SUMMARY OF PROXY ADVISORY GUIDELINES UPDATES – FY 2025-26

SES will apply the following updates in its report analysis with effect from June 23, 2025, unless otherwise specified. These updates reflect issues that SES has consistently highlighted in past reports. By adopting a phased implementation approach, SES aims to ensure that the changes are not abrupt and that companies have had adequate time to understand both, the significance of the matters and the rationale behind SES' position.

There are also updates where SES believes that companies may require more time to fully appreciate the underlying reasoning. These changes will therefore be introduced gradually in the near future.

This document also includes certain points that are already part of SES' published policy. They are reiterated here solely for the Company's reference to support improved drafting and disclosure in shareholder notices.

GENERAL POINTS

1. Discontinuation of "**" Recommendation

SES previously recommended "**" on select resolutions where it encouraged shareholders to engage with the Company's management before making a voting decision. Moving forward, SES will provide a clear "FOR" or "AGAINST" recommendation even in such cases. This shift ensures greater clarity for investors, especially when engagement with management is not feasible or fails to resolve their concerns.

2. Significant Shareholder

In light of recent corporate developments demonstrating that governance issues can impact public interest equally at professionally managed boards and promoter-led boards, SES has defined the criteria for identifying "Significant Shareholders" to effectively evaluate their involvement in proposals where their interests may be impacted.

SES will consider any shareholder holding more than 5% in the Company and occupying a Board or KMP position, either directly or through a nominee, as a significant shareholder. In the absence of a Board seat, SES will evaluate the significance of such shareholding in the context of the overall promoter holding to assess the potential control/influence. Where there are no identifiable promoters, a shareholding of over 20% will be treated as significant by SES.

3. Disclosure of Valuation Report/Bidding Process/Pricing Mechanism

If the Company has relied on a Valuation Report, Bidding Process, or any other pricing mechanism to determine the pricing terms of a proposal placed before shareholders, such as a related party transaction, preferential issue or sale of assets, then the key elements of the

pricing mechanism that are relevant for shareholders' decision-making should be clearly disclosed in the notice of the general meeting. Further, the Valuation Report should be annexed to the proposal/or uploaded on the website. If the report contains confidential information, then the relevant details necessary for informed decision-making should be clearly explained in the Notice.

ADOPTION OF FINANCIAL STATEMENTS

1. Significant Portion not audited by the Principal Auditors

The portion unaudited by the Principal Auditors may include both, areas audited by other auditors and those that remain entirely unaudited. SES has observed that the unaudited figures are often reported before inter-segment eliminations or consolidation adjustments.

In light of recent observations by NFRA highlighting significant lapses in audit conduct and reporting, SES believes that it is essential that transparency in this regard is critical to protecting shareholder interests.

Therefore, SES believes that unaudited quantum, both entirely unaudited or audited by other auditors, should be reported post consolidation adjustments. With regard to portion audited by other shareholders, the Auditors Report should provide a specific justification that the work of the component auditors they have relied upon is fair and accurate.

2. Subsidiary/SPV Financials of REITs/INVITs

Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) operate under a trust-based structure regulated by SEBI, distinct from companies governed by the Companies Act, 2013. Given this unique framework, their financial reporting requirements differ, and unlike regular companies, REITs/InvITs are not mandated to disclose standalone financials of individual SPVs or subsidiaries.

Presently, SEBI regulations mandate disclosure of valuation of all assets of the InvIT/REIT by the valuer including physical inspection of every infrastructure project/property by the valuer. Further, SEBI also mandates regular disclosures of key metrics, audit observations, related-party transactions, and material events.

However, as REITs and InvITs mature and attract a broader base of institutional and retail investors, the need for greater transparency will become more relevant. Enhanced disclosure of standalone financials of key SPVs or subsidiaries would align REITs/InvITs with the reporting practices of regular companies and will offer investors better insight into risk concentration, financial stress at the asset level, or potential conflicts of interest.

SES will continue to educate companies and investors on the importance of improved transparency going forward and take a suitable policy stance in the coming future.

3. Mandatory Disclosures/Annexures to Auditor's Report

Companies should ensure that mandatory annexures to the financial statements such as the report on internal financial controls or the CARO are included in the Annual Report. Further, mandatory disclosures such as rationale for absence of Key Audit Matters should be specifically addressed in the Auditor's Report.

AUDITOR APPOINTMENTS & REMUNERATION

Statutory Auditors:

1. Tenure of the same Statutory Auditor post completion of the Casual Vacancy term

A Statutory Auditor cannot be appointed for a term other than five years. However, ambiguity arises in cases where an auditor is first appointed to fill a casual vacancy and is later proposed for appointment as the principal auditor. The law does not clarify whether the tenure served while filling the casual vacancy should be counted as part of the five-year term. SES believes that either interpretation is acceptable, as the law lacks explicit guidance and neither approach raises governance concerns.

2. Portion not audited by the Principal Auditors

The portion unaudited by the Principal Auditors may include both areas audited by other auditors and those that remain entirely unaudited. SES has observed that the unaudited figures are often reported before inter-segment eliminations or consolidation adjustments.

In light of recent observations by NFRA highlighting significant lapses in audit conduct and reporting, SES believes that it is essential that transparency in this regard is critical to protecting shareholder interests.

Therefore, SES believes that unaudited quantum, both entirely unaudited or audited by other auditors, should be reported post consolidation adjustments. With regard to portion audited by other shareholders, the Auditors Report should provide a specific justification that the work of the component auditors they have relied upon is fair and accurate.

3. Audit Committee Non-Compliant

SES believes that auditor appointment and remuneration proposals should be recommended by a duly constituted Audit Committee. However, in case of PSUs, SES notes inconsistency in practices; while some PSUs seek shareholder approval for auditor remuneration, while others do not, thus, reflecting a lack of clarity around the applicable approval mechanism. Further, there exists no fairness issues in remuneration payments of CAG appointed Auditors. Hence, SES will take note of this differential position while analyzing auditor proposals for PSUs.

4. If gap not excessive, implied rationale may be considered

SES believes that if the non-audit fees paid to statutory auditors are significant, the rationale for such payments must be clearly disclosed in the notice to shareholders. Transparent disclosure is essential to ensure that the payments do not give rise to any perceived or actual conflicts of interest. In addition to the stated rationale, SES will also consider any apparent contextual factors or events that may explain or justify the quantum of such remuneration.

5. Alignment of Tenure of Group Auditors

While the Companies Act, 2013 prescribes a five-year term for statutory auditors, sectoral regulators such as the RBI and IRDAI mandate different auditor tenures, viz., three years and five years, respectively. Additionally, companies with foreign group entities may seek to align auditor appointments with the audit cycles of their global counterparts, which may follow different tenures. Accordingly, SES deals with proposals where companies propose change in auditors to align with group auditor cycles. In such situations, SES believes that the alignment should be sustainable over the long term. Further, SES will also assess the contributions made by such group entity to the Company's performance while making a recommendation on whether the alignment is justified.

6. Statutory Auditors at Banks - Inconsistency identified in the Legal Provisions

While analysing reports for FY 2024-25, SES identified the below issue. The same is reiterated for the information of the Company and the Clients. An official update in this regard has already been issued on August 17, 2024.

Currently, banks are following two different approaches for appointment of statutory auditors due to inconsistencies in the legal provisions prescribed by the Reserve Bank of India (RBI). According to RBI Circular (Weblink), shareholders are required to approve auditors for a continuous term of three years. However, the RBI itself grants approval for auditors on an annual basis, subject to yearly assessment. This creates a regulatory conflict: when shareholders approve auditors for a three-year term, they are effectively approving a tenure beyond what the RBI has actually approved. On the other hand, if shareholders approve auditors for only one year, it leads to non-compliance with the RBI's requirement for a continuous three-year shareholder approval.

This contradiction presents both compliance and governance challenges. In response to this ambiguity, SES decided to not support auditor appointment resolutions, whether proposed for one year or three years. This stance is intended to highlight the inconsistency and prompt the regulator to provide greater clarity in the legal framework governing such appointments.

7. Secretarial Auditors:

SEBI LODR now has stipulated provisions for Secretarial Auditor appointments and remuneration. SES will analyse whether such proposals are compliant with the legal requirements or not.

SES will also compare the remuneration paid to the outgoing auditors with that proposed for new auditors to assess any material change. To make this assessment, disclosure of the previous auditors' remuneration is essential.

Additionally, the governance parameters that SES has adopted to analyse the independence and efficiency of the Statutory Auditors, will also be applied for Secretarial Auditors, provided the said parameters are relevant and applicable to the Secretarial Auditors.

Further, when the existing Secretarial Auditors are being re-appointed, SES will also examine whether such Secretarial Auditors have failed to highlight any non-compliance incurred by the Company during the previous year in the Secretarial Audit/Compliance Report (if signed by the Secretarial Auditors) during the year.

Cost Auditors:

1. **Disclosure of Audit Committee recommendation to Cost Auditor Appointment and Remuneration:**

Appointment and remuneration of cost auditors fall under the responsibilities delegated to the Audit Committee. However, SES has observed that proposals related to the appointment or remuneration of cost auditors often lack clarity on whether these terms have indeed been reviewed and recommended by a duly constituted Audit Committee. Hence, the Companies should take a note of this while drafting their resolutions.

2. **Audit Committee Compliance at the time of Cost Auditor Appointment/ Remuneration recommendation:**

Law requires cost auditor appointment and/or remuneration proposals to be backed by proper Audit Committee recommendation. Hence, SES will check whether the composition of the Audit Committee is compliant at the time of such recommendation.

Parameters applicable to all auditors (Statutory/Secretarial/Cost)

1. **Legal or regulatory proceedings against Auditors**

In instances where legal or regulatory proceedings are ongoing against an auditor and no final order has been passed, SES does not assume the role of a regulator or court, nor does it pass judgment. However, SES will analyse the matter based on the seriousness of the allegations and assess whether there exists prima facie evidence indicating a lapse in the auditor's duties.

DIRECTOR APPOINTMENTS

1. **Profile Disclosure for Director Appointment & Remuneration proposals**

Secretarial Standard 2 and SEBI LODR Regulations stipulate the disclosures that are to be made in the explanatory statement when dealing with director/manager appointments. Law mandates disclosure of full profile in case of appointments, re-appointments, fixation and variation in remuneration. Additionally, SES will require full profile in cases of continuation of directorship proposed under regulation 17(1D) of SEBI LODR Regulations. In cases of retirement by rotation, SES may not raise issue if requisite details are available in the Annual Report. When continuation is proposed as a result of a director attaining 70 (NED)/ 75 (ED) years of age, SES will require latest directorships and attendance details to assess performance and time commitments.

2. Attendance Disclosure in the Notice

The Companies should ensure that the explanatory statement comprises of the attendance details of the director in the latest complete financial year preceding the date of notice of the general meeting in order for shareholders to assess the performance of the Director while deciding upon the Director's re-appointment/continuation. Hence, SES believes that the explanatory statement for re-appointment/continuation proposals should be supported with attendance details for latest complete financial year.

3. Disclosure regarding the retiring status of the Director

The Notice should clearly specify whether the Director to be appointed or re-appointed will be retiring or non-retiring in nature. Until now, in cases where the Board did not comprise of minimum two-third retiring directors, SES would take a lenient view if the company's Articles allowed for non-retiring directors to be made retiring to cover the non-compliance. However, going forward, SES believes that these provisions in the Articles should be invoked only in exceptional cases. For regular Board appointments, SES expects the Board and the NRC to remain mindful of and adhere strictly to the applicable compliance requirements.

4. Directorship at Competitor Companies

Historically, SES has not supported the appointment of Directors holding board positions in companies operating in competing or even similar sectors, irrespective of size or scale of commonality due to concerns over potential conflicts of interest. However, responses from listed companies indicate that typically appropriate safeguards are in place to protect confidentiality, ensure data security, and manage conflict of interest situations effectively.

In light of this, SES may take a lenient view when the overlapping directorships are held at companies who are not direct competitors but have only certain segment/product lines similar. That said, SES will continue to flag such instances as observations for shareholder awareness. However, if any governance concerns are identified due to such positions or, if the companies are direct competitors, SES will continue to not support the Director's appointment.

5. Director/Manager Appointments at New Listed Companies

Regulation 17(1C) of the SEBI (LODR) Regulations mandates that shareholder approval for Board appointments or re-appointments must be obtained within three months from the date of Board approval or at the next general meeting, whichever is earlier. However, the regulation does not explicitly address scenarios where a company has recently listed, and the Board appointments were made just prior to listing. Recognising the practical challenges faced by newly listed companies in such cases, SES will interpret compliance with this provision to be achieved if shareholder approval is obtained within three months from the date of listing or at the first general meeting post-listing, whichever is earlier.

6. NED over 75 years of Age at New Listed Companies

If a listed company seeks to appoint or continue a non-executive director who has attained 75 years of age, then, SEBI LODR Regulations require prior approval of shareholders. If a newly listed company already has a non-executive director on the Board who is over 75 years of age, then SES will support such continuation only if the Company seeks shareholder approval for such continuation within three months from the date of listing or at the first general meeting post-listing, whichever is earlier.

7. Acceptance of Unfair Remuneration

SES does not support the re-appointment or continuation of a director where the individual has either accepted at the time of proposal or, has drawn remuneration that is excessive or significantly skewed in their favour, and the same is not supported with compelling justification.

INDEPENDENT DIRECTORS

1. Past Employees as ID

SES will not support appointment of past employees (including from a Group Company) as ID unless a minimum cooling off period of 10 years has passed since cessation of association with the Company/Group, and the proposed person has held credible, relevant positions which is comparable to the proposed ID role, at a listed or prominent entity, in the recent period. However, if the nature or duration of previous employment position indicates that the independence may be affected, SES may not allow the ID position.

2. Terms & Conditions of ID

Companies Act, 2013 mandates that the terms and conditions of the appointment of ID should be clearly explained and disclosed on the website of the Company. SES has been raising concerns when the Company has not been making proper disclosure in this regard. SES will also refer to the terms and conditions of other IDs and the Code of Conduct of IDs to understand the general terms and conditions on which the Company generally appoints IDs.

Companies should ensure that all material terms and conditions form part of these documents, thus, ensuring compliance with the intent of law.

3. Association with Significant Shareholder

SES will analyse the association between the significant shareholders of the Company and the proposed ID and identify issues if the association has a potential to have implications on the independence of the ID unless a reasonable cooling-off period has been passed since cessation of association between the ID and such significant shareholders.

4. Performance Evaluation Report for ID Re-appointment

Law requires performance evaluation report of an ID or summary thereof to be included in the explanatory statement at the time of re-appointment of IDs. SES will highlight this requirement in its reports and take a stricter policy stance in the near future.

5. ID working Pro-Bono

If any ID is not accepting any consideration for rendering the services to a Company, then, the Company must give proper reasoning behind offering pro bono services to the Company.

6. Re-appointment of ID earlier than 1 year before Term Completion

Re-appointment of IDs is done post a performance evaluation conducted by the Board. If considerable portion is yet to be completed, then the performance evaluation may lead to inadequate assessments by the Board. Hence, the re-appointment should be placed for shareholders' approval prior to the commencement of the re-appointment but not earlier than one year prior to the re-appointment date.

Executive Directors

1. Executive Director Tenure less than 1 Year

An Executive Director plays a critical role in overseeing key managerial functions and guiding the company's strategic direction. Therefore, continuity and stability in such leadership positions are essential. Short-term appointments may signal instability in management and raise concerns regarding governance standards and the company's long-term vision. Unless necessitated by exceptional circumstances such as interim arrangements or pending regulatory approvals, extremely short tenures are generally inconsistent with sound corporate governance practices.

2. Board Approval through Circular Resolution

As per Section 179(3) of the Companies Act, 2013 read with Rule 8 of Companies (Meetings of Board and its Powers) Rules, 2014, appointment or removal of KMPs shall be done at a Board

Meeting and not through Circular Resolution. Accordingly, SES will not support appointments if the same is not approved by the Board at a duly held Board Meeting.

3. Shareholders' approval for partial tenure not sought

As per Section 196(4) of the Companies Act, 2013, the appointment of a Managing Director, Whole-time Director, or Manager and the terms of their remuneration must be approved by the shareholders. Additionally, even regulation 17(1C) of SEBI LODR Regulations requires shareholders' approval for director appointments in a listed company.

SES, so far, would highlight the non-compliance that existed. However, moving forward, SES will expect require prior portion of executive appointment and remuneration drawn during such period to be placed before the shareholders for approval.

BOARD COMPOSITION

SES believes that companies should ensure full compliance with Board composition requirements, including independence, presence of key managerial personnel, an optimal mix of executive and non-executive directors, gender diversity, and director rotation.

Non-compliances should be addressed holistically. If a company faces genuine constraints, such as pending regulatory approvals or difficulty in identifying suitable candidates, the reasons should be clearly disclosed in the shareholder notice.

SES will assess the role played by the Nomination and Remuneration Committee ("NRC")/Board in maintaining an orderly board composition comprising of legally requisite directors.

SES will also take into account whether the concerned Director has served as the Board Chairperson, NRC Chairperson, or NRC member for a sufficient duration to have had an opportunity to address the non-compliances.

Companies in regulated sectors such as banking, insurance, and others must also comply with the relevant sectoral mandates or regulatory directives.

Further, companies are expected to promptly update the composition of their Board and committees on their official website following the resolution of any vacancies.

Until now, SES has taken a lenient view in cases where the Board did not comprise the minimum two-thirds of directors liable to retire by rotation, provided the company's Articles allowed for non-retiring directors to be classified as retiring in such circumstances. However, going forward, SES will no longer extend such relaxation. SES believes that these provisions in the Articles should be invoked only in exceptional cases. For regular Board appointments, SES believes that the applicable compliance requirements should be adhered to.

BOARD CHAIRPERSON

SES will not support the re-appointment or continuation of the Board Chairperson if there are material non-compliances within the company. These non-compliances may pertain to issues such as improper Board or Committee compositions, failure to comply with provisions related to retirement by rotation at AGM, inadequate disclosures in the Board's Report, insufficient or misleading remuneration disclosures in the Annual Report, or lapses in Business Responsibility and Sustainability Reporting (BRSR), particularly where the individual responsible for such reporting does not hold a position subject to shareholder approval. SES emphasizes that this list is not exhaustive and reserves the right to evaluate other significant compliance or governance lapses. In making its assessment, SES will also consider whether the Chairperson has held the role for a reasonable period, allowing sufficient time to exercise effective oversight over these matters.

SES will continue to not support the appointment or continuation of a Board Chairperson who simultaneously serves as an Executive Director, is related to an Executive Director or the CEO, or simultaneously holds the position of Chairperson of the Audit Committee or the Nomination and Remuneration Committee.

BOARD COMMITTEES

1. Audit Committee Attendance

SES does not support the re-appointment of a Director who is a member of the Audit Committee ("AC") but has not attended an adequate number of meetings. In case, attendance is marginally short in the latest year, only then, SES may consider the performance in the preceding year to assess the attendance performance.

Nonetheless, going forward, SES may take a lenient view in cases where sufficient number of meetings have not yet been held since his appointment to the Committee, resulting in limited data to assess the Director's performance.

2. Nomination & Remuneration Committee Members - Excessive/Skewed Remuneration

SES has consistently recommended voting AGAINST the Chairperson of the Nomination and Remuneration Committee ("NRC") in cases where board remuneration would be disproportionately skewed in favour of a particular director or excessive in quantum without adequate justification. SES has consistently emphasised on the importance of the role played by NRC in ensuring fair and balanced remuneration practices in its reports. Accordingly, SES will now not support the re-appointment/continuation of NRC Members also where remuneration is excessive, unjustified, or inequitably allocated.

3. Fulfilment of Duties by AC & NRC Chair

SES will adopt a more stringent approach going forward while assessing whether the Audit and Nomination & Remuneration Committee has effectively discharged their responsibilities, particularly in matters falling within their domain.

4. Recommendation by Non-Compliant Committee

If the composition of any relevant is not compliant at the time of making recommendation to the Board, then, SES generally is not supportive of such proposals. SES may take a lenient view for auditor and director appointment and remuneration proposals for PSUs/PSBs. While director appointments at PSUs/PSBs follow a nomination and selection process governed by established government frameworks, such as recommendations by the Public Enterprises Selection Board (PESB) or Appointments Committee of the Cabinet (ACC); there are no fairness issues with regard to Statutory Auditor remuneration at PSUs/PSBs on account of them being CAG appointed Auditors.

However, no leniency will be given in other cases like Accounts Adoption, RPT & Inter-Corporate Loan approvals, Cost Auditor Appointments & Remuneration, where the delegated committees bear the accountability for the recommendation.

EXECUTIVE REMUNERATION

1. Inadequate Disclosure of Remuneration Terms

SES will raise compliance concern if the remuneration terms are not adequately disclosed; merely stating the maximum permissible legal limits will not be considered to meet compliance requirements disclosure.

The Company should give a proper break-up of the remuneration terms. Material remuneration terms such as salary, variable pay, share based component, annual increments and minimum remuneration should not be left up to NRC discretion.

2. Limit on Share Based Payments

SES believes that costs associated with ESOP or other share-based component of remuneration should be capped adequately. SES may not support open-ended approvals unless past pay-outs demonstrate fair and reasonable practices. However, the said exception will not be taken if there is no historical data on ESOPs or variable pay, or if such data is insufficient or not comparable.

3. Legal Limits on Remuneration

SES will raise compliance issue if the remuneration proposal indicates that the payments are likely to breach the SEBI LODR or Companies Act, 2013 limits and Special Resolution is not sought. SES is of the interpretation that the individual limits specified under SEBI LODR or

Companies Act, 2013 will continue to apply irrespective of whether there is one ED on the Board or more.

4. Rationale for Special Resolution

There are several instances where law mandates special resolution, requiring a higher voting threshold. SES believes that companies should clearly disclose the rationale for seeking shareholder approval through a special resolution. This helps shareholders understand the significance and implications of the proposal, particularly in light of the special circumstances that necessitate such enhanced approval.

5. ESOPs to Promoter Relatives/Founders with Influence

Law prohibits the grant of ESOPs to promoters and members of the promoter group. However, questions arise around the eligibility of promoter relatives who fall outside the legal definition of the promoter group, and founders who hold key positions along with significant shareholding, particularly when the aim is to avoid conflicts of interest and prevent undue benefits to those with control.

SES believes that such promoter relatives, despite not being legally classified within the promoter group, may still exert influence due to their close association with promoters. Similarly, while not all founders exercise control, those who hold significant equity and occupy key operational roles are often in a position of significant influence within the company.

Accordingly, SES will analyse whether governance issues arise as result of ESOPs or similar share-based benefits are granted to promoter relatives outside the formal promoter group definition, or to founders who hold influential roles and significant shareholding in the company.

6. Perquisite Value of Share Based Benefits

Share Based Benefits like ESOPs impose two types of costs on a company. First, at the time of grant, the difference between the fair market value and the exercise price is expensed in the profit and loss account. Second, at the time of exercise, the employee receives a perquisite, calculated as the difference between the market price on the exercise date and the exercise price paid. However, this latter component is not an actual outflow for the company, but a notional cost, representing the opportunity loss had the same equity been issued to an external investor at market value.

SES believes that both components are relevant when assessing the fairness of ESOP grants. Companies should ensure that they disclose the above component in the Notices and the Annual Reports for the information of shareholders.

7. Overall Board/ED Remuneration Approvals over legal limits:

Companies Act, 2013 and SEBI LODR Regulations, 2015 require special resolution to be passed by shareholders if the Company seeks to make payment to overall executive directors beyond legally specified limits.

When seeking approval for overall board or overall executive payments beyond legal specified limits, the Companies should ideally seek annual approval of shareholders post analyzing the performance of the year. Although multi-year approvals are legally allowed, however, SES, as a governance measure, believes that such approvals should be sought with limited time frame. Further, specific resolution should be sought with adequate details of the directors whose remuneration draws the significant portion of the overall ED pay, the rationale behind the same and for how long will the overall approval be valid. SES may not support long/perpetual approvals.

Further, if the breach of the overall limit is solely attributable to the remuneration of a single director, SES may consider supporting such proposals provided that the approval is valid only for the duration of the said director's remuneration approval, rationale behind the remuneration payment, requisite disclosures are made and it is explicitly stated that separate shareholder approval will be sought if the overall executive/board remuneration increases for any other reason.

NED REMUNERATION

1. NED Remuneration proposals without absolute cap when there is no past data

SES believes that commission-based remuneration proposals must include an absolute cap and be approved for a clearly defined duration. While SES has previously taken a lenient view where historical data demonstrated fair and reasonable remuneration practices, such leniency will no longer be extended in the absence of comparable past data.

2. ESOPs to NEDs

SES is of the view that the contributions of Non-Executive Directors (NEDs) and Independent Directors (IDs) are largely strategic in nature, and aside from restrictions aimed at preserving independence, their roles and responsibilities are substantially similar. While the law prohibits IDs from receiving stock options, Non-Independent NEDs are permitted to receive ESOPs.

Although SES acknowledges the rationale for restricting stock options to maintain the independence of IDs, this distinction may lead to an unjustified disparity in remuneration between IDs and NEDs, despite their comparable contributions to the Board and overall company performance. Accordingly, companies should provide compelling and well-substantiated justification for such grants.

GENERAL REMUNERATION UPDATES (For all Directors)

1. Discretion to revise the remuneration terms upto Legal Limits

Remuneration proposals with an absolute or relative cap but simultaneously also with discretion to NRC/Board to revise the terms upto legally permissible limits render such caps to be redundant. While placing provisions to make alteration facilitates administrative convenience, the same doesn't align with good transparency and governance measures, as a shareholder will not know whether to rely on the stated caps, assuming discretion will be used only for procedural adjustments, or anticipate pay-outs up to the legal ceiling?

This concern is greater when approvals are taken through Special Resolutions, as they allow the Board/NRC to go beyond normal legal limits, increasing the risk of excessive pay-outs despite shareholder approval.

SES has observed a recurring lack of clarity, structural discipline, and consistency in drafting of remuneration proposals. Given the inherent conflicts of interest involved and the critical nature of such resolutions, SES intends to adopt a stricter stance, to be implemented gradually.

In general course, SES will assess past payment practices to evaluate the credibility of proposed caps. However, SES will adopt a stricter stance for promoter directors, directors who are also significant shareholders or professional directors who have taken excessive payments in the past.

Further, SES will not rely on past data and ask for an absolute cap, even for ESOPs, in cases where past data is insufficient, unavailable or not comparable. These sensitive situations will have to supported with disclosures that are confined in its scope and leaves no scope for unfettered discretion by Board/NRC.

Further, if a resolution seeks to authorize the Board/NRC to vary the terms approved by shareholders **without requiring further shareholder approval** and without placing any limits on the extent of such variation, SES will not support such unfettered discretion.

As a good transparency measure, any such enabling provision should explicitly state that only procedural or administrative changes may be made under this authority, and that any material variation will be undertaken only with prior shareholder approval.

2. Rationale behind Differential Pay

SES believes that any disparity in the remuneration of Directors on a Board should be clearly explained in the Notice to shareholders. Transparency in the rationale for such differences is essential. In addition to the stated rationale, SES will also consider any apparent contextual factors or events that may explain or justify the differential remuneration.

3. Minimum Remuneration

When seeking approval for payment of minimum remuneration in case of inadequate/no profits, the Companies should ensure that approval is obtained for maximum 3 years and is also supported with disclosures as stipulated under Schedule V to the Companies Act, 2013.

If overall executive/NED/Board remuneration approval is sought during loss or inadequacy of profits, then, the tenure of such approvals should not exceed 3 years and be supported with requisite disclosures under Schedule V to the Companies Act, 2013.

In above cases, the rationale for inadequate profits/ loss and steps taken for recovery should be clearly specified in the explanatory Statement.

4. Appointment would not have been supported

If remuneration is proposed for a Director whose appointment would not have been supported by SES by virtue of their position or when concerns are identified with regard to the fulfilment of duties by the director, then SES will link the concerns for the remuneration as well. So far, SES took a lenient view where remuneration approval was sought for service period already rendered. However, SES will no longer support remuneration, both past and prospective, if appointment as on that date would not have been supported by SES.

SHARE BASED BENEFITS

1. Reasonable Discount Range

SES has consistently highlighted in its reports that the range of discount in the exercise price should be reasonable to qualify as a valid pricing formula in line with SEBI SBEB & SE Regulations. In SES's view, a discount beyond a reasonable threshold will fail to provide shareholders with a reasonable basis to estimate the potential exercise price for eligible employees, as well as the resulting dilution and cost implications of the grant.

2. Maximum Options/Units to a Single Employee

SEBI mandates that the maximum number of options or units that may be granted to a single employee be disclosed in the explanatory statement. Further, if the grant to any individual employee exceeds 1% of the issued capital, separate approval from shareholders is required through a special resolution.

However, companies often disclose either the total grant pool or the 1% legal threshold as the maximum limit for a single employee. SES believes that such generic or boilerplate disclosures undermine the intent of the regulation, fails to convey the company's true intent and compromises transparency. SES also computes an estimated perquisite value on the basis of such limit while analysing the overall fairness of share based schemes.

3. Accelerated Vesting in Exceptional Events

Accelerated vesting can dilute the core objective of ESOPs, which is to retain and motivate employees over the long term. However, it may be justified in exceptional circumstances where it serves the genuine interests of employees which may include retirement, termination without cause, change in control, or other comparable events, as these events often result in an employee losing the opportunity to fully benefit from long-term incentives through no fault of their own.

4. Lapse of Unvested Option in Exceptional Events

Lapsing of unvested options upon termination without cause is fundamentally unfair to employees, as it penalizes them for decisions beyond their control, such as restructuring, downsizing, or strategic shifts. These employees may have committed years of service with the expectation of long-term rewards through equity, and denying them unvested benefits disregards their contributions. Unlike voluntary resignation or termination for cause, where the employee is responsible for the separation, involuntary exits without cause do not reflect poor performance or misconduct. Such practices can also damage employee morale and trust, both among those affected and those who remain. Allowing continued or pro-rated vesting in such cases reflects fair treatment and aligns with evolving market best practices.

SES will highlight observation in above regard in its reports for some period and take a stricter stance in a gradual phase.

5. Reasonable time period to exercise vested options in Exceptional Events

A reasonable time frame should be provided to exercise vested options in cases such as retirement, termination without cause, change in control, demerger, transfer of business, or liquidation, as these events often involve significant transition and uncertainty for the employees. Imposing a short exercise window can unfairly pressure individuals to make rushed financial decisions. It may also increase the risk of missing the opportunity to exercise due to lack of timely awareness or resources. Providing adequate time not only acknowledges past service but also allows for thoughtful financial planning and ensures employees can fully benefit from the equity they have earned.

SES will highlight observation in above regard in its reports for some period and take a stricter stance in a gradual phase.

6. Unreasonable options-to-shares conversion ratio

A disproportionately high options-to-shares conversion ratio may be used to create the illusion of widespread or generous equity grants without offering meaningful ownership. Such structures can create a confusion over the real value of the grant, making it difficult to assess the cost to the company or compare it to market practices. Additionally, they may help companies bypass shareholder approval thresholds or disclosure requirements tied to the

number of options, thereby circumventing the spirit of regulatory oversight. This complexity can mislead stakeholders and weaken the effectiveness and credibility of the incentive plan.

7. Formation of a Compensation Committee

SEBI SBEB & SE Regulations mandate the formation of a Compensation Committee to oversee the administration and supervision of share based schemes. SES believes that the Notice should clearly disclose the composition of this committee or specify whether the NRC has been delegated this responsibility. Such disclosure is essential to ensure accountability by clearly identifying the authority responsible for the scheme's administration.

8. Adjustments to Scheme in the event of Corporate Actions

SES believes that any adjustments to employee stock option entitlements on account of corporate actions must be fair and equitable to both employees and shareholders. Having said that, in principle, SES believes that employees should not receive any benefit under the Scheme that is not made available to shareholders on equivalent terms.

Adjustments arising from actions such as bonus issues or stock splits are generally uncontroversial, however, governance concerns may arise in other scenarios such as private placements or rights issue which present more nuanced concerns. SES will elaborate upon this issues in its reports for the information of Companies and the shareholders.

9. Applicability of Variation

A key consideration in evaluating any proposed amendment or re-pricing under an ESOP is whether the change applies only to future grants or also to options already granted but not yet exercised. The Companies should take note of this for their Notice Drafting.

10. Unfettered Discretion to revise Scheme Terms

SES has observed a practice among companies of seeking shareholder approval to grant the Board/NRC discretionary authority to modify the terms of Share Based Schemes. This raises concerns regarding the scope of such authority as to whether it is limited to procedural adjustments or extends to material changes in the Scheme. SES has consistently highlighted in its reports that such discretionary powers should not rest with the NRC/Board without adequate shareholder oversight. SES believes that material modifications must be subject to shareholder scrutiny to ensure transparency and alignment with shareholder interests.

11. Long vesting periods

Long vesting periods can weaken the link between pay and performance. The same may affect employee motivation and efficiency in the short or medium term on account of overall assessment period being long, may create challenges in undertaking performance assessment by Companies, longevity may take precedence over the quality of performance and other related issues. Hence, SES identifies governance issues with long vesting periods.

12. Limited Data to assess past ESOP practices

SES estimates the maximum benefit to a single employee on the basis of the disclosed exercise price, maximum units per employee and prevailing market price. So far, SES would analyse past data to ascertain the fairness of the past ESOP grants. However, in most cases, there is limited data in the Annual Reports/Annual Scheme Disclosures which would give proper insights on the fairness of the past practice.

Hence, going forward, SES will not support schemes wherein single employee limits in the explanatory statement reflects excessive potential benefits to select employees and will take a lenient view only when the Company disclosures establish that future grants will be fair and justified.

13. Sweat Equity Benefits

SES believes that Sweat Equity should be granted only in recognition of specific or unique contributions, and not for services rendered in the ordinary course of employment. Accordingly, the explanatory statement accompanying the resolution should clearly outline the specific, distinctive contributions made by the grantee that warrant the grant of Sweat Equity. Furthermore, the valuation report used to determine the fair value of the Company's shares, as well as the assessed value of the Know-How, IPR, or other value additions provided by the grantee, should be transparently disclosed to shareholders for their informed consideration.

RELATED PARTY TRANSACTIONS

1. Inadequate Justification for RPTs

Law mandates rationale for the RPT to be disclosed in the explanatory statement. If the explanatory statement fails to adequately address the rationale, then, SES may not support the RPT proposal. The same being a legal requirement, SES may even raise compliance concerns if the justification fails to convey any meaningful information.

2. Nature of Relationship

Law requires the nature of relationship with the related party to be clearly disclosed in the explanatory statement. SES will raise compliance concern if the lack of information on the nature of relationship will hinder informed decision making. Mere mention that the counter party is related party as per Companies Act or Ind AS or SEBI LODR will not suffice.

3. Basis of Arm's Length Pricing

SES believes that disclosure regarding the basis of pricing for an RPT is a material disclosure for shareholders to arrive at an informed decision. Hence, the same should form part of the disclosures unless the transactions are of a nature where pricing cannot be determined. SES

has been highlighting the importance of this observation in its reports and expects better disclosures, but in a gradual manner.

The below explanation deals with the disclosures that the Companies presently make and how they can be improvised.

If the Company refers to market rates for determining the consideration value, the explanatory statement shall clearly specify that the transactions chosen for comparison **are comparable** with the RPT in consideration.

Further, commercial or other adjustments made, if any, should also be made considering unrelated comparable market transactions or other external benchmarks.

If the Company has relied upon a valuation report for the purpose of pricing, then, the methodologies adopted by the Valuers should be clearly specified in the explanatory statement. If a bidding process was resorted to, then adequate context should be given on the bidding process conducted which gives assurance that the bidding performed was fair and led to fair price discovery. If there exists adequate regulatory/ ministry scrutiny over an RPT that ensures fair price discovery, then, the explanatory statement should give information in that regard.

In a nut shell, what led the Audit Committee and the Board to decide that the pricing is fair should be communicated to the shareholders as well. If not elaborated, then at least in a concise yet meaningful manner.

Mere mention of dictionary meaning of arm's length pricing or stating that past RPTs have been relied upon will not be considered to be a fair pricing disclosure by SES. SES would expect companies to take note of the above updates. SES will highlight these observations in its reports for some time and adopt stricter stance in the near future.

4. Significant shift between previous year quantum and proposed year RPT limits

SES has been raising concerns against the proposals where there has been significant shift between previous year quantum and proposed year RPT limits without adequate justification. SES, moving forward, will not support generic justification. The justification should specifically address the reasoning behind the need for the increased limit.

5. Section 186 reference for Interest Rate Limits

Companies have been giving reference to Section 186 of Companies Act 2013 to indicate the potential interest rates for the omnibus RPTs pertaining to inter-corporate loans/guarantees. However, SES believes that the same is indicative of only a minimum threshold and the same may not be fair in case of every RPT as the same may deprive the Company of earning a fair return as against the transaction entered. Hence, the Company should disclose the actual terms on the basis of which the rate of interest will be determined.

6. Prior approval of Shareholders

The Notice should clearly mention that the materiality threshold will not be breached by the time the shareholders' approval will be sought in order to clearly convey that prior approval of shareholders is being sought for material RPTs.

7. Material Modification Limits

There are instances when companies take approval from shareholders to make modifications to the terms of RPT provided they are not material variations and what is material is generally pre-defined either in the Notice or the RPT policy. Hence, the material modification limit should be defined and the extent upto which the AC/Board can vary the RPT terms should not be open-ended.

8. Manner of Computation of Royalty Rate

SES believes that the intent of the law, when prescribing a 5% threshold for royalty payments, is to link it to the relevant portion of the consolidated turnover that is directly attributable to the use of the royalty, rather than the entire consolidated turnover. Accordingly, separate shareholder approval should be sought if the royalty rate exceeds 5% on the relevant turnover, even if the absolute amount is below 5% of total consolidated turnover.

9. Financial Capacity to sustain RPTs

SES has observed instances where the proposed RPT limits are disproportionately high relative to the financial capacity of the Company/ related party. Therefore, the Company should provide a clear explanation of how the Company/ related party intends to fulfil its obligations under the proposed RPTs.

10. Ratification of delayed RPT approvals

SEBI regulations currently do not provide a specific remedy for the ratification of delayed Related Party Transaction (RPT) approvals. In the past, SES has taken a lenient approach in cases where companies acknowledged the delay and provided assurance of timely approvals going forward, considering the time required for adapting to new regulatory provisions. However, going forward, SES will not support the ratification of delayed RPT approvals, as companies are now expected to be fully compliant with the established legal framework.

OFFICE OF PROFIT POSITIONS

1. Designation/Role not clearly explained

If the role of the proposed appointee is not clearly defined, shareholders will be unable to assess the responsibilities the individual is expected to undertake, or determine whether their qualifications and experience are appropriate for the proposed position. Hence, the roles and responsibilities should be clearly explained in the explanatory statement.

INTER-CORPORATE LOANS, GUARANTEES & INVESTMENTS

1. Section 186 reference for Interest Rate Limits

SES View on companies giving reference to Section 186 of Companies Act 2013 to indicate the potential interest rates for loan proposals has been discussed above. (Read More)

2. Blanket Approvals

SES believes that the blanket approvals for granting loans, providing guarantees, or making investments beyond the statutory limits under the Companies Act, 2013 should be sought for a limited frame and the explanatory statements should adequately disclose the manner in which the existing limits are utilised and how much of the same is given to related entities, whether there have been defaults in existing grants and whether the Company can sustain the proposed quantum. SES believes that while blanket approvals cannot be supported with specifics, Companies should ensure that there is adequate data which gives investors an assurance that the proposed limits will be utilised in a fair and a reasonable manner.

ISSUE OF SECURITIES

1. Source of Funds for Preferential Issues

SES expects disclosure of the source of funds that the allottee intends to use for the proposed investment in the Company. Such disclosure is essential to ensure that the fund-raising exercise is conducted in a fair and transparent manner. It also helps provide assurance that the funds being infused into the Company originate from legitimate and credible sources.

2. Basis of selecting allottees

In the absence of adequate details about the background of the allottees, especially where the proposed allotment results in moderate to significant dilution, it becomes essential to assess who the allottees are, the strategic value they bring to the Company. The information regarding background is also essential to check whether the allottees have indirect connections with the controlling shareholders; connection that although not legally captured but may be under influence of the controlling shareholders.

SPECIAL RIGHTS IN ARTICLES OF ASSOCIATION/AGREEMENTS

SES has consistently upheld the principle that board positions should be governed by the tenets of corporate democracy. Historically, SES has opposed special rights to nominate directors, except when such rights were sought by entities having no identified ultimate beneficial owner and ownership would be widely held.

The rationale has been that such provisions not only has a potential to disadvantage minority shareholders but also undermine the role of the Nomination and Remuneration Committee (NRC) in independently identifying and evaluating candidates for board positions. While even

such positions are placed before the NRC, the same appears to be a namesake arrangement as the probability of NRC not recommending in favour of such appointments are rare when it knows that the articles/agreements have already approved the underlying rights.

However, SES also understands that a shareholder would want representation on the Board as against their significant skin in the game and SES is not against this representation per-se.

Hence, SES has revisited this stance and will analyse such special rights from governance standpoint while also considering the need for shareholder representation. However, SES will be cautious when analyzing such proposals and ensure that such rights do not favor any select investor at the cost of other investors or the Company.

With regard to lender nomination rights, SES believes that a blanket approval should not be sought to cover any type of lenders such as any financing corporation, any body corporate or any person.

SES will generally not support special rights to nominate any board committee members or board observer positions, unless an assessment on the basis of relevant governance parameters suggests that no governance issues are identified.

PROFIT-SHARING AGREEMENTS

SES believes that the material terms of such agreements such as the details of beneficiaries, basis of arriving at the amount of award, the rationale for sharing the benefit and other details relevant for decision making should be clearly explained.

Further, the Company should either disclose the agreement or the key terms of the agreement to the shareholders in the explanatory statement while seeking their approval. In line with the legal requirement, the Companies should also place the agreement before the shareholders for inspection via email or other virtual means for their perusal.

Note: Detailed SES Proxy Advisory Guidelines for FY 2025-26 can be accessed at: Weblink