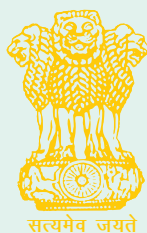


**Guidelines
on
Corporate Governance
for
Central Public Sector Enterprises
2007**



**GOVERNMENT OF INDIA
MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES
Department of Public Enterprises
Block 14, CGO Complex, Lodi Road,
New Delhi – 110 003**

June 2007

Website: www.dpe.nic.in

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Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises
Kendriya Karyalaya Parisar, Block No. 14, Lodi Road,
New Delhi-110 003

No. 18(8)/2005-GM
Dated 22nd June 2007

Preface

The Department of Public Enterprises is the nodal Department for laying down policies and guidelines concerning Central Public Sector Enterprises (CPSEs). The policy guidelines issued by the Department from time to time have been compiled recently and brought out in a compendium titled 'Guidelines for administrative Ministries/Departments and Public Sector Enterprises'.

The National Common Minimum Programme envisages a strong and effective public sector which would be encouraged to enter in the capital market. There is also need for public accountability of the public sector management regarding its duties and responsibilities. In view of this it is considered necessary to formally adopt guidelines on corporate governance for the CPSEs.

Accordingly, this Ministry has formulated guidelines on Corporate Governance for Central Public Sector Enterprises. These guidelines have evolved through a consultation process where the stakeholders have participated. These Guidelines keep in view the provisions in the relevant laws, rules and instructions. I have immense pleasure in presenting the Guidelines on Corporate Governance for CPSEs for the guidance of the administrative Ministries/Departments and the Centre Public Sector Enterprises. I am confident that every effort will be made to implement these guidelines in order to improve the corporate governance in the Central Public Sector Enterprises.

(Dr. Ramesh Chandra Panda)

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Extract of Hon'ble Prime Minister Dr. Manmohan Singh's Address

“...The revitalization of the public sector is an integral part of our strategy of promoting ‘inclusive growth’. We regard the public sector as an engine of growth, a source of employment generation and as an important source of R&D in our industrial sector. Our Government’s policy has been to remove all irritants coming in the way of the healthy functioning of public enterprises. The National Common Minimum Programme (NCMP) outlines our policy in this regard in unambiguous terms.”.....

“...It may be useful for more public enterprises to be listed on the stock exchange, as this would enhance professionalization of the Board of Directors and empower Independent Directors. Induction of Independent Directors on the boards of PSEs would ensure greater efficiency and effectiveness in decision-making. We must pay greater attention to how we identify “independent” directors and ensure that they are indeed truly independent “professionals” who bring with them both expertise and a reputation for good governance and high professional conduct.”...

“...Public enterprises should also evolve their own code of corporate ethics and conduct and ensure adherence to such codes. Our Government is working towards limiting the administrative ministries’ role in the day-to-day management of public enterprises. I hope the steps we intend to take will help our public enterprises to become more globally competitive.”...

Address delivered at the Conference of the Chief Executives of Central Public Sector Enterprises held at New Delhi on 8th March, 2007.

No. 18(8)/2005-GM

Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises
Block 14, CGO Complex,
Lodi Road, New Delhi
Dated the 22nd June, 2007

OFFICE MEMORANDUM

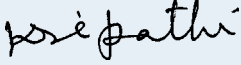
Subject: Guidelines on Corporate Governance for Central Public Sector Enterprises (CPSEs).

The National Common Minimum Programme (NCMP) envisages a strong and effective public sector and pledges to devolve managerial and commercial autonomy to successful profit making companies operating in a competitive environment. Accordingly the Government enhanced the powers of Navratna, Miniratna and other profit making CPSEs. There is need for appropriate public accountability of the CPSE managements regarding discharging of their duties and responsibilities keeping in view the fact that large public funds have been invested in them. The NCMP inter-alia also provides that Public Sector Companies will be encouraged to enter capital markets to raise resources and offer new investment avenues to retail investors. Thus, it is imperative that ethics and probity are maintained in the functioning of CPSEs. Good Corporate Governance practices, therefore, should be built into the management systems of CPSEs.

2. The Government has considered the above and approved the implementation of Guidelines on Corporate Governance for CPSEs. These guidelines have been formulated through a consultation process with various stakeholders and keeping in view the relevant laws, rules and instructions.

3. These guidelines cover issues like composition of Board of Directors, setting up of Audit Committees, role and powers of Audit Committees, issues relating to subsidiary companies, disclosures, accounting standards, risk management, compliance and schedule of implementation, etc.

4. These guidelines though voluntary in nature should be followed by all CPSEs as proper implementation of these guidelines would protect the interests of shareholders and relevant stakeholders. The compliance with these guidelines requires to be reflected in the Directors' report, Annual Report and Chairman's speech in the Annual General Meeting. This Department would also grade the CPSEs on the basis of their compliance of the corporate governance guidelines.
5. These guidelines are being issued for an experimental phase of one year. Suitable improvements would thereafter be made in these guidelines in the light of experience gained. The CPSEs are, therefore, advised to implement these guidelines and submit progress report to this Department.
6. A printed copy of the guidelines is enclosed. These guidelines are also available on the web-site of this Department i.e. www.dpe.nic.in.
7. The Ministries/Departments are also requested to bring the contents of this Office Memorandum along with Guidelines to the notice of CPSEs under their administrative control for further necessary action.


(K.D. Tripathi)
Joint Secretary

Encl: One booklet

To all administrative Ministries/Departments
(Secretaries by name)

Chief Executives of all CPSEs

1

Introduction

1

INTRODUCTION

1.1 Corporate Governance involves a set of relationships between a company's management, its Board, its shareholders and other stakeholders. Corporate governance provides a principled process and structure through which the objectives of the company, the means of attaining the objectives and systems of monitoring performance are also set. Corporate governance is a set of accepted principles by management of the inalienable rights of the shareholders as a true owner of the corporation and of their own rule as trustees on behalf of the shareholders. It is about commitment to values, ethical business conduct, transparency and makes a distinction between personal and corporate funds in the management of a company.

1.2 There are about 240 Central Public Sector Enterprises. A large number of them do not make enough profits. There may be many reasons for such companies incurring losses and becoming sick. It is imperative that ethics, probity and public accountability are maintained in the functioning of all public enterprises. In other words good Corporate Governance practices should be inbuilt in the management system of Public Enterprises.

1.3 These guidelines on corporate governance are formulated with the objective that the Central Public Sector Enterprises follow the guidelines in their functioning. Proper implementation of these guidelines would protect the interest of shareholders and relevant stakeholders.

1.4 The Department of Public Enterprises (DPE) has issued guidelines on composition of Board of Directors of Central Public Sector Enterprises (CPSEs) (**Annex-I**). According to these guidelines at least one-third of the Directors on the Board of a CPSE should be non-official Directors. The Navratna and Miniratna schemes provide that exercise of the enhanced powers delegated to these CPSEs is subject to the condition that their Boards are professionalised by inducting adequate number of non-official Directors, with minimum four in case of Navratnas and minimum three in case of Miniratnas. The schemes for Navratna and Miniratna CPSEs also provide for setting up of Audit Committees.

1.5 In November 2001 DPE issued further guidelines on composition of Board of Directors of listed CPSEs (**Annex-II**). It provided that the number of Independent Directors should be at least one-third of the Board if the Chairman is non-executive and not less than 50% if the Board has an executive Chairman. Relevant extracts of Clause 49 of the Listing Agreement with Stock Exchanges issued by Securities and Exchange Board of India (SEBI) form part of the said guidelines.

1.6 Apart from these instructions of DPE, the CPSEs are governed by the Companies Act, 1956 and regulations of various authorities like Comptroller and Auditor General of India (C&AG), Central Vigilance Commission, administrative Ministries, other nodal Ministries, etc. The Right to Information Act 2005 is also applicable to the CPSEs. The CPSEs fall under the definition of 'State' as provided in Article 12 of the Constitution of India. Further, some principles of corporate governance are already in

vogue in public sector because (a) the Chairman, Managing Director and Directors are appointed independently through a prescribed procedure; (b) Statutory auditors are appointed independently by the C&AG; (c) Arbitrary actions, if any, of the Management could be challenged through writ petitions; (d) remuneration of Directors, employees, etc. are determined on the basis of recommendations of Pay Committees constituted for this purpose; etc.



2

Applicability of Guidelines

2

APPLICABILITY OF GUIDELINES

2.1 For the purpose of evolving Guidelines on corporate governance, CPSEs have been categorised into two groups, namely, (i) those listed in the Stock Exchanges; (ii) those not listed in the Stock Exchanges.

CPSEs listed in Stock Exchanges:-

2.2 In so far as listed CPSEs are concerned, they have to follow the SEBI guidelines on corporate governance. In addition, they may follow those provisions in these guidelines which do not exist in the SEBI guidelines and also do not contradict any provisions in the SEBI guidelines.

Non-listed CPSEs:-

2.3 Each PSE should strive to institutionalize good corporate governance practices broadly in conformity with the SEBI guidelines. The listing of the non-listed CPSEs in the stock exchanges may also be considered within a reasonable time frame to be set by the Administrative Ministry concerned in consultation with the CPSEs concerned. The non-listed CPSEs may follow the Guidelines on Corporate Governance given in the subsequent chapters, which are voluntary in nature.

2.4 The guidelines for listed and unlisted CPSEs for the purpose of Corporate Governance, the subject is being dealt in

the succeeding chapters under the following headings.

- Board of Directors
- Audit Committee
- Subsidiary Companies
- Disclosures
- Report, Compliance and Schedule of Implementation



3

Board of Directors

3

BOARD OF DIRECTORS

3.1 Composition of Board

3.1.1 The Board of directors of the company shall have an optimum combination of functional, nominee and independent directors.

3.1.2 The number of functional directors (including CMD/MD) should not exceed 50% of the actual strength of the Board.

3.1.3 The number of nominee directors shall be restricted to a maximum of two.

3.1.4 In case of CPSEs listed in Stock Exchanges, the number of independent directors shall be at least 50% of Board Members. In case of CPSEs not listed in the Stock Exchanges, at least one-third of the Board Members should be independent directors. The expression 'independent director' shall mean a part-time director of the company who:

- (a) apart from receiving director's remuneration, does not have any material pecuniary relationships or transactions with the company, its directors, its senior management or its holding company, its subsidiaries and associates which may affect independence of the director;
- (b) is not related to persons occupying management positions at the board level or at one level below the board;

- (c) has not been a senior executive or managerial personnel of the company in the immediately preceding three financial years;
- (d) is not a partner or an executive not partner or an executive during the preceding three years, of any of the following:
 - i) the statutory audit firm or the internal audit firm or tax audit firm or energy audit firm or management audit firm or risk audit firm or insurance audit firm that is associated with the company, and
 - ii) the panel advocate(s) or legal firm(s) or consultant(s) and consulting firm(s) or expert(s) that have a material association with the company.
- (e) is not a material supplier, service provider or customer or a lesser or lessee of the company, which may affect independence of the director;
- (f) is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares.

Explanation

For the purposes of the sub-clause 3.1.4:

- (i) **Associate** shall mean a company which is an “associate” as defined in Accounting Standard 23 (AS-23), “Accounting for Investments in Associates in Consolidated Financial Statements”, issued by the Institute of Chartered Accountants of India.

- (ii) “**Senior management**” shall mean personnel of the company who are members of its core management team excluding Board of Directors. Normally, this would comprise all members of management one level below the executive directors, including all functional heads.
- (iii) “**Relative**” shall mean “relative” as defined in Section 2(41) and Section 6 read with Schedule IA of the Companies Act, 1956 (Extract from the Companies Act at **Annex III**).

3.1.5 Nominee directors appointed by an institution which has invested in or lent to the company shall be deemed to be independent directors.

Explanation:

“Institution’ for this purpose means a public financial institution as defined in Section 4A of the Companies Act, 1956 or a “corresponding new bank” as defined in section 2(d) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [both Acts].”

3.2 Part-time directors’ compensation and disclosures

All fees/compensation, if any paid to part-time directors, including independent directors, shall be fixed by the Board of Directors subject to the provisions in the DPE guidelines and Companies Act, 1956.

3.3 Other provisions as to Board and Committees

3.3.1 Number of Board meetings:- The Board shall meet at

least once in every three months and at least four such meetings shall be held in every year. The minimum information to be made available to the Board is given in **Annex-IV**.

3.3.2 A director shall not be a member in more than 10 committees or act as Chairman of more than five committees across all companies in which he is a director. Furthermore it should be a mandatory annual requirement for every director to inform the company about the committee positions he occupies in other companies and notify changes as and when they take place.

Explanation:

- a. For the purpose of considering the limit of the committees on which a director can serve, all public limited companies, whether listed or not, shall be included.
- b. For the purpose of reckoning the limit under this sub-clause, Chairmanship/ membership of the Audit Committee and the Shareholders' Grievance Committee alone shall be considered.

3.3.3 **Compliance of Laws to be reviewed:-** The Board shall periodically review compliance reports of all laws applicable to the company, prepared by the company as well as steps taken by the company to rectify instances of non-compliances.

3.4 Code of Conduct

3.4.1 The Board shall lay down a code of conduct for all Board Members and senior management of the company. The code of

conduct shall be circulated and also posted on the website of the company.

3.4.2 All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by the Chief Executive.

3.4.3 Guidelines and policies evolved by the Central Government with respect to the structure, composition, selection, appointment and service conditions of their Boards of Directors and senior management personnel shall be strictly followed.

3.4.4 There shall be no extravagance in expenditure on the part of Board members and senior management personnel. PSE executives shall be accountable for their performance in conformity with established norms of conduct.

Explanation: For this purpose, the term “senior management” shall mean personnel of the company who are members of its core management team excluding Board of Directors. Normally, this would comprise all members of management one level below the functional directors, including all functional heads.

3.4.5 Any external/internal changes made from time to time, due to addition of or amendment to laws/regulatory rules, applicable to CPSEs, need to be dealt with carefully by the respective boards/senior management personnel.

3.4.6 A suggested list of items to be included in the code of conduct is given at **Annex-V**. Further, to assist the CPSEs in the

formulation of the code, a model Code of Business Conduct and Ethics for Board Members and Senior Management is given at **Annex-VI**.

3.5 Functional Role Clarity between Board of Directors and Management

A clear definition of the roles and the division of responsibilities between the Board and the Management is necessary to enable the Board to effectively perform its role. The Board should have a formal statement of Board Charter which clearly defines the roles and responsibilities of the Board and individual directors. The Board of each CPSE may be encouraged to articulate its corporate governance objectives and approach (within the broad parameters of the guidelines and the general perception of business risk) to satisfy the expectations of its majority shareholders and other stakeholders.

3.6 Risk Management

Enterprise risk management helps management in achieving CPSE performance and profitability targets. It helps to ensure effective reporting and compliance with laws and regulations, and helps avoid damage to the entity's reputation and associated consequences. Considering the significance of risk management in the scheme of corporate management strategies and their oversight should be one of the main responsibilities of the Board/Management. The Board should ensure the integration and alignment of the risk management system with the corporate and operational objectives and also that risk management is undertaken as a part of normal business practice and not as a separate task at set times.

3.7 Training of Directors

The company concerned shall undertake training programme for its new Board members (Functional, Government, Nominee and Independent) in the business model of the company including risk profile of the business of company, responsibility of respective Directors and the manner in which such responsibilities are to be discharged. They shall also be imparted training on corporate governance, model code of business ethics and conduct applicable for the respective Directors.



4

Audit Committee

4

AUDIT COMMITTEE

4.1 Qualified and Independent Audit Committee

A qualified and independent Audit Committee shall be set up, giving the terms of reference.

4.1.1 The Audit Committee shall have minimum three directors as members. Two-thirds of the members of audit committee shall be independent directors.

4.1.2 The Chairman of the Audit Committee shall be an Independent Director.

4.1.3 All members of Audit Committee shall have knowledge of financial matters of Company, and at least one member shall have good knowledge of accounting and related financial management expertise.

Explanation 1: The term “knowledge of financial matters of Company” means the ability to read and understand basic financial procedures and statements i.e. balance sheet, profit and loss account, and statement of cash flows.

Explanation 2: A member will be considered to have accounting and related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable

experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

4.1.4 The Chairman of the Audit Committee shall be present at Annual General Meeting to answer shareholder queries; provided that in case the Chairman is unable to attend due to unavoidable reasons, he may nominate any Member of the Audit Committee.

4.1.5 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 specifically invited to be present as invitees for the meetings of the Audit Committee as may be decided by the Chairman of the Audit Committee.

4.1.6 The Company Secretary shall act as the secretary to the Audit Committee.

4.2 Role of Audit Committee: The role of the Audit Committee shall include the following:-

4.2.1 Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible.

4.2.2 Recommending to the Board the fixation of audit fees.

4.2.3 Approval of payment to statutory auditors for any other services rendered by the statutory auditors.

4.2.4 Reviewing, with the management, the annual financial statements before submission to the Board for approval, with particular reference to:

- a. Matters required to be included in the Directors' Responsibility Statement to be included in the Board's report in terms of clause (2AA) of section 217 of the Companies Act, 1956;
- b. Changes, if any, in accounting policies and practices and reasons for the same;
- c. Major accounting entries involving estimates based on the exercise of judgment by management;
- d. Significant adjustments made in the financial statements arising out of audit findings;
- e. Compliance with legal requirements relating to financial statements;
- f. Disclosure of any related party transactions; and
- g. Qualifications in the draft audit report.

4.2.5 Reviewing, with the management, the quarterly financial statements before submission to the Board for approval.

4.2.6 Reviewing, with the management, performance of internal auditors and adequacy of the internal control systems.

4.2.7 Reviewing 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.

4.2.8 Discussion with internal auditors and/or auditors any significant findings and follow up there on.

4.2.9 Reviewing the findings of any internal investigations by the internal auditors/auditors/agencies into matters where there is suspected fraud or irregularity or a failure of internal control systems of a material nature and reporting the matter to the Board.

4.2.10 Discussion with statutory auditors before the audit commences, about the nature and scope of audit as well as post-audit discussion to ascertain any area of concern.

4.2.11 To look into the reasons for substantial defaults in the payment to the depositors, debenture holders, shareholders (in case of non payment of declared dividends) and creditors.

4.2.12 To review the functioning of the Whistle Blower Mechanism.

4.2.13 Carrying out any other function as is mentioned in the terms of reference of the Audit Committee.

4.2.14 To review the follow up action on the audit observations of the C&AG audit.

4.2.15 To review the follow up action taken on the recommendations of Committee on Public Undertakings (COPU) of the Parliament.

4.2.16 Provide an open avenue of communication between the independent auditor, internal auditor and the Board of Directors

4.2.17 Review and pre-approve all related party transactions in the company. For this purpose, the Audit Committee may designate a member who shall be responsible for pre-approving related party transactions.

4.2.18 Review with the independent auditor the co-ordination of audit efforts to assure completeness of coverage, reduction of redundant efforts, and the effective use of all audit resources.

4.2.19 Consider and review the following with the independent auditor and the management:

- The adequacy of internal controls including computerized information system controls and security, and
- Related findings and recommendations of the independent auditor and internal auditor, together with the management responses.

4.2.20 Consider and review the following with the management, internal auditor and the independent auditor:

- Significant findings during the year, including the status of previous audit recommendations
- Any difficulties encountered during audit work including any restrictions on the scope of activities or access to required information,

Explanation (i): The term “**related party transactions**” shall have the same meaning as contained in the Accounting Standard

18, Related Party Transactions, issued by the Institute of Chartered Accountants of India.

Explanation (ii): If the company has set up an Audit Committee pursuant to provision of the Companies Act, the said Audit Committee shall have such additional functions / features as contained in these guidelines.

4.3 Powers of Audit Committee

Commensurate with its role, the Audit Committee should be invested by the Board of Directors with sufficient powers, which should include the following:

- (i) To investigate any activity within its terms of reference.
- (ii) To seek information on and from any employee.
- (iii) To obtain outside legal or other professional advice, subject to the approval of the Board of Directors.
- (iv) To secure attendance of outsiders with relevant expertise, if it considers necessary.
- (v) To protect whistle blowers.

4.4 Meeting of Audit Committee

The Audit Committee should meet at least four times in a year and not more than four months shall elapse between two meetings. The quorum shall be either two members or one third of the members of the Audit Committee whichever is greater, but a minimum of two independent members must be present.

4.5 Review of information by Audit Committee

The Audit Committee shall review the following 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;
- (iv) Internal audit reports relating to internal control weaknesses;
- (v) The appointment and removal of the Chief Internal Auditor shall be placed before the Audit Committee; and
- (vi) Certification/declaration of financial statements by the Chief Executive/Chief Finance Officer.



5

Subsidiary Companies

5

SUBSIDIARY COMPANIES

5.1 At least one Independent Director on the Board of Directors of the holding company shall be a Director on the Board of Directors of a subsidiary company.

5.2 The Audit Committee of the holding company shall also review the financial statements of the subsidiary company.

5.3 The minutes of the Board meetings of the subsidiary company shall be placed at the Board meeting of the holding company. The management should periodically bring to the attention of the Board of Directors of the holding company, a statement of all significant transactions and arrangements entered into by the subsidiary company.

Explanation: For the purpose of these guidelines, only those subsidiaries whose turnover or net worth is not less than 20% of the turnover or net worth of the Holding company may be treated as subsidiary companies.



6

Disclosures

6

DISCLOSURES

6.1 Transactions

6.1.1 A statement in summary form of transactions with related parties in the normal and ordinary course of business shall be placed periodically before the Audit Committee.

6.1.2 Details of material individual transactions with related parties, which are not in the normal and ordinary course of business, shall be placed before the Audit Committee.

6.1.3 Details of material individual transactions with related parties or others, which are not on an arm's length basis should be placed before the Audit Committee, together with Management's justification for the same.

6.2 Accounting Standards

6.2.1 Where in the preparation of financial statements, a treatment different from that prescribed in an Accounting Standard has been followed, the fact shall be disclosed in the financial statements, together with the management's explanation as to why it believes such alternative treatment is more representative of the true and fair view of the underlying business transaction in the Corporate Governance Report.

6.2.2 The Companies Act, 1956 as well as many other statutes require that financial statements of an enterprise should give a

true and fair view of its financial position and working results. That requirement is implicit even in the absence of a specific detailed provision to this effect. However, what constitutes a true and fair view has not been defined either in the Companies Act, 1956 or in any other statute. The Accounting Standards as well as other transactions of the Institute of Chartered Accountants of India on Accounting matters seek to prescribe the accounting principles and the methods of applying these principles in preparation and presentation of financial statements so that they give a true and fair view.

6.2.3 Consolidated financial statements presents financial information about the parent company, its subsidiaries, its associates and joint ventures as an economic entity to show the economic resources controlled by the group, the obligation of the group and the results the group achieved with its resources, which is not determinable from individual financial statements of parent, subsidiaries, associates and joint ventures. All CPSEs shall prepare consolidated financial statements as per Accounting Standards, namely, AS21, AS23 and AS27 issued by the Institute of Chartered Accountants of India (ICAI) in relation to the Consolidation of Financial Statements.

6.2.4 Many CPSEs provide groups of products and services or operate in geographical areas that are subject to differing rates of profitability, opportunities for growth, future prospects, and risks which may not be determinable from the aggregated data. Reporting of segment information is widely regarded as necessary for meeting the needs of users of financial statements. Hence, all CPSEs are required to publish segment wise profit and loss

as per Accounting Standard 17 “Segment Reporting” issued by ICAI.

6.3 Board Disclosures – Risk management

6.3.1 The company shall lay down procedures to inform Board members about the risk assessment and minimization procedures. These procedures shall be periodically reviewed to ensure that executive management controls risk through means of a properly defined framework. Procedure will be laid down for internal risk management also.

6.3.2 The Board should implement policies and procedures which should include:

- (a) staff responsibilities in relation to fraud prevention and identification
- (b) responsibility of fraud investigation once a fraud has been identified
- (c) process of reporting on fraud related matters to management
- (d) reporting and recording processes to be followed to record allegations of fraud
- (e) requirements of training to be conducted on fraud prevention and identification.

6.4 Remuneration of Directors

6.4.1 All pecuniary relationship or transactions of the part-time Directors vis-à-vis the company shall be disclosed in the Annual Report.

6.4.2 Further the following disclosures on the remuneration of Directors shall be made in the section on the Corporate Governance of the Annual Report.

- a. All elements of remuneration package of all the directors i.e. salary, benefits, bonuses, stock options, pension etc.
- b. Details of fixed component and performance linked incentives, along with the performance criteria.
- c. Service contracts, notice period, severance fees.
- d. Stock option details, if any – and whether issued at a discount as well as the period over which accrued and over which exercisable.

6.5 Management

6.5.1 As part of the Directors' Report or as an addition thereto, a Management Discussion and Analysis Report should form part of the Annual Report. This Management Discussion and Analysis should include discussion on the following matters within the limits set by the company's competitive position:

- i. Industry structure and developments
- ii. Strength and weakness
- iii. Opportunities and Threats
- iv. Segment-wise or product-wise performance
- v. Outlook
- vi. Risks and concerns
- vii. Internal control systems and their adequacy
- viii. Discussion on financial performance with respect to operational performance

- ix. Material developments in Human Resources, Industrial Relations front, including number of people employed.
- x. Environmental Protection and Conservation, Technological conservation, Renewable energy developments, Foreign Exchange conservation
- xi. Corporate social responsibility

6.5.2 Senior management shall make disclosures to the board relating to all material financial and commercial transactions, where they have personal interest, that may have a potential conflict with the interest of the company (e.g. dealing in company shares, commercial dealings with bodies, which have shareholding of management and their relatives etc.)



7

Report, Compliance and Schedule of Implementation

REPORT, COMPLIANCE AND SCHEDULE OF IMPLEMENTATION

7.1 Report on Corporate Governance

There shall be a separate section on Corporate Governance in each Annual Report of company, with details of compliance on Corporate Governance. The suggested list of items to be included in the report on Corporate Governance is in **Annex-VII**.

7.2 Compliance

7.2.1 The company shall obtain a certificate from either the auditors or practicing Company Secretary regarding compliance of conditions of corporate governance as stipulated in these Guidelines and Annexes. The certificate with the Directors' Report, which is sent annually to all the shareholders of the company, should also be included in the Annual Report.

7.2.2 Chairman's speech in Annual General Meeting (AGM) should also carry a section on compliance with corporate governance guidelines/norms and should form part of the Annual reports of the concerned CPSE.

7.2.3 The grading of CPSEs may be done by DPE on the basis of the compliance with corporate governance guidelines/norms.

7.3 Schedule of implementation

These Guidelines on Corporate Governance are issued for an experimental phase of one year and suitable adjustments would be made in these guidelines in the light of the experience gained. For this purpose, the CPSEs should submit mid-year progress reports.



8

Annexes

GUIDELINES ON COMPOSITION OF BOARD OF DIRECTORS OF CPSEs

I. Organization/Functioning of the Boards of Public Sector Enterprises—Decisions of the Government on the recommendations of the Economic Administration Reforms Commission Report on “Government and Public Enterprises—Top Management and the Boards”.

The undersigned is directed to say that the Economic Administration Reforms Commission (EARC) in their report on “Government and Public Enterprises—Top Management and the Boards” have made a number of recommendations regarding the organization and functioning of the Boards of the public sector enterprises. These have been considered by the Government. The recommendations and the decisions of the Government on these recommendations are given below for information and necessary action by the respective administrative Ministries:

(i) Appointment of Chief Executive

It was noted that the replacement for Chief Executive, due to retire, was in some cases sought at a very late stage causing very often the enterprises to go topless. In this context, the EARC have recommended that the replacement for a Chief Executive due to retire should be found well in advance and inducted as an under-study and that if for any reason the successor is not in position,

there should be automatic extension of the term of the existing incumbent until his successor is able to take over. It has now been decided by Government that the enterprises might create, if necessary, a supernumerary post of under-study for a limited period of three months. However, automatic extension of the term of the existing incumbent was not desirable and short-term extensions should only be in exceptional circumstances where there is delay in selection of a new incumbent. It is, therefore, requested that the vacancies that will arise as a result of superannuation or because of non-extension of the tenure of the existing incumbent may kindly be intimated by the respective administrative Ministries to the Public Enterprises Selection Board at least three months in advance. This will enable Public Enterprises Selection Board to initiate recruitment action well in time to find a successor before the vacancy arises.

(ii) Appointment of Part-time Chairman

Vide BPE's O.M. No. 2(158)/70-BPE(GM) dated 13th October, 1972, the guidelines were issued regarding the composition of Boards of Directors of Public Enterprises. It was mentioned therein that the Board should normally be headed by a Chairman-cum-Managing Director. It was also indicated that there should be no bar to the appointment of a part-time Chairman if in particular cases this course appeared desirable. These guidelines were reiterated in 1982 vide BPE's O.M. No. 2(9)/80-BPE(GM) dated 20th April 1982. The EARC has also recommended that the general policy of appointing a single Chairman-

cum-Managing Director should continue. This recommendation has been accepted by the Government.

It has also been decided that the practice of appointing the Secretary of the administrative Ministry as Part-time Chairman of a Public Enterprise, even for short period, should be discouraged.

(iii) Role of Government Directors on the Boards of Public Enterprises

The EARC are of the view that the association of Government officials with the Boards of Public Enterprises can be of advantage as this provides for a liaison role and a channel of communication between Government and the Public Enterprises. They have also emphasized that the dual role of a Government Director should be clearly recognized—as a Director of the company and as a representative of the Government. He should be allowed to function freely and use his own judgement without any formalized briefing by the Ministry before a Board meeting with discretion whether to seek a briefing or make a report. The Government Director should identify himself with the objects and goals of the enterprise, engage in joint thinking on equal terms and not assume a superior status, he should not reserve his position on matters before the Board, however, others on the Board should not expect him to commit the Government in respect of matters which require to be referred to the Government. In all subsequent examination of the Board approved proposals, his role should be mainly elucidatory and he

should not sit in judgement over the Board. Reference to the Ministry for approval, sanction etc. should be addressed to the Government representative on the Board whose responsibility should be to process the matter and obtain the necessary Government approval promptly.

The Government have accepted these recommendations and the administrative Ministries may kindly brief the Government Directors on the Boards of their Undertakings suitably.

(iv) Number of Government Directors on the Board of Directors

On the basis of the recommendations of the Administrative Reforms Commission, the Bureau of Public Enterprises vide their O.M. No. 5/23/74-BPE(PESB) dated 3rd February, 1975, had suggested that ordinarily not more than two Government representatives should be appointed on the Boards of Directors of public sector enterprises. The EARC has also emphasized the need for keeping down the number of Government officials on the Boards of public enterprises. They have recommended that number of directorships reflecting special concerns or interests should be minimized and that the possibility of drawing suitable persons from non-Government sources should be considered. However, this does not apply to experts drawn from other public enterprises, which has been strongly recommended. The Government have accepted this recommendation. The administrative Ministries may kindly note for necessary action.

On the question of the representation of the officials of the administrative Ministries on the Board of Directors of public enterprises, the EARC have also recommended that an officer should not have too many directorships on the Boards of public enterprises so that he can do adequate justice to his role as a Government Director. The directorships held by each Joint Secretary could be kept down by having Directors/Deputy Secretaries on the Boards of smaller enterprises. Further, the Ministries having a large number of public enterprises could consider reducing the number of Under Secretaries and perhaps even Deputy Secretaries and providing for an additional Joint Secretary or two to add to efficiency and economy.

Government have noted this recommendation and are of the view that restricting the number of directorships and spreading of the workload of directorships evenly in the administrative Ministries by putting Directors and Deputy Secretaries on the Boards of small public enterprises was already being followed. However, the administrative Ministries could look into the question of their restructuring as suggested by the EARC.

(v) Clear Demarcation of Powers of decision-making between the Board and the Government

The EARC has recommended that there should be clarity in regard to the powers of decision-making of the Board and those, which are reserved for the Government. In this context, they have mentioned that while on paper and in the Articles of Company such clarity exists, in a very

large number of cases, informal advice amounting virtually to a directive percolates from the administrative Ministries to the public enterprises. In consequence, the Government Directors on Boards also tend to be used or considered to be acting as channels of informal control by the Ministry. Since functional autonomy of these enterprises is essential for their good performance, there should be no vagueness about the areas on which the Boards can take decisions and those in which it must seek prior Governmental approval.

This recommendation has been accepted by the Government and the administrative Ministries are requested to review the position in this regard.

2. BPE may kindly be kept informed of the action taken in regard to the above decisions of the Government.

(BPE O.M. No. 18/1/84-GM dated 19th September, 1984)

II. Composition of Board of Directors of Public Sector Enterprises.

The question of Composition of the Board of Directors of PSEs has been considered from time to time and various guidelines have been issued in this regard by the Bureau of Public Enterprises. The Members of the Board of PSEs generally consist of the following three categories:–

- i. Functional Directors:–** These are full time operational

Directors responsible for day to day functioning of the enterprise. The Economic Administrative Reform Commission (EARC) had recommended that each Board should have an adequate number of Functional Directors on it. This was considered by the Govt. and the Bureau of Public Enterprises had issued guidelines in 1984 that the posts of Director (Finance) and Director (Personnel) be created in all Schedule 'A' and Schedule 'B' enterprises and on a selective basis in Schedule 'C' Companies. Apart from these two functions, the enterprises could have representation at Board level for other disciplines such as production, marketing, project, planning etc. It is, however, observed that these guidelines are not being followed by the Administrative Ministries while constituting the Boards of PSEs. While in some cases the Boards are functioning without a single Functional Director, in others there is preponderance of such Directors.

- ii. **Government Directors:**– These are appointed by the Administrative Ministries and are generally the officers dealing with the concerned enterprise. In most cases there are two such Directors on a Board; the Joint Secretary or Additional Secretary dealing with particular enterprise and the Financial Adviser of the Ministry. The question of representation of Government Directors on the Boards of PSEs was examined by the Arjun Sengupta Committee and following its recommendation, the Bureau of Public Enterprises have issued guidelines in 1986 that

the Administrative Ministry concerned should not have more than one nominee Director on the Board of a PSE. In case of PSEs engaged in trading or dealing with important and exclusive items the number of Government Directors could be two. It is, however, noticed that in actual practice the number of Government Directors on the Boards of PSEs continues to be large.

iii. Non-Official Directors:– The induction of Non-Official Directors on the Boards of PSEs has been considered essential by various Committees and Commissions in order to make the Boards more professional. They are to be drawn from the public men, technocrats, management experts and consultants, and professional managers in industry and trade with a high degree of proven ability. The Bureau of Public Enterprises have issued guidelines in 1983 that the number of such Directors on a Board should be one-third of its total strength. This input is considered very important as it plays a complementary role in providing professional and managerial advice to the Board. It has, however, been the experience that the vacancies of these Directors are not filled up to stipulated levels in many enterprises by the Ministries.

2. The Department of Public Enterprises has recently considered the question of professionalization of the Boards of PSEs in pursuance of the New Industrial policy Statement made in the parliament on 24th July, 1991 and it has been decided that

the composition of the Boards of Directors in PSEs should be broadly on following lines:–

(A) Functional Directors:

Every Board should have some full time Functional Directors. The number of such Directors on a Board should not exceed 50% of the actual strength of the Board.

- i. In cases where the number of Functional Directors on the Board is more than the 50% of its actual strength (not sanctioned strength), Administrative Ministries will immediately undertake a review of the strength of the Board in consultation with Department of Public Enterprises and PESB.
- ii. On such Boards where the posts of Functional Directors do not exist, Administrative Ministries will take immediate steps to create such posts in accordance with the prescribed guidelines.

(B) Government Directors:

The number of the Government Directors on the Board of Directors of an enterprise should not exceed one-sixth of the actual strength of the Board.

- i. It will be preferable to have only one Government Director from the concerned Administrative Ministry on each Board. The choice of the nominee Director would vest with the Secretary of the concerned Department.

- ii. In case of PSEs where it is considered essential to give representation on the Boards to other concerned Government agencies/Ministries/State Governments, only one representation from the Group could also be appointed on the Board as part-time Government Director.
- iii. The number of Government Directors on a Board should in no case exceed two.

(C) Non official Directors :

- i. The number of Non-Official Part-time Directors on a Board should be at least one-third of its actual strength. Wherever there is under representation of such Directors on the Board the concerned Ministries should take immediate steps to fill up the vacancies to stipulated level.
- ii. A Panel of suitable persons who could be considered for appointment as Non-Official Part-Time Director on the Boards of PSEs will be maintained centrally by Department of Public Enterprises. This Panel will be prepared in consultation with PESB and the Secretary of the concerned Administrative Ministry.

(DPE O.M. No. 18 (6)/91-GM dated 16th March, 1992.)

II.A Composition of Board of Directors of Public Sector Enterprises.

Reference is invited to this Department's O.M. of even

number dated the 16th March, 1992 on the above mentioned subject. In para 2 (B) (ii) of the said O.M., it was, inter-alia, mentioned that the choice of the Nominee Director would vest with the Secretary of the concerned Department. The matter was reconsidered in this Department and it has now been decided that the choice of the Nominee Director would vest with the administrative Ministry of the concerned Department.

(DPE O.M. No. 18 (6)/91-DPE (GM) dated 13th November, 1995)

III. Age of retirement of part-time Chairmen and criteria for appointment of part-time non-official Directors in Central PSUs.

The question of prescribing age of retirement for part-time Chairmen of Central Public Sector Enterprises as also laying down requisite criteria for appointment of part-time non-official Directors on the Boards of PSUs were under consideration of the Government.

2. Government have now decided that the age of retirement of part-time Chairmen of public enterprises should be 62 years.

3. As regards the selection and appointment of part-time non-official Directors, the following criteria will come into force forthwith:-

(a) Qualification: Minimum qualification for part-time non-

official Directors would be graduate degree from a recognized university.

- (b) Experience: Not less than 10 years at the level of Joint Secretary and above in the Government; CMD/MD in Corporate Sector/PSU; Professor level in an Academic Institution or professionals of repute like eminent Chartered Accountants/Cost Accountants at the level of Directors of Institutes/Heads of Department.

In selecting academics at the level of Professors, these academics should be in fields relevant to the company's area of operation, e.g. management, finance, marketing, technology, human resources, or law, as Professors of some other disciplines may have little to contribute.

- (c) Age: The age band should be between 45-65 years (minimum/maximum limit). This could however, be relaxed for eminent professionals, for reasons to be recorded, being limited to 70 years.

4. It has also been decided that the above criteria should be applied for Navratna/Miniratna enterprises in such a way as to ensure that they could be globally competitive and have a level playing field with the Corporates.

(DPE O.M. No. 18(10)/2003-GM-GL-55 dated 11th March, 2004)

IV. Turing selected Public Sector Enterprises into Global Giants – Operational and Administrative modalities – Restructuring of the Boards.

The Common Minimum Programme of the Government states, inter-alia, that Government will identify public sector enterprises that have comparative advantages and support them in their drive to become global giants. In pursuance of these objectives, the government have decided to grant enhanced autonomy and delegation of powers to nine selected public sector enterprises, namely BHEL, BPCL, HPCL, IOC, IPCL, NTPC, ONGC, SAIL and VSNL.

2. The exercise of the enhanced autonomy and authority shall be exercisable only after the Boards have been restructured, as indicated below. It must be ensured that each of these PSEs inducts in the first instance at least four non-official part-time Directors of an impeccable stature and background. This number should be more for those PSEs which have a very large number of Functional Directors. It should also be ensured that within six months, the number of non-official part-time Directors is increased to reach at least 1/3rd of the total strength of the Board.

3. The above is in partial modification to the general guidelines issued by the Department of Public Enterprises vide OM No.18(6)/91-GM dated 16th March, 1992.

4. While selection of full-time Directors and part-time Government nominees Directors would continue to be done as

per the existing procedures, for selection of the non-official part-time Directors in these companies, a Search committee comprising Chairman-PESB, Secretary-DPE, Secretary of the Administrative Ministry and an eminent person (s) to be nominated by Industry Minister has been set up.

(DPE OM No.DPE/11(2)/97-Fin. dated 22nd July, 1997)



COMPOSITION OF BOARD OF DIRECTORS OF LISTED CENTRAL PUBLIC SECTOR ENTERPRISES

According to the existing policy, as contained in this Department's O.M. No. 18(6)/91-GM dated 16.3.1992, the Board of Directors of Public Sector Undertakings should consist of (i) Full time Functional Directors whose number should not exceed 50% of the actual strength of the Board; (ii) Government Directors whose number should not exceed one-sixth of the actual strength of the Board subject to the condition that in no case the number should exceed two; and (iii) Non-official part-time Directors whose number should be at least one-third of the actual strength of the Board.

2. The Securities & Exchange Board of India (SEBI) has issued guidelines regarding Listing Agreements with Stock Exchanges, which include a new Clause 49 on Corporate Governance, an extract of which is enclosed (Annexure-I). It provides that in the cases of companies with non-Executive Chairmen at least one-third of the Board should comprise Independent Directors and in the cases of companies with Executive Chairmen at least half of the Board should comprise Independent Directors. The definition of Independent Directors is also given under the Clause 49. The SEBI has clarified that in the case of Public Sector Undertakings the Government nominee Directors cannot be considered as Independent Directors for the purpose of constitution of Board of Directors. The SEBI has, however, subsequently agreed that the nominees of Financial Institutions would be treated as Independent Directors for listed

public sector companies. A schedule of implementation is also enclosed (Annexure-II).

3. As all listed companies including PSUs have to comply with the SEBI guidelines, there may be a need to reconstitute the Boards of Directors of some of the listed PSUs so that the requisite number of Independent Directors is inducted in order to avoid de-listing.

4. All the administrative Ministries/Departments are, therefore, requested to take appropriate action, if not already taken, to reconstitute the Board of Directors of listed PSEs in accordance with the SEBI guidelines within the time schedule prescribed. In case there is a need to increase the maximum number of Directors permissible under the Articles of Association, the respective PSEs may be advised to take steps to amend the relevant Article suitably.

(DPE O.M. No. 18(6)/2000-GM dated 26th November, 2001)

ANNEXURE-I of O.M. dated 26.11.2001

Clause 49: Corporate Governance

Board of Directors

- A. The company agrees that the board of directors of the company shall have an optimum combination of executive and non-executive directors with not less than fifty percent of the board of directors comprising of non-executive directors. The number of independent directors would

depend whether the Chairman is executive or non-executive. In case of a non-executive chairman, at least one-third of board should comprise of independent directors and in case of an executive chairman, at least half of board should comprise of independent directors.

Explanation: For the purpose of this clause the expression 'independent directors' means directors who apart from receiving director's remuneration, do not have any other material pecuniary relationship or transactions with the company, its promoters, its management or its subsidiaries, which in judgement of the board may affect independence of judgement of the director. Except in the case of government companies, institutional directors on the boards of companies should be considered as independent directors whether the institution is an investing institution or a lending institution.

- B. The company agrees that all pecuniary relationship or transactions of the non-executive directors vis-à-vis. The company should be disclosed in the Annual Report.

ANNEXURE-II of O.M. dated 26.11.2001

Schedule of Implementation

The above amendments to the listing agreement have to be implementation as per schedule of implementation given below:-

- By all entities seeking listing for the first time, at the time of listing.

- ❑ Within financial year 2000-2001, but not later than March 31, 2001 by all entities, which are included either in Group 'A' of the BSE or in S&P CNX Nifty index as on January 1, 2000. However to comply with the recommendations, these companies may have to begin the process of implementation as early as possible.
- ❑ Within financial year 2001-2002, but not later than March 31, 2002 by all the entities which are presently listed, with paid up share capital of Rs.10/- crore and above, or networth of Rs.25 crore or more any time in the history of the company.
- ❑ Within financial year 2002-2003, but not later than March 31, 2003 by all other entities, which are presently listed, with paid up share capital of Rs.3 crore and above.
- ❑ As regards the non-mandatory requirement given in Annexure-3, they shall be implemented as per the discretion of the company. However, the disclosures of the adoption/non-adoption of the non-mandatory requirements shall be made in the section on corporate governance of the Annual Report.



EXTRACTS FROM THE COMPANIES ACT, 1956

Section 2 (41) “relative” means, with reference to any person, any one who is related to such person in any of the ways specified in section 6, and no others;

Section 6. Meaning of “relative”

A person shall be deemed to be a relative of another, if, and only if, -

- (a) they are members of a Hindu undivided family; or
- (b) they are husband and wife; or
- (c) the one is related to the other in the manner indicated in Schedule IA.]

[SCHEDULE IA) [See section 6(c)]

List of Relatives

1. Father.
2. Mother (including step-mother).
3. Son (including step-son).
4. Son’s wife.
5. Daughter (including step-daughter).
6. Father’s father.
7. Father’s mother.
8. Mother’s mother.
9. Mother’s father.
10. Son’s son.
11. Son’s Son’s wife.
12. Son’s daughter.
13. Son’s daughter’s husband.

14. Daughter's husband.
15. Daughter's son.
16. Daughter's son's wife.
17. Daughter's daughter.
18. Daughter's daughter's husband.
19. Brother (including step-brother).
20. Brother's wife.
21. Sister (including step-sister).
22. Sister's husband.



INFORMATION TO BE PLACED BEFORE BOARD OF DIRECTORS

1. Annual operating plans and budgets and any updates.
2. Capital budgets and any updates.
3. Quarterly results for the company and its operating divisions or business segments.
4. Minutes of meetings of audit committee and other committees of the board.
5. The information on recruitment and remuneration of senior officers just below the board level, including appointment or removal of Chief Financial Officer and the Company Secretary.
6. Show cause, demand, prosecution notices and penalty notices which are materially important.
7. Fatal or serious accidents, dangerous occurrences, any material effluent or pollution problems.
8. Any material default in financial obligations to and by the company, or substantial nonpayment for goods sold by the company.
9. Any issue, which involves possible public or product liability claims of substantial nature, including any judgment or order which, may have passed strictures on the conduct of the company or taken an adverse view regarding

another enterprise that can have negative implications on the company.

10. Details of any joint venture or collaboration agreement.
11. Transactions that involve substantial payment towards goodwill, brand equity, or intellectual property.
12. Significant labour problems and their proposed solutions. Any significant development in Human Resources/ Industrial Relations Front like signing of wage agreement, implementation of Voluntary Retirement Scheme etc.
13. Sale of material nature, of investments, subsidiaries, assets, which is not in normal course of business.
14. Quarterly details of foreign exchange exposures and the steps taken by management to limit the risks of adverse exchange rate movement, if material.
15. Non-compliance of any regulatory, statutory or listing requirements and shareholders service such as non-payment of dividend, delay in share transfer etc.



SUGGESTED LIST OF ITEMS TO BE INCLUDED IN THE CODE OF CONDUCT

The Board of Directors of the company will formulate the code of conduct for the Directors and senior Management Personnel and while doing so the code of conduct would, inter alia, include the following :-

- act in the best interests of, and fulfill their fiduciary obligations to the Company
- act honestly, fairly, ethically and with integrity;
- conduct themselves in a professional, courteous and respectful manner and not take improper advantage of the position of Director;
- act in a socially responsible manner, within the applicable laws, rules and regulations, customs and traditions of the countries in which the Company operates.
- comply with communication and other policies of the Company;
- act in good faith, responsibly, with due care, competence and diligence, without allowing their independent judgment to be subordinated;
- not to use the Company's property or position for personal gain;
- not to use any information or opportunity received by them in their capacity as Directors in a manner that would be detrimental to the Company's interests;
- act in a manner to enhance and maintain the reputation of the Company;

- disclose any personal interest that they may have regarding any matters that may come before the Board and abstain from discussion, voting or otherwise influencing a decision on any matter in which the concerned Director has or may have such an interest;
- abstain from discussion, voting or otherwise influencing a decision on any matters that may come before the board in which they may have a conflict or potential conflict of interest;
- respect the confidentiality of information relating to the affairs of the Company acquired in the course of their service as Directors, except when authorized or legally required to disclose such information;
- not to use confidential information acquired in the course of their service as Directors for their personal advantage or for the advantage of any other entity;
- help create and maintain a culture of high ethical standards and commitment to compliance;
- Keep the Board informed in an appropriate and timely manner any information in the knowledge of the member which is related to the decision making or is otherwise critical for the company.
- Treat the other members of the Board and other persons connected with the Company with respect dignity, fairness and courtesy.



MODEL CODE OF BUSINESS CONDUCT AND ETHICS FOR BOARD MEMBERS AND SENIOR MANAGEMENT

1.0 Introduction

- 1.1 This Code shall be called “The Code of Business Conduct & Ethics for Board Members and Senior Management” of.....(hereinafter referred to as “the Company”)
- 1.2 The purpose of this Code is to enhance ethical and transparent process in managing the affairs of the Company.
- 1.3 This Code for Board Members and Senior Management has been framed specially in compliance of the provisions of Clause 49 of the Listing Agreement with Stock Exchanges and as per the Guidelines of DPE.
- 1.4 It shall come into force with effect from the(year and month).

2.0 Definitions and Interpretations:

- 2.1 The term “Board Members” shall mean Directors on the Board of Directors of the Company
- 2.2 The term “Whole-time Directors” or “Functional Directors” shall be the Directors on the Board of Directors of the Company who are in whole-time employment of the company.

- 2.3 The term “Part-time Directors” shall mean Directors on the Board of Directors of the Company who are not in whole time employment of the Company.
- 2.4 The term “Relative” shall have the same meaning as defined in Section 6 of the Companies Act, 1956.
- 2.5 The term “Senior Management” shall mean personnel of the Company who are members of its core management team excluding Board of Directors and would comprise all members of management one level below the Whole time Directors, including all functional heads.
- 2.6 The term “the Company” shall mean(name of the Company)

Note: In this Code words importing the masculine gender shall include feminine gender and words importing singular shall include the plural or vice-versa.

3.0 **Applicability**

- 3.1 This code shall be applicable to the following personnel:
- a) All Whole-time Directors including the Chairman & Managing Director of the Company.
 - b) All Part-time Directors including Independent Directors under the provisions of law.
 - c) Senior Management

3.2 The Whole-time Directors and Senior Management should continue to comply with other applicable/to be applicable policies, rules and procedures of the Company.

4.0 Contents of Code

Part I General Moral Imperatives

Part II Specific Professional Responsibilities

Part III Specific Additional Provisions for Board Members and Senior Management

This code is intended to serve as a basis for ethical decision-making in the conduct of professional work. It may also serve as a basis for judging the merit of a formal complaint pertaining to violation of professional ethical standards.

It is understood that some words and phrases in the code of ethics and conduct document are subject to varying interpretations. In case of any conflict, the decision of the Board shall be final.

PART – I

5.0 General Moral Imperatives

5.1 Contribute to society and human well being

5.1.1 This principle concerning the quality of life of all people, affirms an obligation to protect fundamental human rights

and to respect the diversity of all cultures. We must attempt to ensure that the products of our efforts will be used in socially responsible ways, will meet social needs and will avoid harmful effects to health and welfare of others. In addition to a safe social environment, human well being includes a safe natural environment.

5.1.2 Therefore, all Board Members and Senior Management who are accountable for the design, development, manufacture and promotions of company's products, must be alert to, and make others aware of, both a legal and a moral responsibility for the safety and the protection of human life and environment.

5.2 Be honest and trustworthy & practice integrity

5.2.1 Integrity and honesty are essential components of trust. Without trust an organization cannot function effectively.

5.2.2 All Board Members and Senior Management are expected to act in accordance with highest standards of personal and professional integrity, honesty and ethical conduct, while conducting business of the Public Enterprise.

5.3 Be fair and take action not to discriminate

5.3.1 The value of equality, tolerance, respect for others, and the principles of equal justice govern this imperative. Discrimination, on the basis of race, sex, religion, caste, age, disability, national origins or other such factors, is an explicit violation of this Code.

5.4 Honour confidentiality

5.4.1 The principle of honesty extends to issues of confidentiality of information. The ethical concern is to respect all obligations of confidentiality to all stakeholders unless discharged from such obligations by requirements of the law or other principles of this Code.

5.4.2 All Board Members and Senior Management, therefore, shall maintain the confidentiality of all confidential unpublished information about business and affairs of the CPSE.

5.5 Pledge & Practice

5.5.1 To strive continuously to bring about integrity and transparency in all spheres of the activities.

5.5.2 Work unstintingly for eradication of corruption in all spheres of life.

5.5.3 Remain vigilant and work towards growth and reputation of the Company.

5.5.4 Bring pride to the organization and provide value-based services to Company's stakeholders.

5.5.5 Do duty conscientiously and without fear or favour.

PART II

6.0 Specific Professional Responsibilities

6.1 Live the Vision, Mission and Values of CPSE – each day

Live the Vision, Mission and Values of(name of CPSE) each day. For quick reference they are as under:

Vision

[Incorporate here vision of the CPSE – for example
A World-class Engineering Enterprise committed to
enhancing Stakeholder Value]

Mission

[Incorporate here the mission of the CPSE – for example
To be an Indian Multinational Engineering Enterprise
providing total business solutions through quality products,
systems and services in the fields of
and other potential areas]

Values

- ❖ Zeal to excel and zest for change
- ❖ Integrity and fairness in all matters
- ❖ Respect for dignity and potential of individuals
- ❖ Strict adherence to commitments
- ❖ Ensure speed of response
- ❖ Foster learning, creativity and team-work
- ❖ Loyalty and pride in the CPSE

- 6.1 Strive to achieve the highest quality, effectiveness and dignity in both the processes and products of professional work:** - Excellence is perhaps the most important obligation of a professional. Everyone, therefore, should strive to achieve the highest quality, effectiveness and dignity in their professional work.
- 6.2 Acquire and maintain professional competence:-** Excellence depends on individuals who take responsibility for acquiring and maintaining professional competence. All are, therefore, expected to participate in setting standards for appropriate levels of competence, and strive to achieve those standards.
- 6.4 Compliance with Laws:-** The Board Members and Senior Management of the CPSE shall comply with all the applicable provisions of existing local, state, national, and international laws. They should also follow and obey the policies, procedures, rules and regulations relating to business of the CPSE.
- 6.5 Accept and provide appropriate professional review:-** Quality professional work depends on professional review and comments. Whenever appropriate, individual members should seek and utilize peer review as well as provide critical review of the work of theirs.
- 6.6 Manage personnel and resources to enhance the quality of working life:-** Organizational leaders are responsible for ensuring that a conducive working and business environment is created for fellow employees to enable them delivering their best. The Board Members

and Senior Management would be responsible for ensuring human dignity of all employees, would encourage and support the professional development of the employees of the CPSE by providing them all necessary assistance and cooperation, thus enhancing the quality of working.

6.7 Be upright and avoid any inducements:- The Board Members and Senior Management shall not, directly or indirectly through their family and other connections, solicit any personal fee, commission or other form of remuneration arising out of transactions involving Company. This includes gifts or other benefits of significant value, which might be extended at times, to influence business for the organization or awarding a contract to an agency, etc.

6.8 Observe Corporate Discipline:- The flow of communication within the CPSE is not rigid and people are free to express themselves at all levels. Though there is a free exchange of opinions in the process of arriving at a decision, but after the debate is over and a policy consensus has been established, all are expected to adhere and abide by it, even when in certain instances one may not agree with it individually. In some cases policies act as a guide to action, in others they are designed to put a constraint on action. All must learn to recognize the difference and appreciate why they need to observe them.

6.9 Conduct in a manner that reflects credit to the Company:- All are expected to conduct themselves, both on and off duty, in a manner that reflects credit to the Company. The sum total of their personal attitude and

behaviour has a bearing on the standing of Company and the way in which it is perceived within the organization and by the public at large.

- 6.10 Be accountable to Company's stakeholders:-** All of those whom we serve, be it our Customers, without whom the Company will not be in business, the Shareholders, who have an important stake in its business, the Employees, who have a vested interest in making it all happen, the Vendors, who support the Company to deliver in time and Society to which Company is responsible for its actions – are stakeholders of the Company. All, therefore, must keep in mind at all times that they are accountable to Company's stakeholders.
- 6.11 Prevention of Insider Trading:-** The Board Members and Senior Management shall comply with the code of Internal Procedures and conduct for prevention of Insider Trading in dealing with Securities of the Company.
- 6.12 Identify, mitigate and manage business risks:-** It is everybody's responsibility to follow the Risk Management Framework of the Company to identify the business risks that surround function or area of operation of the Company and to assist in the company-wide process of managing such risks, so that Company may achieve its wider business objectives.
- 6.13 Protect properties of the Company:-** The Board Members and Senior Management shall protect the assets including physical assets, information and intellectual rights of the Company and shall not use the same for personal gains.

PART – III

7.0 Specific Additional Provisions for Board Members and Senior Management

7.1 As Board Members and Senior Management: They shall undertake to actively participate in the meetings of the Board and Committees on which they serve.

7.2 As Board Members

7.2.1 Undertake to inform the Chairman and Managing Director/ Company Secretary of the Company of any changes in their other Board positions, relationship with other business and other events/ circumstances / conditions that may interfere with their ability to perform Board/ Board Committee duties or may impact the judgement of the Board as to whether they meet the independence requirements of Listing Agreement with Stock Exchanges and the Guidelines of DPE.

7.2.2 Undertake that without prior approval of the disinterested members of the Board, they will avoid apparent conflict of interest. Conflict of interest may exist when they have personal interest that may have a potential conflict with the interest of the Company. Illustrative cases can be:

- **Related Party Transactions:** Entering into any transactions or relationship with Company or its subsidiaries in which they have a financial or other personal interest (either directly or indirectly such

as through a family member or relation or other person or other organization with which they are associated).

- **Outside Directorship:** Accepting Directorship on the Board of any other Company that competes with the business of the Company.
- **Consultancy/Business/Employment:** Engaging in any activity (be it in the nature of providing consultancy service, carrying on business, accepting employment) which is likely to interfere or conflict with their duties/ responsibilities towards Company. They should not invest or associate themselves in any other manner with any supplier, service provider or customer of the company.
- **Use of Official position for personal gains:** Should not use their official position for personal gains.

7.3 **Compliance with the Code of Business Conduct and Ethics**

7.3.1 **All Members of the Board and Senior Management of Company shall uphold and promote the principles of this code.**

The future of the organization depends on both technical and ethical excellence. Not only it is important for Board Members and Senior Management to adhere to the

principles expressed in this Code, each of them should also encourage and support adherence by others.

7.3.2 Treat violations of this code as inconsistent association with the organisation

Adherence of professionals to a code of ethics is largely and generally a voluntary matter. However, if any of Board Members and Senior Management does not follow this Code, the matter would be reviewed by the Board and its decision shall be final. The Company reserves the right to take appropriate action against the defaulter.

7.3 Miscellaneous Points

7.4.1 Continual updation of Code

This Code is subject to continuous review and updation in line with any changes in law, changes in Company's philosophy, vision, business plans or otherwise as may be deemed necessary by the Board and all such amendments / modifications shall take effect prospectively from the date stated therein.

7.4.2 Where to seek clarifications

Any member of Board or Senior Management requiring any clarification regarding this code of conduct may contact Director (HR)/ Company Secretary/ any officer specifically designated by the Board of Directors.

ACKNOWLEDGEMENT OF RECEIPT OF CODE OF BUSINESS CONDUCT AND ETHICS FOR BOARD MEMBERS AND SENIOR MANAGEMENT

I have received and read the code of Business Conduct and Ethics for Board Members and Senior Management of (name of the Company) I understand the standards and policies contained in the said Code of Business Conduct and Ethics and understand that there may be additional policies or laws specific to my job. I further agree to comply with the said Code of Business Conduct and Ethics.

If I have questions concerning the meaning or application of the said Code of Business Conduct and Ethics, any policies of the CPSE or the legal and regulatory requirements applicable to my job, I know I can consult Director or Company Secretary concerned the CPSE knowing that my questions or reports will be maintained in confidence.

Further, I undertake to provide following Affirmation on an Annual basis to the Company within 30 days from the end of 31st March every year.

AFFIRMATION

(By Board Members/ Senior Management of the Company on Annual basis by 30th April of every year)

I,.....(name),.....(designation), having read and understood the Code of Business Conduct and Ethics for Board Members and Senior Management, hereby solemnly affirm that I have complied with and has not violated any of the provisions of the Code during the year ended 31st March

Signature _____

Name _____

Designation _____

Place: Employment Number _____

Telephone No. _____

Date:



SUGGESTED LIST OF ITEMS TO BE INCLUDED IN THE REPORT ON CORPORATE GOVERNANCE IN THE ANNUAL REPORT OF COMPANIES

1. **A brief statement** on company's philosophy on Guidelines on Corporate Governance.

2. **Board of Directors:**
 - i. Composition and category of directors, for example, promoter, executive, non-executive, independent non-executive, nominee director.
 - ii. Attendance of each director at the Board meetings and the last AGM.
 - iii. Number of other Boards or Board Committees in which he/she is a member or Chairperson
 - iv. Number of Board meetings held, dates on which held.
 - v. In case of appointment of new Director / re-appointment of a director following information may be provided:
 - (a) brief resume of Director
 - (b) nature of his expertise in specific functional areas; and
 - (c) names of companies in which the person holds the directorship and the membership of committees of the Board.

3. Audit Committee:

- i. Brief description of terms of reference
- ii. Composition, name of members and Chairperson
- iii. Meetings and attendance during the year

4. Disclosures:

- i. Disclosures on materially significant related party transactions that may have potential conflict with the interests of company at large.
- ii. Details of non-compliance by the company, penalties, strictures imposed on the company by any statutory authority, on any matter related to any guidelines issued by Government, during the last three years.
- iii. Whistle Blower policy and affirmation that no personnel has been denied access to the Audit Committee.
- iv. Details of compliance with the requirements of these guidelines
- v. Details of Presidential Directives issued by the Central Government and their compliance during the year and also in the last three years.
- vi. Items of expenditure debited in books of accounts, which are not for the purposes of the business.
- vii. Expenses incurred which are personal in nature and incurred for the Board of Directors and Top Management.
- viii. Details of Administrative and office expenses as a percentage of total expenses vis-à-vis financial expenses and reasons for increase.

5. Means of communication:

- i. Quarterly results
- ii. Newspapers wherein results normally published
- iii. Any website, where displayed
- iv. Whether it also displays official news releases;

6. Audit qualifications:

Company may move towards a regime of unqualified financial statements.

7. Training of Board Members:

A company may train its Board members (Functional, Government Nominated and Independent) in the business model of the company as well as the risk profile of the business parameters of the company, their responsibilities as directors, and the best ways to discharge them.

8. Whistle Blower Policy:

The company may establish a mechanism for employees to report to the management concerns about unethical behaviour, actual or suspected fraud, or violation of the company's General guidelines on conduct or ethics policy. This mechanism could also provide for adequate safeguards against victimization of employees who avail of the mechanism and also provide for direct access to the Chairman of the Audit Committee in exceptional cases. Once established, the existence of the mechanism may be appropriately communicated within the organization.

