

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 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 (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.

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's 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 2016, there were 607 Central 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 and the DPE guidelines on Corporate Governance (May 2010) and compliance by CPSEs listed in various stock exchanges²⁰ with these provisions during the year 2015-16 was reflected in the assessment framework. The review covers 48 listed CPSEs under the administrative control of various Ministries for the year ended 31 March 2016. List of the CPSEs is given in the **Appendix V**

²⁰ Except GAIL (India) Limited

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	Andrew Yule & Co Ltd	6	2	33
2	Balmer Lawrie and Company Limited	7	2	28
3	BEML Limited	10	4	40
4	Bharat Electronics Limited	12	5	42
5	Hindustan Petroleum Corporation Limited	8	3	38
6	Indian Oil Corporation. Limited	12	5	42
7	ITI Limited	7	3	43
8	NBCC (India) Limited	6	2	33
9	NTPC Limited	11	5	45
10	Oil and Natural Gas Corporation Limited	12	5	42
11	Oil India Limited	6	1	17
12	Power Finance Corporation Limited	7	3	43
13	Power Grid Corporation of India Limited	7	3	43
14	Rashtriya Chemicals and Fertilizers Limited	7	3	43
15	The Shipping Corporation of India Limited	8	3	38
16	The State Trading Corporation of India Limited	7	2	28

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 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	BEML Limited	10	Executive	5	3
2	Bharat Electronics Limited	12	Executive	6	4
3	Bharat Heavy Electricals Limited	12	Executive	6	5
4	Bharat Petroleum Corporation Limited	10	Executive	5	3
5	Chennai Petroleum Corporation Limited	10	Non-Executive	4	1
6	Coal India Limited	12	Executive	6	5
7	Container Corporation of India Limited	10	Executive	5	3
8	Dredging Corporation of India Limited	7	Executive	4	2
9	Engineers India Limited	11	Executive	6	4
10	The Fertilizers and Chemicals Travancore Ltd	5	Executive	3	2
11	Hindustan Copper Limited	13	Executive	7	6
12	Hindustan Petroleum Corporation Limited	8	Executive	4	1
13	Hindustan Photo Films Mfg Co Limited	4	Executive	2	1
14	India Tourism Development Corporation Limited	7	Executive	4	2
15	Indian Oil Corporation Limited	12	Executive	6	3
16	ITI Limited	7	Executive	4	1
17	KIOCL Limited	11	Executive	6	5
18	Mahanagar Telephone Nigam Limited	7	Non-Executive	3	2
19	MMTC Limited	12	Executive	6	4
20	National Aluminium Company Limited	13	Executive	7	5
21	National Fertilizers Limited	8	Executive	4	3
22	Neyveli Lignite Corporation Limited	10	Executive	5	3
23	NHPC Limited	11	Executive	6	4
24	NMDC Limited	14	Executive	7	6
25	NTPC Limited	11	Executive	6	3
26	Oil and Natural Gas Corporation Limited	12	Executive	6	3
27	Power Finance Corporation Limited	7	Executive	4	2
28	Power Grid Corporation of India Limited	7	Executive	4	1
29	Rashtriya Chemicals and Fertilizers Limited	7	Executive	4	1
30	Rural Electrification Corporation Limited	7	Executive	4	3
31	The Shipping Corporation of India Limited	8	Executive	4	1
32	SJVNL Limited	11	Executive	6	4
33	Steel Authority of India Limited	15	Executive	8	6

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	Andrew Yule & Co. Ltd
2	Balmer Lawrie and Company Limited
3	Balmer Lawrie Investments Limited
4	Hindustan Cables Limited

Sl. No.	Name of the CPSE
5	Hindustan Fluoro Carbons Limited
6	Hindustan Organic Chemicals Limited
7	HMT Limited
8	Madras Fertilizers Limited
9	Mangalore Refinery and Petrochemicals Limited
10	NBCC (India) Limited
11	Oil India Limited
12	Scooters India Limited
13	The State Trading Corporation of India Limited

3.2.3 Woman Director in the Board

Section 149 (1) of the Companies Act, 2013, Clause 49 (II) (A) (1) of Listing Agreement and Regulation 17 (1) (a) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate 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	BEML Limited
2	Bharat Immunologicals and Biologicals Limited
3	Bharat Petroleum Corporation Limited
4	Chennai Petroleum Corporation Limited
5	Hindustan Fluoro Carbons Limited
6	Hindustan Organic Chemicals Limited
7	HMT Limited
8	Indian Oil Corporation Limited
9	Madras Fertilizers Limited
10	MMTC Limited
11	National Fertilizers Limited
12	Oil and Natural Gas Corporation Limited
13	Power Finance Corporation Limited
14	Rashtriya Chemicals and Fertilizers Limited
15	Rural Electrification Corporation Limited
16	The State Trading Corporation of India Limited
17	The Fertilizers and Chemicals Travancore Limited

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	Bharat Immunologicals and Biologicals Limited
2	Engineers India Limited
3	Hindustan Copper Limited
4	India Tourism Development Corporation Limited
5	ITI Limited
6	National Fertilizers Limited
7	SJVN Limited

3.3.2 Number of Directorships

Clause 49 (II) (B) (2) (a) of Listing Agreement and Regulation 25 (1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 requires that none of the independent directors shall be an independent director in more than seven listed companies. Contrary to this provision, it was observed that during the year, one of the independent directors of Oil and Natural Gas Corporation Limited, held independent directorship in eight companies.

3.3.3 Code of Conduct

Regulation 17 (5) (b) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulates that every company shall suitably incorporate the duties of independent directors in Code of Conduct as laid down in the Companies Act, 2013. The Table 3.6 indicates the CPSEs where code of conduct did not incorporate the duties of independent directors.

Table 3.6: CPSEs where code of conduct did not include duties of Independent Director

Sl. No.	Name of the CPSE
1	The Fertilizers and Chemicals Travancore Limited
2	Hindustan Fluoro Carbons Limited
3	Hindustan Organic Chemicals Limited
4	Hindustan Photo Films Mfg Co Limited
5	Rashtriya Chemicals and Fertilizers Limited
6	The State Trading Corporation of India Limited

3.3.4 Training of Independent Directors

3.3.4.1 Clause 49 (II) (B) (7) (a) of the Listing Agreement and Regulations 25 (7) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the company shall through various programs, familiarize 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 3.7 no such training was conducted for independent directors who were on the Board during the year 2015-16.

Table 3.7: CPSEs where no training was conducted for the Independent Directors

Sl. No.	Name of the CPSE
1	Hindustan Photo Films Mfg Co Limited
2	India Tourism Development Corporation Limited

3.3.4.2 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 3.8.

Table 3.8: CPSEs where training details were not given on website

Sl. No.	Name of the CPSE
1	The Fertilizers and Chemicals Travancore Limited
2	Mahanagar Telephone Nigam Limited
3	National Fertilizers Limited
4	Power Finance Corporation Limited

3.3.5 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 is a member. Some of the independent directors, however, did not attend some of these meetings. Table 3.9 indicates the number of such independent directors:

Table 3.9: 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	Engineers India Limited	-	1
2	Indian Oil Corporation Limited	1	1
3	ITI Limited	4	-
4	KIOCL Limited	-	2
5	MOIL Limited	4	-
6	National Fertilizers Limited	1	2
7	NMDC Limited	4	1
8	Neyveli Lignite Corporation Limited	3	-
9	Power Finance Corporation Limited	1	-
10	Steel Authority of India Limited	4	-

3.3.6 Attending general meetings of the Company

Schedule IV (III) (5) of the Companies Act, 2013 states that Independent Directors strive to attend all the general meetings of the Company. In respect of Bharat Immunological and Biologicals Limited, three Independent Directors and in respect of MOIL Limited,

one Independent Director did not attend the general meeting of these Companies held during the year.

3.3.7 Meeting of Independent Directors

3.3.7.1 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. Table 3.10 indicates the 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	Bharat Immunologicals and Biologicals Corporation Limited
2	Mahanagar Telephone Nigam Limited
3	NTPC Limited

3.3.7.2 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	NMDC Limited
2	Neyveli Lignite Corporation Limited
3	Rural Electrification Corporation Limited

In The Fertilizers and Chemicals Travancore Limited, though separate meeting was conducted, the minutes of meetings were not prepared.

3.3.7.3 Schedule IV (VII) 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 require that the Independent Directors in separate meeting shall review (a) Performance of non-independent directors (b) Performance of Chairperson and (c) Assess the flow of information between management and Board of Directors. In the CPSEs given in Table 3.12, though separate meetings of Independent Directors were held, the above issues were not reviewed in such meetings:

Table 3.12: CPSEs where required issues not reviewed

Sl. No.	Name of the CPSE
1	BEML Limited
2	The Fertilizers and Chemicals Travancore Limited
3	Indian Oil Corporation Limited
4	ITI Limited
5	MMTC Limited
6	NMDC Limited

Sl. No.	Name of the CPSE
7	Power Finance Corporation Limited
8	SJVN Limited
9	Steel Authority of India Limited

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

3.3.8 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 stipulate that the Board of Directors 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 3.13 indicates the CPSEs where such performance evaluation was not done.

Table 3.13: CPSEs where the Board did not evaluate performance of Independent Directors

Sl. No.	Name of the CPSE
1	BEML Limited
2	Bharat Heavy Electricals Limited
3	Chennai Petroleum Corporation Limited
4	India Tourism Development Corporation Limited
5	ITI Limited
6	KIOCL Limited
7	Mahanagar Telephone Nigam Limited
8	MMTC Limited
9	Neyveli Lignite Corporation Limited
10	NHPC Limited
11	NMDC Limited
12	Power Finance Corporation Limited
13	Power Grid Corporation of India Limited
14	Rural Electrification Corporation Limited
15	SJVN Limited
16	Steel Authority of India Limited

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 seven days before such meeting. The Table 3.14 indicates the CPSEs where notice was not circulated at least seven days before such meeting.

Table 3.14: Notice not circulated at least seven days before meeting of the Board of Directors

Sl. No.	Name of the CPSE
1	Container Corporation of India Limited
2	KIOCL Limited
3	National Fertilizers Limited
4	NBCC (India) Limited
5	Neyveli Lignite Corporation Limited
6	NMDC Limited
7	Scooters India Limited
8	The State Trading Corporation of India Limited

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. 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 3.15 did not comply with the above provision and the posts of independent directors remained vacant for a considerable period of time:

Table 3.15: CPSEs where vacancies of Independent Directors not filled in time

Sl. No.	Name of the CPSE	Default in months
1	BEML Limited	28
2	Bharat Heavy Electricals Limited	34
3	Coal India Limited	12
4	Dredging Corporation of India Limited	16
5	Engineers India Limited	6
6	The Fertilizers and Chemicals Travancore Limited	36
7	Hindustan Organic Chemicals Limited	10
8	India Tourism Development Corporation Limited	27
9	ITI Limited	10
10	KIOCL Limited	20
11	MMTC Limited	24
12	National Fertilizers Limited	13
13	NBCC (India) Limited	15
14	Neyveli Lignite Corporation Limited	More than 12 months
15	Oil India Limited	7
16	Rural Electrification Corporation Limited	17
17	The Shipping Corporation of India Limited	18
18	SJVN Limited	12

Further, it was also observed that in the CPSEs listed in Table 3.16, vacancies of Functional Directors were not filled within the period of six months prescribed in Section 203(4) of the Companies Act, 2013:

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

Sl. No.	Name of the CPSE	Name of the post	Default in months
1	Bharat Heavy Electricals Limited	Director (Finance)	8
2	HMT Limited	Director (Operations) Director (Finance)	23 74
3	Engineers India Limited	Director (Commercial)	10
4	The Fertilizers and Chemicals Travancore Limited	Functional Director	12
5	India Tourism Development Corporation Limited	Director (Finance)	8
6	Indian Oil Corporation Limited	Director (Marketing) Director (R&D)	9 21
7	ITI Limited	Chairman & MD Director (Finance)	10 26
8	SJVN Limited	Director (Civil)	7
9	The State Trading Corporation Limited	Director (Finance)	8

3.6 Audit Committee

3.6.1 Composition of Audit Committee

3.6.1.1 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, no Audit Committee was constituted in respect of CPSEs as detailed in Table 3.17.

Table 3.17: CPSEs where no Audit Committee constituted

Sl. No.	Name of the CPSE
1	HMT Limited
2	Andrew Yule & Co. Ltd
3	The Shipping Corporation of India Limited
4	NBCC (India) Limited
5	Scooters India Limited

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	Hindustan Fluoro Carbons Limited
2	Mangalore Refinery and Petrochemicals Limited
3	Chennai Petroleum Corporation Limited
4	Madras Fertilizers Limited
5	ITI Limited

Sl. No.	Name of the CPSE
6	OIL India Limited
7	Balmer Lawrie and Company Limited
8	Hindustan Cables Limited
9	Balmer Lawrie Investment Company
10	Rashtriya Chemicals and Fertilizers Limited
11	Hindustan Organic Chemicals Limited
12	Hindustan Petroleum Corporation Limited
13	The State Trading Corporation of India Limited
14	Power Grid Corporation of India Limited

In respect of The State Trading Corporation of India Limited, the Audit Committee comprised of two members only.

3.6.2 Chairman of the Audit Committee

3.6.2.1 Clause 49 (III) (A) (3) 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 an Independent Director. However, it was observed that Chairman of the Audit committee in respect of The Fertilizers and Chemicals Travancore Limited was not an independent director despite having Independent Director on the Board.

3.6.2.2 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 shareholders' queries. However, the Chairman of the Audit Committee of the CPSEs listed in Table 3.19 was not present in the AGM held during 2015-16.

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

Sl. No.	Name of the CPSE
1	Bharat Immunologicals and Biologicals Corporation Limited
2	Engineers India Limited
3	The Fertilizers and Chemicals Travancore Limited
4	Hindustan Copper Limited
5	Hindustan Fluoro Carbons Limited
6	Hindustan Organic Chemicals Limited
7	Hindustan Photo Films Mfg Co Limited
8	Indian Oil Corporation Limited
9	ITI Limited
10	Madras Fertilizers Limited
11	Mahanagar Telephone Nigam Limited

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 CPSEs listed in Table 3.20, the minimum four meetings of Audit Committee were not held during the year 2015-16.

Table 3.20: CPSEs where minimum number of Audit Committee meetings not held

Sl. No.	Name of the CPSE	No. of meetings held
1	Hindustan Cables Limited	1
2	Hindustan Organic Chemicals Limited	1
3	ITI Limited	3

Further, in respect of CPSEs in Table 3.21, instances of insufficient quorum in the Audit Committee meetings held during the year 2015-16, were observed:

Table 3.21: Insufficient quorum in Audit Committee Meetings

Sl. No.	Name of the CPSE
1	Hindustan Petroleum Corporation Limited
2	Indian Oil Corporation Limited
3	ITI Limited
4	NTPC Limited
5	Oil India Limited
6	Power Grid Corporation of India Limited
7	Rashtriya Chemicals and Fertilizers Limited
8	The State Trading Corporation of India Limited

In addition, in respect of the CPSEs given in Table 3.22, there was gap of more than 120 days between two audit committee meetings.

Table 3.22: CPSEs where time gap between two Audit Committee meetings was more than 120 days

Sl. No.	Name of the CPSE	
1	BEML Limited	152 days between two meetings
2	ITI Limited	183 days between two meetings
3	Hindustan Cables Limited	Only one meeting held
4	Hindustan Organic Chemicals Limited	Only one meeting held

3.6.3.2 Clause 49 (III) (A) (5) of the Listing Agreement 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 meetings of the Audit Committee. In respect of the CPSEs detailed in Table 3.23, though the Finance

Director, Head of Internal Audit and representative of Statutory Auditor were invited, but were not present in some of the Audit Committee meetings.

Table 3.23: CPSEs where Finance Director, Head of Internal Audit and representative of Statutory Auditor were not present

Sl. No.	Name of the CPSE	Invited but not attended	Number of meetings not attended
1	Oil India Limited	Director (Finance) Head (Internal Audit) Statutory Auditor	1 4 2
2	Rashtriya Chemicals and Fertilizers Limited	Statutory Auditor	3
3	Steel Authority of India Limited	Statutory Auditor	1
4	The State Trading Corporation of India Limited	Head (Internal Audit) Statutory Auditor	1 1

3.6.4 Secretary to the Audit Committee

Regulation 18 (1) (e) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that Company Secretary shall act as Secretary to the Audit Committee. In respect of Bharat Immunologicals and Biologicals Limited, the Company Secretary did not act as Secretary to Audit Committee.

3.6.5 Evaluation of Internal Control Systems

Clause 49 (III) (D) (11) 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 3.24 the Audit Committee has not evaluated the systems.

Table 3.24: CPSEs where Audit Committee did not evaluate internal financial control and risk management systems

Sl. No.	Name of the CPSE
1	Hindustan Organic Chemicals Limited
2	ITI Limited
3	Oil India Limited

3.6.6 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 CPSEs given in Table 3.25, such performance evaluation was not done.

Table 3.25: CPSEs where performance of Statutory Auditors and Internal Auditors not reviewed by the Audit Committee

Sl. No.	Name of the CPSE
1	Hindustan Cables Limited
2	Hindustan Organic Chemicals Limited
3	ITI Limited
4	MMTC Limited
5	Oil India Limited
6	The State Trading Corporation of India Limited

3.6.7 Adequacy of Internal Audit Function

3.6.7.1 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 3.26, the Audit Committee did not review the internal audit functions.

Table 3.26: CPSEs where Internal Audit function not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	ITI Limited
2	Oil India Limited
3	Hindustan Organic Chemicals Limited
4	The State Trading Corporation of India Limited

3.6.7.2 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 Hindustan Organic Chemicals Limited, the audit committee did not conduct any discussion with internal auditors.

3.6.8 Review of Supplementary Audit findings of CAG

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, authorizes 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 3.27, Audit Committee did not review the Management letter, Comments of the CAG, Audit Paras, Performance Audits printed in CAG Report and Recommendations of Committee on Public Undertakings issued after the conduct of supplementary audit.

Table 3.27: CPSEs where findings of CAG not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	Hindustan Organic Chemicals Limited
2	Rashtriya Chemicals and Fertilizers Limited

3.6.9 Discussion with Statutory Auditors

Clause 49 (III) (D) (16) of 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 about the nature and scope of audit as well as hold post-audit discussion to ascertain any area of concern. In respect of CPSEs listed in Table 3.28, the Audit Committees did not hold such discussions.

Table 3.28: CPSEs where Audit Committees did not hold discussion with statutory auditors

Sl. No.	Name of the CPSE	Discussion not held
1	Coal India Limited	Pre-audit discussion
2	Engineers India Limited	Pre-audit discussion
3	The Fertilizers and Chemicals Travancore Limited	Post-audit Discussion
4	Hindustan Organic Chemicals Limited	Pre-audit and post-audit discussions
5	Hindustan Photo Films Mfg Co Limited	Post-audit discussion
6	ITI Limited	Pre-audit discussion
7	Madras Fertilizers Limited	Post-audit discussion
8	Oil India Limited	Pre-audit and post-audit discussions
9	The State Trading Corporation of India Limited	Pre-audit discussion

3.7 Other Committees

3.7.1 Nomination and Remuneration Committee

Section 178(1) of the Companies Act, 2013, Clause 49 (IV)(A) 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 3.29.

Table 3.29: CPSEs not having Nomination and Remuneration Committee

Sl. No.	Name of the CPSE
1	Hindustan Cables Limited
2	Hindustan Organic Chemicals Limited
3	Madras Fertilizers Limited
4	NBCC (India) Limited
5	Scooters India Limited
6	The State Trading Corporation of India Limited

3.7.2 Stakeholders Relationship Committee

Regulation 20(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 requires that every listed Company shall constitute a Stakeholders Relationship Committee. It was observed that in respect of CPSEs listed in Table 3.30 no such Committee was formed.

Table 3.30: CPSEs not having Stakeholders Relationship Committee

Sl. No.	Name of the CPSE
1	Andrew Yule & Co. Ltd
2	Hindustan Cables Limited
3	HMT Limited
4	Scooters India Limited

3.8 Whistle Blower Mechanism

3.8.1 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 3.31, there was no whistle blower mechanism.

Table 3.31: CPSEs not having Whistle Blower Mechanism

Sl. No.	Name of the CPSE
1	Balmer Lawrie Investments Limited
2	Bharat Immunologicals and Biologicals Corporation Limited
3	Hindustan Photo Films Mfg Co Limited

3.8.2 Clause 49 III (D) 18 of Listing Agreement and 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 3.32 below, though whistle blower mechanism exists, the Audit Committee did not review it.

Table 3.32: CPSEs having Whistle Blower Mechanism but not reviewed by Audit Committee

Sl. No.	Name of the CPSE
1	Coal India Limited
2	Hindustan Cables Limited
3	ITI Limited
4	Madras Fertilizers Limited
5	MMTC Limited
6	The State Trading Corporation of India Limited

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 3.33, no such policy was formulated.

Table 3.33: CPSEs not having policy relating to related parties

Sl. No.	Name of the CPSE
1	Hindustan Fluoro Carbons Ltd.
2	Hindustan Photo Films Mfg Co Limited
3	NMDC Limited
4	Rashtriya Chemicals and Fertilizers Limited
5	Scooters India Limited

3.10 Policy relating to Subsidiary Companies

Clause 49 (V) (D) of 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 Annual Report and on the website with web-link in the Annual Report. In respect of CPSEs listed in Table 3.34, no such disclosure was made.

Table 3.34: CPSEs not having policy relating to Subsidiary Companies

Sl. No.	Name of the CPSE
1	Hindustan Organic Chemicals Limited
2	HMT Limited
3	MMTC Limited

3.11 Disclosure of information on Website

3.11.1 Regulation 46 (2)(a) and (f) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that every company shall disclose the information on (i)

details of its business (ii) criteria for making payment to non-executive directors on its website provided the same was not disclosed in Annual Report.

In respect of Hindustan Photo Films Mfg Co Limited, the information relating to (i) was not disclosed on the website and information relating to (ii) was neither disclosed on the website nor in the Annual Report.

- 3.11.2** Regulation 46 (2) (c) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that every listed company shall disclose on its website the composition of various committees of Board of Directors. The Table 3.35 lists out the CPSEs where the details were not disclosed in the website.

Table 3.35: Non-disclosure of information regarding committees on the website

Sl. No.	Name of the CPSE
1	Andrew Yule & Co Ltd
2	Bharat Immunologicals and Biologicals Limited
3	Hindustan Cables Limited
4	ITI Limited
5	Madras Fertilizers Limited
6	Mangalore Refinery and Petrochemicals Limited

3.12 Compliance Reports

- 3.12.1** Regulation 17 (8) and Part B of Schedule II of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Company's Chief Executive Officer and Chief Financial Officer have to provide the compliance certificate to the Board of Directors as specified in Part B of the Regulations. It was observed that this compliance certificate was not submitted in case of Hindustan Cables Limited.

- 3.12.2** 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 Hindustan Cables Limited did not submit both these quarterly reports on time.

3.13 Conclusion

Out of 48 selected CPSEs, no Independent Directors had been appointed in 13 CPSEs; delays of more than three months were observed in filling vacancies of Independent Directors in 18 CPSEs; delays of more than six months were observed in filling up vacancies of functional Directors in the Board in nine CPSEs; no Audit Committee existed

in five CPSEs; no whistle blower mechanism was put in place in three CPSEs; no Nomination and Remuneration Committee were constituted in six CPSEs.

Department of Public Enterprises stated (January 2017) 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 number of Independent Directors on the Boards of CPSEs under their respective administrative control.

3.14 Recommendation

Government of India may impress upon the respective Administrative Ministries/Departments to ensure compliance with guidelines and regulations so as to achieve the objectives of Corporate Governance in listed CPSEs.