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2014 Regional Overview – Asia-Pacific

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Overview

The Asia-Pacific region comprises several markets, notably Japan, Hong Kong, Korea, Singapore, China, Taiwan, India, and Australia. They can generally be characterized as follows:

Japan

- Most rules governing corporate structure and operations, information disclosure, and other aspects of corporate governance are contained in the Corporate Law, in the Financial Instruments and Exchange Law, and in listing regulations of the stock exchanges. Japan has a unitary legal system, and corporate laws do not vary among the different prefectures. Japan's securities laws are broadly similar to those of the United States, but private enforcement through shareholder lawsuits is much less of a factor in Japan. There is no national code of corporate governance best practices. However, Japan's Financial Services Agency is considering a Japanese Stewardship Code.

Hong Kong

- Corporate governance structure and operation is regulated by the Stock Exchange of Hong Kong Limited through the Code on Corporate Governance Practices and Corporate Governance Report. The Code sets out a number of principles of good corporate governance and two levels of recommendations, namely code provisions and recommended best practices. Companies are required to either comply with the code provisions or explain non-compliance. In addition, the stock exchange also requires public companies to follow the regulations embedded in the Rules Governing the Listing of Securities on the Exchange. A listed company must present the summary of its financial report not more than four months after the end of the financial year. Under the Companies Ordinance, which governs the laws for companies in Hong Kong, public companies must hold their AGM within a period of 15 months from the last convened AGM.

Korea

- Most rules governing corporate structure and operations, information disclosure, and other aspects of corporate governance are contained in the Corporate Code, the Financial Investment Services and Capital Market Act, and the listing regulations of the stock exchanges. Korea has a unitary legal system, and corporate laws do not vary across different provinces. There is code of corporate governance formulated by Committee on Corporate Governance, a committee launched by the Ministry of Finance and Economy (a predecessor of Ministry of Strategy and Finance), in 1999. Korean law imposes two different sets of corporate governance standards on listed companies – one for companies whose asset size is greater than KRW 2 trillion (large companies) and the other for companies whose asset size is below KRW 2 trillion (small companies). Large companies are generally required to adhere to higher standards of corporate governance and disclosure.

Singapore

- Singapore companies are subject to regulatory, legislative, and code-based requirements and recommendations. The Singapore Exchange regulates companies listed on the exchange through the SGX-ST Listing Manual, and associated Listing Rules. Companies are also required to comply with the Securities and Futures Act (2002 Revised Edition), and Companies Act (2006 Revised Edition). Finally, companies are required to comply with the Singapore Code of Corporate Governance, similar to the UK Combined Code, or explain why they are not in compliance. Rule 710 of the SGX Listing Manual requires that an issuer describe its corporate governance practices with reference to the principles of the Code in its annual report, disclosing and explaining any deviation from any guideline of the Code.

China

- China's capital market is relatively young. The two main stock exchanges, the Shanghai Stock Exchange and the Shenzhen Stock Exchange, were both founded at the end of 1990, which preceded the introduction of the Company Act of PRC in 1993 and the Securities Act of PRC in 1999. Both exchanges report to the China Securities Regulatory Commission (CSRC), the principal regulatory body that operates directly under the State Council. CSRC promulgated most regulations on corporate governance, among which the Code of Corporate Governance is the overarching rulebook. Although the Code is implemented on a comply-or-explain basis, most listed companies do follow the requirements.

Taiwan

- The Corporate Governance Best-Practice Principles for the Listed Companies was introduced in 2002 to assist listed companies to establish a sound corporate governance system and to promote the integrity of the securities market. In addition, a number of best-practice principles have been promulgated for securities and futures intermediaries to improve their corporate governance since 2003. While the Corporate Governance Best-Practice Principles are largely in line with global standards, Taiwanese companies are behind their regional peers in areas of board independence, transparency, and effective director election process.

India

- Corporate activity in India is governed by several laws, regulations and guidelines. The Companies Act 1956 regulates the incorporation, operations, and duties of companies, as well as the rights and obligations of directors and shareholders. In addition, the Securities and Exchange Board of India (SEBI) sets out several guidelines governing information disclosure practices, share issuances, and stock options and/or shares schemes, among others. The listing agreements of stock exchanges, more particularly the Amended Clause 49, and the Corporate Governance Voluntary Guidelines promote good corporate governance practices. The Companies Bill 2013 has been passed to replace the more than 50-year-old Companies Act to further raise the standards of corporate governance practices among Indian companies.

Australia

- Corporate activity in Australia is administered by the regulator, the Australian Securities and Investments Commission, by applying the Corporations Act 2001. The regulator administers a licensing system which licenses the market operator for listed issuers, the Australian Securities Exchange (ASX). The license allows the ASX to create rules, the Listing Rules, which have legal force through the Corporations Act. Since 2003 the ASX was requested by Government to create the ASX Corporate Governance Council, with 21 market repetitive members to administer "Guidelines." The Guidelines, known as the Principles and Recommendations, provide better practice guidance for listed issuers. The principles based framework is enforced through both the ASX Listing Rules and the Corporations Act 2001, in terms of reporting and transparency in support of market integrity. The ASX Corporate Governance Principles and Recommendations, administered by ASX Corporate Governance Council, operate on an "if not why not" or comply-or-explain basis. The financial services sector, such as banking and insurance, is also governed by a prudential authority (Australian Prudential Regulatory Authority) which maintains a stricter governance regime for banks and insurance companies as well as the superannuation funds. The market has several key players guiding best practice. These include corporate, investor and industry bodies. The comply- or-explain approach is widely supported by all. New ASX Corporate Governance Council Guidelines are being proposed for 2014.

Market Trends

Japan

- Although not driven by regulatory requirements at this moment, board independence at Japanese companies is improving. 61.5 percent of Japanese companies in the ISS research universe have at least one outside director, which is a significant increase compared with the 53.2 percent evidenced in December 2012.

Hong Kong

- Public company boards are now required to be at least one-third independent in addition to having at least three independent non-executive directors. Overall board independence at Hong Kong companies has significantly improved as a result in recent years.
- General Share Issuance Mandate proposals continue to receive significant shareholder opposition, but disapproval remains rare and only a handful of companies are adopting stricter standards despite shareholder concern.
- Several Hong Kong-listed companies have refused to disclose certain information to their auditors and/or Hong Kong regulators due to the potential violation of the state secrecy law in China.

Korea

- Several companies removed their dividend proposals from the ballot only a few days before the meeting, and instead approved the dividend payment via board resolution, precluding shareholders from changing their vote instructions.
- The practice of de-bundling director elections in Korea is steadily increasing, though bundled elections are the norm among KOSPI constituent companies.
- Scandals involving top executives and founding family members of Korean companies continue to plague the market, and questions were raised regarding the appearance of cronyism and leadership changes at major financial holding companies in 2013.

Singapore

- Overall board independence at Singapore companies has been increasing, and more and more companies are adopting independent chairmanship in anticipation of the new requirement under the Code of Corporate Governance to have one-half independent board if the chairman of the board is not independent. Companies have until 2015 to comply with the Code.
- In 2012, the number of business trusts listed on SGX grew by 30 percent with the listing of Ascendas Hospitality Business Trust, Far East Hospitality Business Trust, and Religare Health Trust. The combined full market capitalization of the 14 Business Trusts listed on SGX currently amounts to SGD 18.66 billion.

China

- Foreign investors account for a small fraction of the market cap; however, CSRC has been gradually increasing the investment quota of Qualified Foreign Institutional Investors (QFII) and RMB Qualified Foreign Institutional Investors (RQFII) and relaxing the requirements for foreign intuitional investors to be qualified. As of March 2013, there are 213 QFIIs and the investment quota of QFII and RQFII are USD 80 billion (up from USD 30 billion) and CNY 270 billion, respectively.
- Thanks to the continuing emphasis from the regulators on cash dividends, the growing trend of cash dividend payouts has continued this year, in spite of a drop in the average earnings level.
- More companies adopted equity-based compensation plans with a growing preference for restricted stock grants over stock options as the choice of incentive instrument.

Taiwan

- An increasing number of companies are appointing independent directors, though overall board independence remains low.
- Both listed financial institutions and listed large non-financial institutions are now required by mandate to establish an audit committee.
- The traditional non-nomination election system is still the norm for the election of non-independent directors and supervisors, although use of the nomination system is on the rise.

India

- An increasing number of companies are incorporating provisions on minimum remuneration in the event of loss or inadequate profits in the terms of appointment of executives and their compensation, preempting the need for shareholder approval for the waiver of recovery of excess remuneration paid to the executives.
- General share issuance mandate requests increased with companies looking to increase their public shareholding to meet the 25 percent minimum public float requirement.
- Postal ballot and electronic voting are becoming prevalent to enable more shareholders to participate and exercise their voting rights.

Australia

- The Australian "two strikes" law on executive remuneration produced much consternation but no significant impact.
- Board-supported director nominees generally received high support at Australian AGMs.
- The Australian Government has circulated draft legislation that will impact executive remuneration disclosure and practices, to mixed initial reviews.

Regulatory Perspective

Japan

- Against the backdrop of a stock market rally after the return of the Liberal Democratic Party (LDP) to power in December 2012, governance reform is now on the political agenda again. As part of the LDP's initiatives to improve shareholder engagement in Japan, Japan's Financial Services Agency is expected to issue a Stewardship Code for investors, and the Tokyo Stock Exchange plans to create a new index factoring in governance, on top of financial metrics such as ROE.
- Although the Olympus accounting fraud stimulated public debate on corporate governance practices in Japan, legal reform fell short of requiring listed companies to appoint outside directors. Instead, a comply-or-explain rule, where companies with no outside directors will be required to explain why they regard appointing outsiders as "inappropriate," is expected to be introduced as early as 2014.

Hong Kong

- The Listing Rules mandate that listed companies issue notices to shareholders 21 days before the AGMs. This provides ample time for the market analysts to evaluate the resolutions put to share-holder vote. However, it is not uncommon in China and Hong Kong for a major shareholder to pro-pose additional agenda items subsequent to the initial release of proxy materials. While these proposals are technically shareholder proposals, they are usually presented with the consent and often at the request of management, as management is barred from adding items to the agenda once proxy materials have been released.
- Effective Dec. 31, 2012, several changes to the Listing Rules were implemented, including the addition of Rule 3.10A. This rule requires that at least three independent non-executive directors (INED) be on the board and that at least one-third of the board be INEDs. This new rule effectively upgrades a recommended best practice under Hong Kong's Code of Corporate Governance to a mandatory requirement.
- Effective April 1, 2012, the establishment of a Nomination Committee was upgraded from a recommended best practice to a code provision. Issuers are required to establish a Nomination Committee which is chaired by an independent director or the chairman of the board, and a majority of the members shall be independent non-executive directors.
- Effective April 1, 2012, the establishment of the Remuneration Committee was upgraded from a code provision to a listing rule.
- Effective Oct. 1, 2013, the Securities and Futures Commission has implemented the new sponsor regulation proposed in the "Consultation Conclusions on the regulation of IPO sponsors" to raise the responsibility and liability standards for sponsors.

Korea

- The Korean legal framework consists of: 1) the Commercial Code, and 2) the Financial Investment Services and Capital Market Act. The Code and the Act consolidated six financial market-related laws including the Securities and Exchange Act. The code was last updated on June 10, 2010, while the latest amendments to the Act were made on May 28, 2013. The Code regulates the existence and the relationships of enterprises that have the purpose of profit-making. The Act contributes to the development of the national economy by attaining wide and orderly circulation of securities, and by protecting investors through establishing fairness in the issuance, trade, and other transactions of securities.
- Legal updates include mandatory disclosure of executive pay for those receiving more than KRW 500 million starting in 2014, abolition of the so-called "shadow voting system" in 2015, and a ban on the issuance of bonds with detachable warrants.

Singapore

- On May 2, 2012, the Monetary Authority of Singapore released the revised Singapore Code of Corporate Governance, which supersedes the Code that was released in July 2005. The changes under the revised Code are focused mainly on the substantial shareholding threshold, board composition, tenure of independent directors, and multiple directorships of board members.

China

- The Company Act sets out at the highest level the rules regarding the incorporation, structure, accounting, merger and acquisition, dissolving, and liquidation of each type of company. The Securities Act dictates the issuance, trading, and listing of securities and lays out rules for the key players including securities firms, securities exchanges, and securities register companies. Although largely similar, each of the Shanghai Stock Exchange and Shenzhen Stock Exchange has its own Listing Rules, regulating all matters relating to the pre- and post-listing of equity securities such as information disclosure, board meetings, shareholder meetings, dealing with related-parties, and other significant corporate actions including mergers and acquisitions.
- The Code of Corporate Governance was released in 2002 jointly by CSRC and the State Economics and Trade Commission. It has eight chapters, covering issues ranging from shareholder meetings, controlling shareholders, directors and board meetings, supervisory board, various stakeholders, and information disclosure and transparency.
- Apart from the Code, CSRC also released stand-alone documents tackling specific governance issues, such as the Guidelines of Introducing Independent Directors to the Board of Directors of Listed Companies established in 2001, the Rules Governing Shareholder Meetings promulgated in 2006, and the Management Approach on Information Disclosure of Listed Companies introduced in 2007, among others.

Taiwan

- The basic legal framework for listed companies in Taiwan relating to corporate governance practices includes the Company Act, the Securities and Exchange Act, and the listing requirements. The Company Act is the regulatory foundation of corporate governance and it sets out the fundamental rules on shareholder meetings, directors, and supervisors. The Securities and Exchange Act governs the offering, issuance, and trading of securities. The listing criteria set forth by the Taiwan Stock Exchange (TWSE) and GreTai Securities Market (GTSM), together with the aforementioned two Acts as well as their related rules and regulations, serve to guide the establishment of corporate governance systems and their implementation in Taiwan.
- The Corporate Governance Best-Practice Principles for TWSE/GTSM Listed Companies was introduced in 2002 to assist listed companies to establish a sound corporate governance system and to promote the integrity of the securities market.

India

- There are five statutes governing corporate activity in India. The first is the Companies Act 1956 (Companies Act), which regulates the incorporation, operations, and duties of companies, as well as the rights and obligations of directors and shareholders. The Companies Act is administered by the Department of Company Affairs (DCA). The DCA has a three-tiered organizational setup for administration of the Act: the Secretariat in New Delhi; the regional directors; and the Registrar of Companies in States and Union Territories. In August 2013, the Companies Bill 2013 was passed to replace the more than 50-year old Companies Act. The key changes in the Companies Bill relate to enhanced definition of independent directors, enhanced scope of related-party transactions, required auditor rotation, and introduction of class action suits.
- The second act, the Securities Contracts (Regulation) Act 1956, specifies the minimum requirements for listing securities and regulates business transactions in securities. It is enforced by the Securities and Exchange Board of India (SEBI).
- The other three acts are the Securities and Exchange Board of India (SEBI) Act 1992, the Depositories Act 1996, and the Sick Industrial Companies (Special Provisions) Act (SICA) 1985.

Australia

- The major law governing listed companies is the Corporations Act 2001 (the Act). Almost all major company regulation is federal rather than state based. Listed companies must also comply with the Australian Securities

Exchange (ASX) Listing Rules, which are effectively a private contract between the ASX, the for-profit market operator, and the listed company. These rules are also subject to oversight by the Australian Securities & Investments Commission (ASIC), the government regulator responsible for compliance with the Act. The ASX is licensed by ASIC to operate a market and enforce its rules. For regulated entities, the 'Twin Peaks' dual regulator system is considered to be one of the best in the world with one regulator focusing on consumer protection and the other on prudential regulation.

Market Perspective

Regional organization

- The Asian Corporate Governance Association, founded in 1999 and based in Hong Kong, is an independent, non-profit membership organization dedicated to working with investors, companies, and regulators to promote long-term improvements in corporate governance practices throughout Asia.

Japan

- **Shareholder organizations** - A non-profit organization, Kabunushi [Shareholder] Ombudsman, a group of attorneys, accountants, and university professors, has filed derivative lawsuits in connection with political contributions and cartel behavior. The organization's members have also filed shareholder proposals seeking individual compensation disclosure, and proposals concerning ethical oversight.
- **Institutional investor organizations** - Japan's Government Pension Investment Fund (GPIF), the world largest pension fund with assets of JPY 107 trillion ($1.3 trillion) under management, in principle has mandated its asset managers to vote at shareholder meetings at companies it holds. However, unlike many large pension funds, GPIF does not have its own voting policy and does not make decisions on actual voting, deferring vote decisions to asset managers.

Hong Kong

- **Shareholder organizations** - David Webb, editor of Webb-site.com (http://www.webb-site.com) is a vocal commentator on corporate governance issues in Hong Kong, and has led a number of initiatives aimed to protect the interests and rights of minority shareholders.
- **Institutional investor organizations** - Many international fund management companies have large presences in Hong Kong, and as such the market is well represented by a large number of sophisticated professional investors. The fund management industry is represented by the Hong Kong Investment Funds Association (HKIFA) (http://www.hkifa.org.hk), a non-profit industry organization established in 1986.

Korea

- **Shareholder organizations** – Korea Corporate Governance Service (KCGS) was launched in June 2002 by founding member organizations including the Korea Exchange (formerly the Korea Stock Exchange), the Korea Financial Investment Association (formerly the Korea Securities Dealers' Association and the Asset Management Association prior to their integration), the Korea Listed Companies Association and the KOSDAQ Listed Companies Association. KCGS works closely with the self-regulatory organizations, Ministry of Strategy and Finance (formerly Ministry of Finance and Economy), and those in academia to help shape corporate governance policies, conduct research, and undertake other activities. Its establishment was authorized by the Ministry of Strategy and Finance.

Singapore

- **Shareholder organizations** - Retail shareholders are represented by the Securities Investors Association (Singapore) (SIAS) (http://www.sias.org.sg/), which acts as an advocacy group in Singapore for shareholder rights.
- **Institutional investor organizations** - The fund management industry in Singapore is well developed, and the country is a regional hub (along with Hong Kong) for fund management. Most global fund managers are represented in Singapore, with a few having regional headquarters in the city-state. The Investment Management Association of Singapore (IMAS) (http://www.imas.org.sg) is a representative body of investment managers.

China

- **Shareholder organizations** - China Investor Protection Bureau (CIPB), a department under CSRC, was founded in 2011 and is an official association whose focus is to build shareholder protection mechanisms and to educate market participants. Before CIPB was established, it was the Securities Investor Protection Fund Corp (SIPF) that was tasked with the mission to protect and educate shareholders. SIPF was set up in 2005 with the permission and funding directly from the State Council. One of its main responsibilities is to monitor the operational and financial risks of securities firms and to take over such firms in the event of a bankruptcy and liquidation. It is reported that CIPB and SIPF are planning to merge and form an integrated entity.
- **Institutional investor organizations** - With an aggregate holding of more than 70 percent of the tradable A share market, domestic institutional investors are starting to play a more and more active role in reforming and improving the market. Several nonprofit self-regulatory organizations such as the Asset Management Association of China (AMAC) have been established to act on behalf of institutional investors and make their voices heard.

Taiwan

- **Institutional investor organizations** - With increasing awareness of the significance of corporate governance, the Taiwan Corporate Governance Association (TCGA) was established in 2002 by experts in relevant fields such as regulatory authorities, stock exchanges, accounting, legal, risk management, information technology, finance and securities, etc. The TCGA aims to improve corporate governance practices in Taiwan to catch up with global standards.

India

- **Shareholder organizations** - The Government of India has set up the National Foundation for Corporate Governance, in partnership with the Confederation of Indian Industry, the Institute of Company Secretaries of India, and the Institute of Chartered Accountants of India, to promote better corporate governance practices in India.

Australia

- **Shareholder organizations** - There are several active shareholder bodies in corporate governance in Australia. The Australian Shareholders Association represents retail shareholders, while the Financial Services Council (FSC, formerly the Investment & Financial Services Association or IFSA) represents funds managers and insurers, and the Australian Council of Superannuation Investors (ACSI) represents certain superannuation funds.

Regional Policy and Principles

While ISS global principles apply to markets in Asia-Pacific, because of diversity in laws, customs, and best practice codes of each market, ISS' voting policies in each market take into account such factors to promote sustainable shareholder value creation through support of responsible corporate practices.

Following is key voting policy guidelines highlighting distinctive issues in each market. For a comprehensive understanding of ISS policies, please refer to the voting guidelines for each market on ISS' website at http://issgovernance.com/policy/2014/policy_information.

Board

Boards should be substantially independent, fully accountable, and open to appropriate diversity in the backgrounds and expertise of members.

Japan

- In Japan, there is no obligation to appoint outsiders to the board of directors at the 98 percent of Japanese companies that retain Japan's traditional board system (featuring two tiers, with a statutory auditor board). Currently, nearly 40 percent of Japanese companies still do not have any outside directors, and accordingly, ISS does not recommend a vote against outside directors merely for a lack of independence because this could have the effect of actually increasing management domination of the board. A nominee who is voted down may not be replaced, and the board may end up losing one outsider. However, ISS recommends a vote against a company's top executive if the board after the shareholder meeting will have no outside directors.

Hong Kong

- ISS recommends voting against executive directors who hold positions on a company's key board committees, namely audit, remuneration, and nomination committees, if such committee is not majority independent. In addition, ISS recommends against directors who have attended less than 75 percent of board meetings in the most recent fiscal year. Furthermore, ISS recommends against all non-independent directors (other than a CEO/managing director, executive chairman, or company founder who is deemed integral to the company) where independent directors represent less than one-third of the board. ISS also generally recommends against an independent director nominee who fails to meet the ISS criteria for independence.

Korea

- Most Korean companies present proposals to elect directors as a bundled resolution, requiring shareholders to vote for or against the entire slate of nominees, instead of allowing shareholders to vote on each individual nominee. Accordingly, where there are reasons to recommend a vote against one or more nominees, ISS considers recommending votes against all nominees included in such resolution.
- Under Korean law, large company boards must have a majority of outside directors and small companies are required to have a board on which one-fourth of directors are outsiders. Where independent non-executive directors (per ISS' classification of directors) represent less than a majority of the board at large companies, ISS recommends against inside/executive directors who are neither CEO nor a member of the founding family, and/or the most recently appointed non-independent non-executive director (per ISS' classification of directors) who represents a substantial shareholder, where the percentage of board seats held by representatives of the substantial shareholder are disproportionate to its holdings in the company.

Singapore

- ISS recommends voting against executive directors who hold positions on a company's key board committees, namely audit, remuneration, and nomination committees. In addition, ISS recommends against directors who have attended less than 75 percent of board meetings in the most recent fiscal year. Furthermore, ISS recommends against all non-independent directors (other than a CEO/managing director, executive chairman, or company founder who is deemed integral to the company) where independent directors represent less than one-third of the board.

China

- PRC Company Law (article 109) requires a company's board to have five to 19 directors, whilst a 2001 CSRC guidance document requires that independent directors should represent at least one-third of the board, of which at least one independent director must be an accounting professional. When the board meets the one-third independence requirement, ISS generally supports the election of the candidates unless any independent director candidate fails to meet the ISS criteria for independence.

Taiwan

- The nomination system is mandatory only for the election of independent directors in Taiwan. Many companies are using a "non-nomination" system for the election of non-independent directors, which means that shareholders can literally vote for any person of legal age and companies are not obliged to provide a roster of candidates and their profiles before the meeting. The non-nomination system poses great challenges for making an informed voting decision, particularly for overseas investors who must cast their votes well in advance of the meeting. This system acts to disenfranchise minority shareholders, who have limited visibility into the nominees chosen by the controlling shareholder and/or incumbent management team. ISS recommends voting AGAINST all nominees for elections via the "non-nomination" system. These negative recommendations are intended to protest the poor disclosure and disenfranchisement, and to push companies to adopt a system for electing directors akin to that used in most of the world; and which is already used in Taiwan for the election of independent directors.

India

- ISS recommends voting against executive directors who hold positions on a company's key board committees, namely audit, remuneration, and nomination committees. In addition, ISS recommends against directors who have attended less than 75 percent of board meetings in the most recent fiscal year. Furthermore, ISS recommends against all non-independent directors (other than a CEO/managing director, executive chairman, or company founder who is deemed integral to the company) where independent directors represent less than one-third of the board (if the chairman is a non-executive) or one-half of the board (if the chairman is an executive director or a promoter director).

Australia

- A unitary board structure, combining executive and non-executive directors, retiring by rotation every three years is the norm in Australia. In some cases, the CEO will be excluded from retiring by rotation once appointed to the board by shareholders. It is common and best practice for a board to have subcommittees, namely the audit, remuneration and nomination committees. Listing Rule 12.7 requires members of the All Ordinaries Index to have established an audit committee, with additional guidance on structure and role for the largest 300 companies. As in many developed markets, diversity has come to the fore in recent years. Guidance released by the ASX on diversity requires companies to disclose information on gender diversity and a focus exists on building a culture of diversity within the company. With a comply-or-explain approach to governance, companies are allowed to deviate from what is considered to be best practice with regard to board structure although solid explanations are expected. Best practice supports majority independent boards, with an independent chairman. In addition, the roles of chairman and CEO should not be combined. ISS generally supports director elections in Australia but may recommend against directors when deviations from best practice are not fully justified.

Compensation

Japan

- Unlike the U.S., Australia, and certain European markets, the Japanese market does not require companies to submit say-on-pay proposals for a shareholder vote Combined with a general perception that Japanese executive pay is not high, as compared to foreign counterparts, and the lack of disclosure rules shedding light on it, Japanese executive pay had long been left unflagged by shareholders. However, compensation disclosure requirements reveal that the problem of Japanese pay is not the amount, but the lack of a link to shareholder wealth creation. Accordingly, ISS policy for Japan's compensation proposals is generally intended to prompt companies to increase performance-based cash compensation as well as equity-based compensation.

Hong Kong

- In Hong Kong, companies typically seek shareholder approval to set directors' fees and to approve stock option plans, but executive compensation does not require shareholder review. ISS generally supports resolutions regarding directors' fees unless they are excessive relative to fees paid by other companies of similar size.
- ISS generally recommends voting against an option scheme if the maximum dilution level for the stock option plan exceeds 5 percent of issued capital for a mature company and 10 percent for a growth company. However, ISS supports plans at mature companies with dilution levels up to 10 percent if the plan includes other positive features such as challenging performance criteria and meaningful vesting periods as these features partially offset dilution concerns by reducing the likelihood that options will become exercisable unless there is a clear improvement in shareholder value. Additionally, ISS generally recommends against plans if directors eligible to receive options under the plan are involved in the administration of the scheme and the administrator has discretion over their awards.

Korea

- In Korea, companies annually seek shareholder approval to set the remuneration cap for directors. These proposals seek to set an upper limit on director pay in aggregate, but individual pay limits as well as the actual amounts paid are almost never disclosed. ISS generally recommends voting for proposals to set directors' remuneration cap unless there is a material disparity between director remuneration and the firm's dividend payout practice or financial performance, the proposed remuneration cap is excessive relative to the company's peers, or the company fails to provide justification for a substantial increase in the remuneration limit.

Singapore

- In Singapore, companies typically seek shareholder approval to set directors' fees and to approve stock option plans, performance share plans, and other equity-based incentives, but executive compensation does not require shareholder approval. ISS generally supports resolutions regarding directors' fees unless they are excessive relative to fees paid by other companies of similar size.
- ISS generally recommends voting against an option scheme if the maximum dilution level for the stock option plan exceeds 5 percent of issued capital for a mature company and 10 percent for a growth company or if the plan permits options to be issued with an exercise price at a discount to the current market price. However, ISS supports plans at mature companies with dilution levels up to 10 percent if the plan includes other positive features such as challenging performance criteria and meaningful vesting periods as these features partially offset dilution concerns by reducing the likelihood that options will become exercisable unless there is a clear improvement in shareholder value. Additionally, ISS generally recommends against plans if directors eligible to receive options under the plan are involved in the administration of the scheme and the administrator has discretion over their awards.

China

- Stock option plans and restricted stock schemes have become increasingly popular in China in recent years, with companies employing increasingly sophisticated schemes. Companies are required to provide detailed information regarding these schemes under the relevant laws and regulations. When reviewing these proposals, ISS examines the key plan features including the performance hurdles, plan participants, resulting dilution, and vesting period.

Taiwan

- Restricted stock awards (RSAs) were first introduced in Taiwan in 2012. The amount of restricted stock to be issued is capped at 5 percent of the number of shares outstanding under the law, and the restricted shares can be granted free of charge. ISS reviews RSA proposals on a case-by-case basis taking into account the following features: whether existing substantial shareholders are restricted in participation; presence of challenging performance hurdles if restricted shares are issued for free or at a deep discount; and whether a reasonable vesting period (at least two years) is set.

India

- Currently, ISS does not have market-specific policies on compensation. However, shareholders are often asked to approve commissions for non-executive directors. Companies also routinely seek shareholder approval for compensation packages of executive directors. ISS recommends voting for these proposals unless there is a clear indication that directors are being rewarded for poor performance or the fees are excessive.
- Companies establish employee stock option plans to reward and retain key employees. ISS generally recommends voting against an option plan if the maximum dilution level for the plan exceeds ISS guidelines of 5 percent of issued share capital for a mature company and 10 percent for a growth company or the plan permits options to be issued with an exercise price at a discount to the current market price.

Australia

- Investors are given an annual say-on-pay, with the potential of forcing all directors to seek reelection if dissent exceeds 25 percent of the vote for two years running. In addition, investors can vote on individual long-term incentive grants. In general, packages are made up of a basic salary and a combination of short- and long-term incentives making up the rump of the potential award. Awards generally have pre-set performance targets with long-term awards generally vesting after a three year performance period. As with other elements of company practice, guidelines in the market exist with regard to remuneration. ISS looks for a strong link between the level of pay received and company performance. In addition, ISS expects company disclosure to be transparent enabling an informed voting decision to be made.

Audit

Japan

- Shareholders are asked to approve the external auditor only when auditors are initially appointed or changed. ISS recommends a vote for the appointment of audit firms unless there are serious concerns about the accounts presented or the audit procedures used or the auditors are being changed without explanation; in which case ISS evaluates the proposal on a case-by-case basis.

Hong Kong, Singapore, and India

- In Hong Kong, Singapore, and India, companies are required to seek shareholder approval annually for the appointment of the auditor and to authorize the board to set the auditor's fees. Auditors often provide other services in addition to audit services, which could threaten to compromise the auditor's ability to remain objective and independent. While ISS will consider the nature and scope of non-audit fees when assessing their magnitude, where non-audit fees have constituted more than 50 percent of total auditor compensation during the fiscal year, ISS will ordinarily not recommend support for the reelection of the audit firm.

Korea and Taiwan

- The appointment of the external auditor is not an item that requires shareholder review.

China

- While it is acknowledged that the practice of auditors providing non-audit services to companies is problematic, the disclosure of non-audit fees is not mandatory in this market. As such, ISS generally supports the appointment of an external auditor unless there are any known negative issues against the auditor.

Australia

- Shareholders are generally asked to approve the external auditor only when auditors are initially appointed or changed. ISS recommends a vote for the appointment of audit firms unless there are serious concerns about the accounts presented or the audit procedures used or the auditors are being changed without explanation.

Shareholder rights/Takeover defenses

Japan

- ISS evaluates poison pill proposals on a case-by-case basis, but our guidelines specify a number of conditions which must ALL be met before we will even consider supporting a takeover defense. Those conditions are composed of five components; 1) plan features, 2) board practices, 3) special committee, 4) other defenses, and 5) information disclosure. Only when each of these threshold conditions is met will ISS proceed to a discussion of the company's actual vulnerability to a hostile takeover, and the plans (if any) it has announced to increase its valuation and thus reduce its vulnerability.
- In evaluating poison pill renewals, ISS will examine the company's share price performance, relative to its peers, since the pill was first put in place. Where the company has underperformed the market, it will be difficult to argue that shareholders have benefited from the pill, or that they should support its renewal.

Hong Kong, Singapore, Taiwan, and India

- Poison pills and dual-class shares with different voting rights are not allowed. If any antitakeover measure is proposed, ISS generally recommends against such a proposal unless it is structured in such a way that it gives shareholders the ultimate decision on any proposal or offer.

Korea

- Poison pills are not allowed in Korea, although it is possible to utilize redeemable convertible preferred shares to serve a similar purpose. ISS generally recommends against proposals to create classes of shares that could be utilized as an antitakeover measure.
- ISS recommends against proposals to adopt a supermajority voting requirement for removal of directors or internal auditors as it will make it difficult for shareholders to dismiss directors or internal auditors, which could reduce board accountability.
- Golden parachutes are allowed in Korea, and ISS generally recommends a vote against a proposal to introduce such a clause.

China

- The adoption of antitakeover measures in China is regulated by the Management Approach on Acquisition of Listed Companies (the Approach), published by CSRC in 2006. The Approach effectively forbids the employment of poison pills, scorched earth, and other common shark repellent defenses *during the event* of a hostile takeover. However, what can be done *before the event* is not regulated. As a result, Chinese companies have increasingly been adopting preemptive measures designed to discourage and inhibit takeover attempts by placing restrictions in the company's Articles of Association. One of the most common restrictions placed in a company's Articles of Association relates to the right of shareholders to nominate directors. ISS generally recommends voting against such restrictive articles.

Australia

- Poison pills and dual-class shares with different voting rights are not allowed. If any antitakeover measure is proposed, ISS generally recommends against such a proposal unless it is structured in such a way that it gives shareholders the ultimate decision on any proposal or offer.

Environmental & Social Issue Shareholder Proposals

Japan

- In evaluating social and environmental proposals, ISS first determines whether or not the issue in question should be addressed on a company-specific basis. Some social and environmental issues are beyond the scope of any one company and are more properly the province of government and broader regulatory action. If this is the case, ISS recommends voting against the proposal.
- Most proposals of this type require shareholders to apply subjective criteria in making their voting decision. While broader issues are of concern to everyone, institutional shareholders acting as representatives of their beneficiaries are required to consider only the ultimate interests of their direct beneficiaries. Relating the interests of their beneficiaries to the greater good can be a difficult process and a matter for individual determination. For this reason, ISS focuses on the financial aspects of social and environmental proposals. If a proposal would have a negative impact on the company's financial position or adversely affect important operations, ISS recommends opposing the resolution. Conversely, if a proposal would have a clear and beneficial impact on the company's finances or operations, ISS recommends supporting the proposal.

Hong Kong, Singapore, China, Taiwan, and India

- Shareholder proposals on environmental and social issues are not common in these markets. ISS reviews these proposals on case-by-case basis, taking into consideration whether implementation of the proposal is likely to enhance or protect shareholder value.

Korea

- Environmental & Social Issues are not items that shareholders can vote on under the current legal framework in Korea.

Australia

- Shareholder proposals on environmental and social issues are not common in Australia, with engagement carried out behind closed doors. ISS reviews these proposals on a case-by-case basis, taking into consideration whether implementation of the proposal is likely to enhance or protect shareholder value.

M&A/Economic Proposals

Japan, Hong Kong, Singapore, China, Taiwan, India, and Australia

- For every M&A and Third-Party Placement analysis, ISS reviews publicly available information as of the date of the report and evaluates the merits and drawbacks of the proposed transaction, balancing various and sometimes countervailing factors including: valuation, market reaction, strategic rationale, conflicts of interest, and governance.

Korea

- The company-level transactions that require shareholders' approval include sale/acquisition of a company's assets or business unit; merger agreements; and formation of a holding company. For every analysis, ISS reviews publicly available information as of the date of the report and evaluates the merits and drawbacks of the proposed transaction, balancing various and sometimes countervailing factors, including valuation, market reaction, strategic rationale, conflicts of interest, governance, and trading opportunity from the dissident's right.

Conclusion

The Asia-Pacific region hosts diverse corporate governance systems and norms, but it can be logically divided into three sub-regions. Markets in the first, the British-influenced Asian markets, borrow much of their regulatory framework from the U.K., and include Australia, New Zealand, Singapore, Hong Kong, Malaysia, Thailand, and India. The second, Northeast Asia, includes China, Korea, Japan and Taiwan. The third, emergent Southeast Asia, encompasses emerging and frontier markets including Indonesia, Vietnam, and the Philippines.

Information disclosure practices differ markedly from market to market, but also fall into three clusters. By and large, disclosure practices in markets influenced by British regulatory tradition are better than in the other sub-regions. In Japan and Korea, for instance, shareholder meeting dates are concentrated in a short period of time, posing a logistical hurdle for consistent, rigorous proxy voting by portfolio investors. The challenge is often aggravated by agenda release schedules leaving minimal windows before vote deadlines, and failures to provide English translations of proxy materials.

A number of governance concerns differ in prevalence from region to region, sometimes not matching the sub-region boundaries. For example, concerns about controlling individual shareholders or founding families are a perennial concern in much of Asia in all three sub-regions, but much less so in Japan, and the Australasian pair Australia and New Zealand, which are in some respects outliers in their respective groups.

ISS voting policy, periodically updated to reflect prevailing institutional views, is tailored to each sub-region and market. Nevertheless, the underlying message to corporate managements is consistent and remains faithful to a global institutional investor consensus about the needs for objective, independent corporate oversight, transparency and accountability to promote sustainable shareholder value.