

F. No. 16(4)/2012-GM
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Block No.14, CGO Complex,
Lodi Road, New Delhi-110003
Dated the 28th December, 2012

OFFICE MEMORANDUM

Subject: Role & Responsibilities of non-official Directors on the Boards of Central Public Sector Enterprises (CPSEs).

The undersigned is directed to state that the appointment of non-official Directors on the Boards of CPSEs has been one of the major initiatives undertaken by the Government in the context of policy for Professionalization of Boards of CPSEs. The presence of non-official Directors on the Board is considered important for sound Corporate Governance as their significant and constructive role is essential for smooth and transparent functioning of the company as well as its Board. In the above background and the fact that defining the roles and responsibilities of Directors leads to a transparent environment of decision making and fulfilling their assigned responsibilities in an effective and efficient manner by the non-official Directors would greatly contribute to protecting and building stakeholders' confidence, this Department has taken the initiative to draft Model Role & Responsibilities for non-official Directors on the Boards of CPSEs.

2. The above task was assigned to the Institute of Chartered Accountants of India (ICAI) and in a consultative process involving obtaining views of relevant stakeholders, the Model Role & Responsibilities for non-official Directors on the Boards of CPSEs has been finalized and a copy of the same is enclosed.

3. The Model Role & Responsibilities for non-official Directors would be reviewed in the light of experiences gained and brought in line with the relevant provisions of Companies Bill, 2011 as and when it is passed by the Parliament.

4. All the administrative Ministries/Departments are requested to bring the contents of this O.M. to the notice of CPSEs under their administrative control and also non-official Directors appointed on the Boards of such CPSEs for their information and compliance with intimation to this Department.

Encl : As stated

2/12/12
(Arun Kumar Sinha)
Joint Secretary to the Government of India
Tel : 2436-0204

Secretaries of all administrative Ministries/Department as per list

Issued

[Signature]
31/12/2012

MODEL ROLE AND RESPONSIBILITIES OF NON - OFFICIAL DIRECTORS OF CENTRAL PUBLIC SECTOR ENTERPRISES (CPSEs)

I. ROLE AND FUNCTIONS:

The non- official directors shall:

1. help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments, Corporate Social Responsibility, Sustainable Development and standards of conduct;
Being totally independent of the company or its management, provide a candid view of the faults or shortcomings of the company's plans and suggest measures for improvement.
2. bring an objective view in the evaluation of the performance of board and management;
3. scrutinize the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
4. facilitate quality standards for products and services of the company that should meet the national/international standards;
5. satisfy themselves on the integrity of financial information and that the financial controls and the systems of risk management are robust and defensible;
6. add value to the decision making process of the Board of Directors by giving positive inputs and constructive criticism, wherever required;
7. safeguard the interests of all stakeholders, particularly the minority shareholders;
8. SEPARATE MEETINGS:
 - (1) The non- official directors of the company shall hold at least one meeting in a year, without the attendance of Functional and Government directors and members of management;
 - (2) All the non- official directors of the company shall strive to be present at such meeting;
 - (3) The meeting shall:
 - (a) review the performance of Functional and Government directors and the Board as a whole;
 - (b) review the performance of the Chairperson of the company, taking into account the views of all the directors;
 - (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.
9. balance the conflicting interest of the stakeholders;
10. moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.
11. facilitate sustainable development of the company.

12. encourage in adopting green technologies and resource conservation practices by the company.
13. help in determining appropriate levels of remuneration as per Chapter 5 of the Guidelines on Corporate Governance for CPSEs 2010.

II. DUTIES:

The non- official directors shall—

1. undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;
2. seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
3. strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
4. participate constructively and actively in the committees of the Board in which they are chairpersons or members;
5. strive to attend the general meetings of the company;
6. where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
7. keep themselves well informed about the company and the external environment in which it operates;
8. not use confidential information acquired in the course of their service as Non-official Directors for their personal advantage or for the advantage of any other entity;
9. 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;
10. not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
11. pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
12. furnish a report to the board about their role & contribution during the year. This will inculcate accountability in their working & will enhance their contributions;
13. report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
14. acting within his authority, assist in protecting the legitimate interests of the company, shareholders and its employees;
15. not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price

sensitive information, unless such disclosure is expressly approved by the Board or required by law.

16. ascertain and ensure that the company has an adequate and functional vigil mechanism and ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
17. be acquainted with the applicable laws and understand that the Liability may arise, where a company violates any law and shall get a list of applicable laws to the company and understand the penal provisions for contraventions under those laws.
18. not be a member on more than ten Committees/Sub-Committees of the Boards and shall not act as Chairman of more than five Committees/Sub-Committees of the Boards across Boards of CPSEs companies in which he/she is a Director. Furthermore, each non-official Director should inform the company about the Committee/Sub-Committee positions he/she occupies in other companies and notify change(s) as and when they take place.