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Asian Corporate Governance Association (ACGA)

“Asia Corporate Governance Overview”

Presentation by:  
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# Agenda

1. Headline CG developments in Asia
2. Policy contradictions
3. “Soft law” challenges
4. India’s regional ranking (CG Watch 2016)
5. India: Then and Now

# 1. Headline CG developments in Asia, 2017 - 1

	Progress	Regress	Mixed results
<b>China</b>	Focus on ESG in investment; Two more funds join ACGA!	Party Committees reinforced	Revision of CG Code (2002); SOE reform (mixed ownership)
<b>HK</b>	Enhanced ESG reporting; SFC “direct intervention”	Plans for dual-class shares	Failure of listing regime reform proposals
<b>India</b>	Kotak Committee proposals	Audit regulation unresolved	Governance backsliding in some leading companies
<b>Indonesia</b>	Financial holding companies	Weaknesses in system for shareholder rights continue	Rules on enhanced AGM disclosure being flouted
<b>Japan</b>	Revised Stewardship Code; investor engagement	Sodanyaku, komon (advisors); cross/equity shareholdings	Independence of new outside directors; weak audit & other board committees

# Headline CG developments in Asia, 2017 - 2

	Progress	Regress	Mixed results
<b>Korea</b>	New CG and Stewardship codes; chaebol leadership & practices under scrutiny	Lack of specialist expertise in key state policy agencies	Chaebol internal governance reforms; collusion between government and business
<b>Malaysia</b>	New CG Code; new MD&A guide; upgraded listing rules	State controls on media; opacity around 1MDB	Remuneration disclosure; anti-corruption efforts
<b>Philippines</b>	Higher public float rules	Weak takeovers regime	Impact of new CG Code
<b>Singapore</b>	Stronger SGX reprimands	Plans for dual-class shares	AGM clustering
<b>Taiwan</b>	Audit committee net widened; tougher enforcement	Low level of fines and penalties in enforcement cases	Judicial reform
<b>Thailand</b>	New CG and Stewardship Codes	Public governance uncertainties	Lessons from CP ALL insider trading fading?

## 2. Policy contradictions

- **# 1:** Promotion of investor stewardship vs likely advent of dual-class shares (Hong Kong, Singapore)
- **# 2:** Promotion of investor stewardship vs antipathy towards collective engagement (by investors)
- **# 3:** Exhortations regarding “One size doesn’t fit all” vs high degree of copying codes of best practice from developed markets (especially the UK)

# 3. “Soft law” challenges

## “Soft law” = codes of best practice, guidelines

1. Historically, most CG codes copied from the UK Combined Code. This is legitimate, yet most codes still do not address Asian local governance challenges.
2. “Comply or explain” not well understood.
3. Where is the dividing line between soft and hard law? India has taken a somewhat different approach.
4. Does Asia have the pre-existing conditions (the market ecosystem) to make soft law work?
5. Are regulators and exchanges doing enough to “socialise” soft law? Should soft law come with some sort of “soft enforcement”?

## 4. India's Regional Ranking, 2016

### CG Watch market scores: 2010 to 2016

(%)	2010	2012	2014	2016	Change 2014 vs 2016 (ppt)	Direction of CG reform
<b>Australia</b>	-	-	-	<b>78</b>	-	
<b>1. Singapore</b>	67	69	64	<b>67</b>	(+3)	Mostly sunny, but storms ahead?
<b>2. Hong Kong</b>	65	66	65	<b>65</b>	-	Action, reaction: the cycle of Hong Kong life
<b>3. Japan</b>	57	55	60	<b>63</b>	(+3)	Cultural change occurring, but rules still weak
<b>4. Taiwan</b>	55	53	56	<b>60</b>	(+4)	The form is in, now need the substance
<b>5. Thailand</b>	55	58	58	<b>58</b>	-	Could be on the verge of something great, if...
<b>6. Malaysia</b>	52	55	58	<b>56</b>	(-2)	Regulation improving, public governance failing
<b>7. India</b>	49	51	54	<b>55</b>	(+1)	Forward movement impeded by vested interests
<b>8. Korea</b>	45	49	49	<b>52</b>	(+3)	Forward movement impeded by vested interests
<b>9. China</b>	49	45	45	<b>43</b>	(-2)	Falling further behind, but enforcement better
<b>10. Philippines</b>	37	41	40	<b>38</b>	(-2)	New policy initiatives, but regulatory strategy weak
<b>11. Indonesia</b>	40	37	39	<b>36</b>	(-3)	Losing momentum after progress in past survey

Source: Asian Corporate Governance Association

# Category scores (CG Watch 2016)

## Market category scores

(%)	Total	CG Rules & Practices	Enforcement	Political & Regulatory	Accounting & auditing	CG Culture
Australia	78	80	68	78	90	74
1. Singapore	67	63	63	67	87	55
2. Hong Kong	65	63	69	69	70	53
3. Japan	63	51	63	69	75	58
4. Taiwan	60	54	54	64	77	50
5. Thailand	58	64	51	45	77	50
6. Malaysia	56	54	54	48	82	42
7. India	<b>55</b>	<b>59</b>	<b>51</b>	<b>56</b>	<b>58</b>	<b>49</b>
8. Korea	52	48	50	53	70	41
9. China	43	38	40	36	67	34
10. Philippines	38	35	19	41	65	33
11. Indonesia	36	35	21	33	58	32

Source: Asian Corporate Governance Association



# 5. India: Then and Now

## ACGA India White Paper, 2010

### Major problem areas:

1. Shareholder Meetings/Voting
2. Related-Party Transactions
3. Preferential Warrants
4. Corporate Disclosure
5. Auditing

### India Today: Significant progress

1. Voting transformed (e-voting, polls), transparent results
2. New RPT regulatory regime; votes for minorities only
3. Abuse of preferential warrants somewhat harder today
4. Corporate disclosure improved across the board; audited annuals out in 3 months
5. Auditing: still no independent regulator

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