companies?**
- **What Assessment methodology followed by PAs?**



What if the opinions of two Proxy Advisory Firms conflict on the same resolution?

A key example occurred in 2018 when proxy firms IiAS and SES clashed over the reappointment of 'Mr. Nusli Wadia' as an independent director at Tata Steel. IiAS supported it, while SES opposed, citing governance concerns, leading to investor confusion.



How to deal with situations, where on a similar matter, different views were taken by a Proxy Advisory Firm in two different companies?