

Composition of Board of Directors of Public Sector Undertakings. (DPE O.M. No. 18(6)/2000-GM dated 26th November, 2001)

CHAPTER II **PERSONNEL POLICIES**

(g) Composition of Board of Directors

48.DPE/Guidelines/II(b)/29

Composition of Board of Directors of Public Sector Undertakings.

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

CLAUSE 49: CORPORATE GOVERNANCE

I. 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-a-vis. the company should be disclosed in the Annual Report.

ANNEXURE-II

SCHEDULE OF IMPLEMENTATION

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

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

q 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.

q 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.

q 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.

q 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.

