

22 April 2025

ACGA Open Letter: 2025 India Delegation Feedback

The Asian Corporate Governance Association (ACGA) led an in-person delegation to India, where 15 investor members from 11 institutional investor organizations including representatives from global asset owners and investment managers held a series of tightly scheduled meetings with regulators, industry bodies and corporates. Delegates were impressed by the resolve and commitment shown by government agencies, corporates and regulators to enhance strategic wealth creation through deregulation and digitalization.

To follow up the discussions held with policy makers during the delegation, ACGA has prepared this letter to summarize the views of our delegate members on recommendations for areas that would indicate international norms or best practices. These insights are aimed at enhancing corporate governance frameworks, shareholder engagement, and minority shareholder protections in India.

We have previously mentioned some of these recommendations on 24 May 2024, when ACGA [issued a letter](#) to the chairperson of the Securities and Exchange Board of India (SEBI) introducing the ACGA India Working Group and addressing a number of key issues, including executive remuneration, board-stakeholder engagement, board leadership, and shareholder rights and escalation mechanisms for engagement purposes.

Our key recommendations are set out below:

1. Shareholder Engagement and Proposal Thresholds

- **Lower Proposal Thresholds:** Reduce the threshold for submitting resolutions to 1–3%, aligning with global standards to empower minority shareholders.
- **Mandate post-vote explanation where >20% of shareholders dissent:** If a significant percentage (e.g., 20% or more) of votes are against a board recommendation, the company must issue a statement to explain the intended actions to understand the dissent.

Rationale:

The table below highlights disparities in shareholder proposal thresholds across markets. Lowering the threshold for shareholder proposals will empower minority shareholders to actively participate in governance processes, in particular where corporations are closely held by majority shareholders. **India** requires a 10% shareholding threshold for both submitting resolutions at AGMs and calling special shareholder meetings. **South Korea**, by contrast, requires only 0.5% for resolutions and 3% for special meetings. **The United States** uses a value-based threshold (\$2,000 for three years, \$15,000 for two years or \$25,000 of stock held for one year), with company-specific thresholds for special meetings.

| <i>Jurisdiction</i> | <i>Threshold to File Proposal</i> | <i>Holding Period / Notes</i> |
|----------------------------|--|--|
| Australia | 5% of votes OR at least 100 shareholders entitled to vote | No minimum holding period specified; written submission required. |
| China | 1% of shares (individually or collectively) | No holding period: proposals must be submitted at least 10 days before the meeting. |
| Hong Kong | 2.5% of voting rights or 50 shareholders (Main Board rules) | No minimum holding period; rules may vary by company articles. |
| Japan | 1% of voting rights OR 300 voting units | Shares must be held for at least 6 months unless articles specify otherwise. |
| Malaysia | 5% of total voting shares OR at least 100 shareholders | No minimum holding period; based on Companies Act 2016. |
| Singapore | 5% of total voting rights OR at least 100 shareholders | No minimum holding period; Companies Act s.183. |
| South Korea | 0.5% (KOSPI) or 1% (KOSDAQ) of shares | Shares must be held for at least 6 months prior to proposal. |
| Taiwan | 1% of outstanding shares | Shares must be held for at least 1 year prior to proposal. |
| Thailand | 5% of total voting rights | No minimum holding period; rules may vary by company articles. |
| Canada | 1% of voting shares OR shares worth at least CAD 2,000 | Under the CBCA, the minimum shareholding requirement is no less than 1% of the total number of voting capital or voting shares with a fair market value of at least CAD\$2,000. Threshold levels differ across provinces, from no requirement to 1% (in Alberta and British Columbia proposals must also be supported by at least 5% of the total number of voting shares). In certain Canadian jurisdictions, shareholders are able to aggregate their holdings under the CBCA. |
| UK | 5% of voting rights OR at least 100 shareholders | No minimum holding period; Companies Act 2006. |
| US | At least \$2,000 in market value (3 years), \$15,000 (2 years), or \$25,000 (1 year) | Must hold shares for relevant period; only one proposal per meeting per person. |

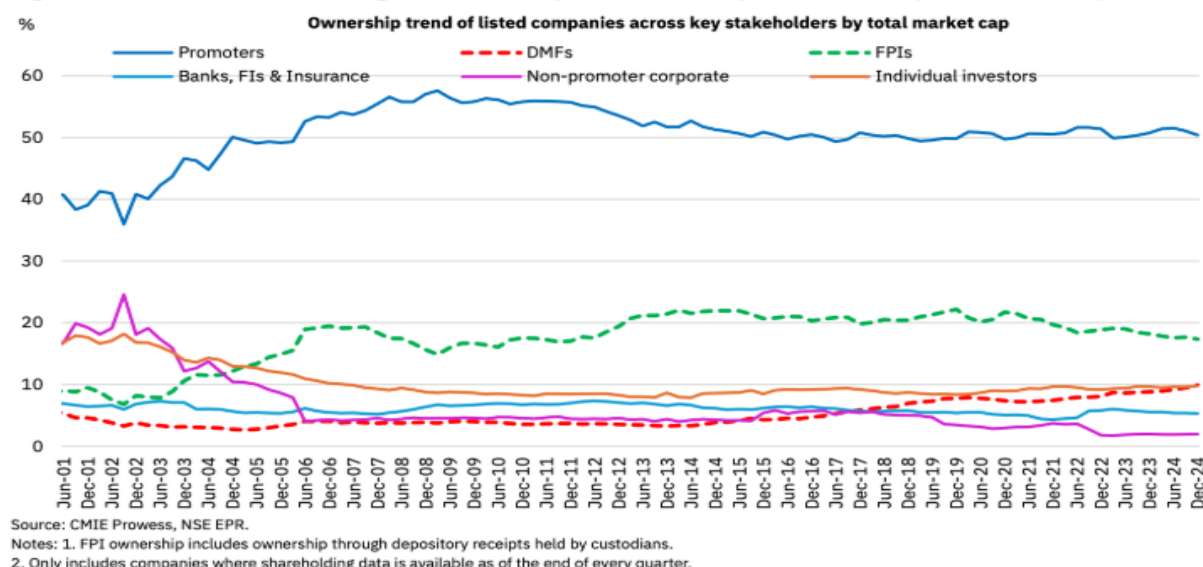
Notes and Observations

- **Aggregation:** In several jurisdictions (e.g., Australia, Canada, UK), smaller shareholders can aggregate holdings to meet the threshold.
- **Holding periods:** Japan, South Korea, Taiwan, Vietnam, Canada, and the US require a minimum holding period; most other markets do not.
- **Alternative criteria:** Some markets allow filing based on the number of shareholders (e.g., Australia, UK, Malaysia, Singapore).
- **Company bylaws:** In many jurisdictions, company articles/bylaws can set lower thresholds or additional requirements.

Source: ACGA Research

According to the chart below, as of December 2024, promoter ownership in NSE-listed companies stood at 50.4%, marking a decline from previous quarters but still reflecting significant control over corporate decision-making. This makes it even more difficult for shareholders to garner the required 10% threshold to table a proposal.

Figure 4: NSE-listed universe: Long-term ownership trend across key stakeholders by total market cap



Source: Smart karma report

Historically, there have been cases where predominantly promoter-run companies have encountered significant shareholder dissent yet managed to approve resolutions based on the requisite majority. In these instances, the concerns of minority shareholders often remain unaddressed. Notably, in jurisdictions like the UK, the US, and most EU countries, there are established mechanisms to address shareholder dissent, which serve to protect the interests of minority shareholders.

United Kingdom

Corporate Governance Code Requirement: Under the UK Corporate Governance Code, if 20% or more of shareholders vote against a resolution, the company is required to:

- Publish an explanation of the actions it intends to take to address shareholder concerns within six months.
- Provide an update on progress in the next annual report.

Source: ACGA Research

We urge SEBI to consider implementing similar recommendations in India to enhance corporate governance and safeguard minority shareholder interests.

2. Board Governance Reforms in Public Sector Undertakings (PSUs)

- Empower Nomination and Remuneration Committees (NRCs) in PSUs to recommend and vet independent directors.
- Enforce timely appointments of independent directors and publicly disclose board gaps.
- Mandate the appointment of lead independent director for large capitalization companies and PSUs.

Rationale:

Public Sector boards often lack adequate independent directors due to delays in appointments by government, undermining oversight on critical issues like audit quality and process, strategic and sustainability initiatives, and shareholder empowerment/protection.

Independent directors are far more than symbolic figures; they provide essential objectivity, ethical oversight, and strategic direction in the boardroom. Without them, decision-making often goes unchecked, increasing the likelihood of mismanagement and eroding accountability. Independent directors also often play a critical role in engagement with minority shareholders.

While private companies face penalties for non-compliance with the Companies Act's and SEBI LODR rules requirements on board composition, PSUs appear to operate without similar consequences. The government can consider granting “Maharatnas”¹ some autonomy in their NRCs to fill vacant seats without delay.

As of March 2025, the following data highlights some gaps in corporate governance among listed public sector undertakings (PSUs) in India regarding independent directors and women directors:

Independent Directors

86% of independent director positions in central public sector enterprises (CPSEs) were vacant as of December 2024, up from 59% in October 2024. This issue affects 64 listed CPSEs, where efforts are underway to fill approximately 200 vacancies.

As at March 2024, nearly 30% of CPSEs lacked the required number of independent directors on their boards, with over 90 vacancies remaining unfilled.

Women Directors

Among the 79 listed PSUs, only 53 had at least one-woman director on their boards by March 2025, meaning 26 PSUs lacked a woman director.

This represents a decline in compliance with gender diversity mandates, as PSU representation on boards with at least one woman dropped from 94.4% in FY18 to 67.1% by March 2025².

¹ <https://www.angelone.in/knowledge-center/share-market/psu-explainer-miniratna-navratna-maharatna-companies>

² <https://economictimes.indiatimes.com/jobs/mid-career/govt-on-a-hiring-spree-as-86-independent-director-posts-lie-vacant-at-central-public-sector-enterprises/articleshow/117582959.cms>

<https://www.newsbytesapp.com/news/business/psus-lag-behind-in-gender-diversity-on-boards/story>

<https://www.cnbctv18.com/business/psus-account-for-nearly-half-of-the-companies-without-women-directors-on-board-19570684.htm>

A **lead independent director** ensures a balance of power, especially when the roles of CEO and chairperson are combined³, as is common in India. This structure provides independent oversight and mitigates potential conflicts of interest. A lead independent director can be instrumental in communicating with diverse stake holders, especially valuable in times of crisis.

A study on BSE 500 companies: How many have promoters on Board

| Chief executives, but designation and category | Executive Chairperson | Executive Vice-Chairperson or Deputy Chairperson | Managing Director | ED and CEO | Executive Director | Executive Director / CFO | Grand Total |
|--|-----------------------|--|-------------------|------------|--------------------|--------------------------|-------------|
| Not promoters | 58 | 10 | 157 | 12 | 5 | 1 | 243 |
| Yes - promoter family | 145 | 19 | 63 | 1 | 1 | - | 229 |
| Yes - promoter nominee | 4 | - | 14 | 1 | - | - | 19 |
| Grand Total | 207 | 29 | 234 | 14 | 6 | 1 | 491 |

Source: BEAS Capital Research, March 2022

We recommend that SEBI could mandate appointment of lead independent directors for large capitalization companies and PSUs, and especially for companies which have CEO/ Chairman combined.

3. Regular Shareholder Engagement

- Beyond general meetings, the chair or independent directors should routinely engage with shareholders to gather their views on governance and performance against strategy.

Rationale

Although there are no legal barriers preventing shareholders from meeting with board members in India, access remains limited. In contrast, frequent shareholder engagement is a common practice in global markets known for strong corporate governance. It could be beneficial for SEBI to encourage similar practices among Indian company boards. Regular exchange between shareholders and company boards ensures that investor perspectives are considered in decision-making, enhancing transparency and trust and promoting alignment of interests. It also serves as a good check and balance in promoter run companies.

We are aware of concerns on insider trading and potential access to differentiated information, but such engagement is normally subject to strict procedures. Further, SEBI (Prohibition of Insider Trading) Regulations, 2015 makes it clear that only information that is "unpublished price sensitive information" (defined under section 2(n)) is subject to insider trading prohibitions. This is not the kind of information that is typically sought or discussed by investors in such shareholder engagements.

On 17 December 2024, ACGA [sent](#) the Japan Financial Services Agency (FSA) case studies and examples of ACGA's collaborative engagements, together with our analysis of meetings that have led to successful

³ <https://www.businessdailyafrica.com/bd/opinion-analysis/ideas-debate/pros-and-cons-of-lead-independent-director-2271624>

outcomes, and others where the outcomes were not successful. This presentation sets out our recommendations on how to conduct collaborative engagements.

We suggest making independent directors available through broader forums and allow all interested shareholders to join in through a call link. Later, the transcript can be shared on the exchange so that all shareholders have the same information

For example, the Japanese Corporate Governance Code explicitly references an approach to shareholder engagement:

Japan's Corporate Governance Code: General Principle 5

Companies should engage in constructive dialogue with shareholders outside the general shareholder meeting to contribute to sustainable growth and increase corporate value over the mid- to long-term.

During such dialogue, senior management and directors, including outside directors, should:

- Listen to shareholders' views and pay attention to their interests and concerns.
- Clearly explain business policies in an understandable manner to gain shareholder support.
- Work toward developing a balanced understanding of shareholders' positions and act accordingly.

Source: <https://www.jpx.co.jp/english/news/1020/b5b4pj0000046kxj-att/b5b4pj0000046l0c.pdf>

4. Related Party Transactions (RPTs) – Materiality Filters

- Introduce double materiality thresholds (value + counterparty relevance) for royalty payments.
- Require benefit benchmarking for royalties to ensure alignment with margins or sales uplift.

Rationale:

Current RPT frameworks often obscure material transactions like royalty payments to MNC parents, diluting investor focus on conflict-prone areas. Enhanced materiality filters will improve transparency and accountability. The uniform materiality threshold indicates a lack of proportionality - it may be too stringent for smaller companies while being irrelevant for larger ones, creating inefficiencies.

SEBI's study reveals rising royalty payments by listed companies to related parties, highlighting a doubling over a decade of payments to Rs. 10,779 crores (approximately USD\$1.2b) in FY23⁴. The study mentions 25% of firms pay royalties exceeding 20% of net profits, raising concerns about transparency, governance, and shareholder returns versus royalty prioritization. SEBI has indeed highlighted issues such as companies seeking perpetual approvals for royalty payments, poor disclosure practices, and

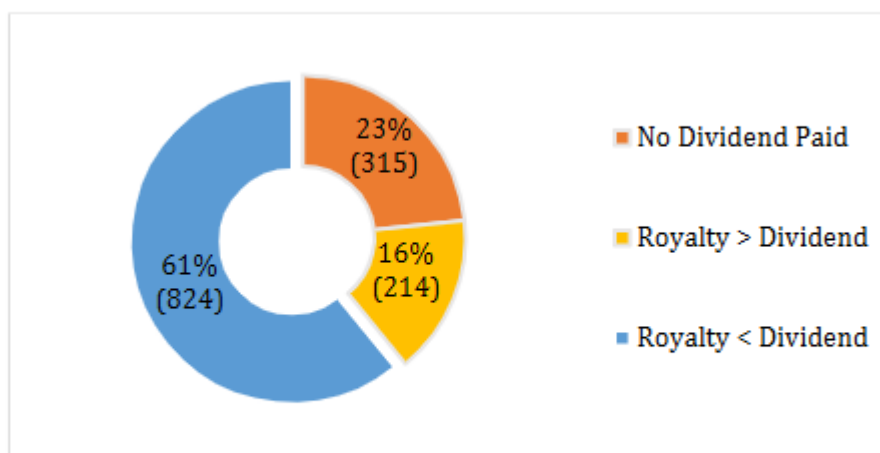
⁴ https://www.sebi.gov.in/reports-and-statistics/research/nov-2024/study-analysis-of-royalty-payments-by-listed-companies-to-related-parties_88517.html

instances where cumulative payments to multiple related parties exceed the regulatory threshold without requiring approvals.

The criteria for determining the materiality of royalty payments need revision. The current focus on turnover might ignore its impact on profitability.

It was unclear why [the recent](#) SEBI consultation (dated 7 Feb 2025) did not take into account revision of materiality thresholds for royalty payments, even though the materiality thresholds for related party transactions were being consulted for revision.

Chart 4: Royalty Paid to RPs vis-à-vis Dividend to all shareholders



Base: 1,353 Instances of Royalty Payments

Note: i) Data Labels indicate % of instances of royalty payments;

ii) Labels in parenthesis indicate no. of instances

Source: SEBI study, *Analysis of Royalty Payments by Listed Companies to Related Parties*
[2024](#)

5. Executive Compensation – Addressing Conflicts of Interest

- Exclude promoter votes on executive compensation resolutions where they, or their family members, are beneficiaries.
- Mandate unbundling of resolutions combining reappointment and pay decisions for independent voting.
- Require disclosure of performance metrics tied to variable pay components.

Rationale:

Allowing promoters to vote on their own pay creates conflicts of interest that undermine shareholder checks. These reforms will ensure executive compensation aligns with performance and shareholder interests. A systemic [analysis](#) by IiAS (2025) revealed that 24.5% of promoter pay resolutions would have failed if subjected to a "majority of minority" vote. For example, over 21 months from January 2023 to

September 2024, only 10 out of 893 promoter remuneration proposals were rejected, with institutional dissent ignored in 216 cases.

Exhibit 1: Summary of voting results on resolutions relating to promoter compensation

| Particulars | | 2023 | 2024 (till 30-Sep) | Total (21 months) |
|---|----------------|--------------|-----------------------|----------------------|
| Total number of resolutions relating to promoter compensation | A | 442 | 451 | 893 |
| Number of resolutions passed (based on published voting outcomes) | B | 434 | 449 | 883 |
| Number of resolutions rejected (based on published voting outcomes) | C | 8 | 2 | 10 |
| Resolution rejection rate | D = C/A | 1.8% | 0.4% | 1.1% |
| Of the resolutions that passed: | | | | |
| Those that passed the majority of minority test | E | 332 | 335 | 667 |
| Those that failed the majority of minority test | F | 102 | 114 | 216 |
| % of resolutions that failed the majority of minority test | G = F/B | 23.5% | 25.4% | 24.5% |

Source: www.iiasadrian.com; www.bseindia.com; IIAS research

Combining reappointment and pay decisions into a single resolution can obscure the details of each component, making it harder for shareholders to evaluate them independently. For instance, shareholders may support the reappointment of a director but disagree with their remuneration package. Unbundling allows shareholders to express their views clearly on each issue without being forced into a "package deal" decision. Leading proxy advisory firms and institutional investors often advocate⁵ for unbundled resolutions as part of their voting policies.

The trends below highlight the diversity in global approaches to transparency in variable pay disclosures while emphasizing growing regulatory trends toward accountability and equity.

Key Trends:

- Jurisdictions like Australia, the UK, and South Africa mandate detailed disclosures linking executive remuneration to specific performance metrics.
- In contrast, countries such as Canada and the US allow omissions for commercially sensitive data but require transparency about such exclusions.
- The EU emphasizes gender equity in variable pay disclosures under its Pay Transparency Directive.
- Germany has robust practices governed by corporate codes but allows some flexibility through voluntary disclosures.

⁵ <https://resources.glasslewis.com/hubfs/2025%20Guidelines/2025%20UK%20Benchmark%20Policy%20Guidelines.pdf>

6. Address Class Action Litigation provision in Companies Act

- Lower thresholds: Reduce the minimum plaintiff requirement (e.g., 7+ members, as in Australia)
- Allow third-party funding: Adopt models from the U.S. or Singapore to finance lawsuits
- Expand eligibility: Include bondholders, creditors, and banking sector stakeholders
- Fast-track courts: Dedicate NCLT benches for class actions to reduce delays
- Awareness campaigns: Educate investors via SEBI and stock exchanges

Rationale

The Satyam Computer Services scandal (2009) exposed critical gaps in India's shareholder protection framework. While American Depositary Receipt (ADR) holders secured compensation through U.S. class action lawsuits, Indian shareholders faced systemic barriers. This disparity catalysed India's introduction of class action suits under Section 245 of the Companies Act, 2013. However, the mechanism remains underutilised due to structural flaws.

Key limitations of Section 245 of the Companies Act 2013:

| Issue | Impact |
|---------------------------|--|
| High threshold | Requires 100+ members or 5% of shareholders—challenging for retail investors |
| Exclusion of stakeholders | Bondholders, creditors, and banking shareholders cannot file |
| No third-party funding | Contingency fees and funding prohibited, raising cost barriers |
| Slow judicial process | Average commercial dispute resolution takes ~4 years |
| Low settlements | Minimal payouts compared to litigation costs deter participation |

Source: ACGA Research

Closing Remarks

We welcome the opportunity to engage with regulators and to express the views and recommendations of ACGA and its members. At the same time, we urge regulators to consider these recommendations as part of ongoing efforts to strengthen corporate governance frameworks in India. Harmonizing shareholder proposal thresholds with global standards, addressing governance gaps in PSUs, enhancing shareholder engagement, refining RPT regulations, and reforming executive compensation practices will collectively foster a more equitable investment environment. We set out below a summary table of our recommendations for convenience:

| | |
|--|---|
| Shareholder Engagement and Proposal Thresholds | <ul style="list-style-type: none"> •Lower Proposal Thresholds: Reduce the threshold for submitting resolutions to 1–3%, aligning with global standards to empower minority shareholders. •Mandate post-vote explanation where >20% of shareholders dissent: If a significant percentage (e.g., 20% or more) of votes are against a board recommendation, the company must issue a statement to explain the intended actions to understand the dissent. |
| Board Governance Reforms in Public Sector Undertakings (PSUs) | <ul style="list-style-type: none"> •Empower Nomination and Remuneration Committees (NRCs) in PSUs to recommend and vet independent directors. •Enforce timely appointments of independent directors and publicly disclose board gaps. •Mandate the appointment of Lead Independent Director for large-cap companies and PSUs. |
| Regular Shareholder Engagement | <ul style="list-style-type: none"> •Beyond general meetings, the chair or independent directors should routinely engage with shareholders to gather their views on governance and performance against strategy. |
| Related Party Transactions (RPTs) – Materiality Filters | <ul style="list-style-type: none"> •Introduce double materiality thresholds (value + counterparty relevance) for royalty payments. •Require benefit benchmarking for royalties to ensure alignment with margins or sales uplift. |
| Executive Compensation – Addressing Conflicts of Interest | <ul style="list-style-type: none"> •Exclude promoter votes on executive compensation resolutions where they, or their family members, are beneficiaries. •Mandate unbundling of resolutions combining reappointment and pay decisions for independent voting. •Require disclosure of performance metrics tied to variable pay components. |
| Address Class Action Litigation provision in Companies Act | <ul style="list-style-type: none"> •Lower thresholds: Reduce the minimum plaintiff requirement (e.g., 7+ members, as in Australia). •Allow third-party funding: Adopt models from the U.S. or Singapore to finance lawsuits. •Expand eligibility: Include bondholders, creditors, and banking sector stakeholders. •Fast-track courts: Dedicate NCLT benches for class actions to reduce delays. •Awareness campaigns: Educate investors via SEBI and stock exchanges. |

Thank you for your attention to these critical issues. We welcome the opportunity to discuss these recommendations further or provide additional insights as needed.

Yours sincerely,

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