



# Proxy Advisory Report Jindal Steel & Power Ltd

BSE Code: 532286 | NSE Code: JINDALSTEL | ISIN: INE749A01030

Sector: Steel | Meeting Type: Extraordinary General Meeting

Notice Date: 30<sup>th</sup> June, 2020

e-Voting Platform: [CDSL](#)

Cut-Off date to be eligible for voting: 22<sup>nd</sup> July, 2020

e-Voting Period: From 25<sup>th</sup> July, 2020 to 27<sup>th</sup> July, 2020

Meeting Date: 28<sup>th</sup> July, 2020 at 11:00 AM

Meeting Venue: Through Video Conference (VC)/ Other Audio Visual Means (OAVM) facility at Jindal Centre, 12, Bhikaiji Cama Place, New Delhi-110066

Notice: [Click here](#) | Annual Report: [FY 2018-19](#)

Company's Email/Secretarial Email: [jsplinfo@jindalsteel.com](mailto:jsplinfo@jindalsteel.com)

Company's Phone: +91 124 6612 000

Company's Registered Office: O. P. Jindal Marg, Hisar – 125 005, Haryana

# REPORT SNAPSHOT

**TABLE 1 - AGENDA ITEMS AND RECOMMENDATIONS**

S. No.	Resolution	Type	SES Observation <sup>#</sup>	Rec.	Rationale
1	To approve divestment of up to the entire interest in M/s Jindal Shadeed Iron & Steel LLC, a step-down material subsidiary, by Jindal Steel & Power (Mauritius) Limited, a wholly owned subsidiary of the Company	S	LC*   GC   TC	<u>AGAINST</u>	Inadequate disclosures & transparency

S - Special Resolution, Rec. - Recommendation

# LC - Legally Compliant, NC - Legally Non-Compliant, FC - Fairness Concern, TC - Disclosures & Transparency Concern, GC - Governance Concern

**\* The Company has not acknowledged the proposal as a Related Party Transaction (RPT). SES is of the opinion that the proposed transaction is a RPT, if not strictly by law, then, at least based on what the intent of law is. Therefore, all the provisions of the RPT must be adhered to.**

RESEARCH ANALYST: AKANSHA PARASHAR | HEMANT VAISHNAV

CONFLICT DISCLOSURE: SES - NO | ANALYST - NO | INTERACTION WITH THE COMPANY - NO

**KEY ISSUE:**
**Is the proposed transaction a Related Party Transaction?**

While the Company has not proposed / presented it as a RPT, SES is of the opinion that it is an RPT and all procedures and disclosures related to RPT should have been complied with by the Company. ([Read more](#))



## COMPANY BACKGROUND

**TABLE 2 - MARKET DATA (As on 10<sup>th</sup> July, 2020)**

Price (₹)	164.10	52 weeks High/Low	202.40/62.10	Market Cap (₹ Cr.)	17,268.87	PE Ratio <sup>#</sup>	26.94
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Source: BSE

#Based on EPS for FY 20

**TABLE 3: FINANCIAL INDICATORS (STANDALONE)**

(In ₹ Crores)	2018	2019	2020
Operating Revenue	17,523.04	27,715.97	<b>26,228.25</b>
Other Income	-	14.45	-
PBDT	1,237.88	1,737.28	<b>3,166.70</b>
PAT	-361.61	-262.90	<b>617.67</b>
OPM (%)	7.06	6.27	<b>12.07</b>
NPM (%)	-2.06	-0.95	<b>2.35</b>
EPS (₹)	-3.95	-2.72	<b>6.09</b>
Face Value per share (₹)	1.00	1.00	<b>1.00</b>
Total Debt	23,180.21	19,699.97	<b>12,061.37</b>
Loans & Advances	1,196.97	1,723.19	<b>2,431.21</b>
Total Asset	60,076.60	57,672.24	<b>58,874.85</b>
Net Worth	22,792.56	22,548.56	<b>23,709.07</b>

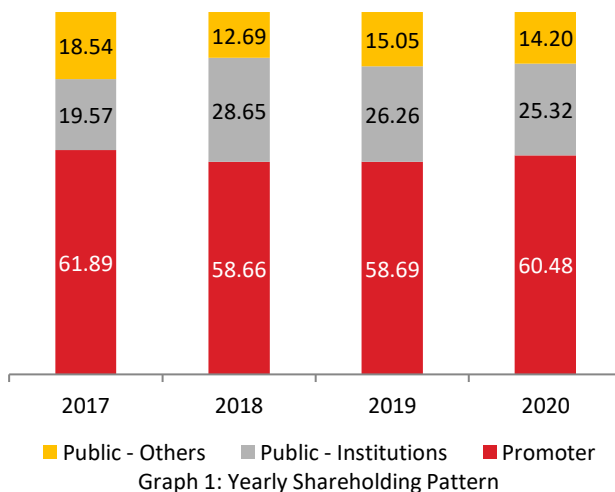
Source: BSE/Annual Report

**TABLE 4: PEER COMPARISON (2020)**

Tata Steel Ltd
60,435.97
404.12
10,531.10
6,743.80
17.43
11.16
57.11
10.00
39,239.23
1,806.58
1,50,392.56
76,838.12

**TABLE 5: TOP 3 PRINCIPAL BUSINESS ACTIVITIES OF THE COMPANY (FY 2019-20)**

Sr. No.	Name and Description of main products/services	% to total turnover of the Company
1	Steel	86.2
2	Power	11.46

**SHAREHOLDING PATTERN (%) (MARCH)**


Source: BSE

**DISCUSSION (1<sup>st</sup> APRIL, 2019 TO 31<sup>st</sup> MAR, 2020)**
**Shares at the start of period:** 96,79,46,379

**New Shares issued:** 5,20,69,592

- ESOP-40,69,592
- Conversion of warrants- 4,80,00,000 by promoters

**Shares at the end of period:** 1,02,00,15,971.

**Change in Promoter shareholding:** Increased by 1.79%.

**Reason:** Promoter Shareholding change due to net effect of issue of shares under ESPS and conversion of warrants.

**Change in Public Institutional shareholding:** Decreased by 0.94%.

**Change in Public Others shareholding:** Decreased by 0.85%.

**Promoter Pledge as a 74.8% of their shareholding.**


TABLE 6: MAJOR PUBLIC SHAREHOLDERS (MAR' 20)

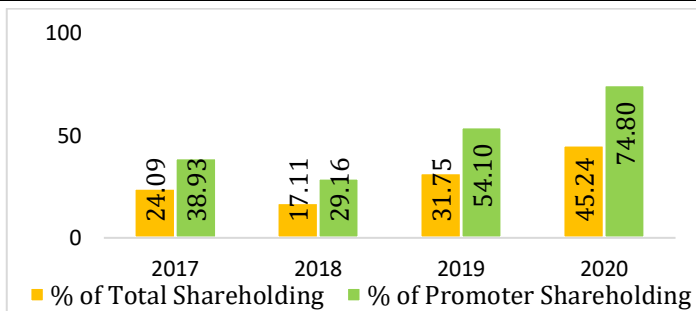
ICICI Prudential Life Insurance Company Ltd	3.45%
Kotak Tax Saver Scheme	3.43%
L&T Mutual Fund Trustee Limited	1.47%
Tree Line Asia Master Fund (Singapore) Pte Ltd	1.47%
Kotak Funds - India Midcap Fund	1.13%

TABLE 7: MAJOR PROMOTER SHAREHOLDERS (MAR' 20)

OPJ Trading Private Limited	18.47%
Opelina Sustainable Services Limited	13.66%
Virtuous Tradecorp Private Limited	6.31%
Danta Enterprises Private Limited	6.10%
Gagan Infraenergy Limited	4.87%

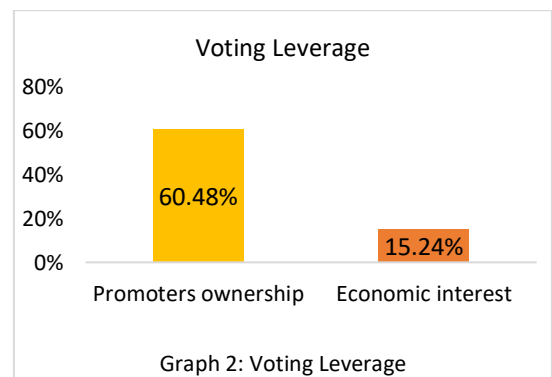
% of Shares Pledge by Promoter (March)

Discussion



- As per information available on the BSE website, the promoters have pledged or encumbered 74.80% of their shareholding as on 31<sup>st</sup> March, 2020.
- % of promoters pledge has been increased in last 2 years

PROMOTER OWNERSHIP / VOTING RIGHTS RATIO	MAR' 20
Voting Rights (A)	60.48%
Encumbrance or pledge (B)	45.24%
Unencumbered ownership (C = A - B)	15.24%
Ratio of unencumbered ownership / Voting Rights	1:0.25
Details of purpose of encumbrance reported as per Law?*	<u>Yes</u>



\*Disclosures required only in case pledge % is equal or exceeds  
a) 50% of their shareholding in the company; or  
b) 20% of the total share capital of the company.

INSTITUTION SHAREHOLDING VIS-a-VIS FREE FLOAT

Particulars	MAR' 19	MAR' 20
Total Shares	96.79	102.00
Promoter Shares	56.81	61.69
Non-Promoter Non-Public	-	-
Free Float (FF)	39.99	40.31
Public Institution	25.42	25.83
Institution vs FF	63.57%	64.07%
SES Grade	B	B

Institutional Holding	GRADE*
More than 75%	A
>50% to 75%	B
>25% to 50%	C
0% to 25%	D

\*Percentage is proportion of Public Institutional shareholding vis-a-vis Free float. Free Float is total shareholding reduced by Promoter and Non-Promoter Non-Public shareholding.

No. of shares in Crore

**Explanation:** Generally, it is expected that a higher Institutional shareholding would result in better Corporate Governance Practices due to stewardship activities of investors. To analyse the entry and exit of Institutional shareholders in a Company and to capture such triggers, SES has come up with Institutional grading criteria as given in the table. The grading criteria provides a higher grade in case the percentage of Institutional shareholding vis-a-vis free float is higher and vice versa.



**RESOLUTION ANALYSIS**

**RESOLUTION 1: SALE OF ASSETS/BUSINESS/UNDERTAKING**

<p>To approve divestment of up to the entire interest in M/s Jindal Shadeed Iron &amp; Steel LLC, a step-down material subsidiary, by Jindal Steel &amp; Power (Mauritius) Limited, a wholly owned subsidiary of the Company</p>	<p><b>AGAINST</b></p>
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**SES RATIONALE**

Compliant with law. **Governance Concern:** Valuation Report not disclosed, lack of disclosures and transparency.

**SES ANALYSIS**

**DETAILS OF THE PROPOSED SALE**

**Assets business being sold:** entire equity interest in Jindal Shadeed Iron & Steel LLC, a stepdown material subsidiary of Jindal Steel & Power Ltd (the Company)

**Valuation Report:** Not disclosed in the notice.

**However, the Company has mentioned that** “In addition to the bidding process, to ensure price discovery, an independent valuation of the Target Company was also carried out and the valuation report was procured by the Company and the Mauritius WOS from Ernst & Young Merchant Banking Services LLP.”

**Price:** up to US \$ 251 million (partly by way of cash and partly by way of assumption of liabilities of Mauritius WOS), in one or more tranches, and on terms and conditions set forth in the binding offer dated June 29, 2020 received from the Purchaser and duly accepted by the Mauritius WOS (“Proposed Transaction”).

**Details of Buyer:** Templar Investments Limited is an investment company incorporated under the laws of Mauritius. It is a part of the promoter group of the Company, holding 0.7% equity shares of the Company. Further, it may be noted that, Mr. Naveen Jindal (Chairman of the Board and a Promoter of the Company), holds the entire equity share capital of the Purchaser i.e., Templar Investments Ltd.

**RATIONALE FOR THE SALE (AS STATED BY THE COMPANY)**

The Mauritius WOS has undertaken the process of sale of Target Company with the **objective of paring down its debt**. Given the overall macroeconomic conditions, the Mauritius WOS and the Company believe that to reduce the overall debt of the Company and create a **healthier balance sheet for the investors and stakeholders of the Company**, it would be best to divest certain assets and for this purpose, the Target Company was identified. The divestment is in line with the Company’s vision and commitment to **bring down its debt and deleverage its balance sheet**.

**IMPACT OF THE SALE**

**On income statement:** Not disclosed

**On balance sheet:** Not disclosed

**FAIRNESS OF SALE**

The sale price has been discovered through a bidding process conducted by an independent agency, therefore on face of it the process was fair and transparent and the price discovered is at arm’s length.

Simultaneously, the Company has stated that it had obtained an independent Valuation Report for the proposed divestment. **However, the Company has neither disclosed Valuation Report nor disclosed whether sale value achieved was higher or lower from the value arrived in valuation report.**

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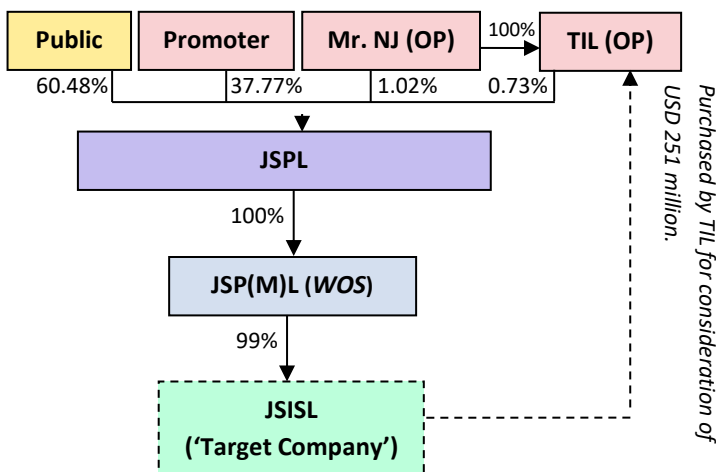
In addition, as the names of other bidders have not been disclosed, nor their bid value has been disclosed, one does not know whether other two bidders were independent parties or were also related to promoters.

In absence of any disclosures, notwithstanding the fact that bidder was decided in an independently conducted auction, **SES is unable to comment on the fairness of the proposed transaction.**

## CONFLICT OF INTEREST ISSUES- RELATED PARTY ISSUES

Mr. Naveen Jindal (Chairman of the Board and a Promoter of the Company), holds the entire equity share capital of the Purchaser. None of the other directors, except Mrs. Shally Jindal (spouse of Mr. Naveen Jindal) or key managerial personnel of the Company, and any relatives of such director or key managerial personnel are in any way concerned or interested in this resolution, financially or otherwise except to the extent of equity shares held by them in the Company.

## GRAPHICAL REPRESENTATION



**Proposed Transaction:** Divestment by way of sale, by JSP(M) of up to its entire equity interest i.e., 99% of Paid up share capital in JSISL to TIL or any of its subsidiary(ies) i.e., Purchaser, for a consideration of up to USD 251 million.

TIL or Purchaser belongs to Promoter Group of the Company. The Entire share capital of TIL is held by Mr. Naveen Jindal (NJ), Chairman and Promoter of the Company.

### Abbreviations:

**JSPL:** Jindal Steel & Power Ltd, **JS(M)L:** Jindal Steel & Power (Mauritius) Ltd., **JSISL:** Jindal Shadeed Iron & Steel LLC Oman ('Target Company'), **Mr. NJ:** Mr. Naveen Jindal, **TIL:** Templar Investments Ltd ('Purchaser'), **OP:** Other Promoter

## SES VIEW

The Company is seeking shareholders' approval to approve divestment of up to the entire interest by Jindal Steel & Power (Mauritius) Limited (Wholly owned subsidiary of Company) in M/s Jindal Shadeed Iron & Steel LLC, Oman (a step-down **material subsidiary**).

SES has observed following concerns in the proposed transaction;

### I. **Non-disclosure of Valuation Report:**

- The Company intends to sale its Material Step down subsidiary viz., M/s Jindal Shadeed Iron & Steel LLC, Oman (JSISL) to Templar Investments Ltd. for an aggregate consideration of USD 251 million.
- Though, valuation report is not required in terms of law, however, SES is of the opinion that transparency is best protection against any question, therefore, the Company must disclose valuation report and also details of other two bids received for the divestment of JSISL.
- Further, the Company in its notice have mentioned that, "In addition to the bidding process, to ensure price discovery, an independent valuation of the Target Company was also carried out and the valuation report was procured by the Company and the Mauritius WOS from Ernst & Young Merchant Banking Services LLP."



- If such Valuation is obtained, then, why the same cannot be disclosed to the shareholders of the Company? When the shareholders money was used to get the valuation done. Further, as the subsidiary is being sold, there cannot be any argument on account of trade secret etc.
- In absence of such disclosure, SES is of the opinion that the shareholders of the Company may not be able to take an informed decision.

## II. **Bidding Process- Promoter party to both sides- seller and buyer?**

- The Company in its notice have stated that, *"In order to maximise the value and **run a transparent process**, the Mauritius WOS initiated a sale process in the month of April 2020 to invite interested bidders to share offers for acquisition of up to 99.99% shareholding of the Target Company.*
- *As a part of the process, teasers and marketing documents were circulated to various global entities. Post the completion of the process, **the Mauritius WOS received a total of three binding bids**. The bidder that submitted the **highest binding bid** was selected by the Mauritius WOS."*
- Further, the Company has not disclosed any details related to other 2 bidders and the amount of bid. Whether the other 2 bidders were Independent? or any related person were on the board of those companies?
- SES is of the opinion that the Company has failed to provide proper disclosure in support of the transaction. Such lack of transparency does not give comfort to minority shareholders of the Company on fairness of the process.
- The question is why not disclose all that is there?
- The larger question is, why a promoter will purchase an asset taking 100% risk, while the Company where he holds around 40% is divesting? From 40% value at risk, moving to 100% value at risk that too by an experienced promoter does raise an eyebrow? If the asset was not worthy, why promoter is buying and if it is indeed worthy why company is selling? Why sacrifice is being made by promoter for interest of minority? If it is being done, why shy away from disclosures?

## III. **Is the transaction an RPT? Is it Material RPT? Should Promoters cast their Vote?**

SES has applied following tests:

- **Test 1: Is Templar Investments Limited ('Purchaser') a Related Party?**

SEBI LODR states that an entity shall be a related party if it is related party under accounting standards or under Companies Act, 2013.

Section 2(76) of the Companies Act, 2013 states that:

*"(76) "related party", with reference to a company, means—*

*(vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;"*

**Naveen Jindal is the Executive Chairman of the Company, and controls the affairs of Templar Investments Limited, as he holds entire equity in the Templar Investments Limited.**

**Result Test 1:** The purchaser is a Related Party.

- **Test 2: Is the Transaction RPT?**

SEBI LODR definition clause defines RPT as under

*"(zc)—related party transaction means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a "transaction" with a related party shall be construed to include a single transaction or a group of transactions in a contract"*

**Result Test 2:** The transaction is definitely a RPT.

- **Test 3: Is the transaction Material RPT?**

SEBI LODR reads as under



**Related party transactions.**

**23. (1)** The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions:

*Explanation.- A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.*

**SES Analysis:**

- a. The provision of law intends to distinguish material RPT from non-material RPT
- b. It gives freedom to listed entity to define materiality policy stricter than that prescribed under law.
- c. However, it is obvious that any policy has to be within framework of the law implying that any limit that is set by any company must not dilute intention of law
- d. By way of Explanation, the regulations have provided a threshold of materiality. The question is whether the Explanation limits interpretation of materiality to what is stated in Explanation?
- e. Obvious answer is no, it does not. Reference may be drawn to Institute of Companies Secretary of India document titled "Jurisprudence, Interpretation and General Laws".

**Illustrations or Explanation**

*"Illustrations attached to sections are part of the statute and they are useful so far as they help to furnish some indication of the presumable intention of the legislature. An explanation is at times appended to a section to explain the meaning of words contained in the section. It becomes a part and parcel of the enactment. **But illustrations cannot have the effect of modifying the language of the section and they cannot either curtail or expand the ambit of the section which alone forms the enactment.** The meaning to be given to an „explanation“ must depend upon its terms, and no theory of its purpose can be entertained unless it is to be inferred from the language used" (Lalla Ballanmal v. Ahmad Shah, 1918 P.C. 249).*

- f. Therefore, it is amply clear that explanation to Regulation 23(1), does not and cannot restrict scope of materiality to what is explained in the Explanation.
- g. In that case reliance has to be placed on **Rule of Harmonious Construction**

*"A statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute. Such a construction has the merit of avoiding any inconsistency or repugnancy either within a section or between a section and other parts of the statute. It is the duty of the Courts to avoid "a head on clash" between two sections of the same Act and, "whenever it is possible to do so, to construct provisions which appear to conflict so that they harmonise" (Raj Krishna v. Pinod Kanungo, A.I.R. 1954 S.C. 202 at 203).*

*Where in an enactment, there are two provisions which cannot be reconciled with each other, they should be so interpreted that, if possible, effect may be given to both. This is what is known as the "rule of harmonious construction".*

- h. Therefore, ruling out narrow and limited definition of materiality based on Explanation to Regulation 23(1), and applying rule of harmonious construction, SES is of the opinion that besides what is defined by company in its policy, one must look at entire Regulations as whole and see if materiality has been defined elsewhere?
- i. Unfortunately, definition clause has not defined materiality, however definition clause has defined Material Subsidiary as under

*(c) "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.*





- j. The Company on its own has stated that the subsidiary that is being hived off is a material subsidiary.
- k. Therefore, SES is of the view that harmonious construction of LODR, would imply that if a material subsidiary is being sold to a related party (Promoter) the transaction would qualify to be a material RPT. Any other interpretation would be against the objective of law. It will be ironical to interpret a subsidiary material but its hive off not material.

**Result Test 3:** The transaction is a material RPT.

#### **IV. Consequences of transaction being material RPT**

Regulation 23(2) states that, "All related party transactions shall require prior approval of the audit committee."

Regulation 23(4) states that, "All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not."

- The Notice does not state anywhere, whether prior approval as mandated under Regulation 23(2) was obtained or not?
- Further, since in opinion of SES, it is a material RPT, Promoters cannot vote on this transaction. Lastly SES would also like to quote relevant provisions of LODR Regulation 4(2) states that,

*(f) Responsibilities of the board of directors: The board of directors of the listed entity shall have the following responsibilities:*

*(ii) Key functions of the board of directors-*

*(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.*

- SES is of the view that there is no scope for any doubt that the proposed transaction is RPT, and there is scope for potential or perceived conflict of interest in situations like this. The Notice should have clearly stated as to how directors satisfied themselves and ensured that there is no conflict of interest.

In view of the above, SES is raising concern.



**Disclaimer****Sources**

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

**Analyst Certification**

The Analyst(s) involved in development of this Report certify that no part of the Research Analyst's compensation was, is, or will be directly or indirectly related to the specific recommendations or views expressed by the Research Analyst(s) in this Report. The concerned Research Analyst(s) and Director(s) do not have any pecuniary relationship with the Reported Company, except that they may be holding miniscule shares in the Company which does not impact their independence in respect of this Report.

SES may be a shareholder in the Company holding equity shares as disclosed on its [website](#). The objective of SES' investment is solely to obtain Shareholders' communications from the Company as a shareholder.

**CAUTIONARY STATEMENT**

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

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All disputes shall be subject to jurisdiction of High Court of Bombay, Mumbai.

**Concern terminology**

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

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

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

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

**Company Information**

Stakeholders Empowerment Services

SEBI Reg. No. INH000000016

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