

CHAPTER III

Corporate Governance

3.1 Introduction

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 (Sections 149 (6) & (8) and Schedule IV read with rule 5 of the Companies (Appointment and Qualification of Directors), Rules, 2014).
- 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

Subsequent to the enactment of 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.

SEBI 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, 15 February 2017, 13 April 2017, 09 May 2018, 30 May 2018, 01 June 2018, 8 June 2018, 06 September 2018, 16 November 2018 and 29 March 2019.

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 CPSEs, the Union Government introduced the guidelines on Corporate Governance for CPSEs (June, 2007). 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. Insofar 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 2019, there were 596 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), SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the DPE guidelines on Corporate Governance (May 2010) and compliance by CPSEs listed in various stock exchanges. Compliance with these provisions during the year 2018-19 was reflected in the assessment framework. The review covers 53 listed CPSEs and two CPSEs whose bonds are listed under the administrative control of various Ministries for the year ended 31 March 2019. List of the CPSEs is given in *Appendix -XXII*.

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 stipulate 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 Power Finance Corporation Limited, the non-executive directors (three) constituted less than 50 per cent of the total Board strength (seven).

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 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 3.1.4 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. 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 3.1 did not have the required number of independent directors on their Board:

Table 3.1: CPSEs not having required number of Independent Directors

Sl. No	Name of the CPSE	No. of Directors other than Independent Directors	Status of Chairman	No. of Independent Directors required	Actual No. of Independent Directors
1	NMDC Limited	8	Executive	8	6
2	KIOCL Limited	6	Executive	6	3
3	Dredging Corporation of India Limited	5	Executive (upto 8/3/19)	5	2
			Non-Executive (from 9/3/19)	2	-
4	HMT Limited	4	Executive	4	2
5	NLC India Limited	7	Executive	7	5
6	Fertilizer and Chemicals Travancore Limited	6	Executive	6	5
7	Madras Fertilizers Limited	6	Executive	6	4
8	Bharat Electronics Limited	9	Executive	9	7
9	Bharat Dynamics Limited	6	Executive	6	5
10	BEML Limited	6	Executive	6	4
11	Container Corporation of India	7	Executive	7	6
12	IRCON International Limited	6	Executive	6	5
13	Oil India Limited	6	Executive	6	4
14	Hindustan Copper Limited	7	Executive	7	4
15	Balmer Lawrie & Co Limited	7	Executive	7	4
16	Balmer Lawrie Investments Limited	3	Executive	3	1

Sl. No	Name of the CPSE	No. of Directors other than Independent Directors	Status of Chairman	No. of Independent Directors required	Actual No. of Independent Directors
17	Shipping Corporation of India Limited	8	Executive	8	6
18	Andrew Yule & Co Limited	6	Executive	6	3
19	Bharat Petroleum Corporation Limited	7	Executive	7	4
20	MMTC Limited	7	Executive	7	6
21	India Tourism Development Corporation	5	Executive	5	4
22	Indian Oil Corporation Limited	10	Executive	10	7
23	Engineers India Limited	8	Executive	8	7
24	National Fertilizers Limited	6	Executive	6	4
25	Power Grid Corporation India Limited	6	Executive	6	5
26	Bharat Heavy Electricals Limited	8	Executive	8	5
27	NHPC Limited	6	Executive	6	5
28	Power Finance Corporation Limited	5	Executive	5	2
29	SJVN Limited	7	Executive	7	5
30	MOIL Limited	7	Executive	7	4

There were no independent directors on the Board in respect of two CPSEs (IFCI Limited and Scooters India Limited).

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 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. However, in respect of two CPSEs (BEML Limited and MMTC Limited), this requirement was not met.

3.3 Appointment and functioning of Independent Directors

3.3.1 Declaration of status

Regulation 16 (1) (b) read with 25 (8) of SEBI (Listing obligation and disclosure requirements) Regulations, 2015 stipulate that the Independent Director shall make a declaration that he meets the status of Independent Director. However, in respect of three CPSEs (Madras Fertilizers Limited, Bharat Immunologicals & Biologicals Corporation Limited and Hindustan Organic Chemicals Limited), the independent status was not declared by the Independent Directors.

3.3.2 Training of Independent Directors

3.3.2.1 Schedule IV Para (III) (1) – Duties of Independent Directors) of Companies Act, 2013 and Clause 49 (II) (B) (7) (a) & (b) and Regulations 25 (7) of SEBI (Listing

Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the company shall provide suitable training to independent directors to familiarize them with the company, their roles, rights, responsibilities in the company, nature of the industry in which the company operates, business model of the company, etc. However, it was observed that in three CPSEs (Bharat Electronics Limited, Mahanagar Telephone Nigam Limited and Bharat Immunologicals & Biologicals Corporation Limited) no such training was conducted for Independent Directors who were on the Board during the year 2018-19.

3.3.2.2 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 3.2.

Table 3.2: CPSEs where training details were not given on the website

Sl. No.	Name of the CPSE
1	Chennai Petroleum Corporation Limited
2	The Fertilizers and Chemicals Travancore Limited
3	Madras Fertilizers Limited
4	Mahanagar Telephone Nigam Limited
5	Bharat Immunologicals & Biologicals Corporation Limited

3.3.3 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 3.3 indicates the number of such Independent Directors who did not even attend eighty *per cent* of meetings.

Table 3.3: Independent Directors who did not attend eighty per cent of the Board/Committee meetings

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend even 80 per cent of Board meetings	No. of Independent Directors who did not attend even 80 per cent of Board Committee meetings
1	NMDC Limited	3	1
2	Mangalore Refinery and Petro Chemicals Limited	-	1
3	Chennai Petroleum Corporation Limited	1	-
4	Fertilizers And Chemicals Travancore Limited	1	-
5	Cochin Shipyard Limited	2	-
6	Madras Fertilizers Limited	1	1
7	Bharat Electronics Limited	4	-
8	Hindustan Aeronautics Limited	1	2

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend even 80 per cent of Board meetings	No. of Independent Directors who did not attend even 80 per cent of Board Committee meetings
9	Bharat Dynamics Limited	1	2
10	BEML Limited	1	-
11	RITES Limited	2	1
12	IRCON International Limited	1	1
13	Mahanagar Telephone Nigam Limited	5	-
14	ITI Limited	3	-
15	Oil India Limited	1	-
16	National Aluminium Company Limited	2	3
17	BalmerLawrie & Co Limited	-	1
18	Andrew Yule Co. Limited	1	1
19	Shipping Corporation of India Limited	1	1
20	Rashtriya Chemicals and Fertilizers Limited	2	1
21	Hindustan Organic Chemicals Limited	1	1
22	Oil & Natural Gas Corporation Limited	1	-
23	Hindustan Petroleum Corporation Limited	1	-
24	NBCC (India) Limited	4	-
25	India Tourism Development Corporation Limited	2	-
26	State Trading Corporation Limited	4	-
27	GAIL (India) Limited	2	-
28	Engineers India Limited	4	2
29	NTPC Limited	1	-
30	Bharat Heavy Electricals Limited	6	-
31	SJVN Limited	1	-
32	Housing & Urban Development Corporation Limited	1	1
33	Indian Renewable Energy Development Agency Limited	2	2

3.3.4 Attending General Meetings of the Company

Schedule IV (III) (5) of the Companies Act, 2013 states that Independent Directors shall strive to attend the General Meetings of the company. Table 3.4 indicates the listed CPSEs where Independent Directors did not attend the general meetings of the company.

Table 3.4: Independent Directors who did not attend General meetings

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend General Meeting
1	NMDC Limited	1
2	NLC India Limited	3
3	The Fertilizers and Chemicals Travancore Limited	1
4	Cochin Shipyard Limited	2

Sl. No.	Name of the CPSE	No. of Independent Directors who did not attend General Meeting
5	Madras Fertilizers Limited	1
6	Bharat Electronics Limited	3
7	Hindustan Aeronautics Limited	1
8	Bharat Dynamics Limited	4
9	BEML Limited	2
10	Container Corporation of India Limited	1
11	RITES Limited	1
12	IRCON Limited	1
13	Mahanagar Telephone Nigam Limited	2
14	ITI Limited	7
15	Bharat Immunologicals & Biologicals Corporation Limited	2
16	Coal India Limited	1
17	Oil India Limited	1
18	National Aluminium Company Limited	1
19	Andrew Yule & Co Limited	2
20	Shipping Corporation of India Limited	4
21	Rashtriya Chemicals and Fertilizers Limited	1
22	Hindustan Organic Chemicals Limited	2
23	Hindustan Petroleum Corporation Limited	1
24	Indian Oil Corporation Limited	1
25	EIL Limited	1
26	NTPC Limited	1
27	BHEL Limited	1
28	NHPC Limited	2
29	REC Limited	1
30	Housing & Urban Development Corporation Limited	2
31	National Building Construction Corporation Limited	3
32	India Tourism Development Corporation Limited	2
33	State Trading Corporation Limited	1
34	Indian Renewable Energy Development Agency Limited	1

3.3.5 Meeting of Independent Directors

3.3.5.1 Schedule IV (VII) (1) of the Companies Act, 2013, Regulation 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 financial year, without the attendance of non-independent Directors and members of management. Table 3.5 indicates CPSEs where separate meeting was not conducted.

Table 3.5: CPSEs where separate meetings of Independent Directors was not conducted

Sl. No.	Name of the CPSE
1	Dredging Corporation of India Limited
2	HMT Limited
3	Madras Fertilizers Limited
4	Bharat Immunologicals & Biologicals Corporation Limited
5	Balmer Lawrie & Co Limited
6	Balmer Lawrie Investments Limited

3.3.5.2 Schedule IV (VII) (2) of the Companies Act, 2013 provides that all the independent Directors strive to attend such separate meeting of Independent Directors. However, in respect of CPSEs listed in Table 3.6, some Independent Directors did not attend the separate meeting.

Table 3.6: CPSEs where separate meeting was not attended by some Independent Directors

Sl. No.	Name of the CPSE
1	KIOCL Limited
2	Fertilizers and Chemicals Travancore Limited
3	Cochin Shipyard Limited
4	Bharat Electronics Limited
5	Hindustan Aeronautics Limited
6	Bharat Dynamics Limited
7	Container Corporation of India Limited
8	RITES Limited
9	IRCON Limited
10	Mahanagar Telephone Nigam Limited
11	ITI Limited
12	Coal India Limited
13	Bharat Petroleum Corporation Limited
14	Engineers India Limited
15	NHPC Limited
16	State Trading Corporation Limited
17	India Tourism Development Corporation Limited
18	GAIL India Limited
19	Indian Renewable Energy Development Agency Limited
20	National Fertilizers Limited

3.4. Filling up the post of Directors – functional, non – functional or independent

3.4.1 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) dealing with registration or removal of Independent Directors) 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 at the earliest but not later than the immediate next board meeting or three months from the date of such vacancy, whichever is later. As per compendium of guidelines regarding board level appointments in CPSEs issued by Ministry of Personnel, Grievances & Pensions/DoPT the administrative Ministries/Departments are responsible for timely appointment of requisite number of Independent Directors on the Boards of CPSEs under their respective administrative control. It was observed that the post of Independent Directors remained vacant for a considerable period of time in respect of CPSEs detailed in Table 3.7.

Table 3.7: CPSEs where vacancies of Independent Directors were not filled up in time

Sl. No.	Name of the CPSE	Lying vacant in months
1	NMDC Limited	9
2	KIOCL Limited	32
3	HMT Limited	36
4	Dredging Corporation of India Limited	12
5	NLC India Limited	36
6	Fertilizers and Travancore Limited	12
7	Madras Fertilizers Limited	16
8	Bharat Electronics Limited	12
9	Bharat Dynamics Limited	12
10	BEML Limited	36
11	Container Corporation of India Limited	12
12	IRCON International Limited	12
13	Oil India Limited	18
14	Hindustan Copper Limited	36
15	Balmer Lawrie Company Limited	36
16	Andrew Yule & Co Limited	24
17	Balmer Lawrie Investment Company Limited	36
18	Shipping Corporation of India Limited	24
19	Bharat Petroleum Corporation Limited	04
20	MMTC Limited	24
21	Indian Tourism Development Corporation	08
22	India Oil Corporation	12
23	National Fertilizer Limited	24
24	Power Grid Corporation Limited	24
25	Bharat Heavy Electricals Limited	12
26	NHPC Limited	04
27	Power Finance Corporation Limited	36
28	SJVN Limited	36
29	MOIL Limited	24

3.4.2 Further, it was also observed that in four CPSEs (Mangalore Refinery Petrochemicals Limited, BEML Limited, ITI Limited and The State Trading Corporation

Limited), vacancies of whole time Key Managerial Personnel were not filled within the period of six months prescribed in Section 203 (4) of the Companies Act, 2013.

3.5 Audit Committee

3.5.1 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 two CPSEs (Scooters India Ltd and IFCI Limited), no Audit Committee was constituted.

Further, two-thirds of the members of the Audit Committee were not Independent Directors in respect of two CPSEs (Madras Fertilizers Limited and Balmer Lawrie Investments Limited).

3.5.2 Attendance at the AGM by Chairman of the Audit Committee

Clause 49 (III) (A) (3) and (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 Independent Director and present at Annual General Meeting (AGM) to answer shareholder queries. In respect of the following Companies indicated in Table 3.8, the Chairman of Audit Committee did not attend the AGM to answer the queries of shareholders.

Table 3.8: CPSEs where the Chairman of Audit Committee did not attend the Annual General Meeting

Sl. No.	Name of the CPSE
1	NLC India Limited
2	Bharat Electronics Limited
3	ITI Limited
4	Bharat Immunologicals & Biologicals Corporation Limited
5	Coal India Limited

3.5.3 Meetings of Audit Committee

Clause 49 (III) (B) 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 Mahanagar Telephone Nigam Limited a minimum of four meetings were not held and there was gap of more than 120 days between two Audit Committee Meetings.

In respect of Chennai Petroleum Corporation Limited, there was insufficient quorum in two Audit Committee meetings.

3.5.4 Evaluation of Internal Control Systems

Clause 49 (III) (D) (11) 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. However, in respect of two CPSEs (Madras Fertilizers Limited and Hindustan Organic Chemicals Limited), the Audit Committee has not evaluated these systems.

3.5.5 Review of performance of Statutory and Internal Auditors

Further Clause 49 (III) (D) (12) 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 3.9 such performance evaluation was not done.

Table 3.9: CPSEs where performance of Statutory Auditors and Internal Auditors was not reviewed by the Audit Committee

Sl. No.	Name of the CPSE
1	Chennai Petroleum Corporation Limited
2	Madras Fertilizers Limited
3	Oil India Limited
4	Hindustan Organic Chemicals Limited
5	Oil & Natural Gas Corporation Limited

3.5.6 Monitoring of the Auditor's independence

Schedule II Part – C clause (7) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Audit Committee shall review and monitor the auditor's independence and performance, and effectiveness of audit process. In respect of CPSEs indicated in Table 3.10, the auditor's independence and performance was not reviewed.

Table 3.10: CPSEs where Auditor's independence and performance was not reviewed

Sl. No.	Name of the CPSE
1	Chennai Petroleum Corporation Limited
2	Madras Fertilizers Limited
3	Oil & Natural Gas Corporation Limited
4	Indian Oil Corporation Limited
5	Power Grid Corporation of India Limited

3.5.7 Adequacy of internal audit function

3.5.7.1 Clause 49 (III) (D) (13) 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. However, in respect of four CPSEs (Chennai Petroleum Corporation Limited, Madras

Fertilizers Limited, Mahanagar Telephone Nigam Limited and Hindustan Organic Chemicals Limited), the Audit Committee did not review the internal audit function.

3.5.7.2 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 on any significant findings and follow up there on. However, in respect of the three CPSEs (Chennai Petroleum Corporation Limited, Madras Fertilizers Limited and Mahanagar Telephone Nigam Limited), the Audit Committee did not conduct any discussion with internal auditors.

3.5.7.3 Review of Information/Documents by Audit Committee

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 CAG including management letters issued by CAG. In respect of the following CPSEs indicated in Table 3.11, the Audit Committee did not review the findings and management letters of CAG.

Table 3.11: CPSEs where Audit Committee did not review the findings and management letters of CAG

Sl. No.	Name of the CPSE
1	Cochin Shipyard Limited
2	BEML Limited
3	Shipping Corporation of India Limited
4	Steel Authority of India Limited
5	Hindustan Organic Chemicals Limited
6	Indian Oil Corporation Limited

Part (C) A (19) of Schedule II and Regulation 18 (3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the role of Audit Committee shall include approval of appointment of Chief Financial Officer after assessing the qualifications, experience and background, etc. of the candidate. However, in case of Chennai Petroleum Corporation Limited the chief financial officer was appointed without the approval of the Audit Committee.

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: (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 and (iv) internal audit reports relating to internal control weaknesses shall be subject to review by the audit

committee. Audit Committee did not review the above items in respect of following CPSEs indicated in Table 3.12.

Table 3.12: CPSEs where the Audit Committee failed to review one or more stipulation

Sl. No.	Name of the CPSE
1	Madras Fertilizers Limited
2	Chennai Petroleum Corporation Limited
3	The Fertilizers And Chemicals Travancore Limited
4	Bharat Immunologicals & Biologicals Corporation Limited
5	Rashtriya Chemicals & Fertilizers Limited

3.5.7.4 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 on the nature and scope of audit as well as post-audit discussion to ascertain any area of concern. In respect of the following CPSEs indicated in Table 3.13, the Audit Committees did not hold any such discussion.

Table 3.13: CPSEs where Audit Committee did not discuss with statutory auditors before commencement of audit and did not hold post audit discussions

Sl. No.	Name of the CPSE	Pre audit discussion	Post audit discussion
1	Dredging Corporation of India Limited	--	Not held
2	NLC India Limited	Not held	Not held
3	Chennai Petroleum Corporation Limited	--	Not held
4	The Fertilizers And Chemicals Travancore Limited	--	Not held
5	Madras Fertilizers Limited	Not held	Not held
6	Bharat Immunologicals & Biologicals Corporation Limited	Not held	Not held
7	Oil India Limited	Not held	Not held
8	Shipping Corporation of India Limited	Not held	--
9	Rashtriya Chemicals and Fertilizers Limited	Not held	--
10	Hindustan Organic Chemicals Limited	Not held	--
11	Balmer Lawrie & Co Limited	Not held	--
12	Andrew Yule & Co Limited	Not held	Not held
13	Oil & Natural Gas Corporation Limited	Not held	--
14	Power Grid Corporation of India Limited	Not held	--
15	Bharat Heavy Electricals Limited	Not held	--
16	REC Limited	Not held	--
17	MOIL Limited	--	Not held
18	Steel Authority of India Limited	Not held	-

3.6 Other Committees

3.6.1 Nomination and Remuneration Committee

Section 178 (1) of the Companies Act, 2013, Rule 6 of the Companies (Meetings of Board and its Powers) Rules, 2014, 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. Chairman of the Committee shall be an Independent Director. However, there was no Nomination and Remuneration Committee in three CPSEs (HMT Limited, Bharat Immunologicals & Biologicals Corporation Limited and Balmer Lawrie Investment Limited).

3.6.2 In respect of IFCI Limited, though the committee was formed, the requirement of three directors and half of them as Independent Directors was not fulfilled.

3.6.3 Section 178 (7) of the Companies Act, 2013, Clause 49 (IV) of the Listing Agreement and Regulation 19(2) and (3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that Chairman of the Committee shall be an Independent Director and he shall be present in the AGM. In respect of the following CPSEs indicated in Table 3.14, the Chairman of the Nomination and Remuneration Committee was not present in the AGM.

Table 3.14: Chairman of the Nomination and Remuneration Committee not present in the Annual General Body Meeting

Sl. No.	Name of the CPSE
1	NMDC Limited
2	Cochin Ship Yard Limited
3	Mishra Dhatu Nigam Limited
4	Bharat Dynamics Limited
5	BEML Limited
6	IRCON International Limited
7	ITI Limited
8	Bharat Immunologicals & Biologicals Corporation Limited
9	Oil India Limited
10	Hindustan Organic Chemicals Limited
11	GAIL India Limited
12	REC Limited
13	Housing & Urban Development Corporation Limited

3.6.4 Regulation 19 (3A) of the SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 also stipulates that the Nomination and Remuneration Committee shall meet at least once in a year. This requirement was not followed in respect of two CPSEs (National Aluminium Company Limited and the State Trading Corporation Limited).

3.6.5 Stakeholders Relationship Committee

Section 178 (5) of the Companies Act, 2013 and Regulation 20(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 require that every listed company shall constitute a Stakeholders Relationship Committee. The Chairperson of the Committee shall be a non-Executive Director. However, in respect of Madras Fertilizers Limited, the Chairperson was not a non-Executive Director.

3.6.6 Regulation 20 (2A) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Committee has at least three directors with at least one being an Independent Director. Audit observed that the Committee constituted by Scooters India Limited did not have an Independent Director.

3.6.7 Regulation 20 (3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Chairman of the Committee shall be present at the Annual General Meeting to answer queries of the Stakeholders. However, in respect of the following CPSEs indicated in Table 3.15, the Chairman was not present at the AGM.

Table 3.15: CPSEs where Chairman of the Stakeholders Relationship Committee was not present in the Annual General Meeting

Sl. No.	Name of the CPSE
1	NLC India Limited
2	Cochin Shipyard Limited
3	Mishra Dhatu Nigam Limited
4	Bharat Dynamics Limited
5	BEML Limited
6	Hindustan Organic Chemicals Limited
7	MMTC Limited
8	The State Trading Corporation Limited
9	India Tourism Development Corporation Limited
10	ITI Limited
11	Engineers India Limited
12	Housing & Urban Development Corporation Limited

3.6.8 As required in Schedule V (c) (6) of the Regulations, the Complaints filed by the Stakeholders pending on 31 March 2019 in the CPSEs are indicated in Table 3.16.

Table 3.16: CPSEs where numbers of complaints filed by the Stakeholders are pending

Sl. No.	Name of the CPSE	Number of pending complaints
1	Mangalore Refinery and Petro Chemicals Limited	5
2	IRCON International Limited	16
3	Oil & Natural Gas Corporation Limited	7
4	Power Grid Corporation of India Limited	2
5	NHPC Limited	2
6	REC Limited	2
7	MOIL Limited	1
8	MMTC Limited	2
9	Bharat Heavy Electricals Limited	2

3.6.9 Whistle Blower Mechanism

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), 18 (3) and Part C (A) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stipulate that the Audit Committee shall review the functioning of the Whistle Blower Mechanism. It was observed that audit committee did not review the functions of the whistle blower mechanism in the CPSEs listed in Table 3.17.

Table 3.17: CPSEs where the Audit Committee did not review the functioning of the whistle blower mechanism

Sl. No.	Name of the CPSE
1	Chennai Petroleum Corporation Limited
2	Fertilizers And Chemicals Travancore Limited
3	Madras Fertilizers Limited
4	Mishra Dhatu Nigam Limited
5	ITI Limited
6	Coal India Limited
7	Hindustan Organic Chemicals Limited

3.6.10 Policy relating to Related Parties

Regulations 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. However, in respect of three CPSEs (Bharat Electronics Limited, Bharat Immunologicals & Biologicals Corporation Limited and Hindustan Organic Chemicals Limited), no such policy was formulated.

Further, Regulation 23 (2) requires that all the related party transactions shall have prior approval of the Audit Committee. However, in respect of Bharat Electronics Limited, this was not followed.

3.6.11 Disclosure of information on website

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. In respect of Madras Fertilizers Limited, no such disclosure was made on website.

3.6.12 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 Department of Public Enterprises (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. In respect of Balmer Lawrie Limited, quarterly progress report was not submitted to Administrative Ministry.

3.7 Conclusion

Out of 55 listed CPSEs covered in the chapter, non-executive directors were less than 50 per cent of the Board strength in one CPSE; Independent Directors had not been appointed in two CPSEs and required number of Independent Directors was not appointed in 30 CPSEs; Woman Director was not appointed in 2 CPSEs; training was not conducted for Independent Directors in 3 CPSEs. Independent Directors did not even attend 80 per cent of the Board Meetings in 31 CPSEs; also Independent Directors did not even attend 80 per cent of the Board Committee Meetings in 16 CPSEs. Independent Directors

did not attend general meetings of the Company in 34 CPSEs. Separate meetings of Independent Directors were not conducted in six CPSEs and in respect of 20 CPSEs Independent Directors did not attend such meetings. Vacancies of Independent Directors were filled with a delay more than 4-36 months from the date of vacancy in 29 CPSEs, while vacancies of functional directors were filled with a delay more than 10-30 months in four CPSEs. Audit Committee did not consist of two-third Independent Directors in two CPSEs; Audit Committee did not evaluate internal financial control and risk management systems in two CPSEs. Performance of Statutory Auditors and Internal Auditors were not reviewed by Audit Committee in five CPSEs. The Audit Committee did not review the functioning of whistle blower mechanism in seven CPSEs and there was no policy relating to materiality of related party transactions in three CPSEs. In respect of five CPSEs, the Chairman of Audit Committee did not attend the Annual General Meeting. Audit Committee did not hold (pre audit) discussions with Statutory Auditors in respect of 14 CPSEs. There was no Nomination and Remuneration Committee in three CPSEs. In respect of 13 CPSEs, the Chairman of the Nomination and Remuneration Committee was not present in the AGM. The Chairman of Stakeholders Relationship Committee was not present at the AGM in respect of 12 CPSEs. None of the CPSEs was fully compliant of the Corporate Governance requirements.

DPE in its reply stated (June, 2020) that the implementation of rule, regulation, guidelines etc. in the CPSEs lies with the concerned Administrative Ministries/Departments.

3.8 Recommendation

Government of India may impress upon the respective Administrative Ministries/Departments to ensure compliance of DPE/SEBI guidelines and relevant provisions of Companies Act, 2013 on Corporate Governance so as to achieve the objectives of Corporate Governance in listed CPSEs. Board of Directors of the listed CPSEs should also ensure compliance with DPE/SEBI guidelines and relevant provisions of Companies Act, 2013.