

出國報告（出國類別：其他）

參加「2022年OECD亞洲公司治理 圓桌論壇會議」視訊報告

服務機關： 金融監督管理委員會證券期貨局
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目錄

第一章 前言	4
第二章 出席圓桌論壇紀要	6
G20/OECD 公司治理原則之檢視	7
亞洲的公司治理與資本市場	7
ESG、氣候變遷與公司治理.....	10
印度的企業集團	12
第三章 心得及建議	15
附件資料	17

第一章 前言

一、背景說明

亞洲公司治理圓桌論壇（The Asian Roundtable on Corporate Governance）創始於 1999 年，係經濟合作暨發展組織（Organization for Economic Co-operation and Development，下稱 OECD）為推動公司治理基本原則之執行，邀集亞洲國家主管機關、證券交易所、私人部門、多邊組織及非政府機構之代表成立，為亞洲公司治理結構性政策對話之區域性圓桌論壇。

該論壇透過相互經驗分享與交流，在 OECD 所提出之公司治理原則下，試圖找出符合亞洲國情之公司治理實務措施。其為提升亞洲公司治理及資本市場競爭力，前業發布亞洲公司治理白皮書，暨亞洲不當關係人交易指引、董事會提名與選任、實質受益人及氣候變遷揭露，及新冠肺炎疫情對資本市場及公司治理之影響等公司治理領域相關報告¹。

近年該論壇特別關注新冠肺炎（Covid-19）疫情對公司治理實務、資本市場及近期公司治理法制架構改革的影響，並將針對 2021 年 7 月 G20 財長會議（G20 Finance Ministers and Central Governors' Meeting）認可支持檢視 G20/OECD 一案，提供相關建議。另本次論壇召開前，OECD 於 2021 年 3~5 月間就「亞洲企業集團之董事會職能（Duties and Responsibilities of Boards in Company Group Structures）」專案計劃進行問卷調查，並就問卷回復結果將撰擬「亞洲企業集團之良好公司治理政策與實務」（Good Policies and Practices for Corporate Governance of Company Groups in Asia）提供各國參考。本次會議由 OECD 主辦，並依往例由日本政府贊助。

¹ 該論壇發布相關報告包括：「亞洲公司治理白皮書」（2003）、「打擊濫用關係人交易指引（Guide on Fighting Abusive Related Party Transactions in Asia）」（2009）、「亞洲改革重點：提升公司治理至更高境界（Reform Priorities in Asia: Taking Corporate Governance to a Higher Level）」（2011）、「亞洲董事會提名與選任之較佳政策（Better Policies for Board Nomination and Election in Asia）」（2013）、「亞洲公部門執法與公司治理指引與實務（Public Enforcement and Corporate Governance in Asia: Guidance and Good Practices）」（2014）、「亞洲上市公司實質受益人之揭露（Disclosure of Beneficial Ownership and Control in Listed Companies in Asia）」（2016）、「亞洲上市公司實質受益人之揭露（Beneficial Ownership Disclosure in Asian Publicly Listed Companies）」（2017）「亞洲公司治理架構調查報告（Survey of Corporate Governance Frameworks in Asia）」（2017）、「氣候變遷相關財務揭露及董事會實務（Climate-Related Financial Disclosures and Corporate Board Practices）」（2019）、「亞洲資本市場調查報告（Equity Market Review of Asia）」（2019）、「企業集團之董事會職能（Duties and Responsibilities of Boards in Company Groups）」（2020）、「新冠肺炎疫情後之公司治理新未來（The Future of Corporate Governance in Capital Markets Following the COVID-19 Crisis）」（2021）等。

二、出席會議目的及過程

亞洲公司治理圓桌論壇會議向為凝聚亞洲各國推動公司治理政策改革之重要會議。本次會議訂於 111 年 1 月 20 日下午 3 時 30 分至 6 時 30 分召開，會議主題包含「G20/OECD 公司治理原則之檢視」、「亞洲的公司治理與資本市場」、「ESG、氣候變遷與公司治理」及「印度的企業集團」等，出席會議人員包括 OECD 之專家、亞洲各國交易所、證券主管機關代表、學者及相關國際組織之代表等共約 111 人（我國參加人員除本會代表（林副組長秀美及徐研究員慶雲）出席外，尚有臺灣證券交易所公司治理部代表（黃專員于珊）出席），爰出席該會議得以瞭解 OECD 公司治理原則修正重點及方向、新冠疫情對全球資本市場及公司治理之影響、國際現行推動 ESG 及公司治理之趨勢與關注焦點，暨印度企業集團相關規範與實務情形等，供本會未來研議強化我國永續發展及公司治理規範之參考。

第二章 出席圓桌論壇紀要

本次會議首先由 OECD 副秘書長 Mr. Yoshiki Takeuchi 及印度證管會(Securities and Exchange Board of India, SEBI)執行董事 Mr. Amarjeet Singh 致詞，再接續說明 G20/OECD 公司治理原則檢視情形，暨進行「亞洲的公司治理與資本市場」、「ESG、氣候變遷與公司治理」及「印度的企業集團」等主題相關簡報及與談。

Takeuchi 君致詞表示，為因應新冠肺炎疫情對全球資本市場帶來的改變（包括企業所有權集中度及企業舉債金額提高等），達到企業永續，公司治理架構及政策須有所調整。G20/OECD 公司治理原則之檢視業於去年啟動。另企業在因應氣候變遷及轉移至低碳經濟方面，扮演重要角色，發展具有一致性、可比較性及可信賴的資訊揭露標準為首要之務。過去 10 年亞洲市場已大幅改變全球資本市場的樣貌，亞洲企業已成為全球資本市場最大的使用者。日本及馬來西亞為強化其治理、效能、多元化及風險管理，已於去年修正其公司治理守則；印度並修正其公司治理架構，提高其上市公司的公司治理標準；中國、香港及新加坡則強化其永續報告相關揭露。這些都是亞洲國家強化其公司治理架構及效能之努力。此外，良好的公司治理架構也為維持市場秩序、信心及長期韌性所必需。

Singh 君致詞表示，目前全球金融市場三大趨勢為利害關係人至上（stakeholder primacy）、對 ESG 之關注及少數股東與控制股東之平衡。印度已修正其公司法，要求公司董事應依公司、員工、社區及環境之最佳利益營運，並依據 IFRS 基金會公布之永續報告標準揭露，公布企業責任及永續報告（Business responsibility and sustainability report, BRSR）標準，取代之前的 Business Responsibility Report（BRR），另並與 OECD 合作發布「印度的企業集團」報告，說明印度集團企業架構、持股集中度及強化關係人交易情形。此外，日、韓、印等亞洲各國股東行動主義方興未艾，與各國制定盡職治理守則有關，該守則在印度為強制規定，而非僅為遵循或解釋（comply or explain）。印度近年非機構投資人（retail investor）人數大幅增加，良好的公司治理可以保障該等投資人權益，重要性更甚以往。

以下分就各主題摘述論壇重點。

「G20/OECD 公司治理原則之檢視」

報告人：Mr. Serdar Çelik, Acting Head, Corporate Governance and Corporate Finance Division,
OECD

「G20/OECD 公司治理原則」為金融穩定委員會（Financial Stability Board）穩定金融體系（Sound Financial Systems）之重要標準之一，主要包括確立有效公司治理架構之基礎、股東權益、公允對待股東與重要所有權功能、機構投資人、證券市場及其他中介機關、利害關係人在公司治理扮演之角色、資訊揭露及董事會責任等六大原則。OECD 公司治理委員會考量新冠疫情對全球資本市場帶來的影響，暨健全資本市場及良好公司治理架構為疫情後支持全球金融市場復甦之基石，爰擬啟動檢視該原則，並於 2021 年 10 月獲 G20 高峰會同意。本次 OECD 擬檢視項目共計 10 項，包括企業所有權集中度提升、ESG 風險之管理、機構投資人及數位化、董事會多元化及功能性委員會角色、經理人薪酬、公司債持有人在公司治理中的角色與權益等，並預計於 2023 年第 1~2 季完成。

「亞洲的公司治理與資本市場」

主持人：Dr. Linda Yueh, Fellow in Economics, St Edmund Hall, University of Oxford; Adjunct
Professor of Economics, London Business School; Visiting Professor, London School of
Economics and Political Science IDEAS

簡報人：Ms. Alejandra Medina, Economist, Corporate Governance and Corporate Finance
Division, OECD

與談人：Mr. Liu Fuzhong, Director of the International Cooperation Department, Shenzhen Stock
Exchange, China

Dr. Jhinyoung Shin, President of the Korea Capital Market Institute, Korea

Medina 君首先針對 OECD 近期調查發布「Corporate Finance in Asia and the COVID-19 Crisis」報告，說明相關重點：

(一)亞洲企業不僅是全球供應鏈的重要環節，截至 2020 年底，亞洲上市公司數量已占

全球半數以上，市值更占全球證券市場之三分之一，且最近 10 年，亞洲證券市場已吸引三分之一的全球投資，而這樣的趨勢預計還會持續，重要性不可言喻。然而，亞洲資本市場的成長卻伴隨著亞洲企業獲利能力(return on equity)的降低，尤其是新興及發展中的亞洲(emerging and developing Asia)企業。另外，亞洲企業之資本支出多半投入於固定資產，而非研究發展(research & development)。

(二)在 2009 年至 2020 年間，亞洲企業募集了全球股票市場 47%之資金，另過去 10 年全球前 20 大 IPO 市場有 11 個市場在亞洲(中國最多)，其中印尼、泰國、馬來西亞及越南，IPO 數量高於已開發國家；在亞洲債券市場部分，2009 年至 2020 年間每年平均發行金額為 5,460 億美元(相較 2000 年至 2008 年每年平均發行金額為僅 1,230 億美元)，迄 2020 年達 9,040 億美元，占全球債券市場 31%(2000 年僅為 15%)。另外，全球上市公司中，有 30%在已開發亞洲市場(advanced Asian markets)掛牌，另有 24%在新興亞洲市場(emerging and developing Asian market)掛牌；機構投資人擁有 43%全球證券市場市值，卻僅擁有 18%亞洲證券市場市值；在亞洲，最重要的投資人為企業、公部門及策略投資人。疫情之初，亞洲股票市場停滯，然 2020 年全年股票募集金額達 3,500 億美元，其中新興亞洲市場占了 77%，(尤以中國最多)；債券發行部分，則以中國、日本及韓國最多(達 90%)。

(三)疫情期間，由於亞洲各國政府採取相關措施，包括提供貸款或貸款保證、補貼(subsidy)、補助金(grants)、注資(capital injection)、稅款展延(deferrals of tax obligations)等，相較其他地區，亞洲企業已較預期為早地步入復甦。

與談人 Fuzhong 君表示，上開報告對疫情期間亞洲企業融資(corporate finance)及資本市場催化經濟成長之角色均有深入分析，另該報告表示亞洲企業資產之成長並未轉化為獲利，也道出了亞洲企業因應需求下降、供應鏈吃緊及貿易困難等的挑戰。疫情期間證交所的角色有多個層面，包括以穩健的基礎便利資本形成、因應人口老化及成長減緩協助人民資產管理及退休準備、與全球資本市場整合、支持疫後復甦等。中國證交所(包含上海、深圳及北京)目前均聚焦於新興科技公司，並對平台公司(platform company)嚴格檢視；另自去(109)年起，國外證券公司等已可在中國境內設立全資子公司；此外，深港通允許國外投資人透過香港投資深圳交易所掛牌公司；深圳證交所近期並與倫敦、法蘭克福、蘇黎世等建立 GDR 等雙掛牌機制及發行基礎建設 REIT；該國並立法便利國內公

司於國外掛牌等。上開種種措施使中國公司 IPO 數量占據全球市場的重要地位。另外 2020 年亞洲企業發行公司債及於證券市場募資金額分別為 9040 億美元及 3500 億美元，其中中國企業占比均約 2/3，相關資金並使企業能投入研究發展及基礎建設，幫助該國實體經濟發展。公司治理為資本市場的核心，良好的公司治理架構則能確保資本市場健全運作。中國有 80% 投資人為散戶投資人，為保障投資人權益並達成其共同富裕的國家目標，良好的公司治理架構是相當重要的。OECD 啟動檢視其公司治理守則，也是一個檢視資本市場的機會，目前深圳交易所強化公司治理的優先項目包括(1)持續關注 ESG/氣候變遷/碳中和，過程中將運用及整合其科技於提升能源效能，讓該國減碳計畫 (Carbon Project) 不僅可發展能源及科技產業，並成為發展經濟的契機；(2)強化上市公司公司治理品質，包括獨立董事、董事會多元化及資訊揭露等；(3)該國並將持續精進其監理科技的運用，暨證交法及刑法相關規範，並強化執法，以保護投資人權益，證交所也將持續引領資本市場健全發展。

與談人 Shin 君則表示，OECD 上開報告對亞洲資本市場的檢視與分析，其中好消息是，亞洲企業可以安然度過疫情，且可以自市場募集到為數可觀的資金，減少對銀行借款的依賴，代表疫情期間政府政策是正確的；令人憂心的是，亞洲企業因 GDP 及固定有形資產的下降，致 ROA 及 ROE 下降，代表經營效率及獲利能力下降，其基本原因在於企業破產及重組 (corporate restructuring) 領域仍落後已開發國家，並需有更多的機構投資人及公司治理的改革，來強化其市場機制。疫情期間亞洲政府對企業挹注相當的資源，一旦這些政府措施退場，企業要如何成長，是疫情後亞洲企業須面對的第一個問題。Shin 君認為亞洲企業應強化其財務狀況及財務可行性，並應加強 IT、生技及健保產業投資於 R&D。另外，韓國這兩年散戶參與證券市場相當積極，有 33% 散戶投資人為股市新鮮人，且七至八成成交量 (2020 年為 400 億韓圓；2021 年為 600 億韓圓) 來自散戶 (為淨買入)，但是散戶投資人卻因韓國折價 (Korean discount) 而受到損失，縱使他們投資的是 IT 或生技產業。這是因為母公司將其具有成長潛力之子公司分割並另行上市 (如 SKA Chemicals 分割 SKA Bioscience)，影響少數股東對子公司的持股及控制力所致。目前韓國投資人的資產主要在不動產與存款，政府正致力於建構健全的環境，鼓勵投資人將該等資產投入長期性風險資產。

「ESG、氣候變遷與公司治理」

主持人：Ms. Marie-Estelle Rey, Senior Policy Analyst, Corporate Governance and Corporate Finance Division, OECD

簡報人：Ms. Tugba Mulazimoglu, Policy Analyst, Corporate Governance and Corporate Finance Division, OECD

與談人：Ms. Datin Seri Sunita Rajakumar, Founder, Climate Governance Malaysia, Malaysia
Mr. Sidharta Utama, Professor, Faculty of Economics and Business University of Indonesia (FEUI), Member, Management Board of the National Committee on Governance Policy and Board of Trustees of the Indonesia Institute for Corporate Directorship (IICD), Indonesia

簡報人 Mulazimoglu 君首先針對 ESG 資訊的重大性(materiality)，區分財務重大性(financial materiality)及雙重重大性(double materiality)：如果某項資訊將影響投資人或貸放者(creditor)對公司未來現金流量之評估，即為具財務重大性的資訊，包括依據 IFRS 準則、主管機關法規及 SASB、TCFD 等永續準則所為之揭露；如果某項資訊具有前開財務重大性且係有關公司對社會及環境的影響，該等資訊即具有雙重重大性，如依據 EU Non-Financial Reporting Directive 及 GRI 所為之揭露。目前全球有多個 ESG 資訊揭露的標準及架構，依據 Morrow Sodali 2021 年的調查顯示，逾 70%的機構投資人偏好 TCFD 建議，另逾 50%機構投資人偏好 SASB 標準，只有不到 20%的機構投資人偏好 GRI 標準；而中國、香港、日本、印度、印尼、韓國、馬來西亞、菲律賓、新加坡、泰國及英國均要求企業依據 TCFD 建議揭露氣候相關風險及機會(美國目前已完成公眾徵詢)。此外，根據 OECD 調查，涉及溫室氣體(目前為範疇一及範疇二)排放及能源管理相關財務重大風險的公司約占市值 60%，其中主要為美、日、中等國之企業。企業 ESG 資訊揭露如使用不同的標準/架構，相關資訊的可比較性即有疑義。IFRS Foundation 基於全球市場需求，於 2021 年成立「國際永續準則委員會」(ISSB)，並建立永續資訊揭露框架，該框架除採用財務重大性外，並考量投資人觀點，及允許納入區域性(採用雙重重大性)的補充標準。至於在董事忠實義務的對象(recipient)，目前也有不同的觀點，天平的兩端分別是股東至上主義(Shareholder Primacy)及利害關係人主義(Stakeholder Capitalism)，前者只考

慮股東的長期財務利益，後者則同等考量股東利益及其他利害關係人利益；另外如法國，董事忠實義務主要著眼於股東的財務利益，且並須考量非股東之利害關係人利益及公司活動的環境及社會影響，係同時採行上開兩種觀點。在(ESG 及氣候相關層面的)股東權利部分，目前有股東透過訴訟，要求企業降低其溫室氣體排放，另外在美國德拉瓦州及法國，實務上也有企業由過半數股東透過章程修改，使企業致力於極大化公司長期價值及環境、社會等公共利益，不過為數仍相當稀少。

與談人 Utama 君表示，印尼 ESG 資訊揭露相關法制包括強制性規範及自願遵循部分，該國 2007 年公司法即已規定，所有公司(包含上市公司)於環境及社會方面均有其企業責任，並應於年報揭露相關資訊，另外印尼 Financial Service Authority(下稱 FSA)監管的公司亦須於年報揭露企業責任(包含環境、社會及貪腐、勞工)等相關資訊，並須遵循 2017 年 FSA 發布的永續相關規定；此外，印尼於 2021 年發布(非強制性的)永續指引，內容包括永續報告等。另 Utama 君表示，該國董事會係雙軌制，企業責任相關長期計畫及年度計畫係由董事會規劃、監事會同意後，由董事會執行，並由監事會監督，雖依據該國公司法，董事會及監事會忠實義務的對象均為公司，惟公司在增加股東財富的同時，也要考量其他利害關係人利益，譬如，提名董事時應考量多元化及 ESG 發展、薪酬制度應能確保董事依據公司長期利益行事等，由於股東可選舉董、監事，並評估董事績效，且為公司的擁有人，如果股東重視 ESG，公司也會重視 ESG；另如銀行對良好 ESG 的公司提供較低廉的資金、評等機構對該等公司提供較佳的評等，且投資人也重視企業責任的話，相信控制股東應也會重視 ESG。此外，Utama 君表示，加強董監事 ESG 相關教育訓練，也可提升其對 ESG 的重視。

另與談人 Rajakumar 君表示，強制揭露 ESG 資訊有助吸引國際投資資金，是相當重要的，國際準則如 ISSB 標準，發布前已經過廣泛的公眾徵詢及與其他標準比較，將是市場的遊戲規則改變者。此時，企業應設定 ESG 目標、辨識 ESG 相關風險及機會，並發掘自己的競爭優勢，進行永續轉型與創新，並使 ESG 資訊揭露更有意義。另外，馬來西亞在近期的洪災之後，已有民眾對未能盡職的政府官員提起訴訟，如果政府明知後果，卻仍核發土地開發許可、投資於擱淺資產(stranded assets，指因市場或外在情勢的變化，而使投資標的失去其應有的價值，如氣候變遷可能造成傳統石化能源相關資產的系統性貶損等)、扣留數據(withholding data)、對適應氣候變遷的努力投資不足(not investing

sufficiently in adaptation effort)等，類似訴訟將多得驚人。目前已有許多企業及投資人致力於在獲利的同時兼顧永續，顯見企業獲利與永續並非兩個平行世界。企業如未能預測並管理氣候風險，未來將無法存續。

「印度的企業集團」

主持人：Mr. Amit Tandon, Founder and Managing Director of IiAS

簡報人：Mr. Kenta Fukami, Senior Policy Analyst, Corporate Governance and Corporate Finance Division, OECD

與談人：Mr. Bharat Vasani, Corporate Partner and Head of Media & Entertainment, Cyril Amarchand Mangaldas, India

Mr. Manoj Bhat, Group Chief Financial Officer, Mahindra and Mahindra, India

簡報人 Fukami 君表示，企業集團在全球很多市場都是最主要的持股形態(pattern of shareholding)，在印度亦然。近期 OECD 與 SEBI 共同調查「Company Groups in India」報告顯示：

- (一)印度上市公司子公司的數量是 15 年前的三倍、(截至 2020 年 3 月底止)印度 NIFTY 50 Index 上市公司平均有 50 家子公司、(截至 2020 年 12 月底止)印度前 100 大上市公司中，有三層(含)以上控股架構的公司就超過 40 家、印度前 500 大上市公司中，有 61 家上市公司有交叉持股情形(惟依印度現行規定，尚無須揭露相關資訊)等，顯示企業集團為印度盛行的企業組織型態；另受訪者表示，該國企業集團之形成，主要是基於經濟規模及資源配置效率的考量。
- (二)印度 2017 年已規定控股架構不得多於兩層(惟依據其 grandfathering 條款，只要公司不再增加其控股層數，規定發布時公司的集團架構可以維持不變)，為強化企業集團的公司治理及透明度，該國嗣於 2018 年及 2019 年又針對企業之集團治理發布相關規範，包括上市公司應至少有一位獨立董事擔任其重要未上市子公司之董事、未上市子公司應定期向上市母公司提供重大交易等相關資訊、上市公司之審計委員會應檢視其子公司重大(金額達 10 億印度盧比(約新臺幣 3.8 億元)或該子公司資產 10%以上，孰低)資金貸與、預付款或投資等之效益，並建議(有許多未上市子公司

之)上市公司董事應組成治理委員會(governance board/ committee)，及訂定集團治理政策，以監督其集團治理。依據 OECD 與 SEBI 上開調查，12%受訪者表示已設置相關委員會(其中 17%受訪者表示其已訂定集團治理政策)。

(三)印度前 500 大上市公司中，有 70%上市公司是由 promoter(指創辦人、控制股東或持股少但可控制公司實際經營方向之人，包括其個人、家族成員、關聯企業、投資公司等)持有多數的表決權。另外，印度上市公司應揭露個別 promoter 及 promoter group 的持股型態(不論持股多少)，依據 2020 年 3 月印度前 500 大上市公司的揭露資訊，有 485 家公司已揭露其 promoter 詳盡的持股資訊，並有 210 家公司揭露的 promoter 持股少於 0.05%。

(四)此外，截至 2020 年 3 月底止，機構投資人對印度前 500 大上市公司的持股，已為 2007 年的 2.5 倍，其增幅超越 promoter。印度已採行強化機構投資人盡職治理的相關措施，其中該國盡職治理守則對資產管理公司為強制規定，與其他亞洲國家不同。

(五)在印度，幾乎所有的公司都有從事關係人交易，該等交易並應於年報揭露。調查顯示，該國前 500 大上市公司中，關係人交易(對收入)的平均占比，已由 2006 年的 5.5%提高至 2019 年的 11%；另有超過 25%受訪者表示，其從事關係人交易主係基於交易成本的考量。SEBI 已強化關係人交易利益衝突相關揭露及核決程序規範，包括關係人的定義擴及 promoter/promoter group 之成員/個體及實質關係人、從事關係人交易前須揭露相關資訊(包括關係人交易的原因與合理性、外部專家的評估意見，暨交易金額占交易對象合併營業收入(consolidated turnover) 的比例等)，並由審計委員會的獨立董事及股東核准等。

與談人 Vasani 君表示，印度經濟發展過程中，受惠於交叉持股，企業可募集到很多資金，但也造成許多企業集團母公司為私人企業，透明度及公司治理不如公開發行公司的現象，此外，關係人交易，暨集團敏感資訊應如何分享與流通也是一個挑戰。交叉持股在印度有其歷史因素，無法於短期內消除。另外，Vasani 君針對 SEBI 上開印度強化關係人交易相關規範表示，關係人交易由獨立董事核決，將破壞公司法所定有關董事會集體責任之基本原則，倘子公司為外國公司，尚涉及法律適用問題(如英國法律規定，董事針對其所核決的交易均應有獨立判斷)，另金額達 10 億印度盧比之關係人交易須經上

市母公司之審計委員會檢視，此重大性的門檻金額實務上可能並不妥適。

另外，與談人 Bhat 君表示，關係人交易為企業集團帶來客戶面、供應鏈及財務面等的機會與綜效，只要關係人交易仍存在經濟利益，未來交易數量仍將持續存在。SEBI 近期強化關係人交易揭露及核決程序相關措施，雖然將增加企業法規遵循成本，但方向是正確的。此外，集團在決定投資或撤資時，除了報酬率外，也會考量到集團內如何落實治理相關措施。

第三章 心得及建議

本次參加 2022 年亞洲公司治理論壇（線上）會議，透過專題演講及與談人分享，本會得以瞭解 OECD 未來修訂其公司治理原則之重點及方向，並可瞭解 OECD 公司治理原則修正重點及方向、亞洲國家有關 ESG、氣候變遷、企業集團及公司治理之現況、趨勢及關注焦點，其相關推動措施及改革經驗，未來並得供本會研議強化我國公司治理規範之參考。謹就本次會議中所討論議題及與談人分享之實務經驗，提出以下心得及建議：

一、ESG 風險已成為企業存續風險，並為因應全球 2050 年淨零（Net Zero）碳排趨勢，建議持續強化鼓勵我國上市櫃公司設置專責單位推動企業永續：

聯合國 2050 年碳中和目標已獲許多國家呼應，我國亦宣示淨零排放目標，並擬訂於「氣候變遷因應法」（名稱變更前為「溫室氣體減量及管理法」）；本會並於今(2022)年 2 月預告分階段推動「上市櫃公司永續發展路徑圖」規劃案，要求全體上市櫃公司於 2027 年前完成溫室氣體盤查，2029 年前完成溫室氣體盤查之查證，以因應氣候變遷衝擊及國際間對永續議題關注，協助我國企業及早訂定其減碳目標。此外，依據 2022 年 4 月遠見雜誌第 430 期報導(第 111 頁)，許多國際品牌及大企業，包括微軟、蘋果、IBM、IKEA、渥爾瑪、Amazon、Google、Meta(原 Facebook)紛紛宣布，要在 2030 年達成碳中和。

我國許多上市櫃公司均為全球大廠供應鏈廠商，如無法因應上開國際趨勢、客戶需求及法規要求，將重大影響其營運，甚或無法生存，故企業有必要重新檢討及設定 ESG 目標、辨識 ESG 相關風險及機會，及發掘自己的競爭優勢，進行永續轉型及創新，並揭露更有意義的 ESG 資訊，以維持市場地位及吸引國際投資。

我國主要係透過要求上市櫃公司編製企業社會責任報告書及年報揭露 ESG 相關（包括氣候變遷風險、溫室氣體盤查等）資訊，並透過公司治理評鑑鼓勵企業重視 ESG 議題，實踐永續發展。目前針對董事會成員（至少一人）具備 ESG/永續專業，或設置永續專責單位（如永續委員會或永續長等），尚無強制規定，係透過公司治理評

鑑（其中指標 2.14²及 4.1³）鼓勵企業設置相關委員會。考量企業產品生命週期各階段（包括原料採購、生產製造、包裝運送、廢棄回收）均會產生碳足跡，與企業幾乎所有單位均有關連，且自碳盤查及驗證、擬定及執行碳管理計畫（包含抵換碳排放量），至最後驗證及完成「碳中和」，暨其他 ESG 及永續推動事務，其間涉及相當多的產業專業、法規遵循及企業內外部溝通，如有專責單位負責推動，較為妥適，爰建議透過評鑑等方式再強化鼓勵我國公司設置專責單位，持續推動企業永續。

二、我國近期修正發布之強化關係人交易規範及廣續推動措施，尚依國際趨勢進行調整，建議持續觀察其執行情形，並視需要強化相關規範措施，提升我國公司治理：

在印度，幾乎所有的公司都有從事關係人交易，該等交易並應於年報揭露。調查顯示，該國前 500 大上市公司中，關係人交易(對收入)的平均占比，已由 2006 年的 5.5%提高至 2019 年的 11%；另有超過 25%受訪者表示，其從事關係人交易主係基於交易成本的考量。SEBI 已強化關係人交易利益衝突相關揭露及核決程序規範，包括關係人的定義擴及 promoter/promoter group 之成員/個體及實質關係人、從事關係人交易前須揭露相關資訊(包括關係人交易的原因與合理性、外部專家的評估意見，暨交易金額占交易對象合併營業收入(consolidated turnover) 的比例等)，並由審計委員會的獨立董事及股東核准等。

關係人交易涵蓋企業經常性的財務業務活動，交易態樣眾多，如進銷貨、資產（如股權、不動產及租賃等）交易、資金貸與及背書保證，暨董事、監察人及經理人薪酬等，且均涉及少數股東權益，向為國際組織關注焦點。

本次會議 OECD 報告及與談表示，企業形成集團及從事關係人交易，主要係基於經營層面的考量，包括經濟規模、資源配置效率及較低的交易成本等，只要關係人交易仍存在經濟利益，企業將持續從事關係人交易，新冠疫情造成亞洲企業所有權集中度提高，預期未來關係人交易數量將會持續增加。

² 111 年證交所公司治理評鑑指標 2.14：「公司是否設置提名委員會、風險管理委員會或永續發展委員會等法定以外之功能性委員會，其人數不少於三人，半數以上成員為獨立董事，且有一名以上成員具備該委員會所需之專業能力，並揭露其組成、職責及運作情形？」

³ 111 年證交所公司治理評鑑指標 4.1：「公司是否設置推動永續發展專（兼）職單位，依重大性原則，進行與公司營運相關之環境、社會或公司治理議題之風險評估，訂定相關風險管理政策或策略，且由董事會督導永續發展推動情形，並揭露於公司網站及年報？」

惟倘重大關係人交易資訊並未揭露予少數股東知悉，少數股東對交易對象、必要性、價格及其合理性等，無從表達意見及進行監督，易造成內部人濫權，甚或掏空公司，將重大損及股東權益。依據 OECD 2009 年報告建議⁴、亞洲公司治理協會(ACGA)評鑑⁵，暨新加坡、香港等亞洲主要資本市場規定，均認為重大關係人交易應經「非利益股東」(disinterested shareholders)核准或少數股東同意。

本會為保障少數股東權益，並順應國際重視關係人交易管理之發展趨勢，於 111.1.28 修正發布「公開發行公司取得或處分資產處理準則」，增訂公開發行公司或其非屬國內公開發行公司之子公司向關係人取得或處分資產，其交易金額達公開發行公司總資產百分之十以上者，公開發行公司應將相關資料提交股東會同意後，始得為之（但公開發行公司與其母公司、子公司，或其子公司彼此間交易免予提股東會決議），以提升少數股東權益之保護。

此外，本會並廣續推動強化關係人交易之管理措施，包括：(一)督導證交所和櫃買中心於今(111)年 2 月份發布「關係人交易指引」，提供公司瞭解各類型關係人交易相關規範重點及全貌；(二)針對進銷貨或資金貸與及背書保證等其他類型關係人交易，提交股東會報告或同意之可行性，以及強化提報股東會之相關資訊揭露等事項，請證交所委託專家於 111 年第 2 季完成研究，並預計分別於 2022 年第 3 季及第 4 季配合研修公司治理實務守則及公司治理評鑑指標；後續並將於 2023 至 2024 年研議調整相關規範。

爰我國上開強化關係人交易規範及廣續推動措施，尚依國際趨勢進行調整，建議持續觀察其執行情形，並視需要持續強化相關規範措施。

附件資料

附件 1：議程資料

附件 2：簡報資料

⁴OECD 於 2009 年發布之「打擊濫用關係人交易指引」(Guide on Fighting Abusive Related Party Transactions in Asia) 報告，其中建議關係人交易必須經過多數的「非利益股東」(disinterested shareholders)核准。

⁵ACGA 兩年一度對亞洲國家進行公司治理評鑑，並發布「CG WATCH」報告，其中重大關係人交易經少數股東同意列為其評鑑項目。

An OECD Virtual Meeting

AGENDA



OECD-ASIA ROUNDTABLE ON CORPORATE GOVERNANCE

20 January 2022

With support from:



Hosted by:



□ The OECD-Asia Roundtable on Corporate Governance

Under the auspices of the OECD Corporate Governance Committee and with the support of the Government of Japan, the OECD-Asia Roundtable on Corporate Governance serves as a regional forum for exchanging experiences and advancing corporate governance reforms while promoting awareness and use of the [G20/OECD Principles of Corporate Governance](#). As a forum for policy dialogue, the Roundtable aims at enhancing economic efficiency, sustainable growth and financial stability by improving corporate governance policies and supporting good corporate practices in the region.

The objectives of the Roundtable are to:

- Provide analytical work and comparative research on corporate governance and corporate finance issues;
- Organise dialogues and technical seminars to discuss developments and share country experiences;
- Provide policy options to improve capital market financing and corporate governance frameworks;
- Reach consensus on priority recommendations and future issues to be analysed.

□ Content

This meeting of the Roundtable will discuss the roadmap and some key policy issues for the review of the G20/OECD Principles of Corporate Governance, which G20 Leaders supported at the G20 Summit in October 2021. It will then focus on the impact of the Covid-19 crisis on corporate governance practices and capital markets in Asia, as well as recent reforms. It will subsequently discuss the main implications of climate change for corporate governance with a view to inform the discussions on ESG risk management as part of the review of the G20/OECD Principles. The last session will focus on company groups in India based on a new OECD report.

□ Registration

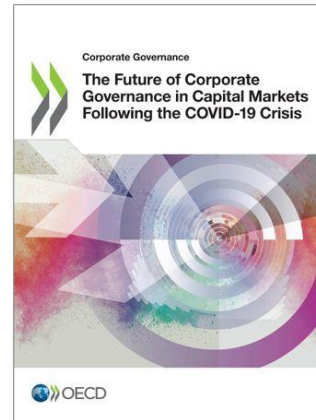
The meeting will be held virtually on 20 January using the Zoom platform. Registration is mandatory in order to receive the link to the event and your personal login details. Once registered, participants will receive the meeting documentation in electronic format. For more information please contact: Ms. Ana Gonzalez (ana.gonzalez@oecd.org).

□ Acknowledgement

Since its establishment in 1999, the OECD-Asia Roundtable on Corporate Governance has been organised with the support of the Government of Japan. The Government of Japan also provides financial support for the OECD's country-specific work in Asia.

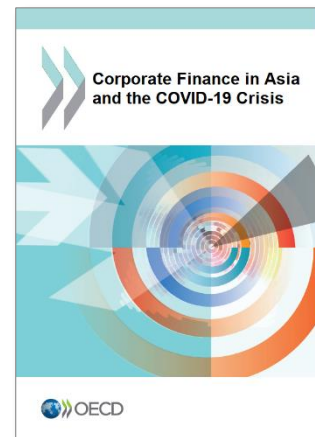
□ Background documents

The report “The Future of Corporate Governance in Capital Markets Following the COVID-19 Crisis” provides an evidence-based overview of developments in capital markets globally leading up to the COVID-19 crisis. It then documents the impact of the crisis on the use of capital markets and the introduction of temporary corporate governance measures. Although the structural effects of the crisis on capital markets and its interplay with corporate governance remain to be fully understood, the report presents trends that can be used to shape policies that will support the recovery and formulates key policy messages that guide the review of the G20/OECD Principles of Corporate Governance.



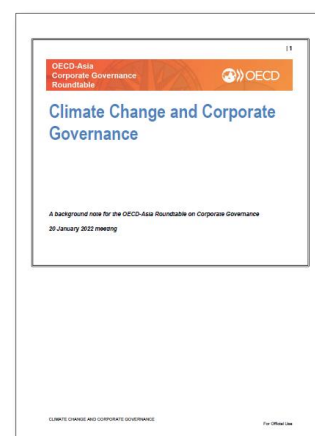
Find the report [here](#)

The draft report “Corporate Finance in Asia and the COVID-19 Crisis” provides an in-depth analysis of trends in capital markets and corporate governance practices leading up to the COVID-19 crisis in Asia. It further provides an analysis on how the crisis has impacted Asian companies' access to finance, in particular to those from emerging and developing Asian economies.



To be shared with participants ahead of the Roundtable

The background note “Climate Change and Corporate Governance” aims to inform the Roundtable on the main implications of climate change for corporate governance and to serve as a reference for the discussion. The note focuses on climate change challenges related to shareholders' rights, corporate disclosure and the responsibilities of companies' boards.



Shared with participants

The draft report "Company Groups in India" presents an overview of company groups in India, including group structures (e.g. hierarchical structures and cross-shareholdings), promoters, and related party transactions. It also covers the legal and regulatory approaches to addressing issues relating to company groups. This report was developed by the OECD and Securities and Exchange Board of India.



To be shared with participants ahead of the Roundtable

20 January 2022 – 08:30-11:30 (CET)

08:30 – 08:50	Welcome and opening remarks
	Mr. Yoshiki Takeuchi , Deputy Secretary-General, OECD Mr. Amarjeet Singh , Executive Director, Securities and Exchange Board of India (SEBI)
08:50 – 09:05	The Review of the G20/OECD Principles of Corporate Governance
Background	Recognising that well-functioning capital markets and good corporate governance frameworks are essential to support the recovery of economies coming out of the COVID-19 crisis, G20 Leaders expressed their support for the review of the G20/OECD Principles of Corporate Governance at the G20 Summit in October 2021 in Rome. The presentation will focus on the roadmap of the review and key issues for consideration, and will discuss the importance and relevance of the review for Asian markets ahead of consultations with Asian stakeholders.
Presenter	Mr. Serdar Çelik , Acting Head, Corporate Governance and Corporate Finance Division, OECD
09:05 – 09:55	Session 1: Corporate Governance and Capital Markets in Asia
Background	The on-going COVID-19 crisis has led to unprecedented global economic and social losses and has further exposed and exacerbated existing vulnerabilities in economies. Many Asian economies have managed to effectively contain the COVID-19 pandemic, which has helped the region to continue operating. Importantly, the fact that today over half of the world’s listed companies are listed on an Asian stock exchange has allowed them to tap into equity markets during the current crisis. Indeed, during 2020, more than 1 800 Asian already listed companies were able to raise around USD 300 billion from the public equity markets. However, building resilience will require further efforts to adapt existing legal and regulatory frameworks to allow capital markets to channel financial resources towards long-term investments. Corporate governance frameworks also need to be adjusted to provide investors, corporations and other stakeholders with tools and incentives adapted to the post COVID-19 environment. This session, based on a new OECD report, will focus on the effects of the COVID-19 crisis on Asian companies’ access to finance and corporate governance practices with a focus on Asian emerging and developing countries, and will also aim to develop an understanding of the approaches and priorities for Asian economies.
Moderator	Dr. Linda Yueh , Fellow in Economics, St Edmund Hall, University of Oxford; Adjunct Professor of Economics, London Business School; Visiting Professor, London School of Economics and Political Science IDEAS
Presenter	Ms. Alejandra Medina , Economist, Corporate Governance and Corporate Finance Division, OECD
Panel discussants	Mr. Liu Fuzhong , Director of the International Cooperation Department, Shenzhen Stock Exchange, China Dr. Jhinyoung Shin , President of the Korea Capital Market Institute, Korea

09:55 – 10:45	Session 2: ESG, Climate Change and Corporate Governance
Background	<p>The COVID-19 pandemic has brought increased attention to the importance of identifying unexpected shocks and emerging risks, in particular environment, social and governance (ESG) risks. Clear and sound frameworks for the management and disclosure of climate and other ESG risks, including the roles and responsibilities of shareholders and boards, will help the corporate sector to meet increased expectations when it comes to recognising and appropriately balancing the interests of different stakeholders and their contribution to the long-term performance of corporations.</p> <p>In this session, the OECD will present sustainability-related trends, with a particular focus on climate change, and key issues that will be considered during the review of the G20/OECD Principles of Corporate Governance. The discussion will be supported by a background note on climate change and corporate governance.. Key stakeholders from Asia will then discuss the main challenges related to corporate sustainability disclosure and risk management in the region.</p>
Moderator	Ms. Marie-Estelle Rey , Senior Policy Analyst, Corporate Governance and Corporate Finance Division, OECD
Presenter	Ms. Tugba Mulazimoglu , Policy Analyst, Corporate Governance and Corporate Finance Division, OECD
Panel discussants	<p>Ms. Datin Seri Sunita Rajakumar, Founder, Climate Governance Malaysia, Malaysia</p> <p>Ms. Friderica Widayari Dewi, CEO, National Committee on Governance Policy, Indonesia (TBC)</p>
10:45 – 11:15	Session 3: Company Groups in India
Background	<p>Like in other advanced and emerging markets, company groups are a prevalent phenomenon in India, and the number of subsidiaries has more than tripled over the past 15 years. While there are good reasons for formation of company groups, company groups raise regulatory challenges. Indeed, SEBI, the securities regulator in India, have taken policy measures to address issues relating to company groups. This session will discuss the main trends in company groups and regulatory approach in India based on the new report <i>Company Groups in India</i>, which presents an overview of group structures, ownership patterns, promoters (controlling shareholders), and related party transactions.</p>
Moderator	Mr. Amit Tandon , Founder and Managing Director of IIAS
Presenter	Mr. Kenta Fukami , Senior Policy Analyst, Corporate Governance and Corporate Finance Division, OECD
Panel discussants	<p>Mr. Bharat Vasani, Corporate Partner and Head of Media & Entertainment, Cyril Amarchand Mangaldas, India</p> <p>Mr. Manoj Bhat, Group Chief Financial Officer, Mahindra and Mahindra, India</p>
11:15 – 11:30	Concluding remarks
	Mr. Toshiyuki Miyoshi , Deputy Commissioner for International Affairs, Financial Services Agency, Japan

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■ Contact

OECD–Asian Roundtable on Corporate Governance
OECD Directorate for Financial and Enterprise Affairs
Email: Marie-Estelle.REY@oecd.org





The Review of the G20/OECD Principles of Corporate Governance

OECD-Asia Roundtable on Corporate Governance
20 January 2022



The OECD Corporate Governance Committee

- The Committee is the custodian of the G20/OECD Principles of Corporate Governance, which were endorsed by the G20 at the Leaders Summit in 2015.
- The Financial Stability Board has adopted the Principles as one its Key Standards for Sound Financial Systems.
- All OECD, G20 and FSB jurisdictions, 50 in total, actively participate in the Committee meetings and activities, including 10 from Asia-Pacific:
 - OECD: Australia, Japan, Korea and New Zealand
 - G20: China, India and Indonesia
 - FSB: Hong Kong (China) and Singapore
 - Participant: Malaysia

The Principles cover six main areas:

- Ensuring the basis for an effective corporate governance framework
- The rights and equitable treatment of shareholders and key ownership functions
- Institutional investors, stock markets and other intermediaries
- The role of stakeholders in corporate governance
- Disclosure and transparency
- The responsibilities of the board

The review of the G20/OECD Principles

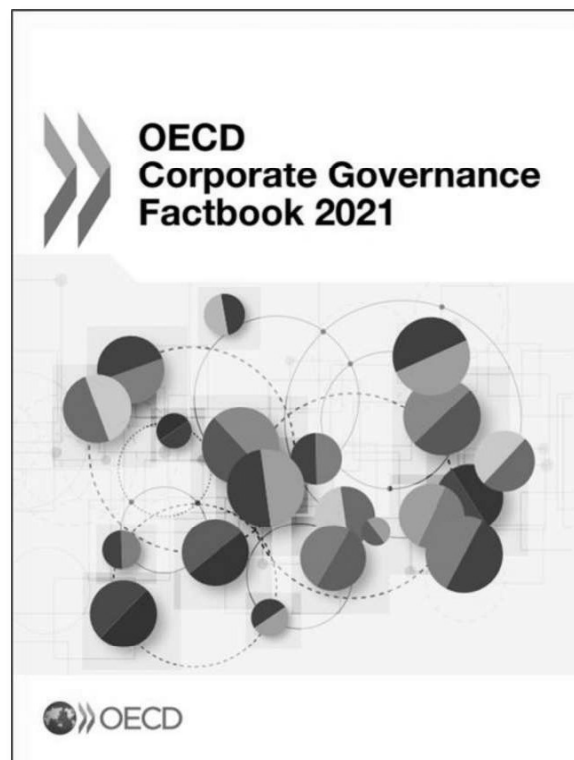
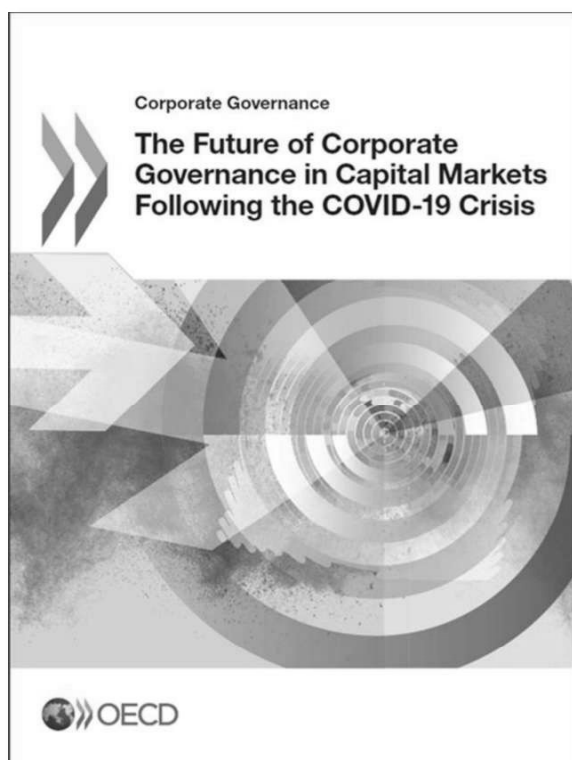
- The Committee has agreed to review the G20/OECD Principles of Corporate Governance.
- The key priority is adapting the G20/OECD Principles to the post-COVID landscape.
- Solid corporate governance frameworks and well-functioning capital markets will play a crucial role in supporting the recovery of our economies coming out of the COVID-19 crisis.
- The Committee's decision was supported by G20 Leaders in October.
- The review was launched in November.

An inclusive review

- All OECD, G20 and FSB members.
- Close cooperation with the Indonesian 2022 and Indian 2023 G20 Presidencies.
- Malaysia and Peru as Participants in the Committee
- Bulgaria, Croatia and Romania as adherents to the G20/OECD Principles
- Other jurisdictions through the Committee's regional roundtables in Asia, Latin America and the MENA region
- Extensive stakeholder consultations with business sector, professional groups at national and international levels, including auditors, trade unions, academia, civil society organisations and international standard-setting bodies
- In-person meetings, virtual meetings, and written public consultations



Two reference reports



Key areas for consideration

- Corporate ownership trends and increased concentration
- The management of environmental, social and governance (ESG) risks
- The role of institutional investors and stewardship
- The use of new digital technologies and emerging opportunities and risks
- Crisis and risk management
- Excessive risk taking in the non-financial corporate sector
- The role and rights of debtholders in corporate governance
- Executive remuneration
- The role of board committees
- Diversity on boards and in senior management



Indicative timeline

November 2021 - First Committee meeting:

- Discussions on the draft Terms of Reference and Roadmap
- Discussions on key issues: climate change and corporate governance; ownership concentration; gender diversity on boards and in senior management

February 2022: Submission of Terms of Reference and Roadmap to G20 Finance Ministers

February / April 2022 - Second Committee meeting:

- Continue discussions on the key issues aforementioned
- Discussions on: the role of institutional investors and stewardship; the role and rights of debtholders; board committees; the use of new digital technologies and emerging opportunities and risks

June 2022 - Third Committee meeting: First draft of the revised G20/OECD Principles

Q4 2022: Consultation with the OECD-Asia Roundtable

Q3 - Q4 2022: Public and stakeholder consultations

Q1 - Q2 2023: Agreement on a revised version of the Principles





Thank you for your attention!





Corporate Finance in Asia and the COVID-19 Crisis

OECD-Asia Roundtable on Corporate Governance
20 January 2022



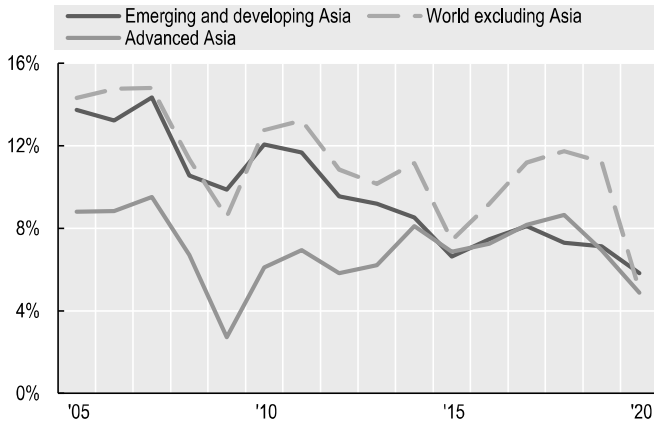
Capital markets and the corporate sector in Asia have proven resilient in the face of the COVID-19 crisis

- The outbreak and resurgence of the COVID-19 pandemic have presented **significant challenges** for the global economy and financial stability. Thanks to measures taken by Asian governments during the pandemic, the corporate sector has emerged from the crisis **more rapidly compared to other regions of the world**.

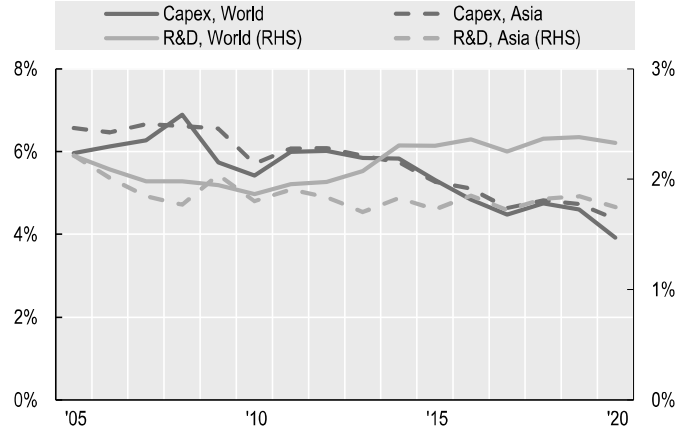
- Asian corporations and their ability to access financing deserve special attention due to their **importance in global markets**, their **integration** into regional and global supply chains, and their **ownership structures**.
 - Asian companies represent **over half of the number of companies listed** around the world and **one-third of global market capitalisation**.
 - Over the last decade, Asian equity markets have attracted over **one-third of global investment** and this share is set to increase further.

Asian companies' profitability is relatively weak and corporate investment focuses mainly on fixed capital

Return on equity (aggregate)



Capex and R&D, % of assets (aggregate)



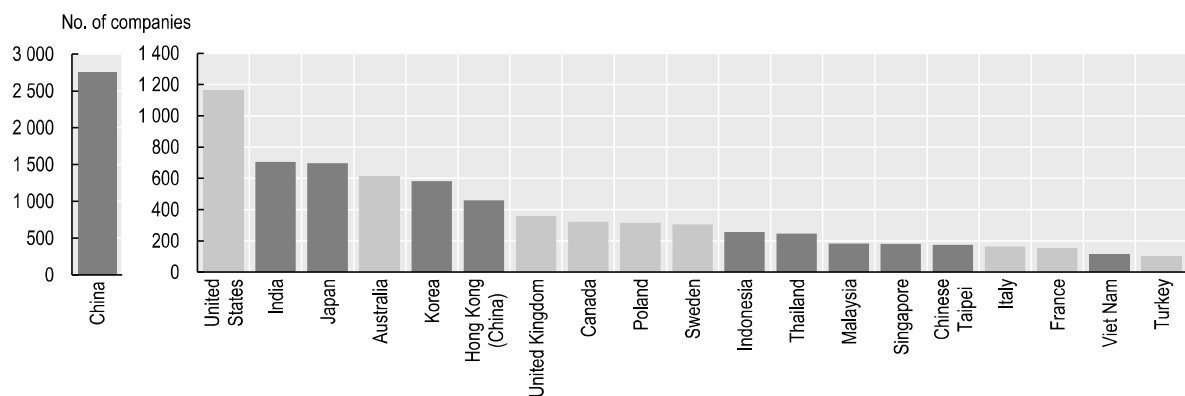
Source: Corporate Finance in Asia and the COVID-19 Crisis.

- The significant growth of Asian equity markets has been accompanied by a general decrease in profitability, particularly in emerging and developing Asia.
- In 2020, ROE in emerging and developing Asia and advanced Asia was 5.8% and 4.9% respectively, compared to 5.0% for the world excluding Asia.
- Compared to the rest of the world, Asian companies are more focused on fixed investment (Capex) than R&D.



Asian companies are the world's largest users of public equity markets (1/2)

Top 20 jurisdictions by number of non-financial company IPOs over the last 10 years



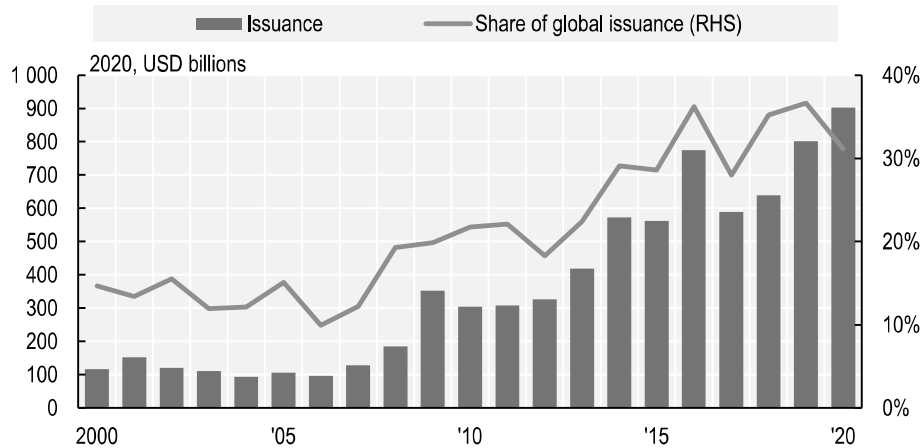
Source: Corporate Finance in Asia and the COVID-19 Crisis.

- Asian companies raised 47% of all public equity in the world between 2009 and 2020, a marked increase from 22% during the 1990s.
- 11 out of the 20 top IPO markets globally over the last 10 years were in Asia.
- Several Asian emerging markets, such as Indonesia, Thailand, Malaysia and Viet Nam, rank higher in terms of IPOs than most advanced economies.



Asian corporate bond markets have grown significantly during the past two decades

Non-financial corporate bond issuance - Asia



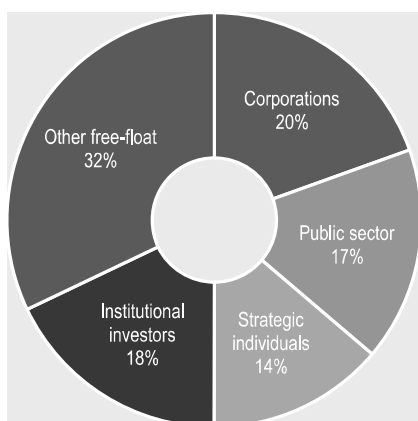
Source: Corporate Finance in Asia and the COVID-19 Crisis.

- Asian bond markets have grown from an average annual issuance of USD 123 billion between 2000-2008 to USD 546 billion between 2009-2020, reaching USD 904 billion in 2020.
- This extraordinary growth has more than doubled Asian non-financial companies' share in global non-financial bond issuance from 15% in 2000 to 31% in 2020.

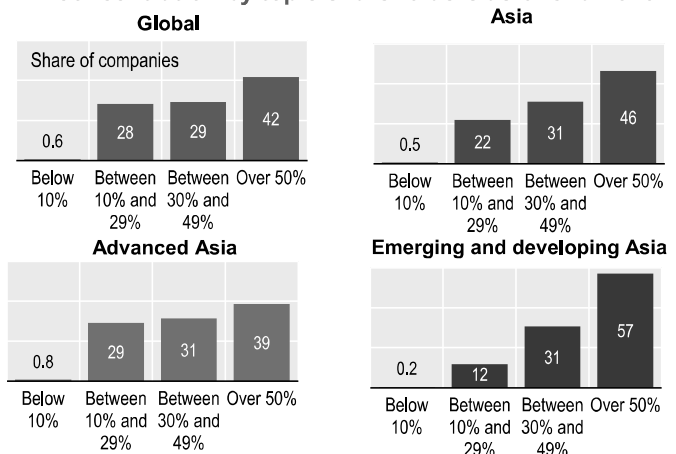


In Asia, the most important categories of investors are corporations, the public sector and strategic individuals

Investors' holdings in Asia as of end-2020



Share of companies with different levels of ownership concentration by top 3 shareholders as of end-2020



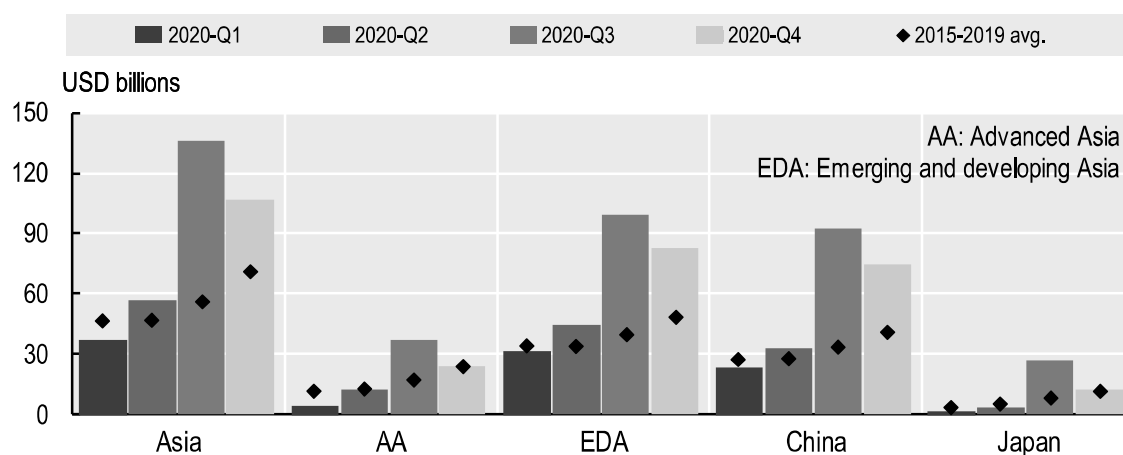
Source: Corporate Finance in Asia and the COVID-19 Crisis.

- 30% of the total number of listed companies globally are listed in advanced Asian markets and 24% are listed in emerging and developing Asian markets.
- Institutional investors, who own 43% of global market capitalisation, only own 18% of the listed equity in Asia.
- The 3 largest shareholders own over 50% of the equity in almost half of the listed companies in Asia and in almost 60% of the listed companies in emerging and developing Asian markets.



Capital markets continued financing companies during the COVID-19 crisis in 2020

Equity markets continued financing companies during the COVID-19 crisis in 2020

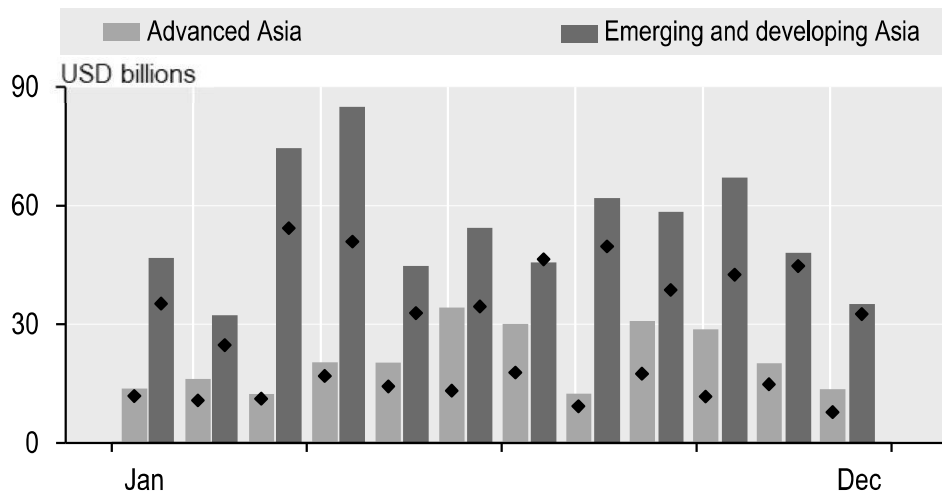


Source: Corporate Finance in Asia and the COVID-19 Crisis.

- At the start of the COVID-19 crisis, public equity markets in Asia came to a halt, as in the rest of the world.
- The decline in the amounts issued in the first quarter was most pronounced in advanced Asia, while emerging and developing Asia was less affected.
- Total amount raised in 2020 amounted to USD 350 billion, of which emerging and developing Asia represented 77%.

Bond markets continued financing companies during the COVID-19 crisis in 2020

Monthly corporate bond issuance, 2020



Source: Corporate Finance in Asia and the COVID-19 Crisis.

- In 2020, Asian non-financial companies' bond issuance was significantly higher than the five-year average. The majority was issued by companies in emerging and developing Asia, and China in particular.
- Chinese, Japanese and Korean companies together accounted for nearly 90% of all Asian issuance for the full year 2020.



In response to the COVID-19 crisis, Asian economies adopted a range of measures, spanning from regulatory adjustments to both direct and indirect financial support

Quarterly change in sales of listed Asian companies by industry

	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021	Q3 2021
Basic materials	-7%	-8%	-2%	12%	27%	32%	38%
Cons. cyclicals	-13%	-25%	-7%	4%	4%	4%	-4%
Cons. non-cyclicals	2%	-2%	1%	6%	14%	11%	8%
Energy	-13%	-39%	-26%	-15%	-1%	0%	15%
Healthcare	-2%	-1%	4%	11%	19%	18%	17%
Industrials	-8%	-10%	-4%	6%	13%	17%	15%
Technology	-1%	1%	5%	14%	27%	26%	20%
Utilities	-5%	-8%	-5%	-2%	8%	-4%	3%

Source: Corporate Finance in Asia and the COVID-19 Crisis.

- In response, Asian governments implemented a number of support measures, both direct and indirect, to cushion the blow of the pandemic-induced financial distress.
- The most common measures were the provision of loans and loan guarantees. Subsidies, grants and capital injections were also widely-used. Many jurisdictions implemented targeted industry measures, targeting vulnerable and hard-hit industries.
- Indirect measures included e.g. deferrals of tax obligations. Finally, regulatory adjustments with respect to e.g. disclosure and annual general meetings were put in place in several economies.





Thank you for your attention!

Participants of the OECD-Asia Roundtable on Corporate Governance are invited to express their views on this draft report and are also invited to provide any written comments by **4 February 2022** to Alejandra.Medina@oecd.org.





Climate Change and Corporate Governance

OECD-Asia Roundtable on Corporate Governance

20 January 2022



Structure of the presentation

- 1 The Concept of Materiality
- 2 Prioritisation of Climate-Related Risks
- 3 ESG Standards
- 4 Director`s Duty of Loyalty
- 5 Shareholders` Rights

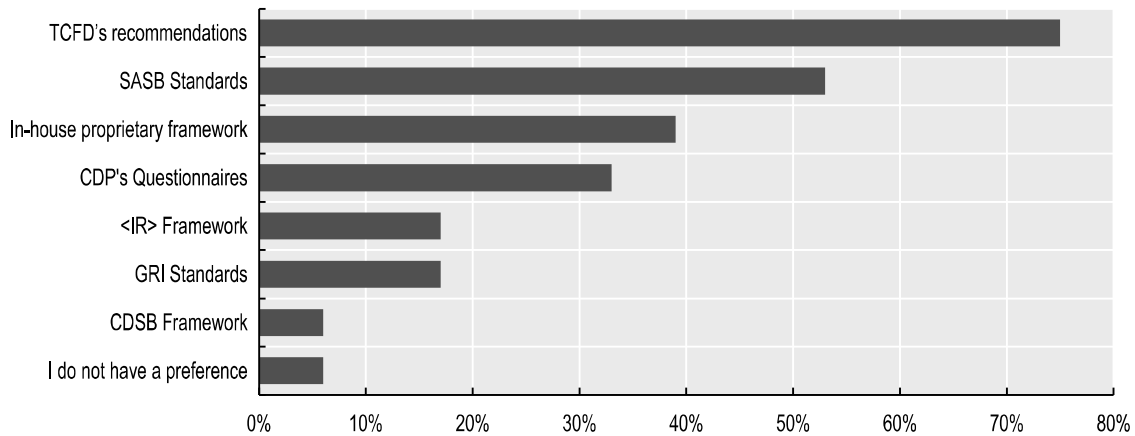
The Concept of Materiality

Financial vs. Double Materiality

- Financial Materiality: information is expected to influence an investor's or a creditor's analysis of **a company's future cash flows**.
 - The rule in **financial standards** (e.g. IFRS) and **securities regulation** (such as the disclosure of risks in annual forms).
 - The rule in **most existing sustainability standards** (e.g. SASB and TCFD).
- Double Materiality: what is **financially material** + a company's **effect on society and the environment**.
 - **EU Non-Financial Reporting Directive**.
 - The **exception** in existing sustainability standards (GRI Standards).

- The top two preferred reporting frameworks by institutional investors are **the TCFD recommendations** and **the SASB Standards**.

Institutional investors' ESG reporting preferences in 2020



Source: Morrow Sodali (2021), Institutional Investor Survey.

Prioritisation of Climate-Related Risks

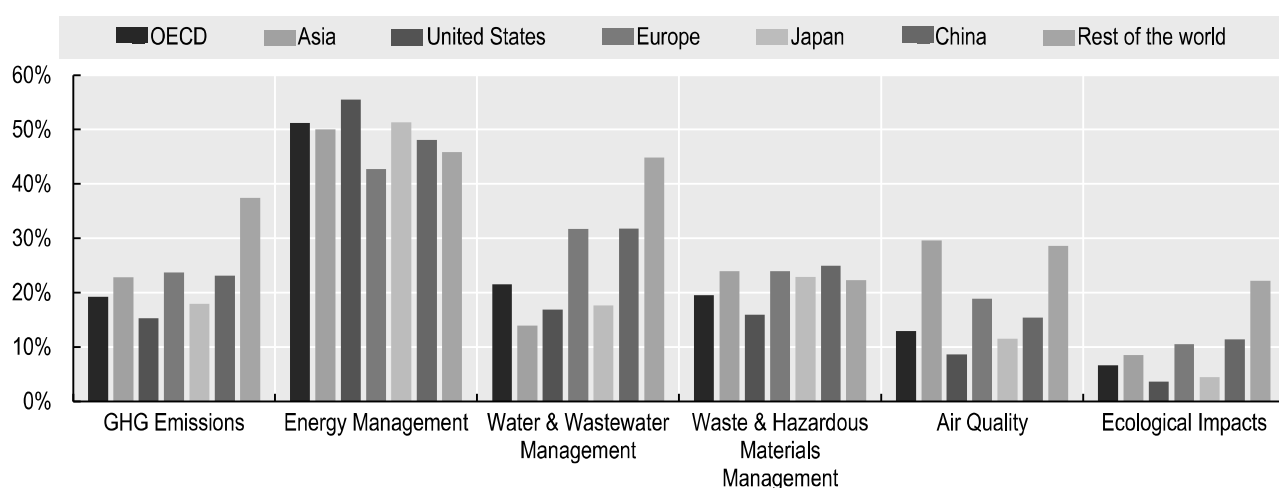
- The disclosure of **climate-related** risks and opportunities has been the focus in a number of jurisdictions.
 - Regulators in China, Hong Kong (China), Japan, India, Indonesia, Korea, Malaysia, Philippine, Singapore, Thailand, and the UK have **announced requirements or recommendations** to report most of the case in an alignment with the TCFD's Recommendations.
 - **Public consultations** for climate-related disclosure completed in the US.



Prioritisation of Climate-Related Risks

- Companies that are likely to expose **financially material risks** related to the GHG-Emissions and Energy Management represent **60% of market capitalization in Asia**.

The share of market capitalisation by environmental risks in 2020



Source: OECD Capital Market Series Dataset, Factset, Thomson Reuters Eikon, Bloomberg, SASB mapping, and OECD calculations.



ESG Standards

ESG Standards

- There are **numerous** ESG standards and frameworks being used by companies to **disclose their ESG risks and opportunities**.

Climate-related and other ESG standards

Institution	System	Materiality	Audience	Issues
Financial Stability Board's TCFD	TCFD's recommendations	Financially material	Investors, lenders and insurance underwriters	Climate-related issues
Value Reporting Foundation – SASB Standards Board	SASB Standards	Financially material	Investors	A great number of ESG issues, with subset of standards in each of 77 industries
Value Reporting Foundation – Integrated Reporting Framework Board	<IR> Framework	Financially material	Investors	A great number of ESG issues
Climate Disclosure Standards Board	CDSB Framework	Financially material and relevant	Investors	Environmental information
IFRS Foundation – International Sustainability Standards Board	IFRS Sustainability Standards	Financially material	Investors	Initial focus on climate-related issues, but with a plan to cover a great number of ESG issues
Global Sustainability Standards Board	GRI Standards	Double materiality	Multiple stakeholders	A great number of ESG issues, with a plan to have a subset of standards in each of 40 sectors
GHG Protocol	GHG Protocol Corporate Standards	-	-	GHG emissions
CDP	CDP's questionnaires	-	Investors and customers	Climate change, forests and water security

Source: Standards, frameworks and websites of the institutions visited in July and November 2021; OECD elaboration.

- IFRS Sustainability Disclosure Standards will ensure **high-quality, transparent** and **comparable information** in sustainability disclosures.

- IFRS Sustainability Disclosure Standards:
 - **Financial materiality** + Investors.
 - **Building-blocks:** flexibility for complementary regional or national standards requiring disclosure on matters deemed material only from a “double materiality” perspective.
 - **Climate-first:** prototype climate-related disclosure already published.

- Different models of director's duty of loyalty reflect a combination of **"shareholder primacy"** and **"stakeholder capitalism"** views with a varying degree.

- "Shareholder primacy" view.

- Only **shareholders' financial interests** in the long-term.
- One advantage: clear **accountability**.

- "Stakeholder capitalism" view.

- **Shareholders' and other stakeholders'** interests are equally important.
- May compensate a **market failure** (e.g. inadequate public policies to reduce GHG emissions).

- On matters related to ESG issues, **shareholders** have been exercising some of **their rights**.

- **Ongoing litigations on climate and ESG related matters**

- On GHG emissions reduction targets

- **Fit-for-purpose legislation** for profits + common goods:

- Public Benefit Corporations in **Delaware**: balance all stakeholders' interests + defined public benefits
 - 207 private and 7 listed PBCs.
- **Société à Mission** in France: adopt social and environmental objectives
 - 203 private and 3 listed sociétés à mission.



Thank you for your attention!

Participants of Roundtable are invited to send any written comments by **3 February 2022**.

For any written comment on this background note or related inquiry, please contact Marie-Estelle.Rey@oecd.org and Tugba.Mulazimoglu@oecd.org.

OECD-ASIAN ROUNDTABLE ON CORPORATE GOVERNANCE

Company Groups in India

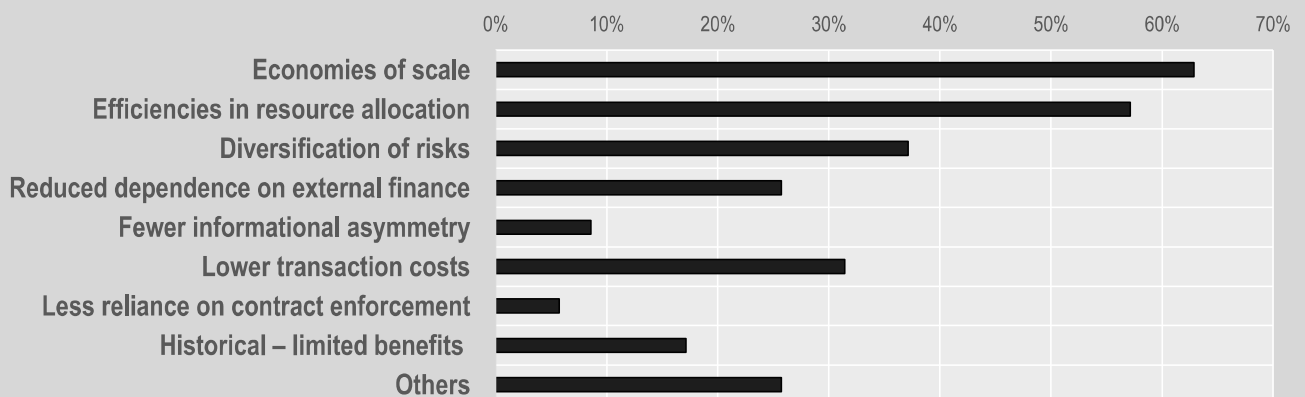
January 2022

OECD

Prevalence of company groups in India

- Corporate ownership through company groups are a dominant pattern of shareholding in an important number of markets. This is the case for India as well.
- On average, Indian listed companies have more than tripled the number of subsidiaries during the past 15 years.
- According to a survey conducted by SEBI and the OECD, a majority of the companies operate in company groups because of economies of scale and efficiencies in resource allocation. But some of them do so for historical reasons and see limited benefits.

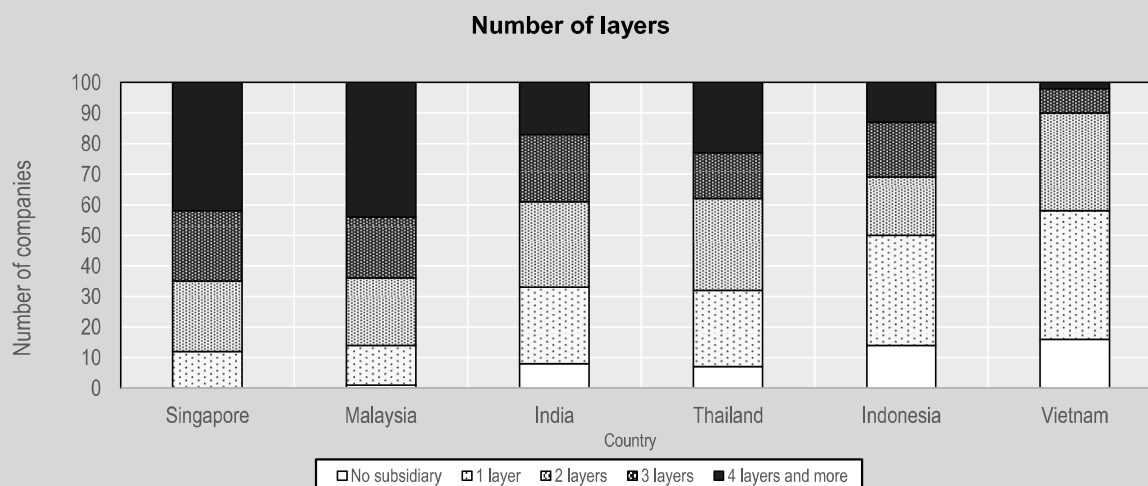
Reasons for operating in company groups



Source: SEBI and the OECD "Company Groups in India", 2022

Complex group structures that raise regulatory challenges

- While there are compelling reasons for formation of a company group, complex company group structures raise challenges for regulators.
- As evidenced by the survey, companies operate in a group structure to achieve efficiencies in resource allocation and economies of scale, but the costs of company groups may outweigh those benefits.
- For example, in a hierarchical structure, the controlling ownership that can have influence over the entire group structure may result in misallocation of human, financial, and management resources.



Source: SEBI and the OECD "Company Groups in India", 2022



2

Regulatory measures to address issues related to company groups

- The expanded and complex company group structures have brought increased attention to group governance in India. Ineffective group governance and lack of transparency in group structures may affect investors' confidence.
- SEBI has taken policy measures to enhance corporate governance for company groups.
- For example, India's regulations impose specific obligations on a listed company having a "material subsidiary". At least one independent director of a listed company is required to serve as a director of an unlisted material subsidiary so that the parent company can effectively monitor its material unlisted subsidiaries.
- In May 2018, SEBI published a circular with respect to group governance. The circular recommends a listed company with a large number of unlisted subsidiaries to monitor its group governance through a governance committee comprising the board members.
- Although the circular leaves it at the discretion of the listed companies to set up a group governance committee, some Indian companies have proactively adopted the circular. According to the SEBI-OECD survey, 12% of the responding companies said that they have a group governance board or committee. The number of subsidiaries that these companies hold varies. The composition of the group governance committee also varies across companies.

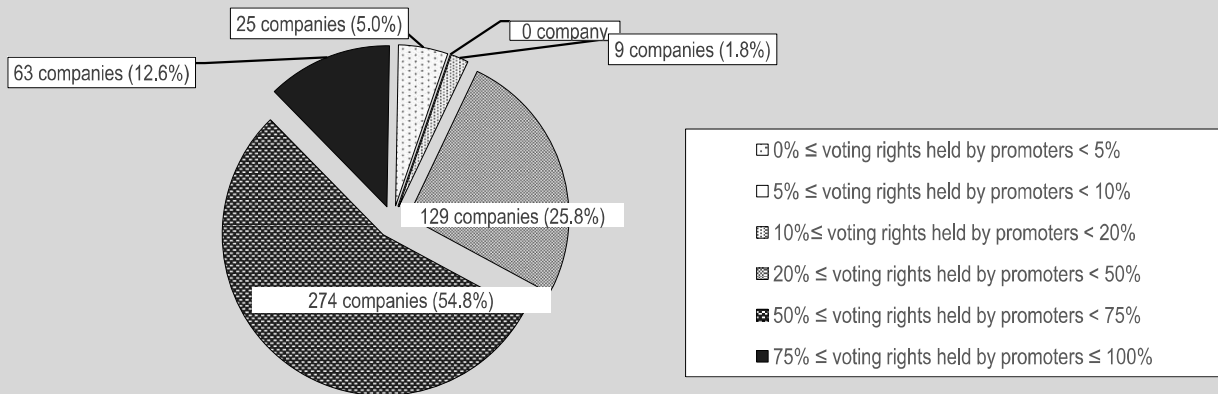


3

Promoters/promoter groups that play a key role in India

- The ownership structure of listed companies in India can be characterised by promoters who in principle refer to controlling-shareholders or founders.
- Promoters may be an individual, their family members and associates, investment vehicles and corporate bodies including listed entities.
- In nearly 70% of the largest 500 listed companies in India, promoters and promoter groups have the majority of voting rights (i.e. more than 50%)

Distribution of voting rights by promoters



Source: SEBI and the OECD "Company Groups in India", 2022

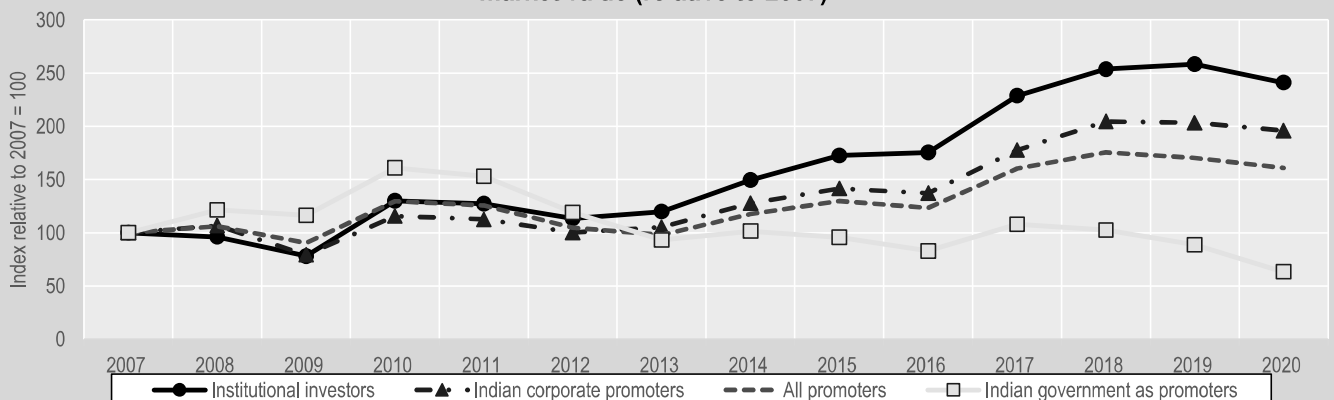


4

Institutional Investors who play an increasingly important role in monitoring the board/management

- Institutional investors have significantly increased their shareholdings for the top 500 listed companies, and as of March 2020, the aggregate value is nearly 2.5 times as large as in 2007, surpassing the increase in shareholdings by all promoters including corporate promoters.
- SEBI has taken policy measures to promote stewardship activities by institutional investors. These measures include stewardship codes. Unlike similar initiatives in other Asian jurisdictions, India's Stewardship Codes are a mandatory requirement that mutual funds and other alternative investment funds shall follow.

Growth/decline in ownership of different categories of investors in terms of market value (relative to 2007)



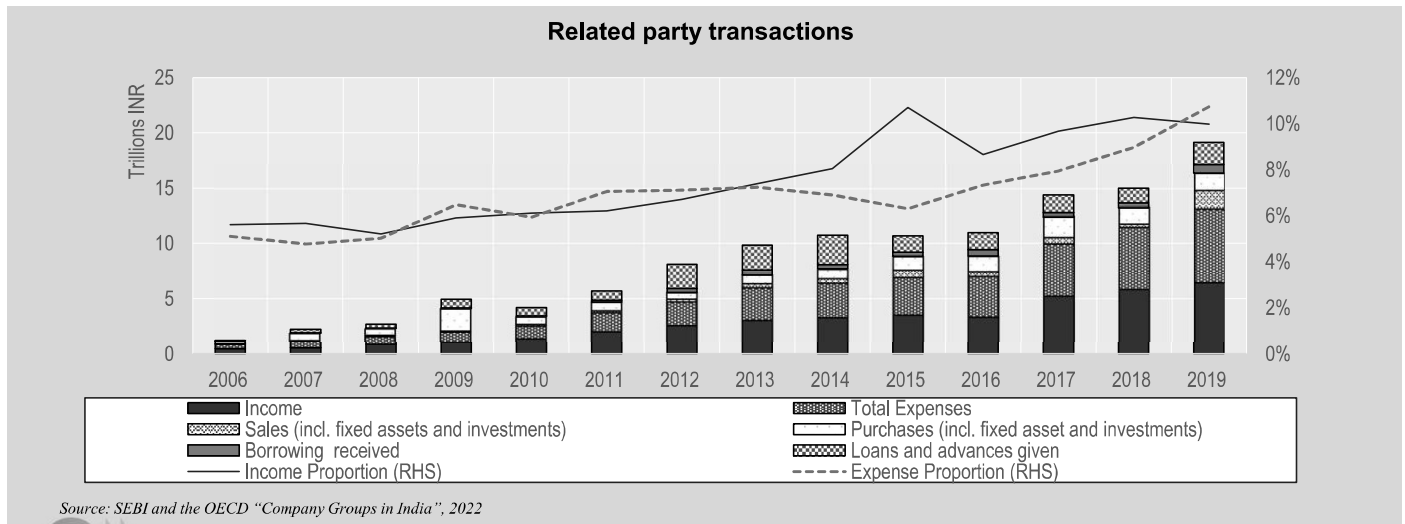
Source: SEBI and the OECD "Company Groups in India", 2022



5

Related party transactions that are one of the central issue relating to company groups

- While there are cases where abusive related party transactions harm minority shareholders' interests, intra-group transactions can contribute to economic development under certain circumstances. In India, approximately 5.5% of the total income came from related party transactions in India. This proportion has risen to 11.0% in 2019.
- To address conflicts of interest arising from RPTs, SEBI has strengthened relevant regulations. For example, the scope of RPTs has also been expanded to cover transactions with unrelated parties in case the ultimate beneficiary of the transactions is a related party of the listed entity/subsidiaries.



Thank you!