



Promoter Dissent at Infosys Ltd - Pinch me hard please

Infosys Ltd, which has been considered as pioneer in setting benchmarks for corporate governance amongst listed Indian companies, avoided a possible defeat of two of its resolutions by a whisker at its recently concluded Postal Ballot. Things could come to a stage where a resolution faces a possible defeat could not have been imagined few years back. Can this be caused by shareholder activism or some simmering dissent internally or combination of multiple factors?

The Company had come out with a Postal Ballot for five resolutions viz. (i & ii) Approval for Company's ESOP Plan 2015, (iii & iv) appointment of two independent Directors and (v) reappointment of Mr. Vishal Sikka as the CEO of Infosys for another term of 5 years. While Resolution (iv) & (v) were passed with comfortable majority, Resolution I & ii barely made it. Resolution three although opposed in considerable numbers, made it safely.

The voting results in respect of the postal ballot as informed by the Company to the Stock Exchanges on 2nd April, 2016, are summarised as below:

	Resolution (i) (%)		Resolution (ii) (%)		Resolution (iii)	
	F	A	F	A	F	A
Promoter	100.00	0.00	100.00	0.00	100.00	0.00
Public – Institutional	79.74	20.26	77.54	22.46	82.12	17.88
Public- Others	53.35	46.65	52.40	47.60	80.75	19.25
Total	77.86	22.14	76.34	23.66	85.03	14.97

(% as Percentage of total votes cast) F- FOR A- AGAINST

All the three resolutions i.e. (i) & (ii) related to ESOP Plan for the Company Employees and Employees of Subsidiaries; and (iii) resolution relating to the reappointment of Prof. Jeffrey S Lehmann as an Independent Director, got full support of the Promoters with 100% of the Promoter, who participated, voting "FOR" the resolution. This indicates that those promoters were fully in support of Board / Managements proposal contained in Resolution #1, 2 & 3. However, promoters were not so generous with the other two proposals, where their voting behaviour, to say the least, is baffling to any observer or student of governance. The data reveals a lot as can be seen from the table below:

(Shares in Million).

Promoter Shares	Voted in Resolution # 1	Voted in Resolution # 2	Voted in Resolution # 3	Voted in Resolution # 4	Voted in Resolution #
Voted	99.91%	99.91%	99.91%	23.57%	23.57%
Abstained/ Did not vote	0.09%	0.09%	0.09%	76.43%	76.43%

Promoter holding of miniscule 0.09% or 0.28 million shares only did not vote in Resolution #1, 2 & 3 indicating wholehearted support for Resolutions. For Resolution 4 & 5 story is quite different. For these two resolutions, namely (iv) Appointment of Ms. Punita Kumar Sinha as an Independent Director and (v) Dr. Vishal Sikka as the CEO of the Company, only **23.57%** of the Promoters shares have been voted for, and about **76.43%** of promoter's shares were not voted for (**Abstained**). Statistics reveal that most of the time promoter participation is uniform across all resolution put up for consideration with exception in cases where the concerned promoter is an interested party and would abstain from a particular resolution(s). Such is not the case here as resolution 4 & 5 do not have any interested party except the appointees themselves. It is also not a case where some promoters did not participate due to unavailability or unaware of the Ballot as almost 100% of them have participated in other resolutions. Therefore, it can be safely concluded that it was their conscious decision not to participate in these two resolutions.

This pattern of voting is quite intriguing and throws up questions as to why the promoters voted in this manner. In the case of first three resolutions, one of the premise that could be put forward could be that since objections were raised by Proxy Advisory companies and promoters were expecting negative votes from non-promoter shareholders, hence to counter the threat promoters voted en-masse. These Resolutions being special resolutions needed 75% **FOR** votes to pass. The other premise could be that promoters were totally in favour of the resolutions.



The issue then arises as to why promoters voting 100% in the first three resolutions decided to abstain from the other two resolutions and that too in large number? Was it because they thought that these are ordinary resolutions requiring only 50% votes they need not bother and vote? This is only a theoretical argument as when a promoter is voting for three resolutions decision for not to vote for rest two, must be based on strong logic rather than pure whim and fancy. Promoters voting against management and Boards recommendation is rare, and ABSTAIN vote is yet another way of saying no. A group of promoter ABSTAINING becomes all the more glaring and pronounced when that promoter group have voted in three other Resolutions. SES is of the opinion that it is certainly a reflection of one thing, that there is some deep divide between the promoters and not all promoters are aligned with the present Board/ Management as far as these two resolutions are concerned. Apparently, present Board has support of some of the promoters and not all. One could even say that some of the promoters are waiting for an opportunity to make changes in management and Board. That is why they have voted in favour of appointment of Prof Lehman, who has been there for long with both; the present and past management. They have also voted for ESOPs to ensure that they do not earn wrath of senior management, but ABSTAINED for appointment of new ID.

The other interesting point that emerges out of voting results data is discerning investors. The data establishes that investors have started participating in the general meetings and are not voting as herd. Not only that, they are voting resolution by resolution after evaluating the issues and deciding their vote. Till now such was the case with Institutional Investors only but not anymore. Non Institutional Public Investors are also following a path of discerning investors as can be seen from the following table:

Total Outstanding Shares - Non Institutional Public Investors	Action	Res#1	Res#2	Res#3	Res#4	Res#5
	FOR	185,913,622	182,595,713	281,328,453	260,995,000	311,141,901
	AGAINST	162,548,949	165,865,468	67,069,320	60,780,620	11,872,017
681,180,456	Total shares voted	348,462,571	348,461,181	348,397,773	321,775,620	323,013,918

The data reveals that almost 50% of the Non Institutional Public Investors participated in the voting process. Not only that their voting was not uniform in all five resolutions. The votes against and in favour differed for each resolution. This indicates that in all probability the investors considered the issue based on its merit and voted.

Lowest AGAINST vote was recorded in respect of Resolution # 5 relating to appointment of Mr. Sikka, clearly establishing that these shareholders felt that remuneration within permissible limits is not an issue as long as performance and returns are there for shareholders. They do not want to destabilize the apple cart. However, it can also be inferred that these investors are cost conscious as well and have felt that ESOPs are ultimately a cost to the Company and to shareholders, therefore almost 50% voted against Resolutions relating to ESOPs. These investors did not find appointment of Prof Lehman equally objectionable. May be it is still to set in their mind that independence does not get impacted by legislative dictum alone.

It can also be argued that may be these investors were guided by reports of proxy advisors which appeared in press, however, data does not fully support the same. Resolution # 3 was opposed by two advisory companies, SES and IIAS, however number of vote AGAINST in respect Resolution #3 are much less in comparison to AGAINST votes cast in Resolution #1 & 2, which was opposed by SES alone. Therefore, it cannot be concluded that these investors were totally guided by Proxy Advisors alone, if that be the case Resolution # 3 would have seen maximum AGAINST votes.

Institutional Investors voting pattern also resembles that of Non Institutional Public Investors having least AGAINST votes in Resolution #5 and highest AGAINST Votes in Resolution # 1 & 2.

Total Outstanding Shares - Institutional Public Investors	Action	Res#1	Res#2	Res#3	Res#4	Res#5
	FOR	800,945,059	802,530,261	847,060,414	979,528,296	1,030,674,463
	AGAINST	203,466,189	232,424,751	184,465,001	56,303,706	6,306,970
1,315,457,999	Total shares	1,004,411,248	1,034,955,012	1,031,525,418	1,035,832,002	1,036,981,435



The only difference is that while Resolution 1 & 2 were opposed by close to 50% of Non-Institutional Public Investors, only about 20% of Institutional Public Investors voted AGAINST. This gives an impression that probably Non Institutional Public Investors were swayed by newspaper reports carrying opinion of proxy advisors.

Surprisingly, in respect of Resolution #4 relating to appointment of Dr. Punita Kumar Sinha, where none of the Advisory Report recommended AGAINST, a high percentage of Against vote; close to 15% in total and just below 20% in case of both categories of public investors, strongly indicate that investors are making their own analysis as well in addition to Advisory recommendation. Although SES had recommended FOR in the case, SES had also pointed out that Ms. Sinha is a politically Exposed Person (PEP) as per OECD definition and the Company must disclose the same regardless of the merit of Ms. Sinha. It appears that investors paid attention to the fact and looking at past tradition of INFOSYS are wanting to keep PEPs out of the Board.

Finally, the voting results threw a strange behaviour of INFOSYS Promoters as can be seen from table alongside:

Mode	Res #1, 2 & 3	Res #4 & #5
E-Voting	168,314,588	-----
Postal Ballot	131,716,684	70,773,220

One would normally associate only those investors who are not computer savvy to use the archaic method of paper physical postal ballot to cast their vote and would not expect promoters of India's most respected software company to use this method. It is seen that large number of votes i.e. about 40% in case Res#1 ,2 & 3 and 100% in case of Res# 4& 5 were physical postal ballots only. While SES cannot be certain what was the reason for such behaviour, the two possible reasons are; either these promoter shareholders had doubts or felt uncomfortable using E-Voting, or they are not computer savvy. No one can believe that these promoters are not computer savvy. In that case the question remains" Do they doubt E Voting data security"?

SUMMARY

- The voting pattern indicates that Board/Management thoughts are not reflecting thoughts of 100% of promoters. Majority of promoters have expressed their disagreement subtly by ABSTAINING rather than by voting AGAINST
- Institutional Shareholders are voting after taking into account governance issues.
- Even non institutional public shareholders have started participating in big way and their voting pattern shows maturity.
- It can be argued that Proxy Advisory services have started impacting investors decision
- Exciting days are ahead in struggle of investors forcing good governance onto companies through their active participation

Board room battles are common but not in companies like Infosys which claim to be epitome of governance. It will be interesting to watch where things head from here for the Company and its Board.



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