

CHAPTER III**Corporate Governance****3.1 Corporate Governance****3.1.1 Provisions as contained in the Companies Act, 2013**

The Companies Act, 2013 was enacted on 29 August 2013 replacing the Companies Act, 1956. In addition, the Ministry of Corporate Affairs has also notified (31 March 2014) Companies Rules 2014 on Management and Administration, Appointment and Qualification of Directors, Meetings of Board of Directors and its powers and Accounts. The Companies Act, 2013 together with the Companies Rules provide a robust framework for Corporate Governance. The requirements inter alia provide for:

- Qualifications for Independent Directors along with the duties and guidelines for professional conduct (Section 149(8) and Schedule IV thereof).
- Mandatory appointment of one woman director on the board of listed companies {Section 149(1)}.
- Mandatory establishment of certain committees like Corporate Social Responsibility Committee {Section (135)}, Audit Committee {Section 177(1)}, Nomination and Remuneration Committee {Section 178(1)}, and Stakeholders Relationship Committee {Section 178(5)}.
- Holding of a minimum of four meetings of Board of Directors every year in such a manner that not more than 120 days shall intervene between two consecutive meetings of the Board {Section 173(1)}.

3.1.2 SEBI guidelines on Corporate Governance

With the enactment of the Companies Act, 2013, Securities and Exchange Board of India (SEBI) amended (April and September 2014), clause 49 of the Listing Agreement to align it with the Corporate Governance provisions specified in the Companies Act, 2013.

Securities and Exchange Board of India notified (2 September 2015) the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 which came into effect from 1 December 2015 repealing the earlier provisions.

SEBI, further issued (13 October 2015) a uniform listing agreement format for all types of securities which required the listed entity to comply with the provisions of SEBI

(Listing Obligations and Disclosure Requirements) Regulations, 2015. These regulations were amended on 22 December 2015, 25 May 2016, 8 July 2016, 4 January 2017 and 15 February 2017.

3.1.3 DPE guidelines on Corporate Governance for Central Public Sector Enterprises

The Department of Public Enterprises (DPE) issued guidelines on Corporate Governance in November 1992 on the inclusion of non-official directors on the Board of Directors. DPE issued further guidelines in November, 2001 providing for inclusion of independent directors on the Board of Directors. To bring in more transparency and accountability in the functioning of Central Public Sector Enterprises (CPSEs), the government in June, 2007 introduced the guidelines on Corporate Governance for CPSEs. These guidelines were voluntary in nature. These guidelines were implemented for an experimental period of one year. On the basis of the experience gained during this period, it was decided to modify and reissue the DPE guidelines in May, 2010. These guidelines have been made mandatory and applicable to all CPSEs. The guidelines issued by DPE covered areas like composition of Board of Directors, composition and functions of Board committees like Audit Committee, Remuneration committee, details on subsidiary companies, disclosures, reports and the schedules for implementation. All references to DPE guidelines in this chapter refer to the DPE guidelines issued in May, 2010 which are mandatory to all CPSEs. DPE has also incorporated Corporate Governance as a performance parameter in the MoUs of all CPSEs. In so far as listed CPSEs are concerned, they are required to comply with the SEBI guidelines/regulations on Corporate Governance in addition to complying with provisions in DPE guidelines.

3.1.4 Review of compliance by selected CPSEs of the Corporate Governance provisions

As on 31 March 2017, there were 636 Central Government Public Sector Enterprises (CPSEs) under the audit jurisdiction of the CAG of India. In the context of the policy of the government to grant more autonomy to the CPSEs, Corporate Governance has assumed importance. Under the Maharatna Scheme, CPSEs are expected to expand international operations and become global giants, for which effective Corporate Governance is imperative.

For the purpose of the review, an assessment framework was prepared based on the provisions contained in the Companies Act, 2013, guidelines/regulations issued by SEBI (April and September 2014) and the DPE guidelines on corporate governance (May 2010) and compliance by CPSEs listed in various stock exchanges with these provisions during the year 2016-17 was reflected in the assessment framework. The review covers 52 CPSEs (48 listed CPSEs and 4 CPSEs whose bonds were listed) under administrative

control of various Ministries for the year ended 31 March 2017. List of the CPSEs is given in the **Appendix VII**.

3.2 Composition of Board of Directors

3.2.1 Non-executive Directors on the Board

The Board is the most significant instrument of corporate governance. Clause 49 (II) (A) (1) of Listing Agreement and Regulation 17 (1)(a) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulates that the Board of Directors of the company shall have an optimum combination of executive and non-executive directors with not less than 50 *per cent* of the Board of Directors comprising non-executive directors.

In the CPSEs listed in Table 3.1, the non-executive directors constituted less than 50 *per cent* of the total Board strength.

Table 3.1: CPSEs where non-executive directors were less than 50 *per cent* of the Board Strength

Sl. No.	Name of the CPSE	Total Directors	No. of Non-Executive Directors	Percentage
1	Bharat Electronics Ltd	11	5	45.55
2	Oil India Ltd	7	2	29.57
3	Balmer Lawrie & Co Ltd	7	2	29.57
4	Shipping Corporation of India Ltd	7	3	42.85
5	Indian Oil Corporation Ltd	13	5	38.46
6	NTPC Ltd	12	5	41.67
7	Power Finance Corporation Ltd	6	2	33.33

3.2.2 Independent Directors

The presence of independent representatives on the Board, capable of taking an independent view on the decisions of the management is widely considered as a means of protecting the interests of shareholders and other stakeholders. In terms of Section 149 (4) of the Companies Act 2013, Rule 4 of Chapter XI of the Companies (Appointment and Qualification of Directors) Rules, 2014, Clause 49 (II) (A) (2) of Listing Agreement, Regulation 17 (1) (b) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 and Para 3.14 of the DPE guidelines, where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise independent directors and, in case he is an executive director, at least half of the Board should comprise independent directors. However, as per Clause 49 (II) (B) (1), 'independent director' shall mean a non-executive director, other than a nominee director of the company.

The review of composition of the Board of Directors revealed that the CPSEs listed in Table 3.2 did not have the required number of independent directors on their Board:

Table 3.2: CPSEs not having required number of Independent Directors

Sl. No.	Name of the CPSE	Total	Status of Chairman	Required	Actual
1	NMDC Ltd	14	Executive	7	6
2	KIOCL Ltd	8	Executive	4	2
3	Dredging Corporation of India Ltd	7	Executive	4	2
4	HMT Ltd	5	Non-Executive	2	1
5	Mangalore Refinery and Petrochemicals Ltd	8	Non-Executive	3	1
6	NLC India Ltd	13	Executive	7	5
7	Chennai Petroleum Corporation Ltd	11	Non-Executive	4	2
8	Madras Fertilisers Ltd	11	Executive	6	4
9	Hindustan Photo Films (Manufacturing) Company Ltd	4	Executive	2	1
10	Bharat Electronics Ltd	11	Executive	6	4
11	BEML Ltd	9	Executive	5	3
12	Container Corporation of India Ltd	9	Executive	5	3
13	IRCON International Ltd	9	Executive	5	3
14	Mahanagar Telephone Nigam Ltd	7	Executive	4	2
15	ITI Ltd	6	Vacant		1
16	Steel Authority of India Ltd	15	Executive	8	6
17	National Aluminium Company Ltd	13	Executive	7	6
18	Hindustan Copper Ltd	11	Executive	6	4
19	Balmer Lawrie & Co Ltd	7	Executive	4	1
20	Andrew Yule & Co Ltd	8	Executive	4	3
21	Shipping Corporation of India Ltd	7	Executive	4	2
22	Oil & Natural Gas Corporation Ltd	16	Executive	8	7
23	Bharat Petroleum Corporation Ltd	11	Executive	6	4
24	Hindustan Petroleum Corporation Ltd	11	Executive	6	4
25	MMTC Ltd	11	Executive	6	5
26	India Tourism Development Corporation Ltd	7	Executive	4	2
27	Indian oil Corporation Ltd	13	Executive	7	3
28	GAIL (India) Ltd	11	Executive	6	5
29	Engineers India Ltd	12	Executive	6	5
30	National Fertilisers Ltd	8	Executive	4	3
31	NTPC Ltd	12	Executive	6	3
32	Power Grid Corporation of India Ltd	10	Executive	5	3
33	Bharat Heavy Electricals Ltd	14	Executive	7	6
34	NHPC Ltd	10	Executive	5	3
35	Power Finance Corporation Ltd	6	Executive	3	1
36	SJVN Ltd	11	Executive	6	4
37	MOIL Ltd	6	Executive	3	2

There were no independent directors on the Board in respect of CPSEs given in Table 3.3.

Table 3.3: CPSEs not having any Independent Directors

Sl. No.	Name of the CPSE
1	Indian Renewable Energy Development Agency
2	Oil India Ltd
3	Balmer Lawrie Investments Ltd
4	Scooters India Ltd

3.2.3 Woman Director in the Board

Section 149 (1) of the Companies Act, 2013, Rule 3 of Chapter XI of the Companies (Appointment and Qualification of Directors) Rules, 2014 and Clause 49 (II) (A) (1) of the Listing Agreement and Regulation 17 (1) (a) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulates that the Board of Directors of the company shall have at least one woman Director in its Board. In the CPSEs listed in Table 3.4, there was no woman Director on the Board

Table 3.4: CPSEs not having a woman Director in its Board

Sl. No.	Name of the CPSE
1	Chennai Petroleum Corporation Ltd
2	Indian Renewable Energy Development Agency
3	Oil & Natural Gas Corporation Ltd
4	Bharat Petroleum Corporation Ltd
5	MMTC Ltd
6	Indian oil Corporation Ltd
7	GAIL (India) Ltd
8	Scooters India Ltd
9	Power Finance Corporation Ltd

3.3 Appointment and functioning of Independent Directors

3.3.1 Issuance of formal letter of appointment

Clause 49 (II) (B) (4) (a) of the Listing Agreement (April 2014) stipulates that the company shall issue a formal letter of appointment to independent directors in the manner as provided in the Companies Act 2013. As per schedule IV of the Companies Act 2013, the appointment of Independent Directors shall be formalised through a letter of appointment which shall set out the terms and conditions of appointment. However it was observed that, in the CPSEs, listed in Table 3.5, no appointment letters detailing the terms and conditions were issued by the CPSEs:

Table 3.5: Appointment letters of Independent Directors not issued by CPSEs

Sl. No.	Name of the CPSE
1	Madras Fertilisers Ltd
2	Indian Railway Finance Corporation
3	ITI Ltd
4	Andrew Yule & Co Ltd
5	Engineers India Ltd
6	NHPC Ltd
7	SJVN Ltd
8	Housing & Urban Development Corporation Ltd

3.3.2 Code of Conduct

Regulation 17 (5) (b) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that Code of Conduct prescribed by the Board of Directors includes the duties of Independent Directors as laid down in the Companies Act, 2013. The Companies Act, 2013 provides for Code for Independent Director in Schedule IV (Para III- Duties of Independent Directors). In respect of Engineers India Ltd the code of conduct does not incorporate the duties of Independent Directors.

3.3.3 Training of Independent Directors

3.3.3.1 Schedule IV (Para III- Duties of Independent Directors) of Companies Act, 2013, and Clause 49 (II) (B) (7) (a) & (b) of Listing Agreement and Regulations 25 (7) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the company shall through various programs, familiarise independent directors with the company, their roles, rights, responsibilities in the company, nature of the industry in which company operates, business model of the company etc. However, it was observed that in the CPSEs listed in Table 3.6, no such training was conducted for Independent Directors who were on the Board during the year 2016-17.

Table 3.6: CPSEs where no training was conducted for the Independent Directors

Sl. No.	Name of the CPSE
1	Hindustan Photo Films (Manufacturing) Company Ltd
2	Indian Railway Finance Corporation
3	Bharat Immunological & Biologicals Corporation Ltd

3.3.3.2 Further, in contravention of Regulation 46 (2) (i) and schedule V (C) (2) (g) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the details of training were not disclosed on the website and a web link thereto was not given in the Annual Report of the CPSEs listed in Table 3.7

Table 3.7: CPSEs where training details were not given on website

Sl. No.	Name of the CPSE
1	The Fertilisers and Chemicals Travancore Ltd
2	Madras Fertilisers Ltd
3	Hindustan Photo Films (Manufacturing) Company Ltd
4	IRCON International Ltd
5	Indian Railway Finance Corporation
6	Mahanagar Telephone Nigam Ltd
7	Bharat Immunological & Biologicals Corporation Ltd
8	Hindustan Organic Chemicals Ltd

3.3.4 Meetings of Board of Directors and Board Committees

Schedule IV (III) (3) of the Companies Act, 2013 states that Independent Directors should strive to attend all the meetings of Board of Directors and Board Committees of which he/she was a member. Some of the Independent Directors, however, did not attend some of these meetings. Table 3.8 indicates the number of such independent directors:

Table 3.8: Independent Directors who did not attend some of the meetings

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend some Board meetings	No. of Independent Directors who did not attend some Board committee meetings
1	NMDC Ltd	3	-
2	KIOCL Ltd	2	2
3	NLC India Ltd	2	1
4	Madras Fertilisers Ltd	3	1
5	Hindustan Photo Films (Manufacturing) Company Ltd	1	-
6	Bharat Electronics Ltd	4	1
7	IRCON International Ltd	2	2
8	Indian Railway Finance Corporation	1	1
9	Mahanagar Telephone Nigam Ltd	2	-
10	Steel Authority of India Ltd	2	1
11	Coal India Ltd	3	2
12	National Aluminium Company Ltd	5	1
13	Hindustan Copper Ltd	2	1
14	Shipping Corporation of India Ltd	1	-
15	Rashtriya Chemicals & Fertilisers Ltd	2	-
16	Oil & Natural Gas Corporation Ltd	1	2
17	Bharat Petroleum Corporation Ltd	2	2
18	NBCC (India) Ltd	3	4

19	India Tourism Development Corporation Ltd	1	-
20	State Trading Corporation of India Ltd	3	2
21	GAIL (India) Ltd	2	-
22	Engineers India Ltd	4	4
23	IFCI Ltd	3	1
24	NTPC Ltd	3	2
25	Power Grid Corporation of India Ltd	1	-
26	Bharat Heavy Electricals Ltd	6	1
27	NHPC Ltd	4	2
28	Rural Electrification Corporation Ltd	1	1
29	MOIL Ltd	3	2

3.3.5 Attending General meetings of the Company

Schedule IV (III) (5) of the Companies Act, 2013 states that Independent Directors ***shall*** strive to attend all the General meetings of the Company. Table 3.9 indicates the listed CPSEs where Independent directors did not attend the general meetings of the Company.

Table 3.9: Independent Directors who did not attend General meetings

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend General meetings
1	KIOCL Ltd	5
2	Dredging Corporation of India Ltd	1
3	NLC India Ltd	2
4	Madras Fertilisers Ltd	1
5	Hindustan Photo Films (Manufacturing) Company Ltd	1
6	Bharat Electronics Ltd	1
7	Mahanagar Telephone Nigam Ltd	2
8	Steel Authority of India Ltd	1
9	National Aluminium Company Ltd	2
10	Hindustan Organic Chemicals Ltd	3
11	NBCC (India) Ltd	1
12	State Trading Corporation of India Ltd	1
13	GAIL (India) Ltd	1
14	IFCI Ltd	2
15	Bharat Heavy Electricals Ltd	1
16	NHPC Ltd	1
17	MOIL Ltd	1
18	Housing & Urban Development Corporation Ltd	1

3.3.6 Meeting of Independent Directors

3.3.6.1 Schedule IV (VII) (1) of the Companies Act, 2013, Clause 49 II B (6) (a) of Listing Agreement and Regulation 25 (3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 require that Independent Directors shall meet at least once in a year, without the presence of non-independent directors and members of the Management. Table 3.10 indicates CPSEs where no separate meeting was conducted.

Table 3.10: CPSEs where separate meetings of Independent Directors not conducted

Sl. No.	Name of the CPSE
1	Madras Fertilisers Ltd
2	Hindustan Organic Chemicals Ltd
3	Power Grid Corporation of India Ltd

3.3.6.2 Schedule IV (VII) (2) of the Companies Act, 2013 provides that all the independent Directors shall strive to attend such meeting. However, in respect of CPSEs listed in Table 3.11, some of the Independent Directors did not attend the separate meeting.

Table 3.11: CPSEs where separate meeting was not attended by some of the Independent Directors

Sl. No.	Name of the CPSE
1	KIOCL Ltd
2	Hindustan Copper Ltd
3	NBCC (India) Ltd
4	Engineers India Ltd
5	IFCI Ltd

Though separate meeting was conducted, no minutes of meeting were prepared in respect of CPSEs listed in Table 3.12.

Table 3.12: CPSEs where minutes of separate meeting was not prepared

Sl. No.	Name of the CPSE
1	Dredging Corporation of India Ltd
2	The Fertilisers and Chemicals Travancore Ltd
3	Mahanagar Telephone Nigam Ltd
4	GAIL (India) Ltd

3.3.6.3 Schedule IV (VII)(3) of the Companies Act, 2013, Clause 49 II B (6) (b) of Listing Agreement and Regulation 25 (4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 requires that the Independent Directors in separate meeting shall review (a) Performance of non-independent directors and the Board as a whole (b) Performance of Chairperson and (c) Assess the flow of information between management and board of directors that is necessary for the Board to effectively and reasonably perform their duties. In the CPSEs given in 3.13, though separate meeting of Independent Directors were held, the above issues were not reviewed in such meetings.

Table 3.13: CPSEs where required issues not reviewed

Sl. No.	Name of the CPSE
1	KIOCL Ltd
2	The Fertilisers and Chemicals Travancore Ltd
3	BEML Ltd
4	IRCON International Ltd
5	Indian Railway Finance Corporation
6	Mahanagar Telephone Nigam Ltd
7	Steel Authority of India Ltd
8	Coal India Ltd
9	National Aluminium Company Ltd
10	Hindustan Copper Ltd
11	Andrew Yule & Co Ltd
12	Oil & Natural Gas Corporation Ltd
13	NBCC (India) Ltd
14	MMTC Ltd
15	State Trading Corporation of India Ltd
16	Indian Oil Corporation Ltd
17	GAIL (India) Ltd
18	Engineers India Ltd
19	National Fertilisers Ltd
20	NTPC Ltd
21	Power Finance Corporation Ltd
22	Rural Electrification Corporation Ltd
23	SJVN Ltd
24	MOIL Ltd

Further, neither the Act nor the Regulations provided as to whom such evaluation was to be forwarded by the Independent Directors.

3.3.7 Review of performance of Independent Directors

Clause 49 II B (5) of Listing Agreement, Regulation 17 (10) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Schedule IV (VIII) of the Companies Act, 2013 stipulates that the entire Board of Directors (excluding the Directors being evaluated) shall evaluate the performance of Independent Directors and on the basis of report of such evaluation, it shall be determined whether to extend or continue the term of appointment of the Independent Director. Table 3.14 indicates the CPSEs where such performance evaluation was not done.

Table 3.14: CPSEs where the Board did not evaluate performance of Independent Directors

Sl. No.	Name of the CPSE
1	NMDC Ltd
2	KIOCL Ltd
3	Dredging Corporation of India Ltd

4	HMT Ltd
5	Chennai Petroleum Corporation Ltd
6	The Fertilisers and Chemicals Travancore Ltd
7	Madras Fertilisers Ltd
8	Hindustan Photo Films (Manufacturing) Company Ltd
9	BEML Ltd
10	IRCON International Ltd
11	Indian Railway Finance Corporation
12	Mahanagar Telephone Nigam Ltd
13	ITI Ltd
14	Steel Authority of India Ltd
15	Coal India Ltd
16	National Aluminium Company Ltd
17	Hindustan Copper Ltd
18	Balmer Lawrie & Co Ltd
19	Andrew Yule & Co Ltd
20	Shipping Corporation of India Ltd
21	Rashtriya Chemicals & Fertilisers Ltd
22	Hindustan Organic Chemicals Ltd
23	Oil & Natural Gas Corporation Ltd
24	Bharat Petroleum Corporation Ltd
25	Hindustan Petroleum Corporation Ltd
26	NBCC (India) Ltd
27	MMTC Ltd
28	State Trading Corporation of India Ltd
29	Indian Oil Corporation Ltd
30	GAIL (India) Ltd
31	Engineers India Ltd
32	National Fertilisers Ltd
33	NTPC Ltd
34	Power Grid Corporation of India Ltd
35	Bharat Heavy Electricals Ltd
36	NHPC Ltd
37	Power Finance Corporation Ltd
38	Rural Electrification Corporation Ltd
39	SJVN Ltd
40	MOIL Ltd
41	Housing & Urban Development Corporation Ltd

As per the Companies Act, 2013, the appointment or extension/continuation of the term of appointment of Independent Directors of CPSEs is not in the mandate of the Board of Directors. However, neither the Act nor the Regulations provided as to whom such performance evaluation was to be sent by the Board of Directors of the CPSEs.

3.4 Notice of the meeting of Board of Directors

Section 173 (3) of the Companies Act, 2013 states that the notice for Board of Directors meetings shall be circulated at least 7 days before such meeting. The table 3.15 indicates the CPSEs where notice was not circulated at least seven days before such meeting.

Table 3.15: Notice not circulated at least seven days before meeting of the Board of Directors

Sl. No.	Name of the CPSE
1	The Fertilisers and Chemicals Travancore Ltd
2	Container Corporation of India Ltd
3	Indian Renewable Energy Development Agency
4	Balmer Lawrie & Co Ltd
5	Shipping Corporation of India Ltd
6	GAIL (India) Ltd
7	MOIL Ltd

3.5 Filling-up the posts of Directors – Functional, Non-Functional, Independent

Timely filling up of vacancies in the posts of Directors ensures the availability of required skill and expertise in the management of the company. Any delay in filling of vacancies may hamper the effectiveness of the decision making process. Schedule IV (Para VI (2)- Resignation or removal) of Companies Act, 2013, Clause 49 (II) (D) (4) of the listing agreement and Regulation 25 (6) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that vacancy arising out of resignation or removal of an Independent Director should be filled up at the earliest but not later than the immediate next board meeting or three months from the date of such vacancy, whichever is later. However, it was observed that the CPSEs detailed in Table 3.16 did not comply with the above provision and the posts of Independent Directors remained vacant for a considerable period of time:

Table 3.16: CPSEs where vacancies of Independent Directors not filled in time

Sl. No.	Name of the CPSE	Filled up with delay in months	Lying vacant in months
1	KIOCL Ltd	-	08
2	Dredging Corporation of India Ltd	-	28
3	Mangalore Refinery and Petrochemicals Ltd	28	
4	NLC India Ltd	-	24
5	Chennai Petroleum Corporation Ltd	04	-
6	Bharat Electronics Ltd	-	39
7	BEML Ltd	-	40
8	Container Corporation of India Ltd	-	28
9	ITI Ltd	-	18
10	Steel Authority of India Ltd	-	12

11	Hindustan Copper Ltd		12
12	Balmer Lawrie & Co Ltd		46
13	Andrew Yule & Co Ltd	-	62
14	Bharat Petroleum Corporation Ltd	-	12
15	NBCC (India) Ltd	-	19
16	India Tourism Development Corporation Ltd	-	08
17	State Trading Corporation of India Ltd	12	-
18	GAIL (India) Ltd	-	25
19	NTPC Ltd	-	08
20	Bharat Heavy Electricals Ltd	-	40
21	NHPC Ltd	-	07
22	Power Finance Corporation Ltd	-	12
23	MOIL Ltd	-	04

Further, it was also observed that in the CPSEs listed in Table 3.17, vacancies of Functional Directors were not filled within the period of six months prescribed in section 203 (4) of the Companies Act, 2013:

Table 3.17: CPSEs where vacancies of Functional Directors not filled in time

Sl. No.	Name of the CPSE	Name of the Post	Default in months
1	HMT Ltd	Director (Operations)	09
2	NLC India Ltd	Director (HR)	14
3	Bharat Electronics Ltd	Director (Finance)	07
4	Container Corporation of India Ltd	Director (Projects)	06
5	ITI Ltd	CMD	21
6	Andrew Yule & Co Ltd	CMD	12
7	Rashtriya Chemicals & Fertilisers Ltd	CMD	08
		Director (Marketing)	09
8	Hindustan Organic Chemicals Ltd	Director (Finance)	13
		Director (Marketing)	07
9	State Trading Corporation of India Ltd	Director (Finance)	07
10	Indian oil Corporation Ltd	Director (R&D)	31
11	GAIL (India) Ltd	Director (BD)	30
		Director (Marketing)	18
12	Engineers India Ltd	Director (commercial)	15
13	National Fertilisers Ltd	Director (Marketing)	13
14	Scooters India Ltd	Director (Finance)	12
15	NTPC Ltd	Director (Commercial)	17
16	Bharat Heavy Electricals Ltd	Director (Power)	07

3.6 Audit Committee

3.6.1 Composition of Audit Committee

Section 177 (1) and (2) of the Companies Act, 2013, Clause 49 (III) (A) of listing agreement and Regulation 18 of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that there shall be an Audit Committee with a minimum of three directors as members of which two-thirds shall be Independent Directors. However, in respect of Scooters India Limited no Audit Committee was constituted.

Two-thirds of the members of the Audit Committee were not Independent Directors in respect of the CPSEs as detailed in Table 3.18.

Table 3.18: CPSEs where Audit Committees did not consist of two-third Independent Directors

Sl. No.	Name of the CPSE
1	HMT Ltd
2	Mangalore Refinery and Petrochemicals Ltd
3	Indian Railway Finance Corporation
4	ITI Ltd
5	Balmer Lawrie & Co Ltd
6	Power Finance Corporation Ltd

3.6.2 Chairman of the Audit Committee

Clause 49 (III)(A)(4) of the Listing Agreement and Regulation 18 (1) (d) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the Chairman of the Audit Committee shall be present at Annual General Meeting (AGM) to answer shareholder queries. However, the Chairman of the Audit Committee of the CPSEs listed in Table 3.19 was not present in the AGM held during 2016-17.

Table 3.19: CPSEs where Chairman of Audit Committee did not attend AGM

Sl. No.	Name of the CPSE
1	KIOCL Ltd
2	Dredging Corporation of India Ltd
4	NLC India Ltd
5	Hindustan Photo Films (Manufacturing) Company Ltd
6	Mahanagar Telephone Nigam Ltd
7	Bharat Immunological & Biologicals Corporation Ltd
8	Hindustan Organic Chemicals Ltd
9	IFCI Ltd
10	Housing & Urban Development Corporation Ltd

3.6.3 Meetings of Audit Committee

3.6.3.1 Clause 49 (III) (B) of the Listing Agreement and Regulation 18 (2) (a) and (b) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the Audit Committee should meet at least four times in a year and not more than 120 days shall elapse between two meetings. The quorum shall be either two members or one-third of members of the Audit Committee whichever is greater, but a minimum of two Independent Directors must be present.

In respect of Andrew Yule & Co Ltd. and HMT Ltd. the minimum 4 meetings of Audit Committee were not held during the year 2016-17.

Further, in respect of CPSEs in Table 3.20, instances of insufficient quorum in the Audit Committee meetings held during the year 2016-17 was observed

Table 3.20: Insufficient quorum in Audit Committee Meetings

Sl. No.	Name of the CPSE
1	Mangalore Refinery and Petrochemicals Ltd
2	Chennai Petroleum Corporation Ltd
3	Hindustan Photo Films (Manufacturing) Company Ltd
4	ITI Ltd
5	Balmer Lawrie & Co Ltd
6	Rashtriya Chemicals & Fertilisers Ltd
7	NBCC (India) Ltd
8	Power Grid Corporation of India Ltd

In addition, in respect of Hindustan Photo Films (Manufacturing) Company Limited there was gap of more than 120 days between two audit committee meetings.

3.6.3.2 Clause 49 (III) (A) (5) and Regulation 18 (1) (f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the Audit Committee may invite such of the executives, as it considers appropriate (and particularly the head of the finance function) to be present at the meetings of the Committee. The Audit Committee may also meet without the presence of any executives of the company. The Finance Director, Head of Internal Audit and a representative of the Statutory Auditor may be present as invitees for the meeting of the Audit Committee.

In respect of Power Grid Corporation of India Ltd though the Finance Director, Head of Internal Audit and representative of Statutory Auditor were invited. However, Finance Director was not present in one meeting and Head of Internal Audit and representative of Statutory Auditor were not present in four meetings each.

3.6.4 Evaluation of Internal Control Systems

Clause 49 (III) (D) (11) of the Listing Agreement and Part C (A) (11) of schedule II to SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the Audit Committee should evaluate internal financial control systems and risk management systems. In respect of CPSEs given in Table 3.21 the Audit Committee has not evaluated the systems.

Table 3.21: CPSEs where Audit Committee did not evaluate internal financial control and risk management systems

Sl. No.	Name of the CPSE
1	Madras Fertilisers Ltd
2	ITI Ltd

3.6.5 Review of performance of Statutory and Internal Auditors

Further Clause 49 (III) (D) (12) of the Listing Agreement and Part C (A) (12) of schedule II to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Audit Committee should review with the management, the performance of Statutory Auditors and Internal Auditors. In respect of Madras Fertilisers Limited such performance evaluation was not done.

3.6.6 Adequacy of Internal Audit Function

3.6.6.1 Clause 49 (III) (D) (13) of the Listing Agreement and Part C (A) (13) of schedule II to SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the Audit Committee should review the adequacy of internal audit function, if any, including the structure of the internal audit department, staffing and seniority of the official heading the department, reporting structure, coverage and frequency of internal audit. In respect of following CPSEs given in Table 3.22, the Audit Committee did not review the internal audit function:

Table 3.22: CPSEs where Internal Audit function not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	Madras Fertilisers Limited
2	MOIL Limited

3.6.6.2 As per clause 49 (III) (D) (14) of the listing agreement and Part C (14) of Schedule II to SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015, it is also the responsibility of the Audit Committee to hold discussion with internal auditors of any significant findings and follow up there on. It was observed that, in respect of Madras Fertilisers Limited, the audit committee did not conduct any discussion with internal auditors.

3.6.7 Review of Supplementary Audit findings of CAG

3.6.7.1 All the CPSEs are subject to the audit of CAG of India as per the statutory mandate. Section 143 (6) of the Companies Act, 2013, authorises CAG to carry out supplementary audit of accounts of Government Companies. Further, section 177 (4) (iii) of the Companies Act, 2013 provides that Audit Committee shall examine the financial statements and Auditors' Report thereon. Thus, in case of CPSEs, it is the responsibility of the Audit Committee to review the findings of the CAG.

In respect of CPSEs given in Table 3.23, Audit Committee did not review the Management Letter, Comments of the CAG, Audit Paras, Performance Audits Printed in the CAG Report and Recommendations of Committee on Public Undertakings issued after the conduct of supplementary audit.

Table 3.23: CPSEs where findings of CAG not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	NLC Limited
2	Shipping Corporation of India Limited
3	NTPC Limited
4	Rashtriya Chemicals and Fertilisers Limited

3.6.7.2 Regulation 18 (3) and Part C (B) of the Schedule II of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that the audit committee shall mandatorily review the information relating to (i) management discussion and analysis of financial condition and results of operations, (ii) statement of significant related party transactions (as defined by the audit committee) submitted by management, (iii) management letters / letters of internal control weaknesses issued by the statutory auditors, (iv) internal audit reports relating to internal control weaknesses. Further, the appointment, removal and terms of remuneration of the chief internal auditor and statement of deviations shall be subject to review by the audit committee. In respect of Madras Fertilisers Ltd, the same was not reviewed.

3.6.7.3 Discussion with Statutory Auditors

Clause 49 (III) (D) (16) of the Listing Agreement and Part C (A) (16) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 provide that the Audit Committee should hold discussion with statutory auditors before the audit commences on the nature and scope of audit as well as post-audit discussion to ascertain any area of concern. In respect of CPSEs listed in Table 3.24, the Audit Committees did not hold any such discussion.

Table 3.24: CPSEs where Audit Committees did not hold discussion with statutory auditors

Sl. No.	Name of the CPSE	Discussion not held
1	Madras Fertilisers Ltd	Pre-audit & post-audit
2	Hindustan Photo Films (Manufacturing) Company Ltd	Pre-audit
3	Indian Railway Finance Corporation	Pre-audit & post-audit
4	Shipping Corporation of India Ltd	Pre-audit
5	Engineers India Ltd	Pre-audit

3.7 Other Committees

3.7.1 Nomination and Remuneration Committee

Section 178 (1) of the Companies Act, 2013, Rule 6 of the Companies (Meeting of Boards and its Powers), Rules 2014, and Clause 49 (IV) of the Listing Agreement and Regulation 19(1) and (2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that each CPSE shall constitute a Nomination and Remuneration Committee comprising of at least three Directors, all of whom should be non-executive Directors and at least half shall be independent and Chairman of the Committee shall be an Independent Director. However, there was no Nomination and Remuneration Committee in the CPSEs as detailed in Table 3.25. In some CPSEs though committee was formed the requirement of three directors and half of them as Independent Directors was not fulfilled.

Table 3.25: CPSEs not having Nomination and Remuneration Committee

Sl. No.	Name of the CPSE
1	HMT Ltd
2	Hindustan Photo Films (Manufacturing) Company Ltd
3	Balmer Lawrie & Co Ltd
4	Hindustan Organic Chemicals Ltd
5	Scooters India Ltd

CPSEs not having required Independent Directors in the Nomination and Remuneration Committee is detailed in the Table 3.26.

Table 3.26: CPSEs not having required Independent Directors in Nomination and Remuneration Committee

Sl. No.	Name of the CPSE
1	Mangalore Refinery and Petrochemicals Ltd
2	Chennai Petroleum Corporation Ltd
3	ITI Ltd
4	Indian Renewable Energy Development Agency
5	Oil India Ltd
6	Balmer Lawrie Investments Ltd

3.7.2 Stakeholders Relationship Committee

Section 178 (5) of the Companies Act, 2013 and Regulation 20(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 requires that every listed company shall constitute a Stakeholders Relationship Committee. It is observed that in respect CPSEs listed in Table 3.27 no such Committee was formed.

Table 3.27: CPSEs not having Stakeholders Relationship Committee

Sl. No.	Name of the CPSE
1	IRCON International Ltd
2	Scooters India Ltd

3.7.3 In case of any contravention of the provisions of section 177 (Audit Committee) and section 178 (Nomination and remuneration Committee and stakeholders relationship Committee), the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both. However, it was noted that no such penalty had been imposed by Ministry of Corporate Affairs during 2016-17 and 2017-18.

3.8 Whistle Blower Mechanism

3.8.1 Section 177 (9) of the Companies Act, 2013, Rule 7 of the Companies (Meeting of Boards and its Powers), Rules 2014 and Revised Clause 49 (II) (F) of the Listing Agreement and Regulation 22 (1) and (2) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the company shall establish a vigil mechanism for directors and employees to report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy. It was observed that, in the CPSEs listed in Table 3.28, there was no whistle blower mechanism.

Table 3.28: CPSEs not having Whistle Blower Mechanism

Sl. No.	Name of the CPSE
1	Hindustan Photo Films (Manufacturing) Company Limited
2	Bharat Immunological & Biologicals Corporation Ltd
3	Balmer Lawrie Investments Limited

3.8.2 Schedule IV Para III (10) of Companies Act, 2013 and Clause 49 III (D) 18 of Listing Agreement and Regulation 18 (3) Part C (A) (18) of Schedule II to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate review of the functioning of the 'Whistle Blower Mechanism' by the Audit Committee, in case the

same exists in the company. In the CPSEs detailed in Table 3.29 below, though whistle blower mechanism exist, the Audit committee did not review it.

Table 3.29: CPSEs having Whistle Blower Mechanism but not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	Madras Fertilisers Ltd
2	Container Corporation of India Ltd
3	Indian Railway Finance Corporation
4	Rashtriya Chemicals & Fertilisers Ltd
5	Oil & Natural Gas Corporation Ltd
6	State Trading Corporation of India Ltd
7	Scooters India Ltd

3.9 Policy relating to Related Parties

Regulation 23 (1) & (4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that every company shall formulate a policy on materiality of related party transactions. Further, such material related party transactions are required to be approved by Shareholders through resolution. In respect of CPSEs listed in Table 3.30, no such policy was formulated.

Table 3.30: CPSEs not having policy relating to related parties

Sl. No.	Name of the CPSE
1	NMDC Ltd
2	Hindustan Organic Chemicals Ltd
3	Scooters India Ltd

3.10 Policy relating to Subsidiary Companies

Clause 49 (V) (D) of the Listing Agreement and Regulation 46(h) and Schedule V (C) (10)(e) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 specify that the company shall formulate a policy for determining 'material' subsidiaries and such policy shall be disclosed to Stock Exchanges, in the Annual Report and on the website with web-link in the Annual Report. In respect of HMT Ltd no such disclosure was made.

3.11 Disclosure of information on Website

3.11.1 Regulation 46 (2)(a), (f) and (g) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that every company shall disclose the information on (i) details of its business (ii) policy dealing with related party transactions and (iii) criteria for making payment to non-executive directors on its website provided the same was not disclosed in Annual Report. In respect of CPSEs listed in Table 3.31, no such disclosure was made in website.

Table 3.31: CPSEs not made disclosure of information on website

Sl. No.	Name of the CPSE
1	NMDC Ltd
2	Hindustan Photo Films (Manufacturing) Company Ltd
3	Indian Renewable Energy Development Agency
4	Scooters India Ltd
5	Madras Fertilisers Ltd

3.11.2 Regulation 46 (2) (c) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that every listed company shall disclose in its website the composition of various committees of Board of Directors. Table 3.32 lists out CPSEs where the details were not disclosed in the website.

Table 3.32: Non-disclosure of information regarding committees on the website

Sl. No.	Name of the CPSE
1	Hindustan Photo Films (Manufacturing) Company Ltd
2	Bharat Immunological & Biologicals Corporation Ltd

3.12 Compliance Reports

Regulation 27 (2) (a) of SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 stipulate that every company has to submit a quarterly compliance report to the stock exchanges within 15 days from the end of every quarter. Further para 8.3 of DPE guidelines requires that every company shall submit quarterly progress report in the prescribed format to the respective administrative ministries within 15 days from the close of each quarter. It was observed that Mahanagar Telephone Nigam Ltd. submitted yearly report instead of quarterly report to administrative ministry.

3.13 Conclusion

Out of 52 selected CPSEs, no Independent Directors had been appointed in 4 CPSEs and required number of Independent Directors were not appointed in 37 CPSEs; no Woman Director was appointed in nine CPSEs; delays of more than three months were observed in filling vacancies of Independent Directors in 23 CPSEs; delays of more than six months were observed in filling up vacancies of functional Directors in the Board in 16 CPSEs; no Audit Committee was there in one CPSE; no whistle blower mechanism was put in place in three CPSEs; no Nomination; Remuneration Committee were constituted in five CPSEs; no Stakeholders Relationship Committee in two CPSEs and no policy on Related Party Transactions in three CPSEs.

The Department of Public Enterprises stated (March 2018) that the oversight/monitoring of implementation of relevant laws, regulations, guidelines etc. by CPSEs lies with the concerned administrative Ministries/Departments who are also

responsible for timely appointment of requisite numbers of independent Directors on the board of CPSEs under their respective administrative control.

Replies (March 2018) of the Ministry of Corporate Affairs on the Chapter have been incorporated in the relevant paragraphs.

3.14 Recommendation

Government of India may impress upon the respective Administrative Ministries/Departments to ensure compliance of guidelines so as to achieve the objectives of corporate governance in listed CPSEs.