

Proxy Advisory Report (Addendum)

IOL Chemicals & Pharmaceuticals Ltd

COMPANY INFORMATION	MEETING DETAILS	E-VOTING DETAILS
BSE CODE: 524164 NSE SYMBOL: IOLCP ISIN: INE485C01011 Industry: Chemicals Email: contact@iolcp.com Phone: +91 161-2225531 / 32 / 33 / 34 / 35 Registered Office: Village & Post Office Handiya, Fatehgarh Channa Road, Barnala - 148107, Punjab	Meeting Type: PB Voting Deadline: 18 th March, 2022 Notice Date: 4 th February, 2022 Notice: Click here Annual Report: FY 2020-21 SES PA Report (PB): Click here	e-Voting Platform: CDSL Cutoff Date: 11 th February, 2022 Remote E-voting Start: 17 th February, 2022 Ends: 18 th March, 2022
Research Analyst: Johnson D'souza		

This Addendum is issued based on e-mail dated 5th March 2022 sent by IOL Chemicals & Pharmaceuticals Ltd ('the Company') w.r.t. Proxy Advisory Report ('PA Report') issued by SES in relation to the Postal Ballot with e-voting deadline of 18th March 2022.

There is no change in any of SES' recommendations.

BACKGROUND

SES, as per its policy, had e-mailed its Proxy Advisory Report (PA Report) to the Company on 3rd March 2022 in respect of Postal Ballot of the Company.

Post release of PA Report, SES received an email from the Company. The Company sent an email providing its view point, which is reproduced at the last in [blue text](#) here in this Addendum.

It may be noted that the email of the Company (as per SES policy framed to comply with SEBI Circular dated 3rd August, 2020 [SEBI/HO/IMD/DF1/CIR/P/2020/147](#)) has already been forwarded to SES clients 'as it is', without any inputs from SES on 7th March, 2022. This Addendum provides appropriate observation of SES, wherever required.



ADDENDUM

SES COMMENTS TO COMPANY RESPONSE

The Company in its mail has argued its case. SES is giving its response point by point.

Company Response: *With reference to your mail dated 03/03/2022, this is to inform you that Section 149 (10) of the Companies Act, 2013 and Regulation 25 (2A) SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015 provides that appointment or re-appointment of an Independent Director can be done with the Special Resolution passed by the Shareholders.*

Section 149(10) : *Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.*

Regulation 25(2A): *The appointment, re-appointment or removal of an independent director of a listed entity, shall be subject to the approval of shareholders by way of a special resolution.]*

It is pertinent to note that none of the abovesaid provisions provide any time for obtaining the Shareholders approval but the nature of resolution i.e. Special Resolution.

SES comment: Though, the law does not explicitly use the **term 'prior'**, however, the word **'eligible'** itself intends to means pre-requisite or pre-condition. Therefore, eligibility cannot be ratified at a later date.

As far as first appointment of IDs on the Board is concern, the law has not laid down such eligibility criteria as it does in case of re-appointment, therefore, process for appointment and re-appointment of IDs are distinct to that extent.

Further, Guidance Note on Independent Directors issued by the Institute of Companies Secretaries of India (ICSI), has also articulated the same in its Note.

The relevant extract is mentioned below-

*"If the shareholders' approval by **special resolution for his reappointment for second term is not taken as on the last date of the first term**, then such Independent Director cannot be re-appointed by Board as an Additional Director for second term, as he does not possess the eligibility to get reappointed for second term and hence, he ceases to be a director at the end of his first term."*

Although, the Guidance Note by ICSI is not legally binding on Companies, however, the Company may consider opinion of the ICSI as well.

Company Response: *However, Regulation 17 (1C) of SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015, provides that the approval of shareholders for appointment of a director shall be obtained by the company in the next general meeting or 3 months, whichever is earlier. The text of said regulation is appended herein below:*

(1C). *The listed entity shall ensure that approval of shareholders for appointment of a person on the Board of Directors [or as a manager] is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier:*

Therefore, the shareholders' approval can be obtained by the next general meeting or within 3 months from the appointment, whichever is earlier.

It may be noted that the above regulation is restricted to appointment of Director and is unrelated to the re-appointment, it has no significance to the current case. Specific provision provided under the law, shall always override general provision. In the extant case, re-appointment of ID is a specific provision.

Therefore, SES reiterates that the re-appointment of Mr. Rajender Mohan Malla and Mr. Harpal Singh is not in accordance with law. Power to re-appoint IDs rests with the shareholders, and the Board cannot re-appoint them.



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However, once again SES wishes to clarify, that SES recommendation has no reflection on the suitability of Mr. Rajender Mohan Malla and Mr. Harpal Singh as ID. However, SES is constrained by legal provisions and cannot say yes when proposal placed before shareholders is against the provisions of law.

COMPANY'S E-MAIL DATED 5TH MARCH 2022 TO SES

*From: *****Date: Sat, Mar 5, 2022 at 11:49 AM**Subject: Re: SES - Proxy Advisory Report - IOL Chemicals and Pharmaceuticals Limited**Dear Sir,*

With reference to your mail dated 03/03/2022, this is to inform you that Section 149 (10) of the Companies Act, 2013 and Regulation 25 (2A) SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015 provides that appointment or re-appointment of an Independent Director can be done with the Special Resolution passed by the Shareholders.

Section 149(10) : Subject to the provisions of section 152, an independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for reappointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.

Regulation 25(2A): The appointment, re-appointment or removal of an independent director of a listed entity, shall be subject to the approval of shareholders by way of a special resolution.]

It is pertinent to note that none of the abovesaid provisions provide any time for obtaining the Shareholders approval but the nature of resolution i.e. Special Resolution.

However, Regulation 17 (1C) of SEBI (Listing Obligations and Disclosure Requirements) Regulation 2015, provides that the approval of shareholders for appointment of a director shall be obtained by the company in the next general meeting or 3 months, whichever is earlier. The text of said regulation is appended herein below:

(1C). The listed entity shall ensure that approval of shareholders for appointment of a person on the Board of Directors 80[or as a manager] is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier:

Therefore, the shareholders' approval can be obtained by the next general meeting or within 3 months from the appointment, whichever is earlier.

We hope the above clarifies to your satisfaction and you will consider the same positively.

Thanks & Regards

PROXY ADVISORY REPORT | FOR LIMITED CIRCULATION



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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.

Disclaimer

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

Concern terminology

NC – Compliance Concern: The Company has not met statutory compliance requirements

FC – Fairness Concern: 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

GC – Governance Concern: 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.

TC - Disclosures & Transparency Concern: 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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