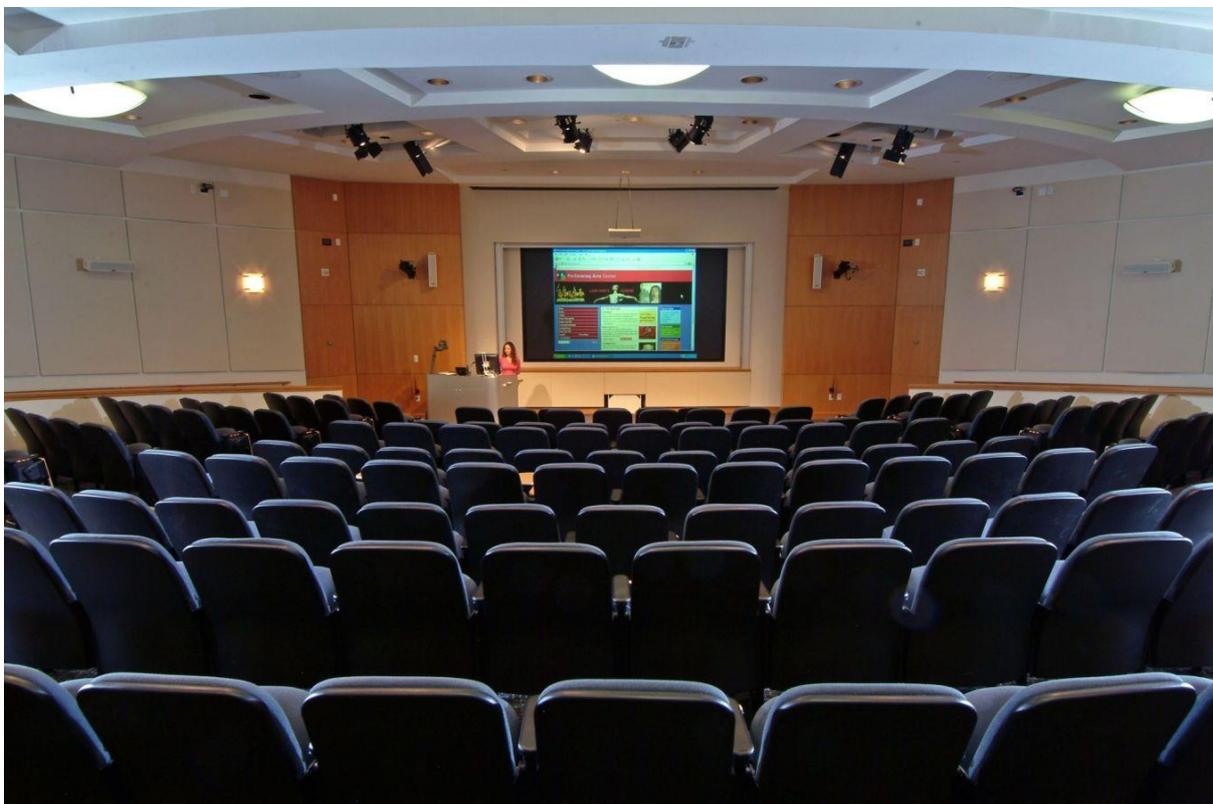


Attending AGMs from home

As corporate India re-imagines the workplace post COVID-19, the Ministry of Corporate Affairs too would be well-placed in re-imagining how AGMs will be held. Physical AGMs have long lost their relevance; yet the expanded shareholder reach using the virtual platform in 2020 has begun, in parts, to raise the quality of discourse. Regulators must consider making hybrid meetings a permanent part of the AGM process.



Source: [Pubs and Publications](https://www.blogs.hss.ed.ac.uk/pubs-and-publications/); the PhD experience - <https://www.blogs.hss.ed.ac.uk/pubs-and-publications/>

India is one of the rare Asian markets to move completely to a virtual AGM format in 2020, as the COVID19 lockdowns coincided with the AGM season. Most Asian markets – and several European markets too - continued to rely on a hybrid format of meetings (virtual presence accompanied by physical meetings). Even with virtual presence, some markets did not allow for a two-way interaction, making those logging in as mere spectators to the unfolding events¹. The

¹ Source: [The Future of Annual General Meetings – ICGN Viewpoint](#); September 2020

difference for India was that a two-way communication was mandatory as part of its virtual AGM format.

Demonstrating the agility of corporate India, the shift to the virtual format was swift, as the AGM season coincided with the lockdowns. Corporate India was eager to move on and tackle the challenges at hand, and not delay holding the AGM (which related to the performance of the previous year). Instead of the usual outcry that accompanies immediate and radical changes mandated by regulators, stakeholders put their heads down and dealt with it. Depositories leveraged existing available large event-based platforms to host virtual AGMs for companies, while some technology companies developed their own solutions.

The power of the virtual AGM is reflected in how Reliance Industries Limited (RIL) has been able to leverage their Jio platform in 2020: the company was able to get over 300,000 shareholders to attend its 2020 AGM, compared to about 1,200 in its 2019 AGM. Shareholder attendance at RIL's 2020 AGM is higher than the aggregate attendance of the remaining 99 of the top 100 companies. Detractors complain that RIL uses the AGM as a marketing platform for its products and services; the main business of a typical AGM is a side-show. Even if one were to agree with that contention, it does not take away from the fact that companies can increase shareholder participation using the virtual platform.

Virtual AGMs can perhaps increase the relevance of AGMs. Over the past few years, AGMs have been possibly losing their relevance, which is reflected in less than 1% of shareholders attending AGMs. Attendance at state-owned enterprises has declined faster than the rest. The fading away of its romance rests in three issues: one, because shareholders can cast their vote electronically in advance of the AGM, in most instances, the resolutions have already been decided upon prior to the AGM; two, the quality of questions being raised by retail shareholders have little to do with the business; three, the board's dismissiveness given the quality of questions at AGMs and therefore perfunctory responses in several instances. In 2020, attendance dropped much more on account of two added complexities - bunching up of AGMs (more AGMs to attend in a single day), and the operational challenges of a virtual platform (having the required internet bandwidth and / or being tech savvy enough). The cynical will add that as '*chai and samosa*' was no longer on the table, many saw no point in making that effort.

Exhibit 1: Shareholder attendance at AGMs over the past three years for BSE 100 companies

<i>No. of shareholders attending AGMs</i>	No. of companies	2018 AGMs	2019 AGMs	2020 AGMs
Private sector companies	81	68,674	60,573	19,660
State-owned enterprises (PSE + PSB)	18	1,27,614	85,810	3,749
Reliance Industries Limited	1	1,187	1,237	3,07,630
BSE 100 companies' shareholder attendance at AGMs		1,97,475	1,47,620	3,31,039
Shareholders' AGM participation as a % of the shareholder base		0.64%	0.43%	0.69%

Notes: Attendance of shareholders of AGMs of the BSE 100 index constituents as on 30 September 2020; State-owned enterprises comprises public sector enterprises and their subsidiaries, and public sector banks

Source: Stock exchange filings made by individual companies; company websites, IIAS Research

Both retail shareholders and boards need to move beyond the irrelevant. Extolling the virtues of the Chairperson in poetry or raising concerns over the pagination of the annual report are non-issues, but these have been a standard affair in most AGMs. Yet, this is changing to some measure with more informed shareholders participating through the virtual platform. In its 2020 AGM, a shareholder asked the board of [Tata Consultancy Services Limited](#) (TCS) how it addressed the issue of data security in an environment where employees were required to work from home. TCS' Chairperson responded by expounding on their use of bots and other technology to monitor employees' computers and emails for data security. A retail shareholder pushed for better gender diversity at [Bharat Petroleum Corporation Limited's \(BPCL\) 2020 AGM](#), and while another asked questions around depletion in the size of the board. While both these are relevant issues from an ESG perspective, BPCL's board did not give them their due: the board did not address the issue of gender diversity, and responded that the board size was not as relevant as much as its quality, at a time when [BPCL's board composition](#) was in violation of regulatory requirements ([and continues to remain so](#)).

Although TCS' Chairperson replied to every single shareholder's question, BPCL board's response reflects the malaise of AGMs in India – in the habit of having listened to a series of pointless questions, the important ones get disregarded. Boards are misguided if they believe AGMs are attended only by retail investors. Foreign institutional investors (FIIs) attend AGMs in India, to get a sense of the

board and the management. FIIs have accepted stewardship responsibilities well before this became a conversation in India. While FIIs have tried to engage with companies in India, their access has been limited to the investor relations team. This is unlike their experience in several other markets (including other Asian markets), where they are able to access not only the CEO, but also independent directors (audit committee members) with ease. Domestic institutional investors, on the other hand, tend to have better access to leadership within corporate India.

To ask questions of the board is a fundamental right of shareholders and voting by electronic means or postal ballot is not a substitute. The [Bombay High Court in a May 2014 direction](#) on the scheme of amalgamation of Wadala Commodities Limited with Godrej Industries Limited talked about e-voting, in terms of its directionality, as *"finding some golden mean between the need for greater inclusiveness while yet retaining invaluable shareholders' rights. I do not think it is possible to see these two as implacable enemies, forever antipodal. Discourse, even energetic discourse, is not just permissible; it is desirable. It is a fundamental adjunct of corporate democracy."*

To this extent, allowing shareholders to participate using virtual platforms is a necessity. The Ministry of Corporate Affairs' shift to a completely virtual AGM in 2020 has been successful. But the regulation allows holding virtual AGMs only till 31 December 2020, following which it will likely fall back to the provisions of the Companies Act 2013. While the Companies Act 2013 does not explicitly prohibit virtual participation by shareholders, it does not encourage it either: therefore, Infosys has been allowing shareholders to participate from different locations for a few years now, although they do not count for quorum from a compliance standpoint.

The Ministry of Corporate Affairs must make virtual AGMs a permanent part of the AGM process. As has been demonstrated by the success in several regional markets, making hybrid shareholder meetings (where shareholders are given the choice to either attend physically or participate using virtual platforms) mandatory is likely to have greater success. This will widen the scope of participation as much as it will, over time, improve the quality of the discourse.

Exhibit 2: Experience of Asian markets on virtual AGMs in 2020

Japan	Under the Companies Act, companies in Japan are not allowed to conduct a fully virtual AGM, but hybrid meetings are allowed.
Singapore	During Covid-19, Ministry of Law passed an order allowing companies to hold virtual AGMs. Live Q&A and voting during the AGM were not envisaged, meaning that questions must be submitted in advance of the AGM and voting also had to be done in advance. However, in September, the Ministry amended the order to facilitate greater convenience and encourage engagement for virtual meetings, including options for real-time electronic voting and real-time Q&A.
HongKong	The Companies Ordinance (2014) allows for hybrid meetings, but a company must amend its articles of association before it is legally permitted to hold them.
China	Hybrid , not virtual, permitted: Company law in China allows hybrid AGMs, but not fully virtual ones.
Taiwan	Hybrid , not virtual, permitted: Listed companies are explicitly not allowed to hold virtual AGMs. However, recording of the meeting and live streaming is permitted. Taiwan does have a well-established e-voting system, under which votes are accepted up to two days before the AGM.
Malaysia	Only virtual meetings were allowed from April 18 during the Movement Control Order period. This requirement was extended through the Conditional Movement Control Order period, which started in mid-May. With the start of the Recovery Movement Control Order from 10 June, companies could choose to hold fully virtual, hybrid or physical-only meetings.
Korea	No guidance is provided for hybrid or virtual AGMs in Korea. There is no explicit regulation prohibiting hybrid AGMs in Korea , but many interpret the absence of such a rule in the Commercial Act to imply that they are not allowed. And during this Covid-19 period, the regulators did not provide any official guidance. It did, however, instruct companies to encourage voting by electronic means, post or through proxies before the meetings.
Indonesia	Allowed only hybrid meetings. Public companies still required to hold a limited physical meeting with a certain category of people required for the physical meeting.

Source: Asian Corporate Governance Association (ACGA)

Exhibit 3: Shareholder attendance at the 2020 AGMs of BSE 100 companies

Sr. No.	Name of the company	2018 AGMs	2019 AGMs	2020 AGMs
1	ACC Ltd	123	159	39
2	Adani Ports and Special Economic Zone	91	135	72
3	Ambuja Cements Ltd	80	55	104
4	Apollo Hospitals Enterprise Ltd	3,388	3,504	58
5	Ashok Leyland Ltd	6,781	6,608	407
6	Asian Paints Ltd	160	208	341
7	Aurobindo Pharma Ltd	171	175	90
8	Avenue Supermarts Ltd	209	154	150
9	Axis Bank Ltd	81	97	125
10	Bajaj Auto Ltd	278	282	154
11	Bajaj Finance Ltd	191	260	311
12	Bajaj Finserv Ltd	150	129	123
13	Bajaj Holdings and Investment Ltd	125	89	77
14	Bank of Baroda	164	136	107
15	Berger Paints India Ltd	451	431	122
16	Bharat Forge Ltd	125	115	156
17	Bharat Petroleum Corp Ltd	382	452	209
18	Bharti Airtel Ltd	3,957	3,150	263
19	Bharti Infratel Ltd.	1,873	1,860	125
20	Biocon Ltd	167	232	109
21	Bosch Ltd	226	131	82
22	Britannia Industries Ltd.	4,715	5,508	175
23	Cipla Ltd/India	250	274	215
24	Coal India Ltd	11,361	12,114	270
25	Colgate-Palmolive India Ltd	216	251	154
26	Container Corp Of India	122	164	70
27	Crompton Greaves Consumer Electricals Ltd	156	120	86
28	Dabur India Ltd	13,857	6,496	295
29	Divi's Laboratories Ltd	695	589	162
30	DLF Ltd	199	260	223
31	Dr Reddy's Laboratories Ltd	213	204	70
32	Eicher Motors Ltd	316	348	97
33	Exide Industries Ltd	1,846	2,008	167
34	Federal Bank Ltd	777	864	182
35	Gail India Ltd	644	836	137
36	Godrej Consumer Products Ltd	89	115	79
37	Grasim Industries Ltd	138	141	102

Sr. No.	Name of the company	2018 AGMs	2019 AGMs	2020 AGMs
38	Havells India Ltd	166	178	157
39	HCL Technologies Ltd	1,441	1,468	179
40	HDFC Bank Ltd	250	348	599
41	HDFC Life Insurance Company Ltd	166	149	205
42	Hero MotoCorp Ltd	939	976	143
43	Hindalco Industries Ltd	155	189	125
44	Hindustan Petroleum Corp Ltd	536	527	268
45	Hindustan Unilever Ltd	687	521	335
46	Housing Development Finance Corp	246	295	388
47	ICICI Bank Ltd	660	426	305
48	ICICI Prudential Life Insurance Company Ltd	138	107	150
49	Indian Oil Corp Ltd	635	612	405
50	Indraprastha Gas Ltd	8,569	6,256	145
51	IndusInd Bank Ltd	424	454	139
52	Info Edge (India) Ltd.	803	534	141
53	Infosys Ltd	1,101	1,166	1,807
54	InterGlobe Aviation Ltd	94	96	92
55	ITC Ltd	700	707	1,471
56	JSW Steel Ltd	394	315	116
57	Jubilant FoodWorks Ltd	138	115	129
58	Kotak Mahindra Bank Ltd	146	120	178
59	Larsen & Toubro Ltd	526	432	712
60	LIC Housing Finance Ltd	72	71	75
61	Lupin Ltd	181	175	140
62	Mahindra & Mahindra Financial Services Ltd	86	73	252
63	Mahindra & Mahindra Ltd	359	327	824
64	Marico Ltd	60	68	90
65	Maruti Suzuki India Ltd	2,355	2,147	181
66	Motherson Sumi Systems Ltd	79	95	120
67	MRF Ltd	328	389	97
68	Nestle India Ltd	4,307	4,806	205
69	NMDC Ltd	392	396	86
70	NTPC Ltd	15,498	3,044	290
71	Oil & Natural Gas Corp Ltd	703	510	229
72	Page Industries Ltd	64	86	86
73	Petronet LNG Ltd	277	182	139
74	Pidilite Industries Ltd	75	115	158
75	Piramal Enterprises Ltd	202	190	144

Sr. No.	Name of the company	2018 AGMs	2019 AGMs	2020 AGMs
76	Power Finance Corp Ltd	30,143	21,568	111
77	Power Grid Corp of India Ltd	29,245	17,664	117
78	RBL Bank Ltd	170	184	82
79	REC Ltd	27,359	19,688	208
80	Reliance Industries Ltd	1,187	1,237	3,07,630
81	SBI Life Insurance Company Ltd	50	103	776
82	Shree Cement Ltd	62	57	57
83	Shriram Transport Finance Co Ltd	1,460	1,116	70
84	Siemens India Ltd	174	184	206
85	State Bank of India	1,462	1,487	107
86	Sun Pharmaceutical Industries Ltd	244	101	232
87	Tata Consultancy Services Ltd	507	404	1,006
88	Tata Consumer Products Ltd	447	345	344
89	Tata Motors Ltd	477	271	418
90	Tata Power Co Ltd	305	428	429
91	Tata Steel Ltd	648	573	623
92	Tech Mahindra Ltd	99	101	133
93	Titan Co Ltd	125	117	361
94	TVS Motor Co Ltd	3,560	3,566	91
95	UltraTech Cement Ltd	198	235	149
96	UPL Ltd	56	53	174
97	Vedanta Ltd	196	286	228
98	Voltas Ltd	152	90	83
99	Wipro Ltd	331	360	274
100	Zee Entertainment Enterprises Ltd	99	83	117
Total attendance		1,97,475	1,47,620	3,31,039

Source: Stock exchange filings made by individual companies; company websites, IiAS Research



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