

# India Secretarial Practice 2018

A study of Nifty 50  
Companies

TEAM: NIFTY 50 COMPANIES

BATSMAN:

ETHICAL CONDUCT: NOT OUT

GOOD GOVERNANCE:

c INSIDER TRADING b RPT

AUDITOR'S INDEPENDENCE:

b CONFLICT OF INTEREST

FAIR DISCLOSURE: NOT OUT

EXTRAS:

TOTAL:

March 2019

CIMPLYFIVE SECRETARIAL PRACTICES CUP

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# NIFTY 50 Companies

1. Adani Ports and Special Economic Zone	12. Dr. Reddy's Laboratories Ltd	22. Housing Development Finance Corp Ltd	32. Mahindra & Mahindra Ltd	41. Tata Motors Ltd
2. Asian Paints Ltd	13. Eicher Motor Ltd	23. ICICI Bank Ltd	33. Maruti Suzuki India Ltd	42. Tata Steel Ltd
3. Axis Bank Ltd	14. GAIL India Ltd	24. Indiabulls Housing Finance Ltd	34. NTPC Ltd	43. Tech Mahindra Ltd
4. Bajaj Auto Ltd	15. Grasim Industries Ltd	25. Indian Oil Corp Ltd	35. Oil & Natural Gas Corp Ltd	44. Titan Co Ltd
5. Bajaj Finance Ltd	16. HCL Technologies Ltd	26. IndusInd Bank Ltd	36. Power Grid Corp of India Ltd	45. UltraTech Cement Ltd
6. Bajaj Finserv Ltd	17. HDFC Bank Ltd	27. Infosys Ltd	37. Reliance Industries Ltd	46. UPL Ltd
7. Bharat Petroleum Corp Ltd	18. Hero MotoCorp Ltd	28. ITC Ltd	38. State Bank of India	47. Vedanta Ltd
8. Bharti Airtel Ltd	19. Hindalco Industries Ltd	29. JSW Steel Ltd	39. Sun Pharmaceuticals Industries Ltd	48. Wipro Ltd
9. Bharti Infratel Ltd	20. Hindustan Petroleum	30. Kotak Mahindra Bank Ltd	40. Tata Consultancy Services Ltd	49. Yes Bank Ltd
10. Cipla Ltd	21. Hindustan Unilever Ltd			50. Zee Entertainment Enterprises Ltd
11. Coal India Ltd				

## ABOUT CIMPLYFIVE

CimplyFive Corporate Secretarial Services Private Limited is a pioneer in offering research and technology-based solutions for compliance with the Companies Act, 2013. Its SaaS based product portfolio, Board Leaders Integrated Software Solution (BLISS) and its variants, is designed to eliminate the procedural non-compliance risk for entities incorporated under the Indian Companies Act, 2013. More details about the company and its product BLISS can be obtained from [www.cimplyfive.com](http://www.cimplyfive.com).

CimplyFive also provides a free to use website [www.ca2013.com](http://www.ca2013.com) that provides company law at your fingertips. This site uses hypertext to integrate rules, notifications, orders and circulars with the Act and provides real-time, online access to the Companies Act, 2013 & LODR, 2015 as it stands on that day.

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# 1. Preview (Editorial)

Dear Reader,

This is our **India Secretarial Practices 2018** report based on the Annual Reports of Nifty 50 companies published in 2018. Our focus continues to be on the secretarial practices of the Nifty 50 companies and its evolution under the Companies Act, 2013. We believe that the practices of Nifty 50 companies reflect and influence the practices across the wider corporate sector.

From a regulatory perspective, the Nifty 50 companies that were analysed fall under three distinct ambits. In addition to the Companies Act, 2013, Banks are governed by the Banking Regulation Act, 1949 and Public Sector Undertakings are governed by DPE guidelines. Based on regulatory umbrella, the break-up of the Nifty companies is as given in the Table below:

**Table 1.1 Regulatory Ambit of Nifty 50 Companies**

Regulatory Ambit	#	%
Banking Regulation Act, 1949 / State Bank of India Act, 1955	1	2
Banking Regulation Act, 1949 /The Companies Act, 2013	6	12
Department of Public Enterprise Guidelines and the Companies Act, 2013	8	16
The Companies Act, 2013	35	70
<b>Total</b>	<b>50</b>	<b>100</b>

In this report, for the first time, we have added a section on 'Statutory Auditors' with the basic intent of comparing them with 'Secretarial Auditors'. Including this new section, we have nine key areas in this study, namely Board Composition, Sub-Committees, Non-Executive Directors Compensation, Statutory Auditors, Secretarial Audit Report, Company Secretary, Directors' Report, Corporate Social Responsibility and the AGM notice. A key aspect of our study is to analyse the data and share our inference of it. We believe that the data tabulated in this report can help corporate professionals and Company Secretaries benchmark their company's performance and plan their secretarial calendar for the next year.

This study is undertaken by CimplifyFive Corporate Secretarial Services Private Limited. Our vision is to leverage research and technology to eliminate procedural non-compliance for entities regulated by the Indian Companies Act, 2013. We believe studying and learning from corporate leaders are essential ingredients to professional excellence, which will enhance our domain competence and help us deliver superior value to our clients.

We look forward to your feedback on this report. Please share it with us at [contact@cimplifyfive.com](mailto:contact@cimplifyfive.com).

Yours sincerely,



Shankar Jaganathan  
 Founder & Chief Executive  
 CimplifyFive Corporate Secretarial Services Private Limited  
 March 1, 2019



## 2. Highlights (Top 10 Finding)

### Composition of the Board and Frequency of Meetings

The Companies Act, 2013 requires every listed company to have a minimum of 1/3rd of their total number of Directors as Independent Directors and at least one women director on their Board.

1. All the Nifty 50 companies met the requirement of minimum number of Independent Directors and at least one women director in 2018.

The average number of Directors in the Nifty 50 companies was 12. L&T had the highest number of directors at 22 and Eicher Motors had the least number of directors at 5.

2. The average number of board meetings held in the year by the Nifty 50 companies was 8.

Coal India Limited had the highest number of board meetings at 22 and the least number of board meetings of 4, the minimum number statutorily required was held by four companies Bharti Infratel, Eicher Motors, Indiabulls and Tech Mahindra.

### Sub-committees of the Board and Frequency of Meetings

SEBI's LODR, 2015 requires listed companies to have an Audit Committee, Nominations & Remuneration Committee, Stakeholder Relationship Committee and Risk Management Committee. Further, companies based on their size are also required to constitute a CSR Committee.

3. All the Nifty 50 Companies had constituted an Audit Committee and Nominations & Remuneration Committee.

NTPC had the maximum number of committees at 15 while Titan and Wipro had the least number of committees at 4.

### Non-Executive Directors Compensation

Non-executive Directors are entitled to receive a sitting fee for the Board meeting and sub-committee meetings of the company. In addition, where decided by the shareholders, they are also entitled to receive Commission, which is quantified as a percentage of profits of the Company.

4. ₹60.4 lakhs is the average sitting fees and ₹505.4 is the average profit based commission paid by the Nifty 50 to their Non-executive Directors.

UltraTech paid the highest commission to their Non-executive Directors at ₹21.25 crores and Axis Bank paid the highest sitting fees to their directors of ₹195 lakhs.

## Statutory Auditors

Every company regulated by the Companies Act, 2013 is required to have a Statutory auditor appointed by its Shareholders who is required to report to the shareholders on the State of Affairs of the company and its profitability by providing an opinion on the financial statements approved by the Board of Directors.

- The top Statutory Audit firm was EY represented by SR Batliboi & Associates LLP and S R Batliboi & Co., LLP who conducted audits for 14(28%) companies. The other three Big 4 Audit firms were ranked from 2 to 4 ranks. Together, the Big 4 Audit firms accounted for 40(80%) of the companies.

**Table 2.1 Statutory Auditors Ranking**

Rank	Firm Name	# of Audits
I	SR Batliboi & Associates & S R Batliboi & Co LLP (EY)	15
II	BSR & Co LLP (KPMG)	13
III	Deloitte Haskins & Sells LLP	10
IV	Price Waterhouse & Co,	3

- The average fees paid for statutory audit by the Nifty 50 companies was ₹2.59 crores, in the range of ₹10 crores paid by Reliance Industries Limited at the higher end and ₹0.08 crores paid by Bajaj Finserv Limited at the lower end.

## Secretarial Auditors

Company Law requires all public limited companies with paid-up share capital of ₹50 crores or more, or turnover of ₹250 crores or more and all listed companies to appoint a practicing company secretary as their Secretarial Auditor who are required to give their opinion on the adequacy of systems and processes to ensure compliances with all applicable laws, rules, regulations and guidelines.

- The top CS firm conducted 7(14%) secretarial audits in 2018, and the top five CS firms conducted Secretarial audit for 23(47%) companies in 2018.

**Table 2.2 Secretarial Auditors Ranking**

Rank	Firm Name	# of Audits
I	BNP Associates, Mumbai	7
II	Chandrashekar & Associates, New Delhi	4
II	Dr. K R Chandratre, Pune	4
II	Parikh and Associates, Mumbai	4
II	Vinod Kothari & Co, Kolkata	4



## Company Secretaries Profile

The Companies Act, 2013 included Company Secretary as a Key Managerial Personnel for the first time. In addition, their responsibilities are enhanced by making them the Chief Compliance Officers. Do their compensation reflect their enhanced responsibility?

8. Average <sup>1</sup>annual compensation for Company Secretaries of the Nifty 50 Companies in 2018 is ₹116 lakhs, in the range of ₹26 lakhs (Adani Ports) to ₹601 lakhs (Hindustan Unilever).

In 2018, eight out of the 50 Company Secretaries of Nifty 50 Companies are women. Women account for only 16% of the Company Secretaries in the Nifty 50 Companies.

## Corporate Social Responsibility

The Companies Act, 2013 mandates large companies defined by the threshold of their net-worth, turnover or profit to constitute a CSR committee of the Board to formulate and recommend CSR Policy, recommend expenditure to be incurred and monitor CSR Policy implementation. The Board is required to ensure that at least 2% of average profits of the last three years is spent on CSR, failing which, the Board shall record the reasons for not spending the mandated amount.

9. The mandated amount in 2018 for CSR spends by Nifty 50 companies under the Companies Act, 2013, was ₹6434 crores. 98% of the mandated amount was spent totalling ₹6300 crores.
10. Out of the 49 Nifty 50 companies that reported their CSR spends in the format specified, ten companies did not spend the mandated amount on CSR. SBI was the other company which reported the amount of money spent on CSR but has not reported the mandated amount to be spent as they are not covered by CSR mandate.

Two companies, Sun Pharma and Tata Motors voluntarily spent money on CSR although they were loss making and were not mandated to spend on CSR. Bharti Airtel was the company with the highest amount of CSR unspent money at ₹190 crores.

The top three reasons stated by the companies for shortfall in CSR spends are:

**Table 2.3 Reasons Stated for not Spending the Mandated CSR amount**

S No	Reason Stated	# of Companies
1	Multiyear Projects	7
2	Scaling up in coming years	3
3	Delay due to pending clearances	1
<b>Total</b>		<b>11<sup>2</sup></b>

<sup>1</sup> Average is computed for 49 companies which have reported CS compensation. SBI is the one company which has not reported CS Compensation

<sup>2</sup> 10 companies, 11 reasons, as one company has given two reasons

### 3. The Board (Composition and Meetings)

Section 149 of the Companies Act 2013 requires a public limited company to have a minimum of three and a maximum of fifteen directors. However, with shareholders special resolution, a company can have more than 15 directors. Further, certain class of companies are required to have a minimum of one women director and one-third of its Board to comprise of Independent Directors. The Act also requires certain sub committees to be constituted for discharging specific responsibilities of the Board.

#### A. Composition of the Board

**Table 3.1: Composition of the Board of Directors of Nifty 50 Companies**

Description	# of Companies	Company Name
Average 12		
Directors in the Board	Max 22	L& T
	Min 5	Eicher Motor
Average 6		
Independent Directors	Max 11	L& T
	Min 3	Power Grid
	Max Composition 80%	Eicher Motors, Dr.Reddy's
	Min Composition 33.33%	Maruti Suzuki, Power Grid
Average 1.6		
Women Directors	Max 4	Cipla, UltraTech
	Min 1	28 Companies <sup>3</sup>
Average 3		
Executive Director	Max 7	Indian Oil, NTPC, L&T
	Min 1	10 Companies <sup>4</sup>

- As required by law, all Nifty 50 companies had a **Women Director** on their board. In 18 companies, they went beyond the legal requirement and had more Women Directors, with Cipla and UltraTech having the highest number of women directors at 4 each.
- As required by law, all the Nifty 50 companies had the required number of **Independent Directors**. In Eicher Motor and Dr. Reddy's, 80% of the board was comprised of Independent Directors.

<sup>3</sup> Adani Ports, Bajaj Auto, Bajaj Finance, Bajaj Finserv, Dr. Reddy's, Eicher Motors, GAIL, Grasim, HDFC Bank, HeroMotoCorp, Hindalco, HUL, HDFC, Indian oil, IndusInd, JSW Steel, Kotak Mahindra, M&M, NTPC, ONGC, Reliance Industries, Sun Pharmaceutical, TCS, Tata Steel, Tech Mahindra, Wipro, Yes Bank, Zee

<sup>4</sup> Asian Paints, Bajaj Finance, Bajaj Finserv, Eicher Motors, HCL, IndusInd, Tech Mahindra, Titan, YES Bank, Zee

- iii. Two of the three Companies that had the highest number of Executive Directors were Public sector companies

### B. Changes in the composition of Board during the financial year

**Table 3.2: Change in Board Composition during the Financial Year**

Description	# of Companies	# of Directors	Maximum
New Appointment	30 (60%)	82	Coal India 7 appointments
Reappointment	6 (12%)	14	Indiabulls 4 Reappointment
Separations	30(60%)	60	BPCL 5 separation
Board Composition- no change	13 (26%)	-	

### C. Number of Board Meetings

Companies need to conduct a minimum of 4 board meetings in a financial year. Based on business exigencies, a company may conduct more board meetings as required.

**Table 3.3: Board Meetings conducted in a Financial Year**

Description	Companies	# of Meetings
Average	8 Meetings	
Minimum	Bharti Infratel, IndiaBulls, Eicher Motors, Tech Mahindra	4
Maximum	Coal India	22

- 4 companies had the statutory minimum of 4 board meetings in the financial year 2017-18.
- The average number of Board meetings conducted was at 8 meetings, double the statutory minimum required.
- With 22 board meetings, Coal India had the highest number of board meetings in a financial year.

## 4. Sub-committee (Nature and Composition)

To promote efficiency and effectiveness, a board can constitute committees of its members on specific domains to evaluate in detail options available and recommend a decision to the Board. Further, the law requires a listed public company to constitute an Audit Committee, Nomination & Remuneration Committee, Stakeholder Relationship Committee, Risk Management Committee and CSR Committee.

**Table 4.1: Committees of the Board**

Description	Companies	# of Committee
Average	8 Committees	
Minimum	NTPC	15
Maximum	Titan, Wipro	4

- i. All the Nifty 50 companies had constituted **Audit Committee** though called by different names like 'Audit and Risk management committee' or 'Audit and Ethics committee' or 'Audit, Risk & Compliance Committee'.
- ii. All the Nifty 50 companies have constituted **Nomination and Remuneration Committee** though called by different names for example- 'Human Resource, Nomination & Remuneration Committee', 'Board Governance, Nomination & Compensation Committee', 'Nomination Committee'.
- iii. Some unique sub-committees constituted by the Board were:
  - a) IT Strategy Committee: Axis Bank, ICICI Bank, IndusInd Bank, State Bank of India, Yes Bank
  - b) Sustainable Development Committee: Bharat Petroleum Corporation
  - c) Diversity Committee: HCL Technologies
  - d) Committee on Promoter Dilution: Kotak Mahindra Bank
  - e) Capital Raising Committee: Yes Bank
  - f) Ethics & Compliance Committee: TCS

**Table 4.2 Composition of the Board's Sub- Committees**

Committees	Minimum Members		Maximum Members		Average Members
	Companies	Members	Companies	Members	
Audit Committee	11 Companies <sup>5</sup>	3	SBI	7	4.24
Nomination & Remuneration Committee	21 Companies <sup>6</sup>	3	Bajaj Finance, ONGC	6	3.76
Stakeholder Relation Committee	6 Companies <sup>7</sup>	2	SBI	6	3.42
Risk Management Committee	8 Companies <sup>8</sup>	3	Tata Steel	11	4.93
CSR Committee	19 Companies <sup>9</sup>	3	SBI	8	4.24

- Reflecting its importance, only 11 companies had the minimum number of 3 members in the Audit Committee. The balance 39 companies had a higher number of members with the average being 4.24 members.

**Table 4.3: Frequency of Committee Meetings**

Committees	Minimum Meetings		Maximum Meetings		Average Meetings
	Companies	Meetings	Companies	Meetings	
Audit Committee	13 Companies <sup>10</sup>	4	Axis Bank	15	4.18
Nomination & Remuneration Committee	5 Companies <sup>11</sup>	1	Infosys, Axis Bank	8	3.85
Stakeholder Relation Committee	12 Companies <sup>12</sup>	1	ITC	14	3.26
Risk Management Committee	Bharati Airtel	0	Coal	8	3.06
CSR Committee	5 Companies <sup>13</sup>	1	BPCL	8	3.12

- SBI has not reported the number of meeting for its Nomination Committee
- Maruti Suzuki has not reported the number of meetings for its Stakeholders Relationship Committee.
- UPL, ONGC and Titan have not reported the number of meeting for their CSR Committee

<sup>5</sup> Dr. Reddy's, Hindalco, Hindustan Petroleum, HDFC, ICICI Bank, Indian Oil, JSW Steel, Kotak Mahindra, Powergrid, Wipro, UPL

<sup>6</sup> Adani Ports, Asian paints, Dr. Reddy's, Eicher motors, GAIL, Grasim, HDFC Bank, HDFC, Hindalco, Heromoto Corp, ICICI, Indiabulls, Kotak, TCS, Tata Motors, Tech Mahindra, SBI, UltraTech, Wipro, Yes Bank, Zee

<sup>7</sup> Axis Bank, Eicher Motors, UPL, IndusInd, Yes Bank, Zee

<sup>8</sup> Bajaj Auto, Bajaj Finserv, Eicher Motors, Hero Motorcorp, L&T, PowerGrid, UPL, UltraTech

<sup>9</sup> Adani Ports, Bajaj Finance, Bajaj Finserv, BPCL, Bharti Airtel, Dr. Reddy's, Eicher Motors, HCL, Hero MotoCorp, IndiaBulls, IndusInd, Kotak Mahindra, L&T, Maruti Suzuki, Sun Pharma, Tech Mahindra, UPL, Yes Bank, Zee

<sup>10</sup> Bajaj Auto, Baja Finance, BajajFinserv, Bharati Infratel, Cipla, Eicher Motors, Hero MotoCorp, Hindalco, IndiaBulls, TCS, Tech Mahindra, Titan, UPL

<sup>11</sup> HUL, Indian Oil, JSW Steels, Powergrid, UPL

<sup>12</sup> Bajaj Auto, Bajaj Finance, Bajaj Finserv, BPCL, GAIL, Indian Oil, ONGC, TCS, Tata Motors, Tata Steel, UPL, Vedanta

<sup>13</sup> Hindalco, IndusInd, TCS, UltraTech, Zee



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## 5. Non-executive Director (Compensation)

Non-executive directors are members of the Board who are not in full-time employment of the company and spend only a portion of their time on the company. They include Independent Directors, who are the key players in ensuring good corporate governance. They are compensated by sitting fees paid for their attendance at Board and Committee meetings and a share of profits.

### A. Total Compensation

**Table 5.1: Compensation Paid to Non-Executive Directors**

Description	Company	Sitting Fees in ₹ Lakhs	Company	Commission (₹ In Lakhs)
Highest	Axis Bank	195.0	UltraTech Cements	2125.0
Lowest	Eicher Motors	10.6	Bajaj Finserv	31.5
Average		60.4		505.4

- 11 companies did not pay their non-executive directors any commission and they received only their sitting fees. These companies are:
  - All the eight public sector enterprises and State Bank of India.
  - In addition, Sun Pharma and Tata Motors were the companies who did not pay any commission.

### B. Sitting fees

**Table 5.2: Sitting Fees for Non-Executive Directors of the Board**

Sitting Fees per Board Meeting	# of Companies	Company Name
No sitting fee paid	4	Dr.Reddy's, Bharti Infratel, Infosys and Tech Mahindra
₹20,000	5	Adani Ports, JSW Steel, NTPC, PowerGrid, SBI
₹30,000	3	Zee Entertainment, TCS, Hindustan Unilever
₹40,000	7	ONGC, Indian Oil, HPCL, Eicher, Coal India, BPCL, GAIL
₹50,000	7	Asian Paints, Bajaj Finance, Bajaj FinServ, Cipla, Grasim, Hindalco, UltraTech Cements
₹60,000	1	Tata Motors
₹75,000	1	Larsen & Turbo
₹100,000	13	Yes Bank, Sun Pharma, Mahindra & Mahindra, IndusInd Bank, ICICI, ITC, HDFC, Hero MotorCorp, HDFC Bank, Bharti Airtel, Bajaj Auto, Axis Bank, Vedanta
Not found in Annual Report	9	UPL, Titan, Tata Steel, Reliance, Maruti Suzuki, Kotak Bank, Indiabulls Housing, HCL Tech, Wipro

- Some unique features about payment of Board sitting fees:
  - Dr.Reddy's, Bharti Infratel, Infosys and Tech Mahindra do **not pay sitting fee** to its directors for attending board and subcommittee meetings, but they pay commission on profits earned.

- ii. Bharti Airtel -where a director attends a board meeting and one or more **subcommittee meetings on the same day**, only a fee for one meeting is paid.
- iii. Mahindra & Mahindra -no sitting fee is paid to a director who attends the board **meeting through an audio call**.
- iv. Bharti Infratel -Independent Directors are entitled for profit based commission of ₹1,500,000 per annum and Non-Executive Directors ₹750,000. The **payment of commission is based on attending the board meeting in which quarterly results are adopted**.

**Table 5.3: Sitting fees for Board Sub-committees**

Sitting Fees per Sub-Committee Meeting	# of Companies	Company Name
No fixed sitting fee	4	Dr.Reddy's, Bharti Infratel, Infosys and Tech Mahindra
₹10,000	2	Eicher Motor, SBI
₹20,000	8	NTPC, JSW Steel, Hindalco, Grasim, GAIL, IndusInd Bank, Adani Ports, Power Grid, UltraTech
₹25,000	1	Larsen & Turbo
₹30,000	8	Zee, TCS, ONGC, Hindustan Unilever, HPCL, Coal India, Asian Paints, GAIL
₹40,000	2	Indian Oil, BPCL
₹50,000	10	Yes Bank, Mahindra & Mahindra, ITC, HDFC, HDFC Bank, Cipla, Bajaj Finance, Axis Bank, ICICI Bank, Bajaj Finserv
₹60,000	1	Tata Motors
₹100,000	5	Sun Pharma, Hero MotorCorp, Bharti Airtel, Bajaj Auto, Vedanta
Not found in Annual Report	9	UPL, Titan, HCL Tech, Indiabulls Housing, Tata Steel, Reliance, Maruti Suzuki, Kotak Bank, Wipro

- 10 companies pay a **higher sitting fee for Audit Committee** compared to other committee
  - i. Eicher Motor- ₹20 k for Audit and ₹10 k for Other committees
  - ii. Grasim, Hindalco, UltraTech- ₹25 K for Audit and ₹20 k for Other committees
  - iii. IndusInd bank- ₹50 k for Audit and ₹20 k for Other committees
  - iv. Asian Paints- ₹50 k for Audit and ₹30 k for Others
  - v. ITC- ₹50K for Audit, NRC, CSR, Sustainability and Independent Directors Meeting, and ₹10 k for Securityholders Relationship Meetings
  - vi. Larsen & Tubro- ₹40 k for Audit committee, Nomination and Remuneration Committee and ₹25K for Others committee
  - vii. Tata Motors- ₹60 k for Audit, NRC, Independent Directors meeting and for Other committees ₹20 K.
  - viii. ICICI Bank- ₹ 1 lakh for Audit committee and ₹50 K for Other committees
  - ix. One director of Kotak Mahindra Bank, has waved his sitting fees and Commission payable to him
- Varying practice followed in paying sitting fees for Independent Directors Meeting:
  - i. 3 companies explicitly mentioned that they paid sitting fees-HPCL, ITC, Tata Motors
  - ii. Axis Bank does not pay its director for attending Independent Directors Meeting.

## 6. Statutory Auditors (Leaders & Concentration)

### A. Leaders

Table 6.1: Top five ranked Statutory Auditors

Rank	Firm Name	Companies Audited
I	SR Batliboi and Associates LLP & S R B C & Co. LLP (EY)	14
II	BSR & Co., LLP (KPMG)	13
III	Deloitte Haskins & Sells LLP	11
IV	Price Waterhouse Chartered Accountants LLP	3

- Top statutory auditor conducted audits of 14 (28%) companies, while the Big 4 Audit firms conducted the audit 40 (80%) companies. The balance 10 companies were audited by other firms, which audited only one Nifty 50 Company.
- All the 8 public sector enterprises and State Bank of India were audited by audit firms not belonging to the Big 4.
- 11 Companies<sup>14</sup> were under joint audit with more than one Statutory Auditor. Of which SBI has the maximum number of Statutory Auditors at 14.
- All except 2 the auditors who signed the Nifty 50 accounts were male. The two female auditors have signed as joint auditors of HPCL (MP Chitale & Co.,) and NTPC (TR Chanda & Co.,).

### B. Audit Fees

- Reliance paid the highest audit fees among all the Nifty50 companies amounting to ₹10 crores, while Bajaj Finserv paid the least Audit fees of ₹8 lakhs.
- ₹2.59 crores was the average audit fees paid by the Nifty 50 companies. In addition, ₹145.94 lakhs was the average fees paid for other services to the Auditor that included fees for audit of IFRS statements, tax audit/ transfer pricing audit, taxation services and reimbursement of travelling and out of pocket expenses.

<sup>14</sup> BPCL, GAIL, Grasim, Hindustan Petroleum, Indian Oil, NTPC, ONGC, Powergrid, Reliance, SBI, UltrTech

## 7. Secretarial Auditors (Leaders & Concentration)

The Companies Act, 2013 mandates the Secretarial Auditor to express an opinion on the compliance status of the company with the provisions of all Acts, Rules, Regulations, Guidelines and Standards etc. which are applicable to the company after listing them out. Secretarial Audit Report forms a part of the annual report of 49 Nifty companies. SBI is the only company that has not included Secretarial Audit Report in their Annual Report as it is not governed by the Companies Act, 2013.

### A. Leaders & Concentration

**Table 7.1: Top five ranked Secretarial Audit firms**

Rank	Firm Name	Companies Audited
I	BNP Associates	7
II	Chandrasekaran Associates	4
II	Dr. K R Chandratre	4
II	Parikh & Associates	4
II	Vinod Kothari & Company	4

- The top Secretarial Auditor conducted 7 (14%) audits, while the top five CS firms conducted Secretarial Audit of 23 (47%) companies.
- Four out of 49 Secretarial Audit Reports are signed by Female Secretarial Auditors. Out of which, two Female Secretarial Auditors are FCS and one is ACS.
- Six associate members (ACS) of the ICSI signed the Secretarial audit reports of seven Nifty companies. The balance 42 audit reports were signed by Fellow members (FCS) of ICSI.
- Secretarial Audit Report of Infosys was signed on 13.04.2018, the earliest report issued in 2018. The last report issued was that of PowerGrid signed on 12.07.2018.

## 8. Company Secretary (Compensation & Designation)

### A. Compensation for CS

**Table 8.1 Compensation paid to CS of the Nifty 50 Companies**

Description	Least Compensation		Highest Compensation		Average Amount (₹ Lakhs)
	Company	Amount (₹ Lakhs)	Company	Amount (₹ Lakhs)	
Compensation to Company Secretary	Adani Ports	26.15	Hindustan Unilever	601	115.51

- Company Secretary with the highest compensation had the designation of Executive Director, Legal and Corporate Affairs & Company Secretary, while in Adani Ports, the designation was Company Secretary.

### B. Profile of Company Secretary

- 8 (16%) company secretaries in the Nifty 50 companies were women (Adani Ports, Bajaj Finserv, Bharti Infratel, Grasim, Hero Motorcorp, Kotak Mahindra, Power Grid, Vedanta).
- 6 companies (12%), have published a photograph of their Company Secretary in the Annual Report along with the management team. (Asian Paints-also the CFO, Hero Moto Corp, HUL Company Secretary was also the Executive Director, Maruti Suzuki, TCS, Yes Bank.)

**Table 8.2 Popular designations for Company Secretaries**

Designation	# of Companies	% of Companies
Company Secretary	30	60%
Company Secretary & Chief Compliance Officer	5	10%
Company Secretary combined with legal function	7	14%

In many companies, the role of the Company Secretary is combined with the role of Legal and corporate counsel. An illustrated list given here:

- ICICI Bank: Senior General Manager (Legal) & Company Secretary
- Kotak Mahindra Bank: Company Secretary and Senior Executive Vice President
- SBI: Vice President Compliance (Company Secretary)
- Titan Company: Vice President - Legal & Company Secretary
- Hindustan Unilever: Executive Director, Legal and Corporate Affairs & Company Secretary
- Grasim: President & Company Secretary
- Eicher Motors: General Counsel & Company Secretary

## 9. Board of Directors Report (What is in it ?)

The Companies Act, 2013 requires a report by the Board of Directors to be laid before the members of the company in the general meeting in which financial statements are presented. The act also specifies the information that need to be included in this report, which is quite elaborate.

### A. Structuring the Directors' Report

Given how Directors' Report has evolved into a long and multi-dimensional report, most companies organize the report under different section headings which form part of the report in addition to providing some of the information required as annexures to the Directors Report. As a principle of good communication, where an information is in nature of details and can speak for itself, placing it in an annexure is appropriate. But where the information is substantial and is related to other parts of the report, keeping it within the report as a section head would be more suitable.

**Table 9.1: Structure of the Directors Report**

Directors' Report	Minimum		Maximum		Average
	Company	Count	Company	Count	
Number of annexures to the Directors' Report	SBI	0	Coal India	36	8
Number of section headings in the Directors' Report	Infosys	6	Coal India	56	31

### B. Annexures to the Directors' Report

**Table 9.2: Annexure<sup>15</sup> in Directors Report**

S No	Annexures to Directors' Report	No of Companies
1	Extract of Annual returns	49
2	Secretarial Audit report	49
3	Annual report on CSR activities	49
4	Energy conservation, Technology absorption, Foreign exchange earnings and outgo	32
5	Form for disclosure of particulars of contracts/arrangements entered into by the Company with related parties (AOC -2 )	23
6	Information pursuant to Section 197 of the Companies Act, 2013 read with Rule 5(1) of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014	32

<sup>15</sup> where more than 20 companies have given it as an annexure



### C. Section Headings in the Directors' Report

**Table 9.3: Section Heads<sup>16</sup> in the Directors Report**

S No	Section Headings to Directors' Report	No of Companies
1	Financial Performance/Financial Results	47
2	Directors' Responsibility Statement	47 <sup>17</sup>
3	Subsidiaries, Joint Ventures and Associate Companies	44
4	Corporate Social Responsibility	32
5	Internal Financial control system and their adequacy	41
6	Particulars of contracts or arrangements with related parties/ Related Party Transactions	31
7	Directors and Key Managerial Personnel	40
8	Acknowledgement	39
9	Risk Management	38
10	Auditors & Auditors' Report	37
11	Dividend	41
12	Corporate Governance	35
13	Particulars of loans, guarantees or investments	35
14	Conservation of Energy, Technology Absorption	31
15	Extract of Annual Return	30

- All the companies have a section on their Financial Highlights, but have used different titles like Financial Performance, Performance highlights, Performance review, Consolidated results, except in Infosys where Financial Position is given as a sub-heading.
- State of company affairs and outlook of the companies are expressed in a variety of subheadings like Company overview, Business excellence, Business strategy, Business performance, Business segment etc.
- Six companies (BPCL, GAIL, Hindustan Petroleum, NTPC, ONGC, Powergrid) all PSUs, have included 'Implementation of Official Language Policy' as a section head in their Directors' Report.

<sup>16</sup> where more than 20 companies have given it as a section heading

<sup>17</sup> Three companies Infosys, M&M, Wipro have reported Directors' Responsibility Statement as a Sub-heading in their the Directors' Report

### D. Important Reports and their Placement

**Table 9.4: Placement of Important Reports**

Report Title	Section head in Directors' Report	Annexure to Director's Report	Standalone in Annual Report	Given in their Website
Report on Corporate Governance	1	11	38	-
Business Responsibility Report	-	5	34	10
Report on CSR Activities	1	49	-	-
Management Discussion and Analysis	3	3	43	-

- ICICI bank ,Corporate Governance is a part of its Directors' Report
- SBI Bank placed CSR as a sub-heading in their Directors' Report
- HUL, ITC and UltraTech, the three companies have titled their Directors' Report as 'Report of the Board of Directors & Management Discussion and Analysis'.

## 10. CSR (Mandate and Spends)

The Companies Act, 2013 mandates large companies defined by the threshold of their net-worth, turnover or profit to constitute a CSR committee of the Board to formulate and recommend CSR Policy, recommend expenditure to be incurred and monitor CSR Policy implementation. The Board is required to ensure that at least 2% of average profits of the last three years is spent on CSR, failing which, the Board shall record the reasons for not spending the mandated amount.

### A. CSR Spend

**Table 10.1: CSR Mandate and Spends**

Description	Least		Highest		Total CSR spends (₹ Crores)
	Company	Amount (₹ Crores)	Company	Amount (₹ Crores)	
CSR Mandated	Bajaj Finserv	1.83	Reliance	703.08	6434.38
CSR Spent	Bajaj Finserv	1.90	Reliance	745.05	6300.21
Amount spend in excess of Mandate	Dr.Reddy's	0.02	Tata Steel	146.00	560.95
Amount unspent ₹ Crores	Bharti Infratel	15.82	Bharti Airtel	190.09	695.92
% of CSR amount unspent	TCS	19.52%	Bharti Airtel	88.57%	695.917 (Unspent)

- i. While all the 50 companies have spent on CSR, only 49 companies reported on the amount mandated to be spent towards CSR activities as specified in the Companies Act, 2013. SBI, the exception, has only mentioned the amount spent for CSR (₹112.96 crores) but has not provided the detailed CSR report as they are not covered by CSR mandate.
- ii. 2 companies, Sun Pharma and Tata Motors, as per Section 135 were not mandated to spend on CSR due to past losses but have spent on CSR - Sun Pharma ₹2.69 crores and Tata Motors ₹ 21.44 crores.

### B. Reason for Not Spending the mandated amount

10 of the 49 companies have spent less than the prescribed amount. The explanation provided for short spending is tabulated below:

**Table 10.2: Reasons<sup>18</sup> for Not Spending CSR Mandated Amount**

S. No	Reason for not spending mandated amount	Companies stating this reason	# of Companies
1	Delay due to pending clearances	Axis Bank	1
2	Multiyear projects/ Long Gestation Period	Axis Bank, BPCL, HCL, IndusInd, Bharati Infratel, TCS, Zee	7
3	Scaling up in coming years	Bharti Airtel, Kotak, Yes Bank	3

<sup>18</sup> 10 companies, 11 reasons as one of the Company has given two reasons

## CSR Spends by Sectors

**Table 10.3: Reasons for Not Spending CSR Mandated Amount**

Sectors	2018	
	# of Companies	Amount in ₹ Crores
Promoting education, including special education and employment enhancing vocational skills especially among children, women, elderly and the differently abled and livelihood enhancement projects	45	1625.83
Vocational skills and skills development	23	342.59
Eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation	43	1164.51
Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources including contribution to the Swachh Bharat Kosh & making available safe drinking water	36	915.41
Promoting gender equality, empowering women setting up homes and hostels for women and orphans; setting up old age homes day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups	23	145.89
Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art. Promoting and development of traditional art and handicrafts	19	203.99
Measure for the benefit of armed forces veteran, war widows and their dependents	4	6.55
Training to promote rural sports, nationally recognized sports, para Olympic sports and Olympic sports	14	121.70
Contribution to the Prime Ministers National Relief fund or any other fund set up by the Central Government	1	0.02
Capacity Building	4	1.89
Rural development projects	34	1016.05
Administrative Expenses/ Overheads	26	107.61
Not classified	14	514.06

- Promoting education tops the list of sectors for CSR spending followed by Eradicating hunger, poverty, malnutrition and Ensuring Environmental Sustainability.

# 11. AGM Notice (Timing & Resolutions)

Company law requires a company to call for an AGM anytime within six months of its year end. The company needs to convene a board meeting where its annual accounts are approved by its directors and an annual report is sent to its shareholders providing 21-day notice for convening the AGM.

## A. Annual General Meeting Calendar

**Table 11.1: Timeline for AGM and Board Meetings for Approval of Accounts**

Description	Least time interval		Most time interval		Average Days
	Company	# of Days	Company	# of Days	
Year end to Board Meeting <sup>19</sup>	Infosys	13	Grasim	136	60
Board Meeting to AGM	Grasim	31	HCL Tech	139	68
Year end to AGM	Yes Bank	73	ONGC	181	128

Short time interval between year end and the board meeting/ AGM is an indication of the company's efficient reporting systems and an indicator of good governance, as the information remains relevant for decision making.

## B. Number of Shareholder resolutions

There are four resolutions to be taken up as Ordinary Business in an AGM, namely, Appointment of Auditors, Approval of Annual Accounts, Appointment /Reappointment of Directors and Declaration of Dividend. Any other resolutions taken up at the AGM will be treated as Special Business.

**Table 11.2: AGM Nature and Quantum of Business Transacted**

Description	Least		Most		Average
	Company	Resolutions	Company	Resolutions	
Ordinary business	SBI	1	Maruti Suzuki	5	4
Special Business	SBI/ Infosys	0	NTPC	14	5.08
AGM Notice <sup>20</sup>	SBI	3	ICICI Bank	31	14.18
No. of pages					

- SBI had only one resolution, for Approval of Accounts, which was proposed at the AGM. The appointment of auditors in the case of the bank is made by the RBI.
- NTPC had a total of 18 resolutions, consisting of 17 ordinary resolutions and 1 special resolutions. Of the 17 ordinary resolutions, 13 were the appointment of Directors.
- Hindalco had 9 special resolutions, the highest for special resolutions. Five of these special resolutions pertain to continuation of Independent Directors, two pertain to approval of ESOP scheme, and the other two resolutions were for grant of ESOP to Managing Director and other Whole time Directors and issue of Non-convertible debentures.

<sup>19</sup> Board Meeting in which Financial Statements were approved.

<sup>20</sup> Including admission slip, proxy form and route map

## 12. Extra time (Lessons for the Future)

- A. **Non-executive Directors Compensation:** Good corporate governance today is anchored in the concept of Independent Directors. To enable Independent Directors to maintain their **objectivity and eliminate bias**, section 149 (9) of the Companies Act, 2013 prohibits companies from granting stock options to the Independent Directors. However, the same section permits an Independent Director to receive sitting fees and commission linked to profits as approved by the members.

Given the fact that commission linked to profits may influence the objectivity of Independent Directors, is there a need to relook at the compensation paid to directors who are compensated only by commission linked to profits without any fixed sitting fees paid to them. In the event of these companies reporting a loss, none of the Independent Directors would be entitled to any remuneration thereby providing a strong incentive to dilute their vigil and enable the company to report profits.

- B. In the **spirit of transparency**, the Audit fees paid to statutory auditors is disclosed in the financial statements along with fees paid for any other service that is rendered by the statutory auditor.

Is there a need to mandate such a disclosure for Secretarial Auditors, where all the fees paid to the secretarial audit during the year is disclosed with the fee paid to them classified between Secretarial Audit Fees and Fees paid for other services?

- C. **Timely audit without dilution:** In large companies, to facilitate **timely completion of audit without diluting** the audit processes, joint audit is the norm, as evidenced by 11 of the Nifty 50 companies having more than one auditor as statutory auditor.

Given that there is need for joint audit in statutory audits, is there a need to have joint Secretarial Auditors for large companies considering the scope and geographical location of the companies' factories, warehouses and offices?

- D. Is the **concentration of statutory audits** with the Big Four at 80% in Nifty 50 companies desirable for promoting good governance? Are there any lessons to be drawn from this concentration for the Secretarial Audits?

There is a need for a study on the implications of such strong concentration of audits among the Big 4 Audit firms in Nifty 50 companies. An objective of this study could be assessing the impact of concentration of audit by Big 4 on the quality of governance in Corporate India.



# If BLISS is the answer, What are the Questions?

## Multiple Challenges – BLISS the Answer

101 sections with Monetary penalty range – ₹500 – ₹2 crores

Multiple deadlines/ stiff penalties

104 amendments in 2017-18

Companies Act is rapidly changing

2 lakh companies given notice for striking off; 3 lakh+ directors disqualified

Enforcement is now system driven, not discretionary

Secretarial Records to be maintained for the Company's lifetime

Litigation / regulatory interface requiring access to past records



## Multiple Needs – BLISS the Answer

An MNC subsidiary company **misses** the 120 day count for board meeting!

BLISS tracks Board meeting due dates and sends **timely alerts** to ensure compliance

5 Company Secretaries in the last 25 years, **where to find** past records?

BLISS provides an **e-repository** for past & present record with search feature

A key member of a small secretarial team want to go on **three weeks wedding leave**?

BLISS provides **24 by 7 access** from any internet connected desktop or laptop

A woman Company Secretary on maternity leave wants to **work ½ day from home** after child birth

BLISS provides **maker-checker controls** enabling remote supervision

Corporate Counsel in the US wants to **track compliance status** of its Indian subsidiary.

BLISS provides **real-time compliance dashboard** with reasons for compliance /non-compliance

A start-up did not maintain Registers required under the Companies Act, **delaying the due diligence** process.

BLISS **automates register updates** and reflects register status on its real-time dashboard



# Board Leaders Integrated Software Solutions



## BLISSPLUS

BLISS is a Cloud hosted software that automates the routines, provides an e-repository, timely alerts and a real-time dashboard, all aimed at ensuring compliance and good corporate governance. By doing so, it provides complete peace of mind to the Board of Directors and assurance to professionals by providing them with real-time compliance status with respect to the Companies Act, 2013

An advanced variant of BLISS with multiple premium features like Directors view, facility to store past Secretarial records, automated compliance tracker for size based compliance under the Companies Act, 2013

## BLISS LISTED

An advanced variant of BLISSPLUS for Listed Companies with Companies Act, 2013 and SEBI's LODR 2015 compliances integrated to provide a single point compliance automation, risk manager & e-repository for secretarial records including past secretarial records.

## BLISSGLOBAL

BLISSGLOBAL for Global Corporate Secretarial teams which helps in handling compliances for companies incorporated across the world by providing Risk Management Dashboard, activity tracker and e-repository of secretarial records.

## BLISSDOCS

An Android/iOS based Board app for Directors which provides secure access to Board documents on Tablets/mobile phones, enhancing Directors productivity and making the Board meetings efficient & effective



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