REPORT OF THE

HIGH LEVEL COMMITTEE

ON

CORPORATE SOCIAL RESPONSIBILITY

2018



Government of India
Ministry of Corporate Affairs
August, 2019

REPORT OF THE HIGH LEVEL COMMITTEE ON CORPORATE SOCIAL RESPONSIBILITY - 2018

August 07th, 2019

New Delhi

To,

The Honourable Union Minister of Finance and Corporate Affairs

Madam,

We have the privilege and honour to present the report of the High Level Committee on Corporate Social Responsibility, set up on 28th September 2018, to review the existing framework and recommend a roadmap for developing a robust and coherent policy on Corporate Social Responsibility (CSR).

2. The Committee had the benefit of participation by industry associations, civil society, professional institutes, government and non-government organizations, international organizations, experts and academia. It has tried to take a holistic and comprehensive view while suggesting changes in the Companies Act, 2013 (Act) and subordinate legislations, bearing in mind difficulties and challenges expressed by various stakeholders, emerging themes such as Sustainable Development Goals (SDGs), Social Enterprises, Business and Human Rights, etc. The committee has endeavoured to reconcile stakeholders' concerns with larger public interest to maximize the potential for social development through CSR.

3. We thank you for providing us an opportunity to present our views on CSR and related matters.

Yours sincerely,

(Injeti Srinivas)
Chairman

(Sameer Sharma)
Member

(Amarjeet Singh)
Member

(P S Narasimha)
Member

(Rajeev Sharma)
Member

(N.Chandrasekaran)
Member

(Amit Chandra)
Member

(Rajiv K Luthra)
Member

(Shobana Kamineni)
Member

(Anil K Gupta)
Member

(Narinder Dhruv Batra)
Member

(S.Santhanakrishnan)
Member

(Mathew Cherian)
Member

(Gyaneshwar Kumar Singh)
Member & Convener

PREFACE

In the last few years, the implementation of Corporate Social Responsibility (CSR) has gathered critical mass and is now poised to consolidate and grow further. CSR awareness and CSR consciousness has grown dramatically among large and medium-sized companies, which now look at CSR to build a strategic fit with the community and environment in which they operate. Broadly, the CSR mandate has been aligned with national priorities such as public health, education, livelihood, water conservation, natural resource management, etc. More importantly, it has generated national interest and debate on its potential role, and, the responsibility of the corporate sector in achieving Sustainable Development Goals (SDGs). The High Level Committee set up in 2015 (HLC-2015) reviewed the CSR regulatory framework at an incipient stage. It made a number of useful recommendations and also pointed out that it was limited by not having adequate 'learning experience' as the new Companies Act had only just mandated CSR. HLC-2015 recommended that another Committee be set up after three years to revisit the CSR framework.

It is in this overall context that the HLC–2018 was set up under my chairmanship, to review the CSR framework and make recommendations to develop a more robust and coherent CSR regulatory and policy framework, and underlying ecosystem. The committee was set up with eminent persons from the government, public sector enterprises, private sector, civil society, and academia who looked at the subject matter in a holistic manner, discussed emerging global debates over social development, and steered the deliberations to arrive at dynamic conclusions.

The Committee adopted a consultative approach, held internal meetings, engaged with stakeholders, had public consultations, examined reports and recommendations of previous Committees, relied on observations of Parliamentary Standing Committees, reviewed global literature and best practices pertaining to CSR. The Committee met on three occasions on 04/12/2018, 07/02/2019, and 16/04/2019, and reviewed progress made on an ongoing basis. During these meetings, the Committee deliberated on a wide range of issues related to CSR policy, implementation, monitoring, enforcement, advocacy and awareness, as well as, new issues arising out of public consultations.

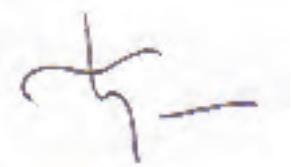
After detailed deliberations and a comprehensive review of comments received from various stakeholders, the Committee identified specific issues arising out of the provisions of Section 135 of the Act, Companies (CSR Policy) Rules, Schedule VII of the Act and associated operational challenges. The report is organized into four chapters. The Introduction sets the context for deliberations and the first chapter gives the background and history of CSR in India. In Chapter II, for the first time, a comprehensive analysis has been made of the data on CSR reported by companies. This has brought to light interesting trends and patterns of CSR spending and has lent valuable insight for decision-making by the Committee. Chapter III details key issues on CSR that were discussed by the Committee, and the recommendations made by it on them. Chapter IV proposes the way forward in light of the recommendations made.

I believe the recommendations of the Committee will facilitate implementation of CSR in a more efficient, transparent and competitive manner by removing difficulties

and ambiguities, ensuring minimum regulations and maximum disclosures, and shall build a culture of healthy competition and compliance. It is hoped that this shall unlock the full potential of CSR.

With the above, I place on record my heartfelt thanks to the esteemed members of the Committee for sparing their precious time and steering the entire process to fruition. I would also like to acknowledge the single-minded effort of the CSR team of the Ministry of Corporate Affairs as well as the support extended by IICA and ICSI.

It has been a great learning process for me working with the committee members. I sincerely hope that the combined efforts of everyone involved in this process, leading to this report and its recommendations, will provide useful insight to policy makers, industry, civil society and academia.



(Injeti Srinivas)

Secretary, Ministry of Corporate Affairs &
Chairman, High Level Committee on CSR – 2018

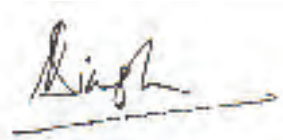
August 07, 2019

ACKNOWLEDGEMENTS

The High Level Committee on CSR-2018 (HLC-2018) thanks all the stakeholders who participated in the deliberations and gave useful inputs on further strengthening the CSR framework and the supporting ecosystem. During the consultation meetings, the Committee interacted with several stakeholders representing industry associations, civil society, professional institutes, government and non-government organizations, international organizations, experts and academia. The Committee would like to make a special mention of the special invitees, Shri. Rakesh Ranjan, Deputy Director General, NITI Aayog; Shri. Anil Agrawal, Joint Secretary, Department for Promotion of Industry and Internal Trade; Shri. Mohd. Aslam, Advisor, Department of Bio-Technology; Shri. Rohit Kumar, Joint Secretary, Ministry of Rural Development; Ms. Vijaya Sampath, Chairman, Corporate Law Committee, FICCI; Ms. Rumjhum Chatterjee, Co- Chair, National Committee on CSR, CII; Shri. Anil Bharadwaj, Secretary General, Federation of Indian Micro, Small & Medium Enterprises; Shri. Hemant Gupta, BSE Sammaan; Shri. Ranjeet Pandey, President, ICSI; Dr. A. K. Padhee, ICRISAT; Dr. Yasmin Ali Haque, UNICEF Representative in India; Ms. Ramona El Hamzaoui, Deputy Mission Director, USAID; Shri. Sampath K. Rajagopalan, Partner & National Leader, E&Y LLP; Shri. Nandan Kamath, Principal Lawyer, The Sports Law & Policy Centre; Shri. Amod Kanth, Founder, Prayas; Shri. Harsh Jatli, CEO, VANI; Shri. Subhash Mittal, Tax Consultant; Shri. Amit Lahiri, Chief Sustainability Officer, O. P. Jindal Global University; and, Shri. Shankar Venkateswaran, Advisor-Sustainability, Society, Business, for lucidly articulating their views and suggestions on different aspects of the CSR framework and implementation challenges. The Committee would like to place on record the contribution of Dr. Anoop Kumar Mittal, ex-CMD, NBCC, as Member of the Committee who superannuated during the course of deliberations. The Committee would also like to

express its gratitude to Prof. Vasanthi Srinivasan, Organizational Behavior & Human Resources Management, Indian Institute of Management, Bangalore, for providing insights as experts in formulation of the Report. The Committee would like to thank the team at Indian Institute of Corporate Affairs (IICA), Institute of Company Secretary of India (ICSI) and National Institute of Public Finance and Policy (NIPFP) for their support in enriching the deliberations on various aspects of CSR.

The Committee also acknowledges the invaluable support extended by the team at Ministry of Corporate Affairs, Shri. Sanjay Shorey, Director; Shri. Abhijit Phukon, Director; Ms. Seema Rath, Deputy Director; Ms. Samiksha Lamba, Under Secretary; Ms. Aparna Mudiam, Deputy Director; Shri. Vedant Ojha, Assistant Director; Shri. Akshay Singh, Assistant Director; and, officials of the CSR Cell in providing secretarial support, research assistance, documenting deliberations, viewpoints and recommendations, as well as assisting the Committee in drafting the Report.



(Gyaneshwar Kumar Singh)
Joint Secretary, Ministry of Corporate Affairs &
Member & Convener, High Level Committee on CSR – 2018

August 07, 2019

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INTRODUCTION

In 2015, a High Level Committee was set up under the chairmanship of former Secretary to Government of India, Shri Anil Baijal (HLC-2015), to suggest measures for improved monitoring of implementation of Corporate Social Responsibility (CSR) policies. HLC-2015 reviewed the prevalent framework and considered issues raised by various stakeholders to make insightful recommendations for the time to come. Since 2015 was only the first year of implementation of the Companies Act, 2013 (Act), and the statutory annual filings for financial year (FY) 2014-15 were still due, HLC-2015 recommended that an in-depth examination of the entire gamut of issues relating to mandatory implementation of CSR be done after three years had passed. The initial three years were to be considered 'a period of learning', insights and data obtained from which could inform the deliberations of a Committee to be set up in the future.

The recommendations of HLC-2015 covered the spectrum of issues relating to CSR at its inception. A few of its recommendations have already been implemented, a few have been clarified over time, while still few continue to persist. A tabular statement of recommendations of HLC-2015 along with the status of implementation is placed at *Annexure-I* of this Report.

HLC-2015 also recognized the importance of inclusive growth as an essential part of India's quest for development, and reiterated that Principle 8 of the National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business, 2011 (NVGs) on "inclusive and equitable growth". The Principle focuses on encouraging business action on national development priorities, including community development initiatives which were subsequently translated into a mandatory provision on CSR in Section 135 of Companies Act, 2013.

In the years since legislation mandated CSR, the business landscape has changed dynamically such that companies also carry mandates of responsible business conduct and of securing human rights in areas of their business incidence. Against this

backdrop, and with HLC-2015 paving the way, the **High Level Committee on Corporate Social Responsibility, 2018 (HLC- 2018)** was constituted under the Chairmanship of Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs (MCA), to review the existing framework and formulate a roadmap for future implementation. A copy of the Order constituting the Committee is provided in *Annexure II*. The Terms of Reference of this Committee include,

i. To review the CSR framework as per Act, Rules and Circulars issued from time to time;
ii. To recommend guidelines for enforcement of CSR provisions;
iii. To suggest measures for adequate monitoring and evaluation of CSR by companies;
iv. To examine and recommend audit (financial, performance, social) for CSR, as well as, analyze outcomes of CSR activities/programmes/projects;
v. Any other matter incidental or connected thereto.

The Committee adopted a holistic methodology including examination of past reports, review of global literature and best practices in the CSR landscape, internal meetings, engagement with stakeholders and public consultations. The Committee met three times on 02/12/2018, 07/02/2019 and 16/04/2019 during which it discussed a wide range of issues relating to CSR policy, implementation, monitoring, enforcement, advocacy and awareness, as well as, issues arising out of concerns raised by the members and other stakeholders.

The Committee also examined CSR data as filed by the companies in the MCA21 registry up till 31/03/2019 and drew insightful inferences which informed its decision-making. It also examined comments received from various and numerous stakeholders, including those received from the general public on various aspects of CSR through a dedicated e-mail.

A few stakeholders were given an opportunity to make presentations on issues concerning them for the benefit of the Committee. Presentations were made by

Ministries/Departments of the Government of India, industry associations, professional institutes, representatives from the industry, civil society, academia, experts, and international organizations. A summary of presentations made to the Committee has been provided in *Annexure III*.

The Committee greatly benefitted from deliberations in the Reports of the previous Committees. It also reviewed the representations received from Government Ministries/Departments, Parliamentary Standing Committees, and Members of Parliament/State Legislators before making recommendations.

This report consists of four chapters. Chapter I presents a quick review of the history and changing landscape of responsible business conduct and sustainable development goals, and the role of businesses in this framework, followed by the principles embraced by the committee in its deliberations. In Chapter II, data has been analyzed based on filings made by companies. Chapter III provides comprehensive recommendations pertaining to not just the provisions and their implementation but also on the supportive CSR ecosystem needed to strengthen the sustainable development agenda. Chapter IV provides the way forward.

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CHAPTER 1: BACKGROUND AND HISTORY OF CSR IN INDIA

The last two decades have seen significant economic growth and integration into the global economy, resulting in several changes in the business landscape. The role of businesses within the larger society has come under intense scrutiny by several stakeholders. Governments across the world have been using different forms of regulation to shape corporate behaviour, with calls for increased accountability, disclosures and actions from them. India's progress on corporate governance and the Companies Act, 2013 (Act) needs to be viewed within this larger discourse.

In 2018, India was the fastest-growing trillion-dollar economy in the world, with a nominal GDP of $2.73 trillion as per recent data from the World Bank. It is poised to become a 3 trillion dollar economy in 2019-20. However, this economic growth has not trickled down in an even manner and there exists significant rural-urban divide, poverty, malnutrition and challenges in education and health. A series of legislative efforts undertaken in the last decade need to be viewed against two key ideas: the idea that corporations act as partners in the social development process of the country, and, strengthening the social responsibility of business.

a) Corporations as partners in social development

Several reports have documented the rich tradition of social engagement/charity/ philanthropy by Corporate India since the 1900's (Sood & Arora, 2006[1]; Sundar, 2000[2]). The earliest industrialists of the 19th Century launched the practices of corporate giving via trusts, and endowed institutions controlled by members of business families. The concept had therefore been expanded from the narrower notion of charitable giving for community affairs to the idea that business must be profitable, just, humane, efficient and dynamic (Arora & Sood, 2006). In

[1] *A. Sood and B. Arora, "The Political Economy of Corporate Responsibility in India (2006)", United Nations Research Institute for Social Development (UNRISD) Programme Paper*

[2] *P. Sundar, "Beyond Business: From Merchant Charity to Corporate Citizenship (2006)", Tata McGraw Hill*

the 1970's and 1980's, with India's continued poor ranking on social and economic indicators, the government coaxed the industry to consider the larger good of India (Sundar 2000). The gradual changes in the economic paradigm from the 1980s onward saw a large increase in corporate activity. This also led to Indian businesses becoming more exposed to both domestic and foreign competition. Around the mid-1990s, as the liberalization of the Indian economy began to intensify, several competing large industry associations in India started forming a separate division focused on social development.

By 2000, many Indian companies had become global players and several MNC's had set up their subsidiaries in India. As members of industry forums and also as key economic actors in the country, they began to engage in social development. The global discourse on CSR was gradually moving away from charity to strategic CSR and shared values. During this period, with the enactment of Companies Act, 2013, CSR became mandatory.

b) Strengthening the social responsibility of Business

From the perspective of social responsibility of business, there have been periodic calls for businesses to be responsible in their actions, beyond philanthropy. In 1965 and 1966, two seminars on social responsibilities of business generated a significant interest in CSR. The seminar ended with the adoption of a declaration that stated that the social responsibility of an enterprise is a responsibility to itself, its customers, workers, shareholders and the community (Narayan 1966 as cited in Sood & Arora, 2000). The Council for Fair Business Practices (CFBP), established in 1966, was one such initiative focused on fair trade practices in the interest of consumers. The members of the CFBP agreed

to comply with voluntary norms of business ethics formalized under a Code of Business Practices (CFBP 2004).

The aspect of responsible business however got diffused in the larger canvas of liberalization and globalization as Indian businesses began to compete in global markets. In 2009, the Ministry of Corporate Affairs released the *Corporate Governance Voluntary Guidelines*, to encourage corporates to voluntarily achieve high standards of Corporate Governance. In 2011, the *National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business* (NVGs) was released by Ministry of Corporate Affairs. This was a significant step towards mainstreaming the concept of Business Responsibilities. The NVGs were developed based on India's socio-cultural context and priorities as well as global best practices, and finalized after extensive consultations with business, academia, civil society organizations and the government. In 2019, NVGs were revised to formulate the *National Guidelines for Responsible Business Conduct* (NGRBCs) to take into account wider global changes in the business environment and policy discourse such as the United Nations Guiding Principles on Business & Human Rights (UNGPs) and Sustainable Development Goals (SDGs), while adhering to the thrust of the Companies Act, 2013.

The Securities and Exchange Board of India (SEBI) has prescribed a Business Responsibility Reporting Framework (BRR) based on the NVGs for the top 500 listed companies by market capitalization. Companies report on non-financial parameters from an environmental, social and governance (ESG) perspective. This, for the first time, introduced voluntary sustainability reporting for companies in India, which is still in a nascent stage. Filing of these non-financial reports is meant to steer businesses towards responsible business practices. It was felt that this

would also enhance investor confidence. The extant BRR reporting is based on the NVGs. With the release of NGRBCs, a Committee has been set up by the MCA for formulating BRR Formats for listed as well as unlisted companies. It is the stated intent of the Committee to simplify and integrate various reporting requirements based on internationally accepted key non-financial reporting frameworks.

With the passing of the Companies Act, 2013, section 166 has cast fiduciary duties on the Directors of a Company requiring them to *promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.* There was a need to bring in consistency between the various frameworks that enabled responsible conduct and the Act. The global discourse on the role of business, especially the Trans National Corporations, and violation of human rights caused by them, gained momentum in different countries in the post-liberalization period, especially in India. The evolution of NVGs has been concomitant to the changing global discourse in the realm of Business and Human Rights. In June 2011, as India endorsed the UNGPs based on the 'Protect, Respect & Remedy' framework, the NVGs which were aligned to it, were released in July of the same year. India has committed to developing a National Action Plan (NAP) to demonstrate how the UNGPs have been implemented. A Zero Draft of NAP was released in November, 2018.

The NGRBCs encourage businesses to achieve the SDG agenda by focusing on stakeholders. It allows for deliberations on areas related to business, such as climate change, circular economy, and aspects of sustainable development. It facilitates examination of social costs incurred in the process of economic development, especially with

respect to natural resources such as clean air, potable water, contamination free food, etc.

Table 1.1. Significant milestones in the evolution of responsible business conduct in India

YEAR	SIGNIFICANT MILESTONES IN EVOLUTION OF RESPONSIBLE BUSINESS CONDUCT IN INDIA
2009	Corporate Voluntary Guidelines released to encourage corporates to voluntarily achieve high standards of Corporate Governance
2011	Endorsement of United Nations Guiding Principles on Business & Human Rights by India
2011	National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs) released to mainstream the concept of business responsibility
2012	Securities and Exchange Board of India (SEBI) mandates top 100 listed companies by market capitalization to file *Business Responsibility Reports (BRR)* based on NVGs.
2013	Enactment of Companies Act, 2013
2014	Section 135 of Companies Act, 2013 on Corporate Social Responsibility (CSR) comes in to force.
2015	High Level Committee on CSR (HLC-2015) under the chairmanship of Shri. Anil Baijal makes recommendations on the CSR framework and stakeholder concerns.
2015	SEBI extends BRR reporting to top 500 companies by market capitalization.
2016	Companies Law Committee reviews the recommendations of HLC-2015 for adoption.
2018	The second High Level Committee on CSR constituted under the Chairmanship of Shri. Injeti Srinivas, Secretary, Corporate Affairs to review the CSR framework

2018	Committee on Business Responsibility reporting constituted under the chairmanship of Shri. Gyaneshwar Kumar Singh, Joint Secretary, Corporate Affairs
2018	Zero Draft of National Action Plan on Business and Human Rights released by Ministry of Corporate Affairs
2019	National Guidelines on Responsible Business Conduct released.

In the overall context spelt out above, the Committee adopted the following broad principles while making its recommendations.

a. Improving the CSR framework and ecosystem while placing it in the larger context of responsible business conduct by companies as manifested in UNGPs, NGRBCs and India's commitment to developing a NAP. All recommendations aim towards achieving SDGs.
b. Easing the burden of compliance for businesses.
c. Focusing on accomplishment of impacts for every rupee invested.
d. Retaining the thrust of CSR as driven by Boards of companies.
e. Nurturing a culture of compliance through enhanced disclosures wherein penalties deter rather than punish.
f. Encouraging innovations and carrying out pilot studies for CSR to enable meeting SDGs.

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CHAPTER 2: AN ANALYSIS OF THE FILINGS MADE BY COMPANIES ON CORPORATE SOCIAL RESPONSIBILITY

Corporate Social Responsibility (CSR) has become an integral part of business philosophy after its introduction as a statutory obligation under Section 135 of the Companies Act, 2013 (hereafter referred to as 'the Act'). Undoubtedly a unique provision of law, it gave rise to many concerns amongst the stakeholders during the initial period of implementation. A High Level Committee was constituted in 2015 under the Chairmanship of Shri. Anil Baijal to suggest measures for monitoring and help the Government to strengthen the CSR framework. The HLC was of the view that first couple of years, would be a 'learning experience' for all stakeholders including the Government, companies, implementing agencies, auditors, etc. after which an in-depth analysis may be done based on disclosures from the filings made by the companies with respect to CSR provisions.

Section 135 of the Act, Schedule VII and Companies (CSR) Policy Rules, 2014, provide a robust framework for companies to partner in contributing to the country's development challenges through its managerial skills, technology and innovation. Besides providing an overall guidance framework for the corporates to carry out their CSR initiatives, it also provides them with ample autonomy and flexibility to design and implement programmes. The monitoring is based on disclosures made by the company in the prescribed form and annual report. The company has to disclose its details on CSR implementation, including allocation of funds, destination state and development sector where the CSR expenditure is done, etc. annually to this Ministry through filing of annual report on CSR. The mandatory CSR reporting has its advantages as it allows the corporates to demonstrate their commitment towards CSR and communicate with different stakeholders, including shareholders, regulators, customers and society at large.

The primary objective of CSR was not to mobilize resources for government to bridge resource gap in meeting Sustainable Development Goals (SDGs). The primary objective

is to promote responsible and sustainable business philosophy at a broad level and encourage companies to come up with innovative ideas and robust management systems to address social and environmental concerns of the local area and other needy areas in the country.

This chapter contains an in-depth analysis of available data for four years since inception in FY 2014-15. An assessment of the outcome of Section 135 of the Act and its provisions has been attempted with respect to various parameters and its impact on behaviour of various stakeholders. The intent of the law is to mainstream practice of business involvement in CSR and make it socially, economically and environmentally responsible. In the last four years, there has been movement towards sustainable projects creating a long-term impact for the beneficiaries.

2.1 Definition and Data Source

The data used for the analysis has been obtained from the filings made by the companies up to 31st March, 2019 in the MCA21 registry. The data is available for the Financial Year 2014-15 to 2017-18. The analysis is based on the reported figures by the companies in their filings on MCA21.

Table 2.1 Profile of companies liable[3] for CSR based on their reporting[4] status
(figures as per the filings received as on 31st March, 2019)

Company profile based on reporting status	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Liable and reporting on CSR	9,418	11,671	12,407	10,868
Liable Companies on whom Schedule III[5] of CA, 2013 is not applicable but reporting on CSR	1,000	1,284	775	716
Liable but not reporting on CSR	6,130	5,335	6,350	9,753
Total Number of Companies liable for CSR	**16,548**	**18,290**	**19,532**	**21,337**

Note: Figures in the Table indicate number of companies in each profile and year.

[3] Companies which are attracting section 135 of the Act have been termed as liable companies for the purpose of this chapter.
[4] Companies which are filing returns on Segment III of the AoC-4 (e-form) of the Ministry of Corporate Affairs which basically deals with CSR and its details thereof.
[5] Schedule III of the Act provides general instructions and format for the preparation of balance sheet and statement of profit and loss of a company

In the Table 2.1 above:

(i) Total number of liable companies include those which are mandated to fulfil CSR obligation and can be bifurcated into companies reporting on CSR and not reporting on CSR.

(ii) The companies on whom Schedule III of the Act is not applicable are companies which include insurance or banking company or any company engaged in the generation of electricity or to any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company and are not mandated to file their financial statements as prescribed in Schedule III of the Companies Act, 2013 (reference section 129 of the Act)

CSR expenditure for a company, for the purposes of this chapter, is the sum of the amount spent by the company in all its projects related to areas or subjects mentioned in Schedule VII for that particular year.

'Prescribed amount' of a company for CSR refers to 2% of the Average Net Profit of the company made during the three immediately preceding financial years as per subsection (5) of Section 135 of the Act. In case a company is liable for CSR obligation and is not reporting on CSR, 2% of the Average Profit Before Tax (PBT) for the three immediately preceding years has been taken as 'prescribed amount' for that company.

2.2 CSR expenditure by companies

As per the Act, companies with a net worth of Rs 500 crore or more, or a turnover of Rs 1000 crore or more, or a net profit of Rs 5 crore or more in the immediately preceding financial year are required to spend 2 percent of their average net profit of the preceding three years on CSR. The companies must disclose CSR related details in

the Director's Report in the format as prescribed in the Act. This section analyses CSR expenditures by Indian Corporate Sector.

Through the filings reported by the companies, the CSR expenditure has been analysed and presented in Table 2.2. It has been observed that the total CSR expenditure by companies has increased substantially by 44% from the year 2014-15 to 2015-16 and thereafter marginally declined in the year 2016-17. It has further dipped by 6.9% in the year 2017-18. The number of reporting companies which carry CSR obligation has steadily increased from 10,418 in the year 2014-15 to 13,182 in the year 2016-17 and then declined to 11,584 in the year 2017-18. However, it may be pertinent to mention that the figures for CSR expenditure and number of reporting companies for the year 2017-18 may improve in due course, as more filings are made.

The average spend by a government company is hovering between Rs 8-10 crore per company between 2014-15 to 2017-18 whereas the average spend by a private company has steadily increased from Rs 72 lakhs per company in 2014-15 to Rs 95 lakhs per company in the year 2017-18.

Table 2.2: CSR expenditure by Companies reporting on CSR (figures as per the filings received as on 31st March, 2019)

Year of filing	FY 2014-15		FY 2015-16		FY 2016-17		FY 2017-18	
	No of companies	Total CSR amount spent (in Rs. cr.)	No of companies	Total CSR amount spent (in Rs. cr.)	No of companies	Total CSR amount spent (in Rs. cr.)	No of companies	Total CSR amount spent (in Rs. cr.)
NON PSU	10,083	7,249.11	12,551	10,302.39	12,810	11,026.63	11,314	10,787.50
Average spend by NON PSU	**0.72**		**0.82**		**0.86**		**0.95**	
PSU	335	2,816.82	404	4,201.26	372	3,285.40	270	2,539.19
Average spend by PSU	**8.40**		**10.40**		**8.83**		**9.40**	
Grand Total	**10,418**	**10,065.93**	**12,955**	**14,503.65**	**13,182**	**14,312.03**	**11,584**	**13,326.69**

Note: Number of companies in the above Table include companies which are liable and reporting on CSR

Figure 2.1: Percentage of liable companies reporting on CSR

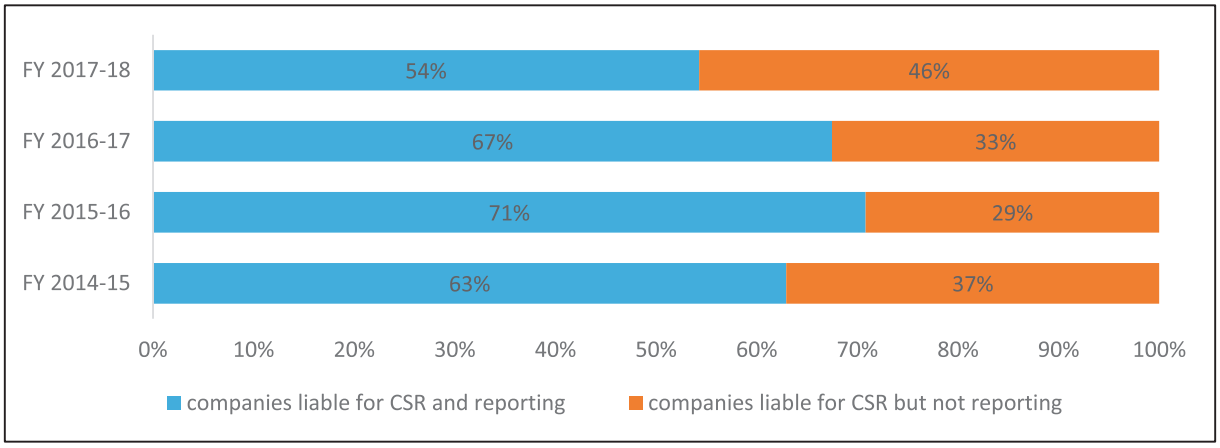


Figure 2.1 highlights the trend of the companies which are mandated for CSR expenditure and reporting on CSR. For the year 2014-15, 63% of the companies which were liable to do CSR have reported the same to MCA. This percentage witnessed an increase to 71% in 2016-17. Thereafter it declined marginally to 67% in 2016-17. For the year 2017-18, a dip in the percentage has been observed, which may improve as new filings made for this year is accounted.

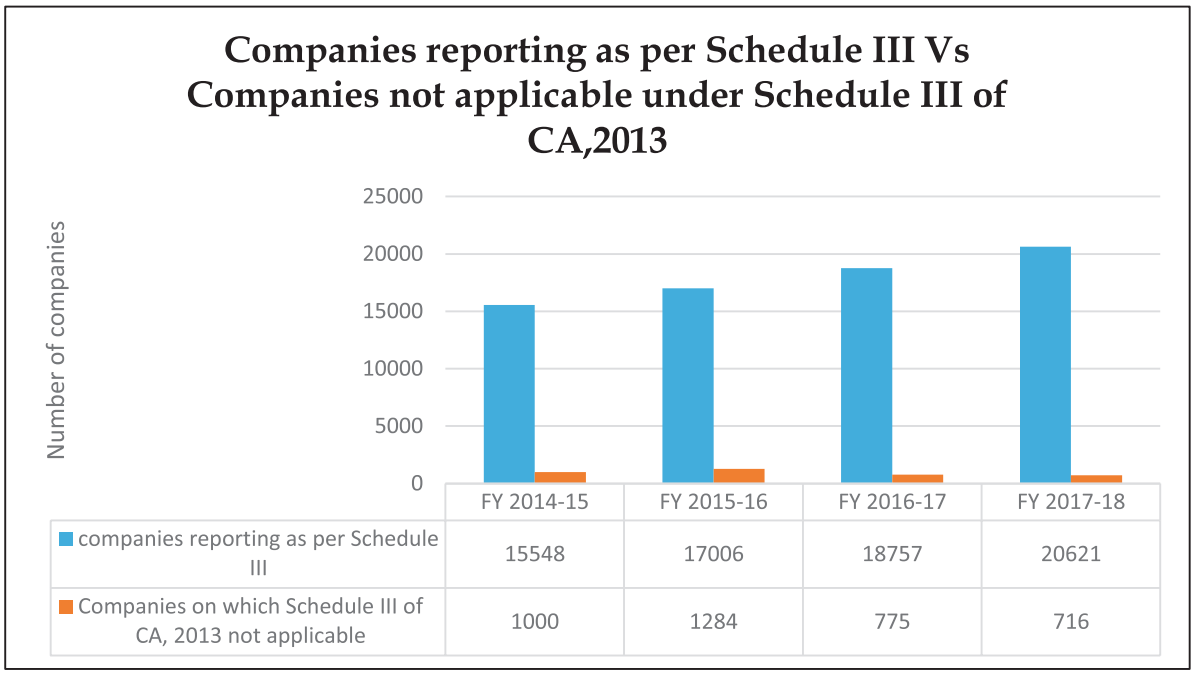
2.3 Companies liable for CSR on which Schedule III of the Act is not applicable

The companies on whom financial statement as prescribed in Schedule III of the Act is not mandated include insurance or banking companies or any company engaged in the generation of electricity or to any other class of companies for which a form of financial statement has been specified in or under the Act governing such class of company.

However, it may be pertinent to mention that such class of companies as mentioned above which are reporting on CSR would be incorporated under the Companies Act but may be regulated under their respective Acts. Further, there are many large public sector entities operating within such sectors as mentioned above, which may not be incorporated under the Companies Act, which are, therefore, not mandated to contribute towards CSR.

The data analysis given below pertains to such class of companies which are incorporated under Companies Act.

Figure 2.2: Companies reporting as per Schedule III vis-a-vis companies on which Schedule III of the CA, 2013 not applicable



The number of companies reporting on CSR on whom Schedule III is not applicable on them has witnessed a constant decline from 1000 in the year 2014-15 to 716 in the year 2017-18 as provided in Figure 2.2 above.

Table 2.3 highlights the magnitude of CSR contribution by such segment of companies for the years 2014-15 to 2017-18.

Table 2.3: CSR contribution by companies on which Schedule III of CA, 2013 is not applicable (figures as per the filings received as on 31st March, 2019)

Year of filing	CSR contribution by companies on which Schedule III of CA, 2013 not applicable (in Rs. crore)
FY 2014-15	381.21
FY 2015-16	463.83
FY 2016-17	280.41
FY 2017-18	1,163.76
Grand Total	**2,289.21**

2.3 CSR compliance

This section brings attention towards the status of compliance in terms of the total CSR expenditure as a percentage of total prescribed amounts for all companies for each financial year. Table 2.4 provides the information in detail. It may be seen that the compliance in terms of the total CSR expenditure with respect to the prescribed amount for the total number of companies liable for CSR has been moderate, except for FY 2015-16 when it was quite high. In the FY 2015-16, the compliance percentage has shot up to 85% from 59% in 2014-15. In the subsequent years, the compliance percent has decreased from 72% in 2016-17 to 57% in 2017-18. However, it may be noted that the figure for 2017-18 may improve as and when the companies file their annual report.

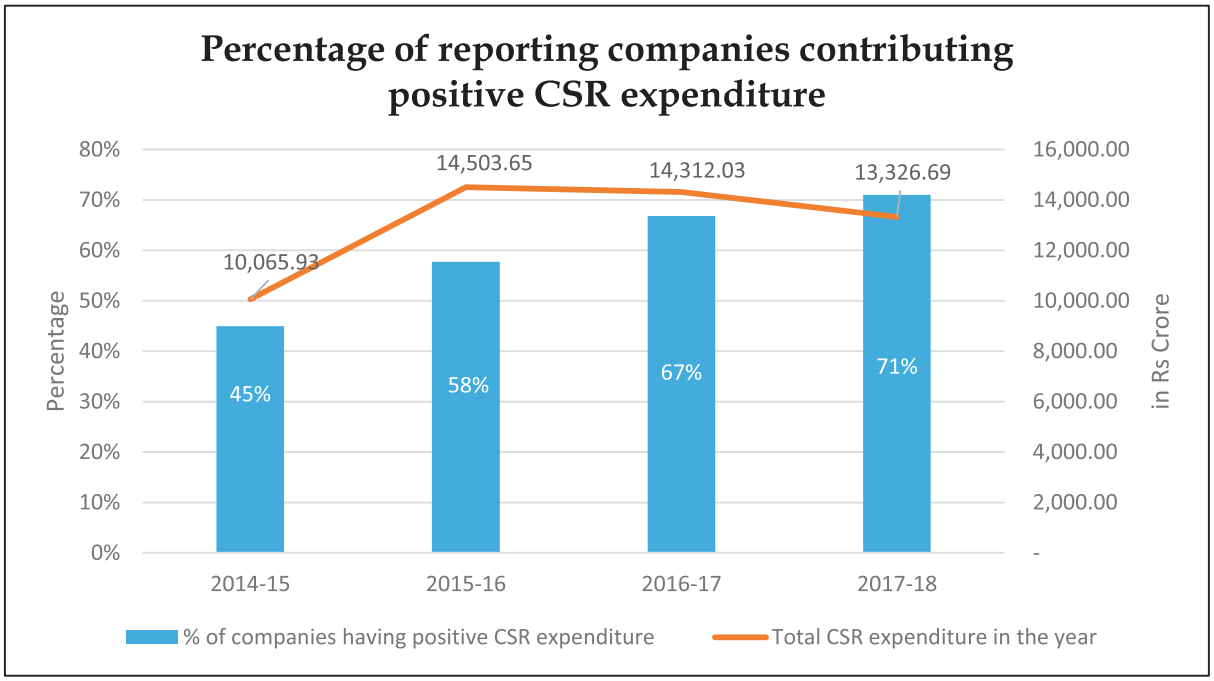
Table 2.4: CSR expenditure vis-à-vis CSR Prescribed amount (figures as per the filings received as on 31st March, 2019)

Year of filing	Total number of companies liable for CSR (reporting +non reporting)	Total CSR Expenditure (in Rs. crore)	Total CSR Prescribed Amount (in Rs. crore)	Compliance in terms of CSR expenditure (%)
FY 2014-15	16,548	10,065.93	17,140.42	59%
FY 2015-16	18,290	14,503.65	17,044.45	85%
FY 2016-17	19,532	14,312.03	19,789.90	72%
FY 2017-18	21,337	13,326.69	23,247.90	57%

Note: In case of companies liable for CSR and not filing, 2% of average of Profit before Tax is taken as their Prescribed Amount for CSR.

Even though the sum of contribution to CSR activities with respect to the total prescribed CSR for all the years may be moderate, it is important to note that the culture of being responsible towards society is being imbibed by more and more companies. To understand this, one needs to look at the number of companies contributing total CSR expenditure for that particular year. Figure 2.3 below enumerates the details about the same.

Figure 2.3: Percentage of liable companies reporting on CSR having positive CSR expenditure



The figure shows that 45% of the liable companies reporting on CSR are contributing the total CSR expenditure (Rs 10,065.93 cr.) for the year 2014-15. This percentage has increased over the years with 58% in the year 2015-16, 67% in the year 2016-17 and 71% for the year 2017-18. Hence, it may be inferred that the culture of being socially responsible is being imbibed in more and more companies over the years, post implementation of Section 135 of the Act. However, it may be noted that the figure(s) for 2017-18 may increase as more filings are made.

Similarly, to have a clear picture on the number of liable companies reporting on CSR based on their CSR expenditure vis-à-vis prescribed amount of CSR, Table 2.5 below may be referred.

Table 2.5: CSR expenditure vis-a-vis CSR Prescribed amount (Figures as per the filings received as on 31st March, 2019)

CSR Expenditure	Number of liable companies reporting on CSR			
	2014-15	2015-16	2016-17	2017-18
A. Zero	**5,734**	**5,472**	**4,377**	**3,359**
(i) Zero expenditure having Zero prescribed amount of CSR	2,784	1,601	1,286	776
(ii) Zero expenditure having positive prescribed amount of CSR	2,950	3,871	3,091	2,583
B. Positive but less than prescribed amount of CSR	**1,983**	**3,074**	**3,318**	**3,130**
C. Positive and equal to prescribed amount of CSR	**1,090**	**1,336**	**1,845**	**992**
D. Positive and more than prescribed amount of CSR	**1,611**	**3,073**	**3,642**	**4,103**
Total number of liable companies reporting on CSR (A+B+C+D)	**10,418**	**12,955**	**13,182**	**11,584**

* Figure as per the filings received as on 31st March, 2019.

From the above table, it can be seen that majority of the companies lie in the zero CSR expenditure bracket. However, number of such companies has decreased from 5,734 in the year 2014-15 to 3,359 in the year 2017-18. Another notable observation is that the number of companies with CSR spending more than their prescribed amount has increased from 1,611 in the year 2014-15 to 4,103 in the year 2017-18.

2.4 Issues relating to CSR compliance

The second proviso to Section 135 (5) of the Act states that "*if a company fails to spend such amount, the board shall in its report made under clause (o) of subsection (3) of section 134, specify the reasons for not spending the amount*".

Some of the major reasons reported in last four years by the companies for under-spending the prescribed amount on CSR are as follows:

Table 2.6: Major reasons reported for not/under-spending CSR prescribed amount

FY 2014-15	FY 2015-16
• Suitable Project Not Found	≠ Delay in Project Identification
• First Year of CSR	≠ Suitable Implementing Agencies Not Found
• Multi Year Projects	≠ Delay in Implementation of Plan

• Majority of The Projects Were of Infrastructure Development in Rural Areas, Which Involve Long Implementation Period • Suitable Implementing agency Not Found • Delay in Implementation of Plan	• Suitable Projects Not Found
Suitable Implementing Agencies Not Found	• Delay in Project Identification
FY 2016-17	**FY 2017-18**
• Delay in Project Identification	• Delay In Implementation of Plan
• Delay in Implementation of Plan	• Adoption of Long Gestation CSR Programmes / Projects
• Due To Multiyear Projects	• Inability of Company to Formulate A Well-Conceived CSR Policy
• Lack of Prior Expertise	• Lack of Prior Expertise

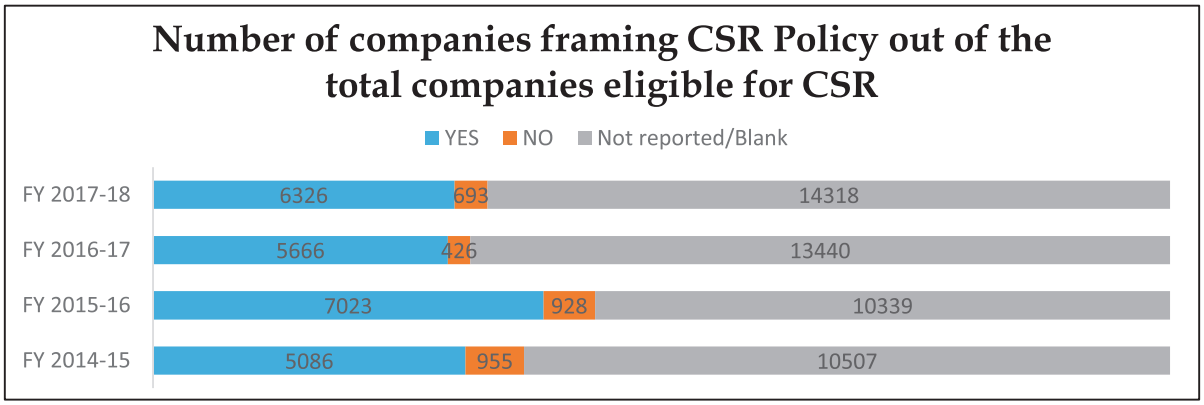
It can be inferred from Table 2.6 above that some of the notable reasons, among others, as reported by the companies for non-compliance of prescribed CSR amount are (i) problems in identifying a suitable project, (ii) selection of suitable implementing agency, and (iii) Multi-year projects, etc. While some of the stated reasons may be reasonable, most others are untenable.

2.6 Governance related aspect of CSR

2.6.1 Framing of CSR Policy

As per the Act, companies which are liable for CSR must have their CSR policy(ies). The policy should indicate the projects/activities to be undertaken by the company in areas or subject(s), specified under Schedule VII, recommend the amount of expenditure to be incurred on the above-stated activities and the modalities of execution and monitoring of such projects or programmes. It is mandatory to disclose the content of CSR policy in the Directors' report and it needs to be placed on the company's website in a manner as prescribed by the Act. Figure 2.4 below gives details about the number of companies framing CSR policy.

Figure 2.4 Number of companies framing CSR policy out of the total companies liable for CSR

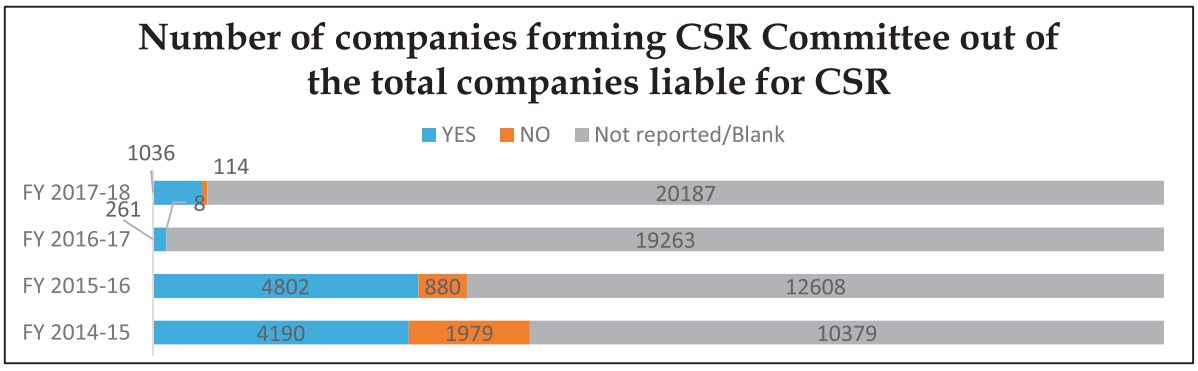


The number of companies framing CSR policy has increased from 2014-15 to 2015-16 and declined thereafter in the year 2016-17. In the year 2017-18 the figures have improved marginally and is expected to improve further once late filings are taken into account. It can be observed that a lion's share of the total number of liable companies are not reporting on this parameter of CSR.

2.6.2 Constitution of CSR Committee

As per Section 135 of the Act, every company which is liable for CSR is mandated to constitute a CSR committee consisting of three or more directors, out of which at least one must be an independent director. If a company is not required to appoint an independent director under sub-section (4) of Section 149, it shall have in its CSR committee two or more directors. Figure 2.5 details the number of companies forming CSR committee in each year.

Figure 2.5 Number of companies constituting CSR committee out of the total companies liable for CSR



Two trends can be observed from the above figure. One is that there is a high percentage of companies not reporting on constitution of CSR committee every year. Further, the companies constituting CSR committee increased initially from the year 2014-15 to 2015-16 and then declined substantially in 2016-17. However, the figures have improved for the year 2017-18 and may further revise as and when the companies file their annual report.

In order to check the spread of companies based on expenditure, slabs based on prescribed CSR amount have been drawn as in Table 2.7 below.

It is observed that the concentration of companies in the first two slabs is the highest. However, the sum of prescribed amount for the companies in the first slab (i.e. prescribed amount is less than Rs. 10 lacs) is quite low for the years 2014-15 to 2017-18. Another notable observation is that very few companies are falling in the last slab (i.e. prescribed amount greater than or equal to Rs. 10 cr.) but have high contribution to the total CSR expenditure for that year.

These small companies which have a low prescribed CSR budget might be facing high transaction cost in terms of forming a standalone CSR committee for monitoring of CSR.

Table 2.7: Slab-wise distribution of number of companies with its corresponding total prescribed amount of CSR and total CSR expenditure (figures as per the filings received as on 31st March, 2019)

Slabs based on Prescribed CSR Amount for companies	2014-15			2015-16			2016-17			2017-18		
	Number of companies	Total prescribed amount of CSR (in cr.)	Total CSR Expenditure (in cr.)	Number of companies	Total prescribed amount of CSR (in cr.)	Total CSR Expenditure (in cr.)	Number of companies	Total prescribed amount of CSR (in cr.)	Total CSR Expenditure (in cr.)	Number of companies	Total prescribed amount of CSR (in cr.)	Total CSR Expenditure (in cr.)
less than 10 lacs	7,434	179.04	485.45	7,366	251.60	957.16	7,395	274.61	828.04	7,970	299.12	1,203.12
10 lacs and above to 50 lacs	6,345	1,331.91	636.46	7,800	1,624.95	1,319.04	8,562	1,797.87	1,159.07	9,317	1,996.28	1,124.72
50 lacs and above to 1 cr	1,200	842.04	375.81	1,385	971.04	639.94	1,582	1,102.36	735.40	1,747	1,219.77	708.09
1 cr and above to 5 cr.	1,157	2,457.72	1,360.18	1,304	2,772.90	1,849.40	1,493	3,143.96	2,096.08	1,729	3,633.19	2,052.61
5 cr. and above to 10 cr.	202	1,437.35	721.00	211	1,489.61	1,085.20	243	1,706.26	1,279.00	285	2,048.44	1,170.82
10 cr. and above	210	10,892.36	6,487.03	224	9,934.36	8,652.90	257	11,764.84	8,214.43	289	14,051.11	7,067.33
Grand Total	**16,548**	**17,140.42**	**10,065.93**	**18,290**	**17,044.45**	**14,503.65**	**19,532**	**19,789.90**	**14,312.03**	**21,337**	**23,247.90**	**13,326.69**

2.7 CSR Project management aspects

2.7.1 Mode of implementation

Rule 4(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 prescribes that the Board may decide to undertake its CSR activities approved by CSR committee, through (a) a company established under Section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or (b) a company established under Section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under Act of Parliament or State legislature. Further, a proviso to Rule 4(2) prescribes that if the Board of a company decides to undertake its CSR activities through a company established under Section 8 of the Act or a registered trust or a registered society, other than those specified in the rule 4(2), such company or trust or society should have an established track record of three years in undertaking similar programs or projects; and the company has specified the projects or programs to be undertaken, the modalities of utilization of funds of such programs or projects and the monitoring and reporting mechanism.

This section of the chapter analyses the concentration of the different modes used by the companies for implementing the projects in areas or activities mentioned in Schedule VII of the Act. Further, it also highlights the amount of CSR expenditure done through various mode of implementation. Table 2.8 provides the details about the same where particulars about the number of projects implemented via different modes of implementation along with their percentage as well as the CSR expenditure made through different modes of implementation has been provided.

It is observed that maximum projects are implemented directly by the Company (28% in the year 2014-15 to 40% in 2017-18) followed by implementation through other implementing agency (19% in the year 2014-15 to 29% in 2017-18). The projects implemented by trust/society/section 8 companies set up by the company itself is lower than the above two modes (4% in 2014-15 to 5% in 2017-18). The least used

mode is trust/society/section 8 companies set up by Central or State Government or entities established under Special Act of Parliament/State legislature.

However, if CSR expenditure made through different modes of implementation is taken into account, it may be observed that most of the CSR expenditure has been done through an implementing agency. Further, it may be noted that even though the percentage of projects implemented through trust/society/section 8 companies set up by the company has been quite low, the CSR expenditure made via this mode has been high.

Figure 2.6 explains the importance of different modes of implementation for CSR projects in terms of cumulative CSR expenditure made through them.

Companies may prefer to contribute their CSR funds through other implementing agencies, which is the most used method of implementation in terms of percentage of projects being implemented by them and the flow of CSR funds to them. There has been an upward trend of working with not-for-profit entities by companies over the years which shows the growing use of the proviso to Rule 4(2) of the Companies (CSR Policy), Rules, 2014. Thus, implementing agencies become suitable mode for the companies to execute CSR projects, given their presence in the target areas, local connect and knowledge, besides experience in executing social projects which a company typically lacks.

Table 2.8: Mode of implementation opted by companies for implementation of CSR projects and the CSR expenditure made through that mode (figures as per the filings received as on 31st March, 2019)

Mode of Implementation	FY 2014-15		FY 2015-16		FY 2016-17		FY 2017-18	
	Number of projects/ (%)	CSR expenditure (in cr.)/ (%)	Number of projects/ (%)	CSR expenditure (in cr.)/ (%)	Number of projects/ (%)	CSR expenditure (in cr.)/ (%)	Number of projects/ (%)	CSR expenditure (in cr.)/ (%)
By Trusts/ Societies/ Section 8 Company set up by the Company itself	1,105 (4%)	2,054.66 (20%)	1,441 (3%)	925.45 (6%)	2,155 (4%)	1,301.40 (9%)	2,136 (5%)	1,099.46 (8%)
Directly by company	7,985 (28%)	3,429.76 (34%)	13,925 (34%)	4,476.46 (31%)	19,597 (40%)	4,989.99 (35%)	17,718 (40%)	4,929.17 (37%)
By Trust/ Societies/ Section 8 Company set up by Central or State Government or entities established under Special act of Parliament/ State legislature	359 (1%)	140.15 (1%)	760 (2%)	215.02 (1%)	915 (2%)	436.03 (3%)	935 (2%)	340.58 (3%)
Other Implementing Agency	5,643 (19%)	2,548.69 (25%)	9,904 (24%)	5,419.88 (37%)	13,855 (28%)	7,567.69 (53%)	12,943 (29%)	6,881.64 (52%)
Not Mentioned	13,892 (48%)	1,892.67 (19%)	15,288 (37%)	3,466.85 (24%)	12,561 (26%)	16.92 (0%)	11,073 (25%)	75.85 (1%)
Grand total	**28,984**	**10,065.93**	**41,318**	**14,503.65**	**49,083**	**14,312.03**	**44,805**	**13,326.69**

Total CSR expenditure through various modes, 2014-15 to 2017-18

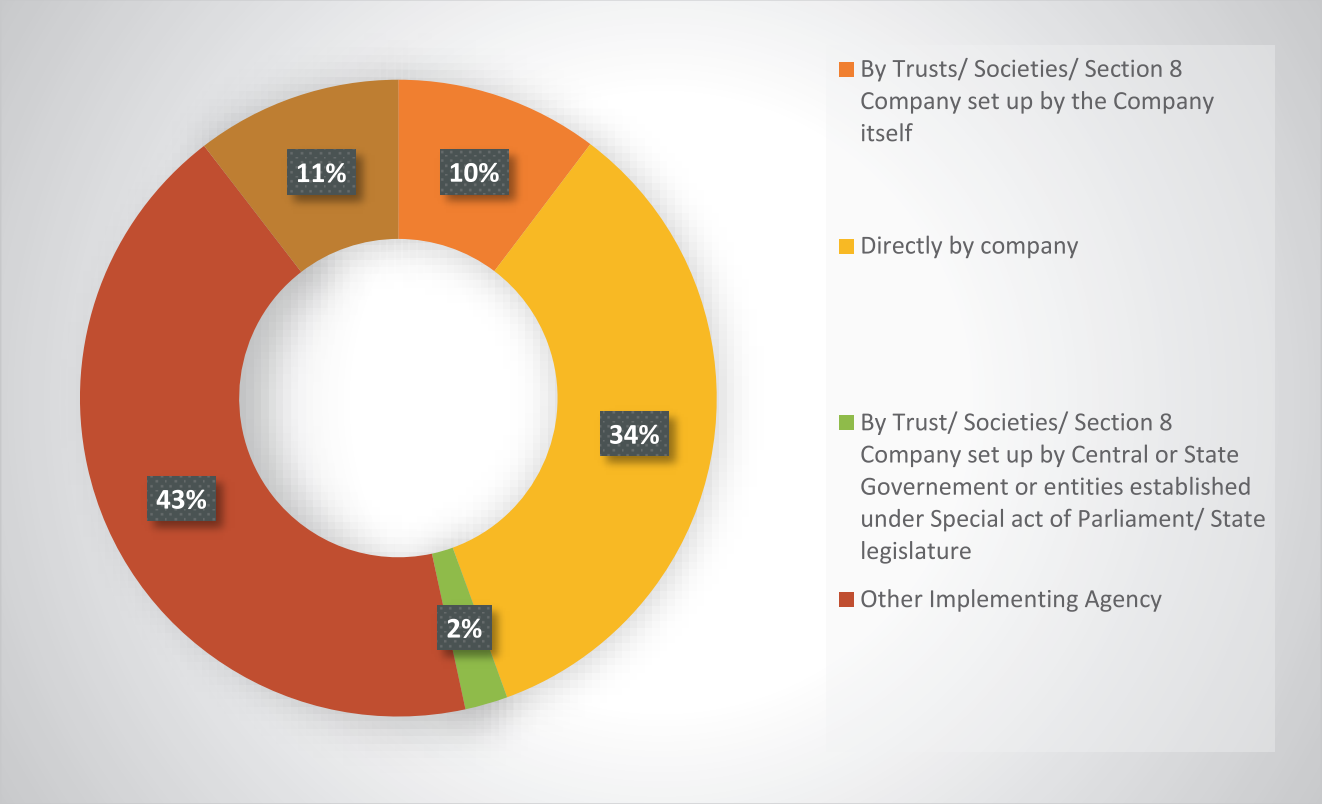


Figure 2.6

2.7.2 CSR expenditure across areas or subjects mentioned under Schedule VII

Out of the total expenditure incurred on Schedule VII areas, the projects related to education and health have received maximum CSR funds almost every year post 2014-15 followed by projects falling in the domain of rural development. Details about the year-wise CSR expenditure in areas or subjects mentioned in Schedule VII of the Act may be referred to in Figure 2.7 and the cumulative expenditure for all the years may be seen in Figure 2.8. In order to get a more detailed picture of the flow of CSR funds into various development sectors, Table 2.9 may be referred. The development sectors presented in the Table 2.9 has been as reported by the companies which fall under the areas or subjects mentioned in Schedule VII of the Act.

Figure 2.7

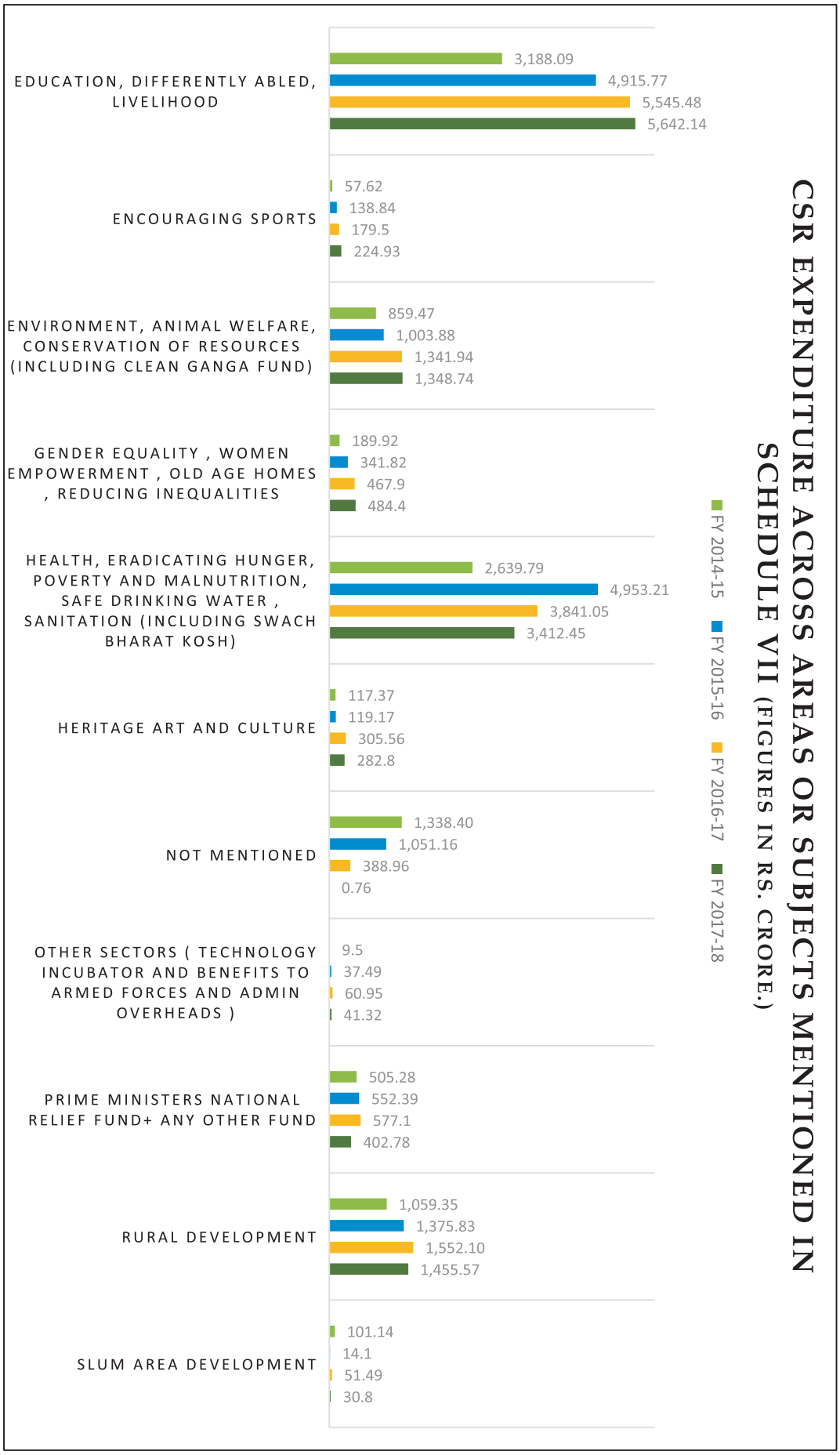
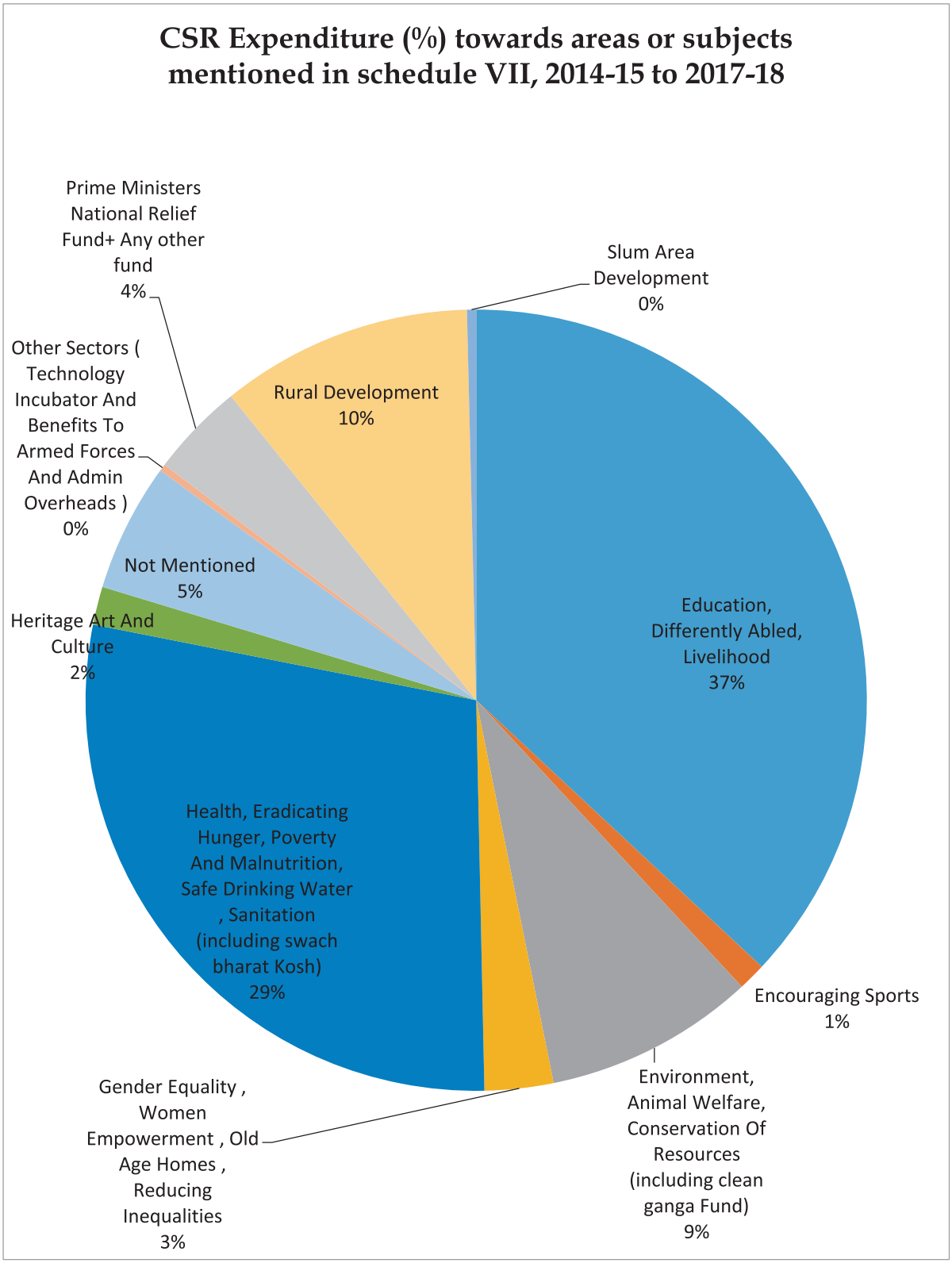

CSR EXPENDITURE ACROSS AREAS OR SUBJECTS MENTIONED IN SCHEDULE VII (FIGURES IN RS. CRORE.)
FY 2014-15
FY 2015-16
FY 2016-17
FY 2017-18
EDUCATION, DIFFERENTLY ABLED, LIVELIHOOD
3,188.09
4,915.77
5,545.48
5,642.14
ENCOURAGING SPORTS
57.62
138.84
179.5
224.93
ENVIRONMENT, ANIMAL WELFARE, CONSERVATION OF RESOURCES (INCLUDING CLEAN GANGA FUND)
859.47
1,003.88
1,341.94
1,348.74
GENDER EQUALITY , WOMEN EMPOWERMENT , OLD AGE HOMES , REDUCING INEQUALITIES
189.92
341.82
467.9
484.4
HEALTH, ERADICATING HUNGER, POVERTY AND MALNUTRITION, SAFE DRINKING WATER , SANITATION (INCLUDING SWACH BHARAT KOSH)
2,639.79
4,953.21
3,841.05
3,412.45
HERITAGE ART AND CULTURE
117.37
119.17
305.56
282.8
NOT MENTIONED
1,338.40
1,051.16
388.96
0.76
OTHER SECTORS (TECHNOLOGY INCUBATOR AND BENEFITS TO ARMED FORCES AND ADMIN OVERHEADS)
9.5
37.49
60.95
41.32
PRIME MINISTERS NATIONAL RELIEF FUND+ ANY OTHER FUND
505.28
552.39
577.1
402.78
RURAL DEVELOPMENT
1,059.35
1,375.83
1,552.10
1,455.57
SLUM AREA DEVELOPMENT
101.14
14.1
51.49
30.8

Table 2.9: CSR Expenditure (in Rs Crore) across various development sectors at disaggregated level (figures as per the filings received as on 31st March, 2019)

Development Sector	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Grand Total
Agro Forestry	18.12	57.85	43.45	12.18	131.60
Animal Welfare	17.29	66.67	78.60	57.75	220.30
Armed Forces, Veterans, War Widows/ Dependents	4.76	11.14	37.86	26.77	80.54
Art and Culture	117.37	119.17	305.56	282.80	824.90
Clean Ganga Fund	5.47	32.82	24.37	4.44	67.10
Conservation of Natural Resources	44.60	49.85	119.09	211.82	425.36
Education	2,589.42	4,052.15	4,491.74	4,478.88	15,612.20
Environmental Sustainability	773.99	796.69	1,076.43	1,062.55	3,709.67
Gender Equality	55.21	73.85	72.60	20.17	221.83
Health Care	1,847.74	2,563.73	2,481.94	2,127.07	9,020.47
Livelihood Enhancement Projects	280.17	393.38	515.47	654.04	1,843.06
NEC/ Not Mentioned	1,338.40	1,051.16	388.96	0.76	2,779.28
Other Central Government Funds	277.10	334.35	418.29	250.52	1,280.27
Poverty, Eradicating Hunger, Malnutrition	274.70	1,252.08	606.35	618.83	2,751.96
Prime Minister's National Relief Fund	228.18	218.04	158.80	152.26	757.29

Development Sector	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Grand Total
Rural Development Projects	1,059.35	1,375.83	1,552.10	1,455.57	5,442.84
Safe Drinking Water	103.95	180.16	147.19	174.16	605.45
Sanitation	299.54	631.73	421.51	280.81	1,633.59
Senior Citizens Welfare	8.94	21.87	26.91	31.34	89.06
Setting Up Homes and Hostels for Women	8.74	29.28	61.97	67.63	167.62
Setting Up Orphanage	5.12	16.90	16.80	36.57	75.39
Slum Area Development	101.14	14.10	51.49	30.80	197.53
Socio-Economic Inequalities	39.04	77.97	148.01	133.85	398.86
Special Education	41.43	125.84	164.83	120.56	452.66
Swachh Bharat Kosh	113.86	325.52	184.06	211.57	835.02
Technology Incubators	4.74	26.34	23.09	14.55	68.72
Training To Promote Sports	57.62	138.84	179.50	224.93	600.89
Vocational Skills	277.07	344.39	373.43	388.66	1,383.55
Women Empowerment	72.87	121.94	141.61	194.84	531.26
Grand Total	**10,065.93**	**14,503.65**	**14,312.03**	**13,326.69**	**52,208.30**

Figure 2.8



One of the major areas of concern for the stakeholders has been that for lack of innovative ideas and expenditure on internal capacities, corporates might park their

CSR funds with some of the designated funds mentioned in Schedule VII. At present, CSR funds can be contributed to PM National Relief Fund, Swachh Bharat Kosh, Clean Ganga Fund and any other fund set up by Central Government for socio-economic development. The contributions to these funds have been in small proportion **(approx. 5.6%)** of the total CSR expenditures for the years 2014-15 to 2017-18. However, the contribution is still greater than the contribution in areas such as heritage, art and culture, slum area development and gender equality and women empowerment. Table 2.10 details the expenditure in all the various funds form the year 2014-15 to 2017-18.

Table 2.10: Contribution to Designated Funds (in Rs. Crore) (figures as per the filings received as on 31st March, 2019)

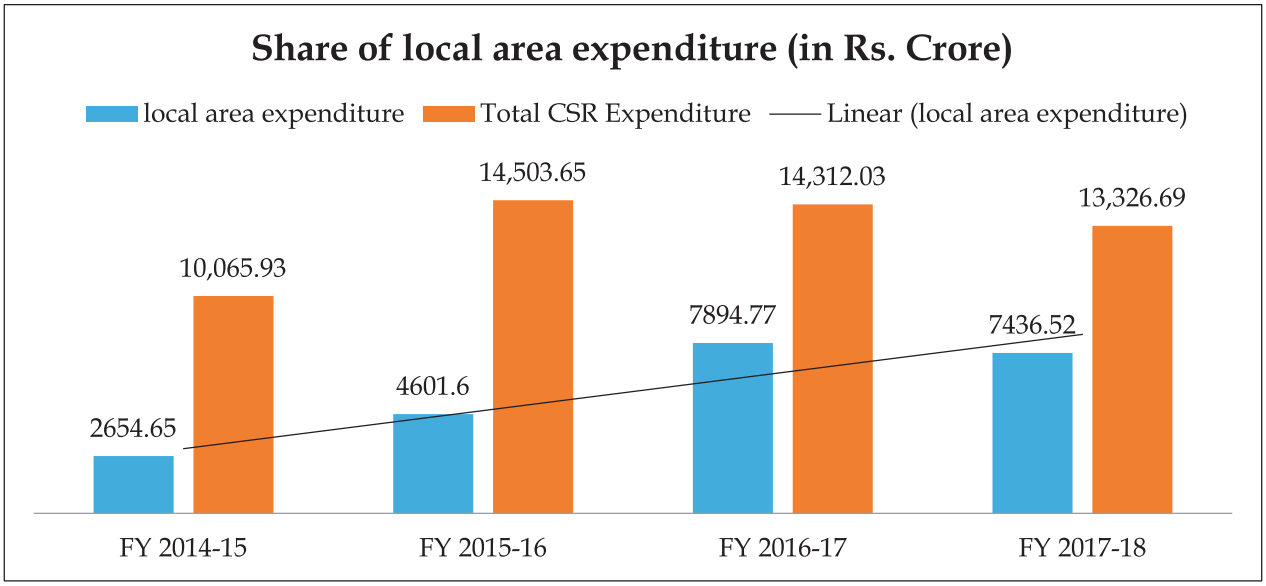
Contribution to funds set up by Central Government	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Grand Total
Any Other Fund	277.10	334.35	418.29	250.52	1,280.27
Clean Ganga Fund	5.47	32.82	24.37	4.44	67.10
Swachh Bharat Kosh	113.86	325.52	184.06	211.57	835.02
Prime Minister's National Relief Fund	228.18	218.04	158.80	152.26	757.29
Total contribution to Funds	**624.61**	**910.74**	**785.53**	**618.80**	**2,939.67**

2.7.3 Local area spending

The first proviso to subsection (5) of Section 135 of the Companies Act, 2013 states that the Board of the Company shall ensure that the company spends, in every financial year, at least 2 percent of their average net profits of the company made during three immediately preceding financial year, in pursuance of its CSR policy: provided that the company shall give ***preference to the local area and the areas around it where it operates***, for spending the amount earmarked for CSR activities.

Based on the above provision it may be pertinent to look into the magnitude of local area spending being done by the companies in aggregate. It has been observed that a lion's share of the total CSR fund available in a particular year is getting distributed in a few states, which may bring attention towards the role this provision might be playing in increasing the skew of the CSR expenditure across states. Figure 2.9 given below provides a clear picture where in the percentage share of local area spending to the total expenditure done under CSR has been on a rise since 2014-15.

Figure 2.9: Share of local area spending under CSR



2.8 Geographical distribution of CSR expenditure

A state-wise analysis of CSR expenditure reveals that there are some states where the concentration of CSR-led activities is the highest and increasing over the years. Table 2.11 gives the year-wise details of the flow of the CSR funds across the states while Figure 2.10 provides a clear picture of the considerable skew in the flow of CSR funds across states for the year 2014-15 to 2017-18. The states like Maharashtra, Karnataka, Andhra Pradesh, Gujarat, Tamil Nadu and Delhi have received approximately **40 %** of the total expenditure on CSR for the years 2014-15 to 2017-18.

Table 2.11: CSR expenditure across states year wise (in Rs cr.) (figures as per the filings received as on 31st March, 2019)

State/UT(s)	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Andaman And Nicobar	0.29	0.55	0.83	0.76
Andhra Pradesh	414.28	1,294.28	753.53	265.70
Arunachal Pradesh	11.05	1.48	24.05	11.84
Assam	134.78	164.60	269.92	83.89
Bihar	36.69	111.32	100.77	41.33
Chandigarh	1.77	5.34	21.99	20.30
Chhattisgarh	161.30	241.16	84.94	65.49
Dadra And Nagar Haveli	4.41	12.03	7.58	6.77
Daman And Diu	20.05	2.43	2.63	20.09
Delhi	237.44	493.29	520.37	522.80
Goa	27.11	30.15	35.87	51.50
Gujarat	313.45	551.43	870.64	764.27
Haryana	187.41	375.62	379.67	254.15
Himachal Pradesh	10.95	52.29	24.03	60.53
Jammu And Kashmir	43.71	107.81	42.74	14.17
Jharkhand	79.56	117.04	95.69	45.87
Karnataka	403.47	784.66	886.18	940.26
Kerala	68.23	148.12	135.47	145.37
Lakshadweep	-	0.30	-	2.07
Madhya Pradesh	141.88	185.40	286.60	144.71
Maharashtra	1,445.92	2,052.23	2,487.38	2,482.75
Manipur	2.44	6.28	12.35	3.71
Meghalaya	3.53	5.59	10.97	4.02
Mizoram	1.03	1.07	0.08	0.23
Nagaland	1.11	0.96	0.92	0.36
Odisha	252.18	624.05	316.71	467.30
Puducherry	2.02	6.46	7.43	5.29
Punjab	55.61	69.93	75.83	86.40
Rajasthan	299.76	501.45	327.15	256.63
Sikkim	1.19	1.98	6.83	6.80
Tamil Nadu	539.64	633.24	550.94	606.75
Telangana	101.96	265.40	259.77	286.74
Tripura	1.33	1.47	1.25	1.83
Uttar Pradesh	148.90	423.72	324.54	287.39

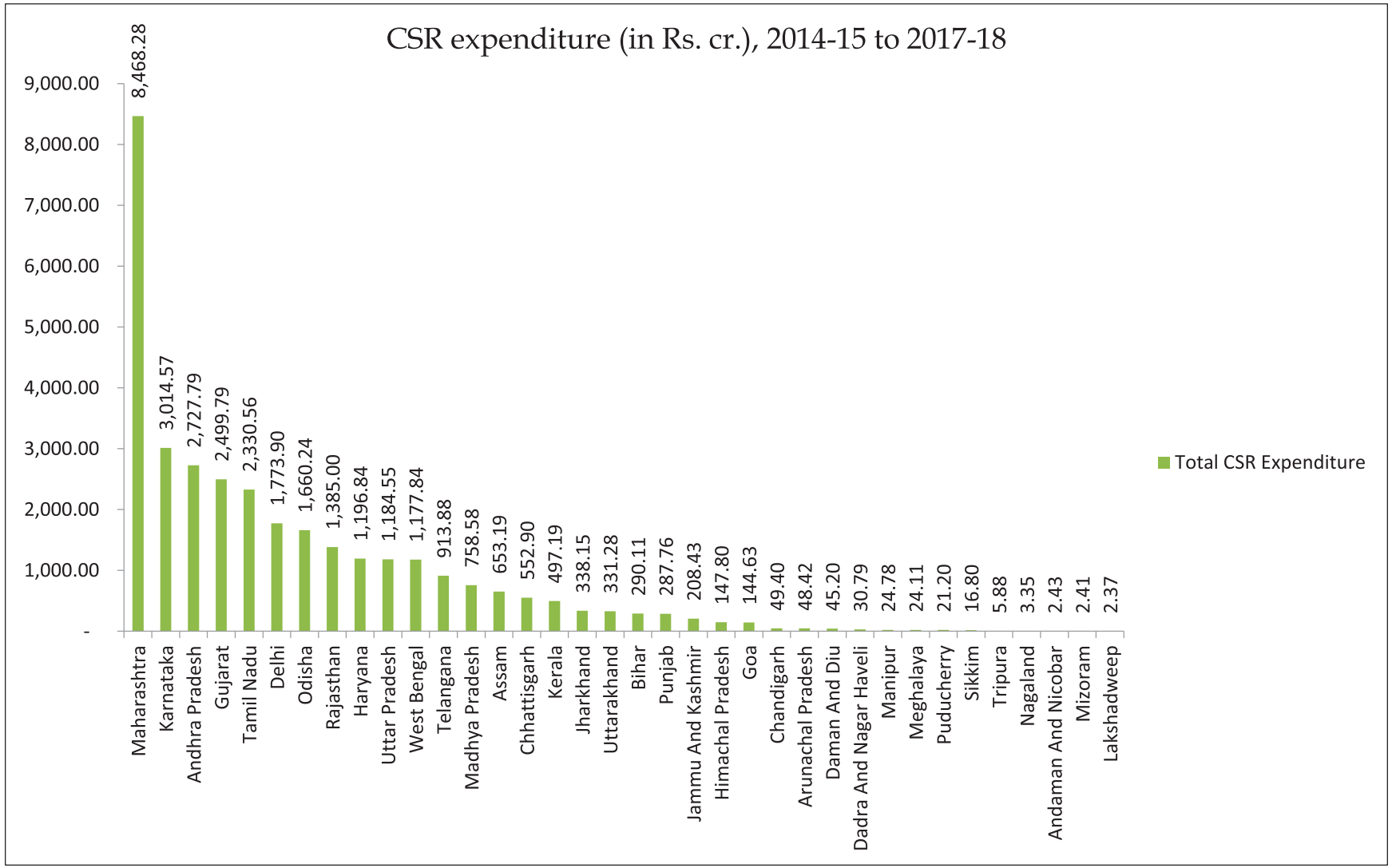
State/UT(s)	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Uttarakhand	74.79	73.17	101.52	81.81
West Bengal	194.86	415.42	289.90	277.66
NEC/ Not mentioned	26.94	-	6.81	-
PAN India	4,614.89	4,741.95	4,988.17	5,009.16
Grand Total	**10,065.93**	**14,503.65**	**14,312.03**	**13,326.69**

Note: The Table shows a row called PAN India which is also receiving significant CSR funds. Those cases have been categorized as PAN India where (i) a company is doing CSR projects in two or more states but has not reported the expenditure on the projects separately (ii) where a company is doing projects in two or more districts which are in different states and has not reported the breakup of the expenditure of each project. In these cases, it is not possible to bifurcate the CSR expenditure between different states and has been clubbed as PAN India.

In 2018, as per the Ministry of Rural Development, Government of India, India has a total of 718 districts, of which, approx. 16 percent (115 districts) were aspirational districts as per NITI Aayog (117 districts as of now). Jharkhand (19), Bihar (13), Chattisgarh (10), Madhya Pradesh (8) and Uttar Pradesh (8) account for more than **55 %** of the aspirational districts' concentration across India. However, it is critical to note that these states are receiving only **9%** of the total expenditure towards CSR for the years 2014-15 to 2017-18.

On the other hand, the states like Maharashtra, Karnataka, Andhra Pradesh, Gujarat, Tamil Nadu and Delhi have received approximately **40 %** of the total expenditure on CSR for the years 2014-15 to 2017-18 whereas these states possess only approximately **11%** concentration of the aspirational district.

Figure 2.10: Flow of CSR funds across states with states receiving maximum funds positioned on the left and states receiving minimum on the right



2.8.1 Net donor/recipient states in terms of flow of CSR fund

This section provides an overall idea of the pattern of flow of CSR funds. Table 2.12 provides the details about whether a state is a 'Net Donor' or a 'Net Recipient' as far as CSR funds are concerned. A State is a net donor when the amount of CSR funds originating from the State but going to other States is greater than the amount received from other States, while a State is a net recipient when the outgoing CSR funds is less than the amount received by that State from other States. Negative amount (highlighted in red) in Net Donor/Recipient column signifies Net Recipient State.

The amount originating in a State **(A)** has been captured by summing up the total CSR expenditure done by the companies registered in that State. The amount retained by a state **(B)** refers to that amount of CSR which is originating in that State as well as being spent there. Amount outgoing to other States **(C)** is deduced by subtracting the amount retained by a State from the amount originating from that State.

Table 2.12 Net donating/Receiving states in terms of CSR fund (in Rs Cr.)

State	Amount originating (A)	Amount Retained (B)	Amount outgoing to other states (C=A-B)	Amount received from other states (D)	Net Donor/Recipient (E=C-D)
Andaman And Nicobar	1.94	1.91	0.03	0.52	(0.49)
Andhra Pradesh	1,091.84	269.15	822.68	2,458.64	(1,635.95)
Arunachal Pradesh	0.51	0.40	0.11	48.02	(47.91)
Assam	508.48	378.82	129.65	274.37	(144.71)
Bihar	33.47	10.19	23.28	279.91	(256.63)
Chandigarh	18.49	2.96	15.53	46.44	(30.91)

State	Amount originating (A)	Amount Retained (B)	Amount outgoing to other states (C=A-B)	Amount received from other states (D)	Net Donor/Recipient (E=C-D)
Chhattisgarh	279.61	231.51	48.10	321.39	(273.29)
Dadra And Nagar Haveli	47.24	9.92	37.32	20.87	16.45
Daman And Diu	31.03	17.90	13.13	27.30	(14.17)
Delhi	9,951.18	1,169.48	8,781.70	604.41	8,177.29
Goa	157.53	106.54	50.99	38.09	12.90
Gujarat	3,492.71	1,598.13	1,894.58	901.66	992.93
Haryana	1,029.35	261.68	767.67	935.16	(167.49)
Himachal Pradesh	173.03	48.00	125.04	99.80	25.24
Jammu And Kashmir	68.85	68.10	0.75	140.33	(139.58)
Jharkhand	349.27	136.02	213.25	202.13	11.12
Karnataka	4,375.81	2,466.49	1,909.32	548.08	1,361.24
Kerala	486.88	296.22	190.66	200.97	(10.31)
Lakshadweep	0.97	0.30	0.67	2.07	(1.40)
Madhya Pradesh	615.49	349.45	266.04	409.13	(143.09)
Maharashtra	18,682.56	6,259.07	12,423.49	2,209.22	10,214.28
Manipur	0.26	0.13	0.13	24.65	(24.52)

State	Amount originating (A)	Amount Retained (B)	Amount outgoing to other states (C=A-B)	Amount received from other states (D)	Net Donor/Recipient (E=C-D)
Meghalaya	42.20	7.67	34.54	16.44	18.10
Mizoram	-	-	-	2.41	(2.41)
Nagaland	1.36	-	1.36	3.35	(1.98)
Odisha	992.84	951.91	40.93	708.33	(667.40)
Puducherry	8.71	3.59	5.12	17.61	(12.49)
Punjab	2,232.16	161.64	2,070.52	126.13	1,944.39
Rajasthan	586.92	417.68	169.25	967.32	(798.08)
Sikkim	-	-	-	16.80	(16.80)
Tamil Nadu	2,673.91	1,561.83	1,112.08	768.73	343.35
Telangana	1,218.37	561.92	656.45	351.96	304.49
Tripura	3.46	3.24	0.23	2.65	(2.42)
Uttar Pradesh	377.99	177.79	200.20	1,006.75	(806.55)
Uttarakhand	97.47	77.42	20.04	253.86	(233.82)
West Bengal	2,576.40	791.07	1,785.33	386.77	1,398.56
NEC/Not mentioned			-	33.75	
Pan India			-	19,354.17	
Grand Total	52,208.30		52,208.30	52,208.30	

Note: *The Table shows a row called Pan India which is also receiving significant CSR funds. Those cases have been categorized as Pan India where (i) a company is doing CSR projects in two or more states but has not reported the expenditure on the projects separately (ii) where a company is doing projects in two or more districts which are in different states and has not reported the breakup of the expenditure of each project. In these cases, it is not possible to bifurcate the CSR expenditure between different states and has been clubbed as Pan India.*

It is pertinent to mention that in the above analysis, the Originating Amount from a State has been obtained accurately but the Receiving Amount by a state may not be accurate due the existence of the variable 'Pan India' (which is shown as receiving substantial CSR funds) as the CSR funds under the head 'Pan India' cannot be bifurcated further between the States since the companies are not giving the breakup while filing the details. However, if we assume a scenario where the funds under the head Pan India were distributed between the states in some proportion, the Net Recipient states mentioned in the Table above will still remain Net Recipient states. Only some states falling in the Net Donor category may switch from Net Donor to Net Recipient. In such a scenario, Net Recipient category States can be claimed with certainty.

2.8.2 CSR expenditure in the North East Region (NER)

The North East Region comprises of eight states. An assessment of the challenges in NER broadly identifies them as infrastructural gaps and backlogs in basic minimum services in North Eastern States that include connecting North-East with rest of India and world through rail, road, water and air connectivity, opening new trade and business opportunities by improving the banking sector and giving incentive to the industry sector, etc. Government has made concerted efforts for development of the North-Eastern Region. However, the funds emerging from the obligation of the corporates towards CSR activities might be a crucial source to supplement the efforts taken by the Government and also bring in efficiency in delivery of basic services to the people. Table 2.13 shows that the NER is receiving a miniscule proportion of the total CSR expenditure. It is desirable to step up the flow of CSR funds in this region. Assam has received maximum CSR fund of Rs 653.19 Crores within the NER.

Table 2.13: Funds received by NER (2014-15 to 2017-18)

N.E States	Cumulative CSR Expenditure (in Cr)
Assam	653.19
Arunachal Pradesh	48.42
Meghalaya	24.11
Manipur	24.78
Sikkim	16.80
Tripura	5.88
Nagaland	3.35
Mizoram	2.41
Grand Total for NER	**778.93**

2.8.3 CSR expenditure in Left Wing Extremism (LWE) districts

Ministry of Home Affairs, Government of India, has notified 90 districts in 11 States as those affected by Left Wing Extremism (LWE) in February, 2019. A total of Rs 448.14 crore has been received by 67 LWE districts and the details for the same have been provided in Table 2.14.

Table 2.14: Funds received by LWE districts in India (2014-15 to 2017-18)

Name of Districts	State	Total CSR spent (in cr)
Visakhapatnam	Andhra Pradesh	93.62
Chandrapur	Maharashtra	42.04
Angul	Odisha	33.69
Koraput	Odisha	29.40
Guntur	Andhra Pradesh	28.61
Ranchi	Jharkhand	26.89
Srikakulam	Andhra Pradesh	18.14
West Godavari	Andhra Pradesh	15.98
Dhanbad	Jharkhand	15.78
Vaishali	Bihar	13.41
Gondia	Maharashtra	10.22
Balaghat	Madhya Pradesh	9.24
Giridih	Jharkhand	8.58
East Godavari	Andhra Pradesh	7.92

Name of Districts	State	Total CSR spent (in cr)
Khammam	Telangana	7.10
Kalahandi	Odisha	6.64
Bastar	Chhattisgarh	6.42
East Singhbhum	Jharkhand	6.18
Rajnandgaon	Chhattisgarh	5.72
Muzaffarpur	Bihar	5.54
Bijapur	Chhattisgarh	5.50
Jamui	Bihar	5.34
Adilabad	Telangana	4.80
Gadchiroli	Maharashtra	3.88
Hazaribagh	Jharkhand	3.60
Palakkad	Kerala	3.53
Kanker	Chhattisgarh	3.43
Nalanda	Bihar	2.70
Rayagada	Odisha	2.44
Sundargarh	Odisha	2.31
Gaya	Bihar	2.18
Bokaro	Jharkhand	1.94
Aurangabad	Bihar	1.69
Wayanad	Kerala	1.43
Ramgarh	Jharkhand	1.25
West Singhbhum	Jharkhand	1.10
Malappuram	Kerala	0.92
Nuapada	Odisha	0.88
Vizianagaram	Andhra Pradesh	0.88
Kandhamal	Odisha	0.81
Dhamtari	Chhattisgarh	0.68
Nayagarh	Odisha	0.60
Balrampur	Chhattisgarh	0.57
Khunti	Jharkhand	0.56
Jehanabad	Bihar	0.54
Simdega	Jharkhand	0.49
Rohtas	Bihar	0.47
Dumka	Jharkhand	0.37
Mirzapur	Uttar Pradesh	0.36
Malkangiri	Odisha	0.26

Name of Districts	State	Total CSR spent (in cr)
Munger	Bihar	0.25
Dantewada	Chhattisgarh	0.21
Mandla	Madhya Pradesh	0.15
Banka	Bihar	0.15
Mahasamund	Chhattisgarh	0.15
Lakhisarai	Bihar	0.13
Chatra	Jharkhand	0.13
Bargarh	Odisha	0.09
West Champaran	Bihar	0.05
Deogarh	Odisha	0.05
Palamu	Jharkhand	0.04
Latehar	Jharkhand	0.03
Bolangir	Odisha	0.02
East Champaran	Bihar	0.02
Gumla	Jharkhand	0.02
Koderma	Jharkhand	0.01
Nawada	Bihar	0.004

Out of the 90 LWE districts, 23 districts are not receiving any funds under CSR. Table 2.15 below provides the names of those districts and their state respectively.

Table 2.15: LWE districts not receiving any CSR funds

Name of Districts	State
Arwal	Bihar
Kaimur	Bihar
Balod	Chhattisgarh
Gariyaband	Chhattisgarh
Kondagaon	Chhattisgarh
Narayanpur	Chhattisgarh
Sukma	Chhattisgarh
Kabirdham	Chhattisgarh
Garhwa	Jharkhand
Lohardaga	Jharkhand

Name of Districts	State
Saraikela-Kharaswan	Jharkhand
Boudh	Odisha
Nabrangpur	Odisha
Sambhalpur	Odisha
Bhadradri-Kothagudem	Telangana
Jayashankar-Bhupalpally	Telangana
Komaram-Bheem	Telangana
Mancherial	Telangana
Peddapalle	Telangana
Warangal Rural	Telangana
Chandauli	Uttar Pradesh
Sonebhadra	Uttar Pradesh
Jhargram	West Bengal

2.9 Sustainable Development Goals (SDGs) mapped with areas or subjects mentioned in Schedule VII of the Act

At the global level, Sustainable Development Goals were adopted on 25th September, 2015 by 193 member states of the United Nations to end poverty, protect the planet and ensure prosperity for all as part of a new sustainable development agenda. These goals range from ending poverty to looking at climate action. The 17 goals which consist of 169 targets have to be achieved by 2030. India has played an integral role in the formation and evolution of SDGs and is committed to its achievement. NITI Aayog is the coordinating Agency for the implementation of SDGs in India.

In the Table 2.16 given below, the SDGs are broadly mapped with the areas and subjects mentioned in Schedule VII, along with the cumulative CSR spent received for the year 2014-15 to 2017-18.

Table 2.16: Mapping of SDGs with Schedule VII of the Act

Schedule VII areas	Sustainable Development Goals (SDG number)	Cumulative CSR spend (in Rs.cr)	% of total CSR spend
Environment, Animal Welfare, Conservation of Resources (including Clean Ganga Fund)		4,554.03	8.72
Education, Differently Abled, Livelihood		19,291.47	36.95
Health, Eradicating Hunger, Poverty And Malnutrition, Safe Drinking Water, Sanitation (including Swach Bharat Kosh)		14,846.50	28.44
Encouraging Sports		600.89	1.15
Heritage, Art, and Culture		824.90	1.58
Gender Equality, Women Empowerment, Old Age Homes, Reducing Inequalities		1,484.04	2.84

Rural Development		5,442.84	10.43
Slum Area Development		197.53	0.38
Prime Minister's National Relief Fund and any other fund		2,037.55	3.90
Other Sectors (Technology Incubator and Benefits To Armed Forces And Admin Overheads)		152.00	0.29
Not Mentioned		2,779.28	5.32

Note: The mapping of SDGs, in the above table, with areas or subjects mentioned in Schedule VII of the Act is subjective in nature and may vary from person to person.

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CHAPTER 3: KEY ISSUES DISCUSSED AND RECOMMENDATIONS

In this section the Committee has examined the entire CSR framework and addressed issues at length under the following heads: Current provision of the Act, and Context for the issue and rationale for making a recommendation. Where the issue has merited only discussion or clarification, it has been presented briefly.

Issues related to CSR provisions of the Act

3.1. Applicability of the CSR Provisions

Current Provision

Section 135(1): Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more, or a net profit of rupees five crore or more, during any financial year, shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

Rationale

Under this theme, the Committee examined two issues: Definition of companies which included Section 8 companies, foreign companies, and similarly placed profit making entities not incorporated under the Companies Act, 2013, and composition of CSR Committee.

The Committee perused the requests that had been received seeking exemption for such companies as they are not-for-profit and carry out charitable activities for the benefit of society. A Section 8 company is one which "has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, and protection of environment or any such other object". The Committee has been apprised that all Section 8 companies are not necessarily formed with charitable objects. The aspect of them being not-for-profit does not mean that they do not generate profits, rather, the surplus of income over expenditure is ploughed back to

promote its objects and not distributed to its shareholders. Aside from this, a Section 8 company is like any other company defined under the Act. In view thereof, there seems to be no justification to exclude them from the CSR mandate.

In so far as foreign companies are concerned, the Companies (Amendment) Act, 2017 has explicitly specified the applicability of Section 135 to them, although it had always been applicable through Companies (Corporate Social Responsibility) Policy, Rules, 2014.

The Committee has noted that HLC-2015 suggested that CSR provisions also be made applicable to profit making entities not incorporated under Company Law, but operating under other specific statutes on mutatis mutandis basis. The Guidelines on Corporate Social Responsibility and Sustainability for Central Public Sector Enterprises (CPSEs) issued by the Department of Public Enterprises (DPE) in October 2014, also prescribed/advised that CPSEs which are statutory corporations also comply with CSR provisions. A statutory corporation is a body corporate formed by a special act of the parliament or by the central or state legislature, e.g. Air India, State Bank of India, Life Insurance Corporation of India, etc. The case for ensuring that statutory provisions are similarly made applicable to similarly placed legal entities was deliberated by the Committee.

This committee felt that in keeping with the larger philosophy of responsible business conduct, provisions of CSR need to be applicable across all business entities and there should be a level playing field. Businesses are carried out inter alia as Partnerships, Limited Liability Partnerships (LLPs), Banks, etc. Even among banks, there are banking companies which are incorporated under Company Law. All these forms of organisations may be treated as being similarly placed statutory entities begetting similar treatment in legal obligations. This would also remove the scope for regulatory arbitrage which has been observed in certain cases where companies have converted to LLPs.

Recommendation

The scope of CSR applicability be extended to Limited Liability Partnerships (LLPs) which are within the purview of the MCA. The applicability of CSR may also be extended to Banks registered under the Banking Regulation Act, 1949. The applicability of CSR provisions may also be extended to similarly placed entities not covered under Companies Act through necessary amendments in Companies Act and, if necessary, in their respective statutes.

3.2. *Applicability of CSR Provisions to Newly Incorporated Companies*

Current Provision

Another issue brought to the notice of the Committee was with regard to applicability of CSR provisions to newly incorporated companies. Section 135(1) specifies eligibility for undertaking CSR activities as Net Worth of Rs. 500 crores, or Turnover Rs. 1000 crores, or Net Profit of Rs. 5 crores for the preceding year. Section 135(5) enunciates the quantum of CSR amount to be spent which is calculated as 2% of average net profit made during the immediately preceding three years. The difference in time periods in the eligibility and quantification criteria has raised doubts on the obligation of spending on CSR for companies which have been in existence for less than three years.

Rationale

The Committee feels the need to remove the ambiguity surrounding the issue. The quantification criteria requires that profits should have been made for three years to calculate average net profit which would be incalculable otherwise. From a harmonious reading of sections 135(1) and 135(5) of the Act, it may be inferred that the obligation under Section 135 would arise once the Company has been in existence for three years. This is also in keeping with the thrust of Ease of Doing Business by allowing adequate time for a newly incorporated company to stabilise itself before mandatory spending obligations are imposed on it.

Recommendation

A clarification may be issued that for newly incorporated companies the obligation under Section 135 shall lie only after they have been in existence for three years.

3.3 Constitution of CSR Committee

Current Provision

As per Section 135(1) of the Act, "….CSR eligible company shall have to constitute a CSR Committee of the Board consisting of three or more Directors, out of which at least one Director shall be an Independent Director:

Provided that where a company is not required to appoint an independent director under sub-section (4) of Section 149, it shall have in its Corporate Social Responsibility Committee two or more directors".

The CSR Committee has to formulate and recommend to the Board, a CSR Policy indicative of activities to be undertaken as per Schedule VII of the Act, recommend the amount of expenditure to be incurred on CSR activities, and monitor CSR Policy of the Company from time to time. In view of the envisaged responsibility of the CSR Committee, the High-Level Committee felt that mandating such requirements for smaller companies having low prescribed CSR amount would lead to increased operational cost.

Rationale

The Committee is however cognizant that an undue burden must not be cast upon companies such that compliances are made in breach rather than in adherence. The Committee noted that approximately 80% of the total number of companies eligible for CSR between FY 2014-15 and FY 2017-18 have prescribed CSR amount of less than Rs. 50 lakhs (Ref. Table 2.7). Projects/ Programmes costing Rs. 50 lakhs or more would require project life-cycle planning**.** Hence, the Committee is of the view that Rs. 50 lakhs could be the threshold, such that companies having prescribed amount below

this, be exempt from forming a separate CSR Committee of the Board. Instead the Board itself may carry out the functions of the CSR Committee.

Recommendation

Companies having prescribed CSR amount below Rs. 50 lakhs be exempt from forming a separate CSR Committee. The Board itself would carry out the functions of the CSR Committee.

3.4. Obligation to carry out CSR and carrying forward of unspent CSR amount

Current Provision

Section 135 (5): The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Rationale

The Committee has observed that the obligation to carry out CSR activities is being interpreted as both, mandatory as well as discretionary. This seems to emanate from interpreting the second proviso of Section 135 of the Act to mean that specifying reasons for not spending in the Board Report discharges the obligation to undertake CSR activities. This is ostensibly a limited interpretation.

Any interpretation of the law must bear in mind the intent of the legislation. A proviso to the substantive provision of law is usually meant to accommodate for exceptions to

the rule. The second proviso to Section 135 of the Act appears to have been inserted to accommodate for situations where spending on CSR activities might have been rendered difficult due to operational or unforeseen exigencies. However, the Committee noted that even after five years of the Act, CSR-eligible companies continue to cite delay in project identification, delay in implementation plans and lack of prior expertise as key reasons for not spending their prescribed CSR amount (Ref. Table 2.6) which are often not tenable. The Committee is of the view that mere statement of a reason for not spending is also not sufficient in itself. The justification for not incurring CSR expenditure in that year, despite being eligible to do so must be substantive. They must reflect the intent to spend as well as the inability to do so due to prohibitive and unavoidable circumstances. Even so, a tenable reason does not expel or extinguish the obligation to spend the stipulated CSR amount.

However, mandating a Company to incur large CSR spending within a year without taking into account the financial and operational challenges will not lead to desirable outcomes. Also, transferring the CSR monies in Central Government funds to ensure compliance does not serve the intended purpose of CSR. The Committee felt that it is not desirable that CSR monies be spent by the companies within a year as it would curtail the possibility of creating value, and material and social resources from CSR funds. The CSR spend shall be based on nature of projects/programmes, gestation period (long, medium or short), flexibility in project/programme design, etc. and accordingly there shall be front loading or back loading of funds. It is important that flexibility be allowed to enable CSR amounts to be spent on need basis. However, the time period for spending the CSR amount cannot be indefinite for carrying out projects having long gestation periods.

The Committee discussed the issue regarding time period to be provided within which the requisite CSR amount gets spent as many projects undertaken by the companies are multi-year projects having long gestation period. The majority of members were in agreement on providing a time-range of three to five years. However, a few

members were of the view that a fixed timeframe of five years be provided. Overall it was acknowledged that a range of three to five years is reasonable.

It is beyond doubt that CSR is a tool for social inclusion. Keeping in view the quantum of CSR amount which can provide fillip to social development, the Committee is of the view that the law be explicit and provide for carrying forward of unspent amount, and penal provisions for its non-compliance. The Committee has been informed that several call-for-information letters have been issued under Section 134(8) read with Section 135 of the Act which provide for punishment of not less than Rs. 50,000 and may extend to Rs. 5 lakhs for the company, and every officer of the company who is in default shall be punishable with an imprisonment for a term which may extend to three years or with fine which shall not be less than Rs. 50,000 but which may be extended to Rs. 5 lakhs, or both. The Committee noted that CSR is a means to partner corporates for social development and such penal provisions are not in harmony with the spirit of CSR. The Committee stressed upon advocacy and sensitization to achieve the overall objective of CSR and proposes that the offence be de-criminalized and be made a civil offence.

Recommendation

The Committee is of the view that the unspent CSR amount for a particular year be transferred to a separate designated account created for the purpose. Such unspent amount, and the interest earned thereon, be spent within a period of three to five years, failing which the same be transferred to a fund to be specified by the Central Government which may be used for innovative, high-impact projects related to activities listed in Schedule VII. Adequate provisions be provided to ensure compliance. A penalty, 2-3 times the default amount, may be imposed subject to a maximum of Rs. 1 (one) Crore upon the default being made good, but there be no imprisonment.

3.5 Creation of Capital Assets through CSR spending

Context

Examination of reporting by companies reveals that CSR spending has been used for acquisition or creation of assets such as land, buildings, etc. It has been reasoned that such spending was a prerequisite for undertaking the activities listed in Schedule VII. A school building would be required for promoting teaching, land would be required for setting up hospitals for promoting healthcare, minor civil construction would be required for carrying out rural development projects, etc. However, as per provisions of the Act, CSR amounts need to be spent during the course of a year, meaning thereby that CSR spending would qualify as a revenue expense. In other words, such spending would not give rise to the creation of an asset, a resource from which future economic benefits would flow. The Committee has been informed that representations have been received from various stakeholders to clarify the matter and permit creation of assets from CSR funds, and specify how such assets would be treated in terms of ownership and use. The Committee deliberated upon the matter at length.

Rationale

The Committee feels that CSR funds be deployed for development initiatives which are sustainable and effective. The recommendation of this Committee for carrying forward unspent CSR amounts would further facilitate infrastructural enhancements and creation of durable assets. From the perspective of achieving SDGs and fulfilling social development requirements, it is felt that capital-intensive spending for creation of assets is desirable. However, there seems to be a concomitant issue of ownership of assets so created and their utility.

In keeping with the intent of the legislation, CSR amount should be spent by the company, i.e. it must not be lying with the company. However, if a company creates an asset by spending CSR funds, the asset shall continue to hold the value till it depreciates or gets liquidated. An asset, by definition, inheres the potential for giving future economic benefits. Therefore, the creation of an asset by the company in its

name, especially appreciable assets, would tantamount to non-spending of the CSR monies. This means that an asset created out of CSR funds must not be held by the company in its name or in the name of any other incorporated or unincorporated entity of which it is the ultimate beneficiary. Further, it is important to understand the utilization of the assets so created.

The Committee has been informed by the Ministry that while the value of CSR spending and the impact generated by it remains to be seen, complaints have been received regarding misuse of CSR spending - that schools, hospitals and other public utilities are being created, but exorbitant charges are being levied for using them. While the complaints remain to be examined and verified, this vitiates the very object of mandating CSR if this indeed is a prevalent practice. Companies need to be sensitized to contribute in social development with a focus on serving the unserved and not be profit-oriented and commercialise operations in the guise of CSR. For this purpose, disclosures being sought on CSR be made more granular, to capture the profile of end-users being served through CSR spending.

It was also noted by the Committee that profit was directly correlated to business cycles of the market. A company may therefore not always make profits and be able to operate and maintain it. Further, it may not be expected that a company shall divert its focus from the principal business and concentrate on running CSR activities. It is however desirable that life-cycle cost of the asset be met for value to flow to the society from its creation. To address these issues, it is proposed that suitable partnerships be forged by companies with the State and Community for undertaking activities where assets are being created. The ownership of assets created for public purpose rests with the public, and the company acts as a custodian to operate it and make it self-sustaining. This is also in keeping with the 17th SDG of “Partnerships for goals”.

Recommendation

Regulatory oversight be exercised through enhanced and granular reporting wherever CSR funds are used for creation of capital assets. Companies be encouraged to forge partnerships when creating assets for public purpose. The ownership shall rest with the public and the company may act as a custodian to operate it and make it self-sustaining.

3.6 Undertaking CSR Activities in Local Areas

Current Provision

The first proviso to Section 135 (5) states that companies "shall give preference to the local area and areas around which it operates for spending the amount earmarked for Corporate Social Responsibility activities".

Rationale

The Committee deliberated over whether spending of CSR funds in local areas, as mentioned in the Act, was geographically and territorially limiting the spending of CSR monies. An analysis of the CSR data from FY 2014-15 to FY 2017-18 (Ref. Fig. 2.9 and Table 2.11), reveals an acute concentration of CSR funds in a few geographical areas to the exclusion of the rest. There is a skew in favour of industrialised states such that the least developed states receive the least funds. This skew may have been caused, inter alia, by the clause on local area preference. Data suggests that there has been an increasing trend to spend CSR amounts in local areas and local area preference has been interpreted as mandatory and not directory.

Upon a bare perusal of Section 135, at the first blush it may seem that by incorporating the term "shall" before the terms, "preference" and "local areas", the Act intended that it is mandatory to comply with CSR obligations within a geographical/territorial area limitation. However, it is imperative to read Section 135 holistically and together with Schedule VII to interpret it harmoniously.

Schedule VII provides a list of recommended activities. These activities extend beyond any geographical or territorial limitation provided for in Section 135. CSR contribution towards the activities envisaged in Schedule VII impact at the national level, thus exceed the geographical limitation of "local area and areas around which the company operates". In fact, there are many areas in Schedule VII, which have got nothing to do with the geographical prescription, e.g. welfare schemes for war widows. It is therefore obvious that Section 135 and its proviso are directory and not mandatory in nature.

It is important to note that industries have footprints in regional, national and international markets. Similarly, business operations have transformed dramatically with the Information & Communication Technology (ICT) revolution, which has rendered geographical locations irrelevant. Companies are now based entirely on internet platforms such as e-marketplaces, e.g. Flipkart, Amazon; aggregation model such as Ola, Uber and Zomato; process outsourcing, such as BPOs, KPOs and LPOs. Companies operating in the services sector are unable to define a local area. It is therefore evident that the first proviso to Section 135 (5) is directory, and not mandatory, in nature.

The emphasis on the local area preference in the CSR legislation originated from the context of manufacturing and allied industries who need to ensure that they replenish the environment from which they extract resources. This clause has great relevance for core and extractive industries. However, the Committee noted that there are some existing statures that mandate such industries or companies to meet the local area requirements. For example, the Ministry of Mines amended the Mines and Mineral (Development and Regulation) Act, 1957 (MMDR Act, 1957) by the MMDR Amendment Act, 2015 to provide for the establishment of District Mineral Foundation (DMF) in any district affected by mining-related operations. The object of DMF is to work for the interest and benefit of persons, and areas affected by mining-related operations. The Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY) is to be

implemented using the DMF. These funds are to be utilised for areas such as drinking water supply, environment preservation and pollution control measures, health care, education, welfare of women, children, aged, and differently abled people among other things. As per data available on the website of Ministry of Mines as on 11.05.2019, there is a corpus of Rs. 36,458 crores in the DMF. The areas in which these funds are being utilised are in alignment with the subjects specified in Schedule VII of the Act. The Mines and Mineral Amendment Act is serving the very same intent and purpose as the CSR legislation through a special Act meant for a specific purpose.

The Committee felt that the companies need to balance CSR spending between local area/areas around where it operates, and, less developed regions such as aspirational districts.

Recommendation

The emphasis on local area in the Act is only directory and not mandatory in nature. A clarification be issued advising companies to engage in CSR activities by balancing local area preference with national priorities.

3.7 Schedule VII of the Act

Current Provision

Schedule VII of Companies Act, 2013 specifies the areas or subjects to be undertaken by the company as CSR activities. These areas broadly align with national priorities and relate to sustainable and inclusive development. The Act does not recognize any expenditure on areas/activities outside of Schedule VII as CSR expenditure. The Committee has been informed that the Ministry has received maximum queries with regard to Schedule VII and a large number of suggestions have been received for expanding the list. In view of this, the Committee felt that there is a need to revisit Schedule VII of the Act.

Rationale

The Ministry in its circular dated 18th June, 2014 clarified that Schedule VII was to be interpreted liberally and also provided an illustrative list of activities that could be covered under the enlisted items.

HLC-2015 also reiterated the interpretation of enlisted activities liberally and deliberated upon having an elaborate list of permissible activities. It was the considered view of the Committee that Schedule VII incorporate all the public goods in the list of permissible activities and also have an 'omnibus clause' to accommodate for development concerns, needs and priorities which cannot be anticipated. This Committee also considered the various suggestions received for inclusion in the list.

This Committee was of the view that there cannot be a fixed list of permissible activities. Aligning Schedule VII of the Companies Act, 2013 with broader principles of holistic development, instead of an activity-based prescriptive approach, would better serve the objective of inclusive and sustainable development through participation of businesses. It is suggested that Schedule VII be brought in line with the United Nations SDGs enumerated in the 2030 Agenda for Sustainable Development, which India has adopted. SDGs are avowedly a universal call for ending poverty, protecting the planet and ensuring that all people enjoy peace and prosperity. Integration of SDGs within Schedule VII would not only broaden the CSR mandate but willshall also contribute to firmly establishing businesses as partners in achieving global goals.

After reviewing the suggestions, the Committee agreed that the following specific provisions could be made part of Schedule VII: (a) Welfare of senior citizens; (b) rehabilitation of differently abled persons, (c) Promotion of sports (d) Protection and maintenance of heritage monuments/sites; (e) Contribution to incubators partly funded by Central/State Government or a Public Sector Undertaking provided that they are a Section 8 company and do not undertake commercial activities; (f) Relief, rescue, rehabilitation and reconstruction activities related to `Disasters' as defined under section 2(d) of the Disaster Management Act, 2005 or `Drought' as notified by

the Ministry of Agriculture. Further, the Committee was of the considered view that while sponsorship is not and should not be a CSR activity, funding of amateur sports tournaments as part of annual competitions at State and National level being conducted by recognized national sports federations should be allowed as CSR activity. Further, the CSR funds could be advanced for preparation of athletes as well as assistance to athletes for participation in various international events.

The issue of earmarking CSR funds for marginalized groups was also discussed. The Committee noted that earmarking of funds vitiates Board's prerogative to select and carry out the activities it so desires. Schedule VII in its widest interpretation and enlarged scope already covers areas where development interventions are desired. The Committee felt that need and impact assessment for projects with large outlays is likely to bring forth the areas which require intervention for the benefit of socially and economically backward regions/communities. Board oversight, need and impact assessment, along with enhanced disclosures shall act as levers to ensure that marginalized and vulnerable communities benefit the most from CSR. The Schedule enlists development areas, inter alia, health, education, environment, slum development, rural development, and SC/STs are among the primary beneficiaries of CSR spending on these activities. It was therefore decided that CSR funds should not be earmarked for any specific beneficiaries. The Committee felt that Central Government may give specific directions to Companies when the situation warrants to align CSR expenditures with broader national priority or social inclusion.

There could arise a situation that certain items in Schedule VII may become more important than others for achievement of development goals and to further that end the Central Government may, if required, identify a few areas from Schedule VII as priority areas and issue specific directions in this regard.

Recommendation

Schedule VII be mapped and aligned largely with SDGs and some important items such as promoting sports, senior citizens' welfare, welfare of differently abled persons, disaster management, and heritage be additionally included to develop an SDG+ framework. The Central Government may, if required, identify a few areas from Schedule VII as priority areas and issue specific directions in this regard.

3.7.1 Contribution to Central Government Funds specified in Schedule VII

Context

The Committee noted that there has been some contribution of CSR amount by companies to the Central Government Funds specified in Schedule VII (Ref. Table 2.10). The Committee felt that such contribution to Central Government Funds be discouraged, as was was also stated by HLC-2015. This goes against the philosophy of CSR which seeks to engage businesses as partners in social development wherein fiduciary duties have been cast upon Directors to ensure the best interests, inter alia, the community and environment. Contribution to Central Government funds stymies the Board-driven approach to CSR. Further, the main philosophy of CSR is to leverage business efficiencies, innovation of the private sector in delivering of public goods and services which is at variance with contributing CSR amount to Central Government funds enlisted in Schedule VII. However, a specific designated fund may be created for transfer of unspent CSR fund lying with the company beyond the 3-5 year time limit proposed.

Recommendation

Contribution to Central Government funds as specified in Schedule VII be discontinued as CSR spend. However, a specific designated fund may be created for transfer of unspent CSR funds lying with the company beyond the proposed 3-5year time limit.

3.8. Deepening CSR Impact

Context

The Committee noted that the number of companies spending more than the prescribed amount on CSR has been increasing (Ref. Table 2.5). This positive trend is indicative of a maturing environment of CSR. However, since India is the first country to make CSR mandatory and also to link it to the larger perspective of using profits for creating long-term social impact, this experiment will have several learning cycles over the period of time.

Rationale

HLC-2015 had opined that the initial three years of CSR implementation be treated as a 'period of learning' to enable companies to graduate to a culture of compliance. It is the conviction of the Committee that the true success of mandating CSR would lie in achieving demonstrable outcomes which have significant impact on society.

Enforcement of CSR provisions in itself would not achieve the object of leveraging corporate profits for innovating and creating public good having a multiplier effect to benefit society.

It was felt that companies be encouraged to take considered decisions before deploying CSR amounts and assess the impacts of their investments to capture the impact being generated by them. This shall not only serve as feedback for companies to plan and better allocate resources, but shall also deepen the impact of CSR. It is desirable that companies undertake need and impact assessment studies of CSR activities.

The Committee however felt that this requirement should be made applicable only to a certain class of companies, who have the capacity as need and impact assessment studies are cost-intensive and time consuming.

Analysis of data reveals that companies with annual CSR spending of Rs. 5 Crore or more contribute to about 65 percent of the total prescribed amount every year (Ref. Table 2.7). These companies may be obligated to undertake need and impact studies as they are spending large sums of money. A few members suggested that these assessments be made annually. The majority emphasized that they be undertaken once in three years. The latter is in keeping with the overall spirit of recommendations of this committee to not make CSR spending onerous and cumbersome.

Recommendation

The Committee recommends that a company having average prescribed CSR amount of Rs. 5 Crore or more in the three immediately preceding financial years, undertake need and impact assessment studies for their CSR programmes/ projects in that year and disclose the same in their Board Report. Such studies be undertaken once in three years.

3.9 Issues related to Reporting for CSR

Current Provision

Regulation of statutory compliance of CSR is based on the disclosures made by companies. Presently, details of CSR are required to be reported in the 'Annual CSR Report' as part of the Company's Board Report. Financial statements of a company are filed on MCA21 through designated e-Forms AOC-4/AOC-4 XBRL (Extensible Business Reporting Language) by all companies, including Section 8 companies, and in e-Form FC-3, by foreign companies. It has been brought to the notice of the Committee that reporting, as it exists through Board report and e-form AoC-4, is resulting in data inconsistencies. All particulars of CSR activities, IAs, details of Section 8 companies as IAs, and, CSR activities of foreign companies are not being captured in the present reporting format. Financial details for ascertaining eligibility of a company and its CSR details are not totally machine readable. This requires a revisit to the Annual CSR report and the concerned e-forms which would improve the reporting considerably.

Rationale

CSR is meant to be monitored and regulated through a disclosure-based regime, it is imperative that reporting for CSR activities be holistic and granular capturing requisite details in a machine-readable formats. The latter is essential to enable technology-based assessments for regulation and also for seamlessly rendering it on to the Data Portal for information dissemination. The National CSR Data Portal was launched by MCA in January 2018 wherein data as reported by companies is being presented in the public domain.

Also, details of CSR spending need to be made part of the financial statement of a Company and incorporated in Schedule III of the Act. The Board Report of a Company must also disclose need assessment and outcomes and their impact in it. The Committee is of the view that a comprehensive e-form be developed and the details of IAs such as, PAN of the IA, the nature of organisation, viz. trust, society, section 8 company, details of related parties in the IAs, etc. be captured in order to bring greater transparency in disclosures.

Recommendation

The reporting for CSR needs to be strengthened, with enhanced disclosures for better information dissemination with respect to selection of projects, locations, implementing agencies to facilitate better monitoring.

3.10 CSR Audit

Current Provision

At present reporting for CSR is made under 'Additional Information' in the Notes to Account of the Statement of Profit and Loss as prescribed in Schedule III of the Act. Companies covered under Section 135 are required to state the amount of expenditure incurred on CSR activities. Simultaneously, the CSR Rules prescribe the format of Annual CSR Report for detailed disclosures of CSR spending which is a part of the Board Report. Only the financial statements of a Company fall within the purview of

financial audit and not the Board Report. As per the prevalent requirements only the quantum of CSR amount spent is verified by the auditor.

Rationale

The Committee felt that there is a requirement to assess the flow of CSR funds, its utilization, and surplus generated from use of CSR funds, if any. The issue of audit for CSR activities has been raised by various stakeholders and Parliamentary Standing Committees in the past. It is the view of the Committee that the essential characteristics of CSR as a Board-driven and monitored activity must remain unchanged with government playing the role of an enabler and facilitator. The inclusion of details of CSR spending in the financial statement and enhancement of disclosures, along with showcasing projects on the CSR Exchange Portal would make the CSR framework transparent and robust.

There is a case for auditing the spending, outcomes, and impact of CSR projects/programmes to gauge the benefits emanating from such spending. Audit of financial statements can be carried out by a statutory auditor and reported thereupon.

Recommendation

The Committee is of the view that CSR may be brought within the purview of statutory financial audit, by making details of CSR spending as part of the financial statement of a company, and incorporated in Schedule III of the Act.

CSR Implementation Issues

3.11 Issues pertaining to Implementing Agencies

Current Provision

Rule 4 (2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014:

"The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through:

(a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or

(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature:

Provided that if, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the company has specified the projects or programs to be undertaken, the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism."

Rationale

An analysis of data reveals that on an average, over the last four reporting years, approximately 34% of the CSR amount has been spent directly by Companies (Ref. Table 2.8). It implies that a sizeable percent of CSR funds is spent through Implementing Agencies (IAs). The Committee has noted the feedback received by the Ministry from the Industry, Compliance Officers and others, that mere disbursal of CSR funds to IAs is being construed as CSR spending. The Committee felt that there was a need to address this issue as it defeated the *raison d'être* for having a Board-driven CSR regime that would ensure innovation and efficient deployment of resources for achieving stated outcomes.

Recommendation

A clarification be issued that mere disbursal of funds to implementing agencies is not construed as CSR spending. The Board of a company to ensure that CSR funds are duly spent on CSR activities as specified under Schedule VII and report on the modalities of utilization of funds.

3.12. Registration of Implementing Agencies

Current Provision

The Committee has observed that there is no direct mechanism to cross-check CSR activities carried out by registered trusts and registered societies which fall outside the regulatory purview of Companies Act, 2013.

It has been informed to the Committee that one of the recurring issues for companies to carry out CSR activities has been identification of suitable implementing agencies. Companies have been finding it difficult to ascertain the track record and capacity of an IA to undertake CSR activities to their satisfaction. It has been suggested by the Committee that there be registration of IAs with the MCA along with a reporting requirement so that there emerges an authentic and reliable list of implementation partners for companies to select from.

This matter had also been deliberated on by HLC-2015, which observed that the task of undertaking due diligence of IAs was the responsibility of the Board and that the Government cannot and should not engage in this effort. This Committee also deliberated on this issue intensely and endorses the view of HLC-2015 that it is not the remit of MCA to undertake this task. However, it was felt that the Ministry could maintain a register of IAs and assign a unique identification number to them along the lines of the registry of Independent Director. This identification number would be quoted while reporting on any CSR activity which would put a suitable check in place.

Recommendation

The Board of a Company to ascertain the credibility of an Implementing Agency (IA) and carry out necessary due diligence. IAs to be registered with MCA to carry out CSR activities.

3.13 Tax Benefits for CSR Activities

Context

HLC-2015 observed that no tax benefits are prescribed under the Income Tax Act, 1961 for expenditure incurred by companies towards Corporate Social Responsibility as clarified by the Finance Act, 2014. However, companies spend on several activities like rural development, skill development, agricultural extension projects, contribution to Prime Minister's National Relief Fund, etc., finds place in Schedule VII of the Companies Act, 2013, which may qualify for tax exemption under relevant provisions of the Income Tax Act, 1961, subject to fulfilment of any other specified conditions.

The Committee observed that allocation of CSR funds across development sectors may be distorted in the absence of uniformity in tax treatment for CSR expenditures on all the eligible activities.

It was informed to the Committee that outsourcing of CSR activities to Implementing Agencies attracts payment of Goods & Services Tax, whereas if the company enters into a Memorandum of Understanding with the Implementing Agency, the contribution made is treated as grant, and, therefore, not liable for payment of Goods & Services Tax.

This raises the issue of CSR funds flowing to those activities/modes of implementation which enjoy tax incentives to the exclusion of the rest.

Rationale

This Committee is of the view that there is a need to address the distortions in CSR spending arising from the prevalent tax structure, and believes that CSR spending should be incentivized for the Corporates. The expenditure on CSR ~~be~~ deductible from the taxable income of the company. This measure will ensure greater transparency and accountability for CSR spending as the CSR expenditure shall get treatment as expenses.

In so far as incidence of GST on IAs is concerned, it has been suggested by stakeholders that IAs be treated as partners, and not as vendors or service providers for CSR activities. This shall address the issue of GST and TDS as is currently faced by IAs. The Committee is in agreement with the suggestion and recommends the same. This is in line with the spirit of the CSR legislation which is about strengthening social development at grassroot level.

Recommendation

All activities listed under Schedule VII to enjoy uniform tax benefit. CSR expenditure to be made deductible from the income earned for the purpose of taxation. The mode of implementation to be tax neutral. Implementing agencies be treated as partners and not service providers/vendors for CSR activities, so as to address the variable incidence of indirect taxes on them.

3.14. CSR Exchange Portal

Context

HLC-2015 had recommended that all information reported by companies on CSR, including implementation details, amount spent, activities undertaken, geographical areas covered, etc. be compiled by the MCA and placed in the public domain. MCA implemented the recommendation by developing the National CSR Data Portal for disseminating data on CSR to empower stakeholders and launched it in January 2018. The Committee noted that launch of the Data Portal was a commendable achievement as it gave a bird's eye view of the ongoing CSR spending in the country, the sectors and geographies in which the monies were being spent, and the projects which were being undertaken by the companies.

The Committee however felt that technology could be leveraged further to serve a larger purpose and go beyond data consolidation. The need at this juncture is to understand the actions and activities of the various actors in CSR, the successes and failures in the domain of implementation, and systematic knowledge sharing by all

partners so that models, frameworks and best practices can be easily disseminated. At the same time, given the significant information asymmetry that exists across different actors in the system, there is a need for a technology-enabled platform which would bring the demand- and supply-side actors in CSR together. The Data Portal presently provides CSR spend details. If this could be enhanced to create space for lodging demands and for service providers, i.e. IAs to render their services, it would become an e-marketplace wherein spenders, service-providers and beneficiaries could interact freely with each other. An e-Exchange portal would allow for companies, CSR beneficiaries, implementing agencies, various state CSR Authorities and other stakeholders to interact.

The Committee has also been apprised that the Ministry of Rural Development and Ministry of Panchayat Raj have carried out a comprehensive nation-wide survey up till the *gram sabha* level on the status of development along 39 indicators for achieving the objectives of Mission Antyodaya. All the data and results related to the survey are in the public domain and are a ready reckoner for identifying the areas which require intervention for development needs. BSE Samman is another initiative wherein a platform has been developed through an initiative of BSE, Confederation of Indian Industry (CII), and Indian Institute of Corporate Affairs (IICA). It verifies NGOs and provides periodic reports. The Committee felt that the Exchange Portal could become an integrated "one-stop shop" space for all matters pertaining to CSR in India.

Recommendation

A CSR Exchange Portal be developed for creating an interactive platform for all stakeholders, including contributors, beneficiaries, IAs, etc. by leveraging the benefits of technology to maximize the potential and outcomes of CSR.

3.15. Social Impact Companies

Context

The global discourse on achieving developmental goals has moved from being State-driven to partnering with all stakeholders. Discharging Corporate Social Responsibility obligations falls within this framework of engaging the private sector to achieve social development objectives which are inhered in the Sustainable Development Goals (SDGs) of the 2030 Agenda.

Rationale

Achievement of this agenda requires infusion of financial and intellectual capital for developing innovative means to address global issues. This necessitates a shared vision between the State, the Private Sector and the Civil Society to partner for leveraging their respective strengths.

In India, other than the State, developmental objectives may be carried out either by for-profit organizations or not-for-profit organizations (Voluntary/Charitable). Although entities in the former category have capital and intent, they are chiefly driven by profit-maximization and do not espouse social development goals. The latter have vision, experience and commitment to achieve social objectives but are constrained for resources. The target groups for social development objectives are the economically and socially weaker sections, who have 'wants' but do not have the ability or willingness to pay. In other words, they do not create a demand for socially desirable goods. Naturally, there is no supply of social resources in the absence of demand. Experience has demonstrated that achievement of social objectives can only be sustainable when a return on investment is made possible, rather than mere infusion of funds as grants. There then is 'a business case' for pursuing social outcomes. However, the State must serve to signal the direction for engaging non-State actors, incentivize them, and exercise oversight so that they stay the course.

In keeping with this philosophy, this Committee proposes the creation of a hybrid vehicle which brings together the private sector and the civil society with a view to harness their inherent strengths to achieve social outcomes. A new organization structure, which may be called a 'Social Impact Company' (SIC), created along the lines of 'Community Interest Companies' in the United Kingdom and 'Public Benefit Corporations' in USA. The primary objective of SICs would be the pursuit of social objectives. They would be permitted to earn profit and even distribute it to their members. However, this would be contingent upon achievement of outcomes having measurable and tangible social impact. Also, there would be a ceiling on the quantum of profits which can be distributed.

SICs are being envisaged as social ventures for a social cause with conditional profit which would attract social entrepreneurs who are willing to give back to the society. SICs inhere in them the potential for spurting of start-ups who could also function as implementing agencies for CSR, receive CSR funds as capital, generate employment and access funds from the proposed Social Capital Exchange announced in Budget 2019. This shall not only be an innovative way of addressing the needs of the most deprived by leveraging capital and deploying it to areas which require urgent attention but shall also help meet SDGs. SICs may eventually become a powerful vehicle for private investments to achieve social impact.

Recommendation

'Social Impact Companies' be created as vehicles within the CSR framework, with the express object of pursuing social outcomes, while being permitted to achieve conditional profit which can be distributed. CSR contribution to social impact bonds raised by such Social Impact Companies or not-for-profit companies bringing upfront risk capital may be considered on a pilot basis.

3.16 Applicability of BRR to 1000 Companies

Businesses are accountable not only to their shareholders but also to the society at large. With a view to inculcate responsible business conduct by companies, Ministry of Corporate Affairs in July 2011, released the *National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business* (NVGs). The NVGs are articulated as nine principles which emphasize on harmonizing financial performance with expectations of society, the environment and stakeholders in a sustainable manner. The Securities and Exchange Board of India (SEBI) has mandated the top 500 companies by market capitalization to report on the implementation of these principles through the Business Responsibility Reports (BRR).

The Committee is of the view that the ambit of reporting on BRR be expanded gradually and at this juncture, it be extended to top 1000 companies.

3.17 Advocacy of CSR and academic network for CSR

The evolution of CSR has necessitated that the ecosystem be strengthened for undertaking research, capacity building, advocacy and related support for CSR. The Committee has been informed that the Ministry of Corporate Affairs, through the Regional Director, IICA, and, Professional Institutes, have been carrying out sensitization workshops to ensure effective compliance of CSR provisions by companies. Further, MCA & IICA established the National Foundation for Corporate Social Responsibility (NFCSR) on December 6, 2012 to provide a platform for corporates to collaborate with Government, Non-Governmental and Civil Society Organizations, and local communities on CSR projects.

Considering the wider mandate of CSR such as responsible business conduct, SDGs, stakeholder awareness, promoting best practices, research and capacity building, etc. the Ministry in 2019 restructured the NFCSR to function as a think tank of CSR. The foundation has an independent governing structure - 'Governing Council' chaired by Minister of Corporate Affairs with 7 Members (Ex-Officio), and a 'Steering Committee'

chaired by the Secretary, Corporate Affairs with 20 Members from diverse fields such as PSUs, Private Sector Firms, Regulatory Bodies, Industry Associations, State Governments, Professional Institutes, NGOs and Eminent Persons.

The committee recommends strengthening NFCSR. There is a requirement for its institutional set up as a legal entity with a formal structure, funding mechanism and staffing position, which will enable it to act as a nodal agency for all CSR activities and develop a CSR ecosystem. The strengthened NFCSR may undertake advocacy of CSR as well as partner with professional/academic/research institutions and business chambers/industry associations in this regard.

NFCSR to be strengthened to function as the think-tank for CSR. The Government may consider contributing Rupees Ten Crore as seed capital for strengthening NFCSR. It shall build a strong network among all stakeholders and build capacity for CSR. NFCSR may also undertake advocacy for Individual Social Responsibility.

3.18 Guidelines for PSUs for effective CSR implementation

Department of Public Enterprises (DPE) has been issuing guidelines to Public Sector Undertakings (PSUs) with respect to implementation of CSR in addition to the provisions of Companies Act, 2013. This issue of implementation of CSR by PSUs was discussed.

The Committee recommends that MCA shall partner with the DPE for comprehensive guidelines for Central Public Sector Undertakings (CPSUs).

3.19. Annual Report on CSR

The Committee noted that an Annual CSR Survey in line with Economic Survey and other Sectoral Surveys would give a bird's eye view of CSR spending by companies, the trends and gap areas. This shall help in decision making for all stakeholders while presenting an annual assessment of CSR spending.

The Committee, therefore, recommends that an Annual CSR Survey may be prepared by the Ministry.

3.20. Administrative Overheads

The Committee deliberated enhancing the five percent limit on administrative overhead and recommends for maintenance of status quo in this regard. It suggests that the Ministry issue clarifications regarding the various issues relating to it.

Status quo be maintained on administrative overheads. However, for companies undertaking need & impact assessments, the limit may be extended by an additional 5 per cent.

3.21. Alignment of Rule 3(2) with Section 135(1)

Section 135(1) provides criteria for CSR eligibility of a company. The Companies (Amendment) Act, 2017 has amended the eligibility criteria as being based on financial parameters of the '*immediately preceding*' financial year instead of three immediately preceding financial years prevalent until then. Rule 3(2) of the Companies (CSR Policy) Rules, 2014 specifies that companies which cease to be eligible under Section 135(1) of the Act for three consecutive financial year shall not be required to comply with provisions of Section 135. In view of the 2017 amendment, Rule 3(2) is redundant.

The Committee recommends that the Rule 3(2) be deleted.

3.22. International Organizations to be eligible to undertake CSR as Implementing Agencies

The Committee noted the various representations received from international organizations such as ICRISAT, USAID, UNICEF, etc. to allow them to undertake CSR activities as implementing agencies. Rule 4(2) of the Companies (CSR Policy) Rules, 2014 provides for engagement of implementing agencies by the companies for their CSR Projects. Presently, international organization are not eligible to undertake CSR activities unless they are a Section 8 company, a registered trust or a registered society

in India. However, international organizations have institutional memory, international foot print, best practices and a proven record of delivery. They may be engaged to partner with companies and eligible implementing agencies for capacity building and knowledge sharing.

The Committee recommends that international organizations may be engaged as partners for designing CSR projects, monitoring and evaluation as well as capacity building of CSR-eligible companies and implementing agencies.

Further, Ministry may consider specific socially useful CSR projects of international agencies for the purpose of a pilot study. These may be used for demonstration purposes and for scaling up upon successful implementation.

3.23. Individual Social Responsibility

The Committee has been informed that the Ministry has received references from companies to consider pro-bono services of their employees in areas or subjects enlisted in Schedule VII to be treated as CSR for the company. The Committee feels that while the services rendered by employees is laudable there are inherent difficulties in monetizing these services, providing an accounting treatment and regulating terms and conditions.

The Committee feels that Individual Social Responsibility is not Corporate Social Responsibility. The committee recommends that NFCSR undertake advocacy for Individual Social Responsibility.

3.24. CSR expert in the CSR Committee

Section 135(1) provides for the formation of CSR Committee of the Board. During the deliberations of the Committee, it was pointed out that often, the CSR Committee is not at the centre-stage while planning and approving the CSR projects due to lack of technical expertise or subject knowledge as the concept of CSR is new.

The Committee recommends that the Board of a company may engage a CSR professional, if it so desires, and the Government may prescribe eligibility criteria for such professionals.

3.25 Third party assessment of CSR Projects

The Government through an independent third-party may undertake assessment of CSR Projects to identify best practices and showcase them as role-model projects for the benefit of all.

The Committee suggests that 5% of CSR mandated companies be identified on a random basis for third-party assessments on a pilot basis.

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CHAPTER 4: WAY FORWARD

It has been the endeavour of the Committee to view businesses as partners in the process of achieving social outcomes. It recognizes that mandatory CSR requirements have no precedence anywhere else in the world and there are no best practices or benchmarks to draw upon. All of this needs to be created from the ground up. This is also in keeping with the spirit of HLC-2015 which emphasized on learning before recommending, to foster a culture of compliance.

The chapter on data analysis in this report, with its several data limitations, provides an overview of the state of CSR five years after the implementation of the Act. It lends insights on the manner in which CSR is being spent in the country by various kinds of companies, in different development sectors and in different geographies. This has informed various recommendations of the committee.

The wide range of recommendations made in Chapter 3, based on data analysis and stakeholder consultations broadly fall under four categories: those that strengthen the existing regulation, those that strengthen implementation, those that further facilitate compliance, and finally those that strengthen the CSR ecosystem to foster innovation and create impact. It is the belief of the committee that by strengthening these four aspects, an evidence-based, disclosure-led, trust-driven compliance regime for CSR can be forged to achieve the dual challenges of growth and social development.

In the spirit of HLC-2015 and its recognition of the "learning experience", this committee also recognizes that a new regulation which has no precedence anywhere else in the world is introduced, there are no best practices or benchmarks to draw upon. All of this needs to be created from the ground up. Chapter 2, with its several data limitations, provides an overview of the state of CSR five years after the implementation of the Act. It is evident that data collection formats require revision, availability of all relevant data at a single platform needs to be strengthened and finally the machine-readable formats of disclosures are key to build a trust-based disclosure regime.

In the spirit of reflection, it is essential that the Act strives to build a culture of compliance. This will require three interrelated activities to be undertaken: (i) providing education and awareness, (ii) disclosure analysis, and (iii) enforcement action. The first is envisaged to be achieved through the CSR exchange portal and capacity building; the second through machine-readable data collection amenable to dynamic interpretation, and finally deterring non-compliance through prohibitive penalties. Achieving these requires involvement of several actors such as the Government, corporates, civil societies and academic institutions to work together with a shared vision.

The framework for CSR, NGRBCs, UNGPs and NAP for Business and Human Rights, together constitute the institutional framework for achieving the SDG agenda of 2030. Alternate models and pilots need to be encouraged at all levels: partnership governance structures, funding models, and innovative impact assessment of scaling best practices. With the institutional framework in place, this committee recommends that another committee be set up in three to five years to further consolidate the learnings in this sphere. Incentives for high-impact social development programs/projects that enable us to move the needle on SDG's should be considered by the next committee.

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SUMMARY OF RECOMMENDATIONS

1. Applicability of the CSR Provisions

The scope of CSR applicability be extended to Limited Liability Partnerships (LLPs) which are within the purview of the MCA. The applicability of CSR may also be extended to Banks registered under the Banking Regulation Act, 1949. The applicability of CSR provisions may also be extended to similarly placed entities not covered under Companies Act through necessary amendments in Companies Act and, if necessary, in their respective statutes.

2. Applicability of CSR Provisions to Newly Incorporated Companies

A clarification may be issued that for newly incorporated companies the obligation under Section 135 shall lie only after they have been in existence for three years.

3. Constitution of CSR Committee

Companies having prescribed CSR amount below Rs. 50 lakhs be exempt from forming a separate CSR Committee. The Board itself would carry out the functions of the CSR Committee.

4. Obligation to carry out CSR and Carrying Forward of unspent CSR Amount

The Committee is of the view that the unspent CSR amount for a particular year be transferred to a separate designated account created for the purpose. Such unspent amount, and the interest earned thereon, be spent within a period of three to five years, failing which the same be transferred to a fund to be specified by the Central Government which may be used for innovative, high-impact projects related to activities listed in Schedule VII. Adequate provisions be provided to ensure compliance. A penalty, 2-3 times the default amount, may be imposed subject to a maximum of Rs. 1 (one) Crore upon the default being made good, but there be no imprisonment.

5. Creation of Capital Assets through CSR spending

Regulatory oversight be exercised through enhanced and granular reporting wherever CSR funds are used for creation of capital assets. Companies be encouraged to forge partnerships when creating assets for public purpose. The ownership shall rest with the public and the company may act as a custodian to operate it and make it self-sustaining.

6. Undertaking CSR Activities in Local Areas

The emphasis on local area in the Act is only directory and not mandatory in nature. A clarification be issued advising companies to engage in CSR activities by balancing local area preference with national priorities.

7. Schedule VII of the Act

Schedule VII be mapped and aligned largely with SDGs and some important items such as promoting sports, senior citizens' welfare, welfare of differently abled persons, disaster management, and heritage be additionally included to develop an SDG+ framework. The Central Government may, if required, identify a few areas from Schedule VII as priority areas and issue specific directions in this regard.

Contribution to Central Government Funds specified in Schedule VII

Contribution to Central Government funds as specified in Schedule VII be discontinued as CSR spend. However, a specific designated fund may be created for transfer of unspent CSR funds lying with the company beyond the proposed 3-5year time limit.

8. Deepening CSR Impact

The Committee recommends that a company having average prescribed CSR amount of Rs. 5 Crore or more in the three immediately preceding financial years, undertake need and impact assessment studies for their CSR

programmes/ projects in that year and disclose the same in their Board Report. Such studies be undertaken once in three years.

9. Issues related to Reporting for CSR

The reporting for CSR needs to be strengthened, with enhanced disclosures for better information dissemination with respect to selection of projects, locations, implementing agencies to facilitate better monitoring.

10. CSR Audit

The Committee is of the view that CSR may be brought within the purview of statutory financial audit, by making details of CSR spending as part of the financial statement of a company, and incorporated in Schedule III of the Act.

11. Issues pertaining to Implementing Agencies

A clarification be issued that mere disbursal of funds to implementing agencies is not construed as CSR spending. The Board of a company to ensure that CSR funds are duly spent on CSR activities as specified under Schedule VII and report on the modalities of utilization of funds.

12. Registration of Implementing Agencies

The Board of a Company to ascertain the credibility of an Implementing Agency (IA) and carry out necessary due diligence. IAs to be registered with MCA to carry out CSR activities.

13. Tax Benefits for CSR Activities

All activities listed under Schedule VII to enjoy uniform tax benefit. CSR expenditure to be made deductible from the income earned for the purpose of taxation. The mode of implementation to be tax neutral. Implementing agencies be treated as partners and not service providers/vendors for CSR activities, so as to address the variable incidence of indirect taxes on them.

14. CSR Exchange Portal

A CSR Exchange Portal be developed for creating an interactive platform for all stakeholders, including contributors, beneficiaries, IAs, etc. by leveraging the benefits of technology to maximize the potential and outcomes of CSR.

15. Social Impact Companies

'Social Impact Companies' be created as vehicles within the CSR framework, with the express object of pursuing social outcomes, while being permitted to achieve conditional profit which can be distributed. CSR contribution to social impact bonds raised by such Social Impact Companies or not-for-profit companies bringing upfront risk capital may be considered on a pilot basis.

16. Applicability of BRR to 1000 Companies

The Committee is of the view that the ambit of reporting on BRR be expanded gradually and at this juncture, it be extended to top 1000 companies.

17. Advocacy of CSR and academic network for CSR

NFCSR to be strengthened to function as the think-tank for CSR. The Government may consider contributing Rupees Ten Crore as seed capital for strengthening NFCSR. It shall build a strong network among all stakeholders and build capacity for CSR. NFCSR may also undertake advocacy for Individual Social Responsibility.

18. Guidelines for PSUs for effective CSR implementation

The Committee recommends that MCA shall partner with the DPE for comprehensive guidelines for Central Public Sector Undertakings (CPSUs).

19. Annual Report on CSR

The Committee, therefore, recommends that an Annual CSR Survey may be prepared by the Ministry.

20. Administrative Overheads

Status quo be maintained on administrative overheads. However, for companies undertaking need & impact assessments, the limit may be extended by an additional 5 per cent.

21. Alignment of Rule 3(2) with Section 135(1)

The Committee recommends that the Rule 3(2) be deleted.

22. International Organization to be eligible to undertake CSR as Implementing Agencies

The Committee recommends that international organizations may be engaged as partners for designing CSR projects, monitoring and evaluation as well as capacity building of CSR-eligible companies and implementing agencies.

Further, Ministry may consider specific socially useful CSR projects of international agencies for the purpose of a pilot study. These may be used for demonstration purposes and for scaling up upon successful implementation.

23. Individual Social Responsibility

The Committee feels that Individual Social Responsibility is not Corporate Social Responsibility. The committee recommends that NFCSR undertake advocacy for Individual Social Responsibility.

24. CSR expert in the CSR Committee

The Committee recommends that the Board of a company may engage a CSR professional, if it so desires, and the Government may prescribe eligibility criteria for such professionals.

25. Third Party assessment of CSR Projects

The Committee suggests that 5% of CSR mandated companies be identified on a random basis for third-party assessments on a pilot basis.

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ANNEXURES

ANNEXURE I

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
1	The High Level Committee appreciated the rationale and objective of the mandatory CSR provisions under the legislation and decided to examine the entire issue of implementation and monitoring of these provisions of the Act in the background and true spirit, rather than the letter, of this piece of this legislation. Keeping in view the intent of the law, the **Committee is convinced that the main thrust and spirit of the law is not to monitor but to generate conducive environment for enabling the corporates to conduct themselves in a socially, responsible manner, while contributing towards human development goals of the country.**	Guidance issue in FAQ (Point No. 18) **RESOLVED**
2	The Committee feels that all information relating to implementation of CSR by companies including amount spent, activities undertaken, geographical areas covered etc., as reported by the Companies in their annual disclosures need to be compiled by the Ministry of Corporate Affairs and placed in the public domain.	National CSR Data Portal Developed **www.csr.gov.in** **RESOLVED**
3	As regards devising pre-defined methodologies for adoption by companies for systematic monitoring of their own CSR, **the Committee feels that Boards and CSR own shareholders and public at large,** should he managing this at their own level. **The existing legal provisions like mandatory disclosures, accountability of the CSR Committee and the Board, provisions for audit of the accounts of the company etc., provide sufficient safeguards in this regard.**	Guidance issue in FAQ (Point No. 18) **RESOLVED**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
4	The Committee observes that Government should have no role to play in engaging external experts for monitoring the quality and efficacy of CSR expenditure of companies.	Guidance issue in FAQ (Point No. 18) **RESOLVED**
5	There should be a level playing field for all companies including CPSUs. Companies, irrespective of their ownership, should be treated at par while adhering to CSR provisions of the Companies Act and Rules made thereunder. Members of the Committee felt that the existing mechanism of C&AG audit as well as study by COPU are sufficient to monitor CSR policy of CPSUs. Further, the practice of signing MoU between CPSUs and Administrative Ministry is expected to put in place some monitoring mechanism at the level of Administrative Ministry. Therefore, no additional mechanism for monitoring - implementation of CSR by CPSUs is required.	DPE issued OM No. CSR-15/0008/2014-Dir(CSR) dated 01.08.2016 **RESOLVED**
6	The Committee is, prima fade, of the view that the existing provisions of the Act and Rules based on general principles of "comply or explain" are for the time being sufficient for ensuring compliance of the law. This view has also been taken by the Parliamentary Standing Committee on Finance in its 21st Report. In any case, Boards / CSR Committees are fully competent to engage third parties to validate compliance of the CSR provisions circular of the law.	**No Action Required.**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
7	The rationale behind CSR legislation is not to generate financial resources for social and human development since the resource gap, if any, for such development or social infrastructure, could as well have been met by levying additional taxes/ cess on these corporates. The objective of this provision is indeed to involve the corporates in discharging their social responsibility with their innovative ideas and management skills and with greater efficiency and better outcomes. Therefore, CSR should not be interpreted as a source of financing the gaps in inclusive growth. 'Use of the corporate innovations and management skills in the delivery of 'public goods' is I at the core of CSR Implementation by the companies.	Guidance issued in FAQ (Point No. 20) **RESOLVED**
8	It is for the first time anywhere in the world that CSR finds a place in the statute book. Both the government and corporates are going through a learning experience. The first ever statutory annual reports of CSR are yet to be filed by the companies along with their annual returns mostly through the months of October and November. All the information relating to the implementation of CSR by the companies, is expected to be available by the end of the year 2015. This information should form the basis for making any assessment of qualitative and quantitative aspects of CSR implementation. Therefore, some Committee Members are of the view that the constitution of this Committee is a little premature. **The first couple of years would appropriately be a '*learning experience*' for all stakeholders including the**	HLC-2018 constituted **RESOLVED**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
	companies, implementing agencies, auditors etc. It would be desirable to conduct a review of the programme after three years.	
9	The mandatory provision of CSR is likely to generate substantial funds for the benefit of the deserving poor and under-privileged sections of society. To ensure that this opportunity is not frittered away by thinly spreading the resources so generated; and that only sustainable programmes / projects are taken up for optimal benefits of the poor and under-privileged sections of the society, the Committee strongly feels that there is a need to ring-fence the companies' CSR resources so that this objective is not defeated. **This has to be ensured by CSR Committees / Boards.** Therefore, all CSR programmes / projects should be approved by the Boards on the recommendations of their CSR Committees. Changes, if any, in the programme/ project should also be undertaken only with the approval of the Committee/ Board. The provisions of the law/rules should be strengthened wherever necessary, to ensure this.	**Already covered in the Rules. However, further clarified** through issuance of guidance in FAQ (Point No. 21) **RESOLVED**
10	As regards penalty for non-compliance with CSR provisions of the Companies Act, the present provisions in the law appear to be sufficient. However, the Committee is of the view that leniency may be shown against the companies for non-compliance in initial two / three years to enable them to graduate to a culture of compliance. This is being recommended because initial three years will be a "period of learning" for all the stakeholders. This liberal	Principle of law remains same irrespective of the size of the company. **No action required**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
	view can at least be taken for smaller companies, which become eligible at the margin take up CSR programme under Section 135(1) of the Act.	
11	The Committee recommends that there should be two models of implementation strategies for-CSR:- (i) for companies that have CSR expenditure of more than Rs. 5 crore ; and (ii) for smaller companies with CSR spend of less than Rs. 5 crore. Companies in the first category are required to undertake programme based sustainable CSR activities, with some measureable outcomes. Smaller companies could take up project based activities, depending upon their CSR spend from year to year. **Such companies should be encouraged to combine their CSR programmes with other similar companies. This suggested threshold of Rs. 5 crore (in CSR expenditure) should be adjusted for inflation, using the GDP deflater or Wholesale, Price Index (WPI) once every three years, and this figure should be rounded off to the nearest crore,**	**RESOLVED**
12	Schedule VII of the Companies Act 2013, has been amended three times since its first notification on 27th February 2014, with a view to expand the list of eligible CSR activities. **The Committee recommends inclusion of an omnibus clause simply because certain development concerns, needs and priorities cannot be anticipated. In any case, CSR activities must be for larger public good and for any activity that serves public purpose**	No action required

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
	and/ or promotes the well-being of the people, with special attention to the needs of underprivileged.	
13	Differential tax treatment for expenditure on various activities covered under Schedule VII may create unforeseen distortions in the allocation of C.SR funds across development sectors. Board's decision could be guided more by tax savings implications rather than compelling community social needs. The Committee therefore feels that there should be uniformity in tax treatment for CSR expenditures across all eligible activities.	**Placed for consideration of HLC-2018.**
14	In many cases, time taken in the implementation of CSR activities could be long, **leaving unspent amounts at the end of a financial year. This may be allowed to be carried forward and clarification to this effect be issued.** CPSUs are already required to carry forward their unspent CSR funds, under DPE guidelines. On the same analogy, private companies must also be permitted to carry forward unspent balance of CSR funds. However, there should be a sunset clause of five years, after which the unspent balance should be transferred to one of the funds listed in Schedule VII.	CLC recommended for continuance of existing provision and subsequently DPE withdrew its guidelines concerning carry forward. Refer DPE issued OM No. CSR-15/0008/2014-Dir(CSR) dated 1.8.2016 **RESOLVED**
15	The Committee recommends that entities, which are neither incorporated under the Companies Act nor subjected to the mandatory guidelines of DPE, but which otherwise fall, within the criteria of mandatory CSR obligations as laid down in the Companies Act, should be brought under similar provisions on a mutatis mutandis	**No Action Required**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
	basis, through listing conditions of SEBI or suitable amendments to their respective Statutes.	
16	The Committee concluded that the ceiling on administrative overhead costs should be increased from the present 5% to not more than 10% of the CSR expenditure of the Company, for which amendment to the Companies Act and / or CSR Policy Rules, 2014 would be required. However, DPE's representative expressed his dissent on the ground that amended 5% cap is sufficient, if projects are well designed.	**Placed for consideration of HLC-2018.**
17	The Committee also felt that administrative overhead expenditure of the company on CSR should not include expenditure incurred on capacity building of the implementation agencies.	**Placed for consideration of HLC-2018.**
18	The Committee feels that the CSR provisions should not be applicable to Section 8 companies.	**RESOLVED**
19	There is a need for further clarity on applicability of Section 135 of the Act to foreign companies.	Companies Amendment Act, 2017 specified the applicability on foreign companies. **RESOLVED**
20	It is necessary to clarify the definition of the term 'Net Profit' used under Section 135 (1) and Section 135 (5) of the Act and; Rule 2(f) of Companies (CSR Policy) rules, 2014, by making necessary amendments to Section 135 of the Act and the Rules there under.	Companies Amendment Act, 2017 amended and clarified the defined under explanation in Section 135. **RESOLVED**
21	Reference to 'any financial year' in Section 135(1) of the Act, needs to be re-examined by the Ministry of Corporate Affairs with a view to making necessary amendment(s) either in Section 135(1) or in the relevant rule.	Companies Amendment Act, 2017 amended to incorporate the changes. **RESOLVED**

S. NO.	RECOMMENDATIONS OF HLC- 2015	ACTION TAKEN ON THE RECOMMENDATIONS OF HLC- 2015
22	Contribution and involvement of employees in CSR activities of the company will no doubt generate interest / pride in CSR work and promote transformation from Corporate Social Responsibility (CSR) as an obligation to Socially Responsible Corporate (SRC) in all aspects of their functioning. The Committee, therefore, encourages companies to involve their employees in its CSR activities. However, since it will create rather than solve problems, **the Committee has decided not to recommend monetization of the services of corporate employees for counting towards CSR expenditure of the Company.**	Incorporated in FAQ (Point No. 23) **RESOLVED**
23	The Committee strongly feels that Government cannot and should not maintain a data of implementing agencies for undertaking CSR activities of companies. Instead, this task of undertaking due diligence of implementing agencies should squarely remain the responsibility of the Board / CSR Committee.	**RESOLVED**
24	With a view to incentivizing the corporates to undertake their CSR mandate in right earnest,	National CSR awards instituted by MCA.
	the Committee recommends Setting up of annual awards - one each for the two categories of companies, large and small.	**RESOLVED**

ANNEXURE II

F. No. 12/03/2018-CSR
Government of India
Ministry of Corporate Affairs
5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi-110001
28.09.2018

OFFICE ORDER

Subject: Constitution of High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018).

Pursuant to orders of Hon'ble Minister for Corporate Affairs, a High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018) is hereby constituted under the Chairmanship of Shri. Injeti Srinivas, Secretary, Ministry of Corporate Affairs (MCA) to review the existing framework and guide and formulate the roadmap for a coherent policy on CSR. The composition of the Committee:

S. No.	Members	Role
1.	Secretary, Ministry of Corporate Affairs	Chairperson
2.	DG, Indian Institute of Corporate Affairs	Member
3.	Chairman, SEBI	Member
4.	Mr. N. Chandrasekharan, Chairman Tata Sons	Member
5.	Mr. Amit Chandra, MD, Bain Capital Private Equity	Member
6.	Mr. P S Narasimha, Additional Solicitor General	Member
7.	Prof. Anil K Gupta, Founder Honey Bee Network & Prof. IIM-A	Member
8.	Mr. Prakash Padukone, Former World Badminton Champion, Arjuna Awardee & Padma Shri	Member
9.	Mr. S. Santhanakrishnan, CA & Consultant	Member
10.	Mr. Mathew Cherian, CEO Helpage India	Member
11.	Joint Secretary, Ministry of Corporate Affairs	Member Convener

2. Scope of HLC-2018:

i. To review existing CSR framework as per Act, Rules and Circulars issued from time to time.
ii. To recommend guidelines for enforcement of CSR provisions.
iii. To suggest measures for adequate monitoring and evaluation of CSR by companies.
iv. To examine and recommend audit (financial, performance, social) for CSR, as well as, analyze outcomes of CSR activities/programmes/projects.
v. Any other matter incidental or connected thereto.

3. Tenure of HLC 2010: The Committee shall submit its report within three months from the date of holding its first meeting.

4. The Institute of Company Secretaries of India (ICSI) shall render necessary secretarial assistance and logistical support to the HLC 2015. MCA & ICSI shall jointly provide technical support to the Committee.

5. The outstation members shall be entitled for to and fro travel facilities equivalent to officers of the rank of SAG.

6. The Committee may develop its own procedure to conduct its meetings including inter alia, invite any person(s) of appropriate standing, knowledge and expertise in the fields of economics, law, banking, social work etc., meet at any place in India; constitute sub-committee(s) for providing inputs to the HLC-2015 and for deliberating upon policy matters.

7. The recommendations of this Committee will be submitted to the Ministry of Corporate Affairs.

This issues with the approval of Minister of Corporate Affairs.

(Sanjay Shorey)
Joint Director

To
All Committee Members

Copy to:
1) PS to Hon'ble Minister of Corporate Affairs
2) PS to MOS(CA)
3) PS to Secretary (CA)
4) PS to DEC&A
5) PS to AS
6) PS to JS(AA)/JS (K)/ S(G)/JS(AC)
7) E-Governance Cell for hosting on MCA website under 'News and Updates'
8) CDM team to upload on CSR Portal
9) Secretary, ICSI
10) Guard File

F. No. 12/03/2018-CSR
Government of India
Ministry of Corporate Affairs
5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R.P. Road, New Delhi-110001
11.10.2018

OFFICE ORDER

Subject: Re-Constitution of High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018).

Pursuant to orders of Hon'ble Minister for Corporate Affairs and in supersession of earlier Office order of even No. dated 28.09.2018, the High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018) is hereby re-constituted under the Chairmanship of Shri. Injeti Srinivas, Secretary, Ministry of Corporate Affairs (MCA) to review the existing framework and guide and formulate the roadmap for a coherent policy on CSR.

2. The composition of the of the HLC-2018 is as under:

S. No.	Members	Role
1.	Secretary, Ministry of Corporate Affairs	Chairperson
2.	DG, Indian Institute of Corporate Affairs	Member
3.	Chairman, SEBI	Member
4.	Dr. Anoop Kumar Mittal, CMD, NBCC	Member
5.	Mr. N. Chandrasekharan, Chairman Tata Sons	Member
6.	Mr. Amit Chandra, MD, Bain Capital Private Equity	Member
7.	Mr. P S Narasimha, Additional Solicitor General	Member
8.	Mr. Rajiv K. Luthra, Founder & MD Luthra & Luthra Law Offices	Member
9.	Ms. Shobha Kamineni, Executive Vice Chairperson, Apollo Hospitals Enterprise Limited	Member
10.	Prof. Anil K Gupta, Founder Honey Bee Network & Prof. IIM-A	Member
11.	Mr. Prakash Padukone, Former World Badminton Champion, Arjuna Awardee & Padma Shri	Member
12.	Mr. S. Santhanakrishnan, CA & Consultant	Member
13.	Mr. Mathew Cherian, CEO Helpage India	Member
14.	Joint Secretary, Ministry of Corporate Affairs	Member &Convener

3. Scope of HLC-2018:

i. To review existing CSR framework as per Act, Rules and Circulars issued from time to time.
ii. To recommend guidelines for enforcement of CSR provisions.

iii. To suggest measures for adequate monitoring and evaluation of CSR by companies.
iv. To examine and recommend audit (financial, performance, social) for CSR, as well as, analyze outcomes of CSR activities/programmes/projects.
v. Any other matter incidental or connected thereto.

4. Tenure of HLC-2018: The Committee shall submit its report within three months from the date of holding its first meeting.

5. The Indian Institute of Corporate Affairs (IICA) and Institute of Company Secretaries of India (ICSI) shall render necessary secretarial assistance; logistical and technical support to the HLC-2018.

6. The outstation members shall be entitled for to and fro travel facilities equivalent to officers of the rank of SAG.

6. The Committee may develop its own procedure to conduct its meetings including inter alia, invite any person(s) of appropriate standing, knowledge and expertise in the fields of economics, law, banking, social work etc.; meet at any place in India; constitute sub-committee(s) for providing inputs to the HLC-2018 and for deliberating upon policy matters.

7. The recommendations of this Committee will be submitted to the Ministry of Corporate Affairs.

This issues with the approval of Minister of Corporate Affairs.

(Sanjay Shorey)
Director(L&P)

To,
All Committee Members.

Copy to:
1) PS to Hon'ble Minister of Corporate Affairs
2) PS to MOS(CA)
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4) PS to DGCoA
5) PS to AS
6) PS to JS(AA)/JS (K)/JS(G)/JS(AC)
7) E-Governance Cell for placing on MCA website under 'News and Updates'.
8) CDM team to upload on CSR Portal.
9) Secretary, ICSI
10) Guard File

No.12/03/2018-CSR
Government of India
Ministry of Corporate Affairs
5th Floor, 'A' Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi-110001.
Date: 22.11.2018

OFFICE ORDER

Subject: Re-Constitution of High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018).

Pursuant to orders of Hon'ble Minister for Corporate Affairs and in supersession of earlier Office order of even No. dated 11.10.2018, the High Level Committee on Corporate Social Responsibility – 2018 (HLC-2018) is hereby re-constituted under the Chairmanship of Shri. Injeti Srinivas, Secretary, Ministry of Corporate Affairs (MCA) to review the existing framework and guide and formulate the roadmap for a coherent policy on CSR.

2. The composition of the HLC-2018 is as under:

S. No.	Members	Role
1.	Secretary, Ministry of Corporate Affairs	Chairperson
2.	DG, Indian Institute of Corporate Affairs	Member
3.	Chairman, SEBI	Member
4.	Dr. Anoop Kumar Mittal, CMD, NBCC	Member
5.	Mr. N. Chandrasekharan, Chairman Tata Sons	Member
6.	Mr. Amit Chandra, MD, Bain Capital Private Equity	Member
7.	Mr. P S Narasimha, Additional Solicitor General	Member
8.	Mr. Rajiv K. Luthra, Founder & MD Luthra & Luthra Law Offices	Member
9.	Ms. Shobana Kamineni, Executive Vice Chairperson, Apollo Hospitals Enterprise Limited	Member
10.	Prof. Anil K Gupta, Founder Honey Bee Network & Prof. IIM A	Member
11	Dr. Narinder Dhruv Batra, President, Indian Olympic Association	Member
12.	Mr. S. Santhanakrishnan, CA & Consultant	Member
13.	Mr. Mathew Cherian, CEO Helpage India	Member
14.	Joint Secretary, Ministry of Corporate Affairs	Member & Convener

3. Scope of HLC-2018:

i. To review existing CSR framework as per Act, Rules and Circulars issued from time to time.

ii. To recommend guidelines for enforcement of CSR provisions.

iii. To suggest measures for adequate monitoring and evaluation of CSR by companies.
iv. To examine and recommend audit (financial, performance, social) for CSR, as well as, analyze outcomes of CSR activities/programmes/projects.
v. Any other matter incidental or connected thereto.

4. Tenure of HLC-2018: The Committee shall submit its report within three months from the date of holding its first meeting.

5. The Indian Institute of Corporate Affairs (IICA) and Institute of Company Secretaries of India (ICSI) shall render necessary secretarial assistance; logistical and technical support to the HLC-2018.

6. The outstation members shall be entitled for to and fro travel facilities equivalent to officers of the rank of SAG.

7. The Committee may develop its own procedure to conduct its meetings including inter alia, invite any person(s) of appropriate standing, knowledge and expertise in the fields of economics, law, banking, social work etc.; meet at any place in India; constitute sub-committee(s) for providing inputs to the HLC-2018 and for deliberating upon policy matters.

8. The recommendations of this Committee will be submitted to the Ministry of Corporate Affairs.

9. This issues with the approval of Minister of Corporate Affairs.

(Sanjay Shorey)
Director(L&P)

To,
All Committee Members.

Copy to:
1) PS to Hon'ble Minister of Corporate Affairs
2) PS to MOS(CA)
3) PS to Secretary (CA)
4) PS to DGCoA
5) PS to AS
6) PS to JS(AA)/JS (K)/JS(G)/JS(AC)
7) E-Governance Cell for placing on MCA website under 'News and Updates'.
8) CDM team to upload on CSR Portal.
9) Secretary, ICSI
10) Guard File

By email

12/03/2018-CSR
Government of India
Ministry of Corporate Affairs
5th Floor, Shastri Bhawan,
Dr. R.P. Road, New Delhi-110001.
Dated: 16.04.2018

To,

Shri Rajeev Sharma,
Chairman and Managing Director,
Power Finance Corporation Limited

Subject: Nomination of Shri Rajeev Sharma as a member of High Level Committee on CSR-2018 (HLC-2018) as a representative of PSUs.

Sir

Pursuant to the order of Hon'ble Minister for Corporate Affairs, the undersigned has been directed to inform you that you have been nominated as a member of High Level Committee on CSR-2018 (HLC-2018), which have been setup by this Ministry to review the existing framework and guide and formulate the road map for the coherent policy on CSR.

2. We look forward for your participation to the committee's deliberation.

(Vedan Ojha)
Assistant Director, MCA

Copy to:

All members of HLC -2018.

ANNEXURE III

SUMMARY OF STAKEHOLDERS' PRESENTATIONS

The High-Level Committee on Corporate Social Responsibility-2018 was informed of the many suggestions and ideas received from various stakeholders representing the government, industry, civil society organisations and academia. It was felt that audience be given to a few of these stakeholders to gain insight into the voices from the field.

Department for Promotion of Industry and Internal Trade (DPIIT)

The presentation of DPIIT focused on item no. (ix) of Schedule VII pertaining to Technology Incubators. They contended that the present formulation is restrictive and does not allow for maximization of the potential that incubation can have. Incubators are a means to convert ideas to the stage of proof of concept. They proposed the following formulation:

"Contributions or funds provided to incubators funded by Central Government or State Government or any agency/ Public Sector Undertaking of Central Government or State Government"

They suggest that there are various kinds of incubators and there is a need to incentivize all kinds, including, those in the fields of agriculture, those that have an intended social impact, and also those which are situated outside academic institutions. Moreover, necessary due diligence is already in place where incubators are funded by the government. They therefore suggest that these changes are desirable.

Shri. Nandan Kamath, The Sports Law & Policy Centre

The presentation focused on encouraging sports through CSR funds. He argued that sports subsumed all forms such as Paralympic sports, disability sports, rural sports, indigenous sports, and nationally recognized sports. The ambit of support to sports needed to be

enlarged. He suggested an amendment to Schedule VII and proposed the following formulation:

"Promotion and propagation of sports excellence, sports participation, sports development, and any other use of sports to achieve national integration, peace, comity, inclusion, social progress, community development, human wellbeing and/or the other objectives contained in this Schedule VII"

FICCI

In their presentation, FICCI suggested that carrying forward of unspent CSR amount be permitted for a period of three years to enable judicious and qualitative spending, especially of large amounts. Further, the Chairman of the CSR Committee may certify the CSR amount spent and the progress made in the projects/programmes. In case of larger companies, the statutory auditor may give the certification. This would enable self-regulation and better compliance. For projects with budgets exceeding rupees ten crores, the company should be mandated to carry out cost-benefit analysis and report it in the annual report. It was of the view that incentives such as recognition/awards would serve to ensure better compliance than penal action. They suggested that the government adopt a 'wait and watch' policy and intervene only in case of a disruption in compliance trend. In cases where group companies were undertaking CSR projects, shortfall in one should be allowed to be set off by excess spending in another group company. FICCI negated the idea of inclusion of a CSR expert in the CSR committee, as it would impair the sanctity of the board-level committee. They recommended bringing in consistency between Rule 3(2) of Companies (CSR Policy) Rules, 2014 and Section 135(1) of the Act. Lastly, they suggested that CSR spending be treated as business expenditure and not appropriation of profit.

CII

The suggestions of CII were chiefly on the regulatory framework of CSR, monitoring, evaluation, and analysis of outcomes of CSR spending. It recommended relaxation to small

Boards from formation of a CSR Committee, removal of the clause on 'Local Area Preference' to reduce regional and social disparities, increasing the cap of 5% on capacity building and administrative overheads, allowing of carrying forward of unspent CSR amounts with a definite time-frame, widening the scope of activities under Schedule VII, and permitting carrying out CSR in kind. They also requested that the articulation of CSR legislation be reviewed to make it unambiguous, and that MCA bring out guidance for undertaking CSR activities.

CII highlighted the need for facilitating a connect among various CSR partners, programs and online platforms. Coordination and linkages with institutions of local and state governments would facilitate effective project selection and CSR implementation which does not overlap with government schemes and programmes.

In regard to monitoring, evaluation, and analysis of outcomes of CSR spending, they opined that the existing mechanism of self-regulation and audit was sufficient. However, there was a need to build the capacities of implementing agencies with respect to project proposal, designing and reporting. There was also a need to make the reporting system stronger instead of increasing regulatory load. They also recommended mapping of Schedule VII with SDGs as it would also help in aggregating information on corporate spending towards SDGs. It appreciated the Government's effort to develop the CSR data portal and its initiative to incentivize good CSR practices through National CSR Awards.

BSE Sammaan

The presentation of BSE Sammaan demonstrated how technology could be leveraged for enhancing CSR outcomes. BSE Sammaan was originally designed as a platform for listing NGOs and their proposed CSR projects in a user-friendly manner with comprehensive search capabilities, making it simple for corporates to find projects for their CSR interventions. The platform is envisaged to be developed further to include features such as 'project activation', geo-tagging, employee volunteering, customized reporting and

beneficiary surveys. This would enable corporates to easily search for and manage their CSR projects, float Request for Proposals (RFPs), and connect directly with NGOs for implementing their interventions.

NITI Aayog

The NITI Aayog informed the Committee that there was a huge requirement of funds to undertake development activities, especially in the aspirational and backward districts. Credible data on project implementation and impact of CSR spending was not available on real-time basis. The current distribution of CSR funds exhibits a sectoral and geographical skew in favour of already developed/industrialized regions of the country, and is directed chiefly towards Health, Education and Rural Development. It was suggested therefore that CSR funds be channelized into fund-deficit areas to promote inclusive growth. Further, the district administration be consulted for better selection of projects and for ensuring efficient use of CSR funds. The civil society organizations could be involved for last mile delivery of essential services. They made a brief presentation on the Aspirational Districts Programme (ADP), determined on the basis of 49 performance indicators which is already available in the public domain. Further, the Darpan Portal of NITI Aayog, which registers NGOs, could be linked with the intended CSR Exchange Portal of MCA.

Department of Biotechnology (DBT)

The presentation of DBT also recommended amending item no. (ix) of Schedule VII and put forward the following formulation:

"Contributions or funds provided to technology incubators and central common tool facilities which are approved by the Government/Government bodies to support the development of affordable products and technologies from Proof-of-Concept (POC) to piloting"

They informed the Committee that Central Common Tool Facilities (CCTFs) were a critical technical platform to bridge the gap between 'Lab and Market'. This was primarily because

high-end equipment and technical facilities in CCTFs are capital-intensive and need trained manpower. They typically serve a cluster of incubators and are accessible to large number of start-ups and innovators. Thus, not-for-profit incubators, and CCTFs supported by government/government bodies housed at academic institutions or private institutions, may be considered for receiving CSR support.

Ministry of Rural Development (MoRD)

The presentation of MoRD apprised the committee of several poverty-alleviation and comprehensive rural development related initiatives undertaken by it and the Ministry of Panchayat Raj (MoPR), such as Mission Antyodaya, Deen Dayal Antyodaya Yojana National Rural Livelihood Mission, Shyama Prasad Mukherji Rurban Mission, etc. Under Mission Antyodaya, a nation-wide village survey had been carried out to assess the development status of panchayats, along 39 indicators, on the basis of which Gram Panchayat Development Plans (GPDP) were ranked. Further, the Gram Swaraj Plan sought to achieve targets of thrust areas of rural development in aspirational districts. All data and results of the surveys are available in the public domain. They suggested that convergences could be envisaged between CSR fund flows and learnings from these surveys to mitigate the development gaps identified.

ICRISAT

ICRISAT is an international agricultural research and development organization notified as an 'International Organization' under the provisions of United Nations (Privileges and Immunities) Act, 1947. Its developmental activities relate to reducing poverty, hunger and malnutrition, environmental degradation, rural development, promoting gender equality, and livelihood enhancement for societal benefit, and qualify as CSR activities under Schedule VII of Companies Act, 2013. Under the present mechanism, ICRISAT and other such institutions are eligible implementing agencies. Their presentation sought to make a case for inclusion of such institutions as implementing agencies for CSR, as they could bring desired expertise to assist the domestic corporate sector to achieve the CSR mandate.

UNICEF

UNICEF made a presentation proposing to get more directly involved in effective and efficient disbursement as well use of 2% CSR funds, including for the Government of India-UNICEF Country Programme, where relevant. UNICEF has worked in India since 1949, with offices in 17 states covering 90 per cent of India's child population, the largest field presence of any UN agency. It provides evidence-based technical expertise that informs policy action and implementation, whilst building capacity of partners at all levels, and is well positioned to reach the country's most vulnerable children. It is already assisting Mahanadi Coal in Orissa in implementation of their CSR funds. They made a case for receiving CSR funds and providing technical expertise to CSR projects for public and private sector companies in India.

United States Agency for International Development (USAID)

In India, USAID is building partnership platforms to unite diverse public and private stakeholders to accelerate developmental outcomes. They recommended that CSR money be invested in outcome funding like Development Impact Bonds and SEBI-registered Category I Social Venture Funds. Further, they made a case for USAID to become qualified recipients of CSR funds. Further, USAID wishes to jointly undertake advocacy and outreach for CSR along with Ministry of Corporate Affairs to leverage public and private sector CSR funds for India's social and economic development.

Ernst & Young

Their presentation covered a gamut of areas pertaining to CSR and suggested that the eligibility criteria for CSR be increased, enforcement be commenced from FY 2019-20, the scope of Schedule VII be enhanced, carrying forward of unspent CSR amount be allowed and accounting treatment for the same be prescribed, the reporting on CSR activities

undertaken by implementing agencies be improved, and a helpdesk support for CSR be created at the Ministry.

Shri. Amod Kanth, Member Coordinator, NITI-CSO Standing Committee

The presentation focused on making CSR implementation more effective by way of Social Audits and Impact Assessment of CSR Activities. It highlighted the need for strengthening and capacity building of civil society organizations and creating an enabling environment for making CSR funds available to them.

Shri. Harsh Jatli, VANI (Voluntary Action Network India)

The presentation by VANI focused on partnership of Government, voluntary development organizations (VDO) and corporates. During the presentation, the following issues were highlighted: (i) VDOs be treated as partners in CSR projects and not as vendors/service providers, so that they may be exempt from the purview of GST & TDS incidence, (ii) development professionals be engaged in CSR Committees and for CSR policy making, (iii) social audit be mandated for CSR activities, (iv) transfer of substantial amount of CSR money to company's own foundations, crowding out the engagement of other implementing agencies in the process, (v) the need to increase the five per cent limit for administrative expenses. It further suggested the creation of a permanent mechanism for knowledge-sharing and learning, strengthening of grassroot-level VDOs, creation of databanks of credible CSR partners, and linking of CSR activities to SDGs, poor states, and aspirational districts.

Institute of Company Secretary of India (ICSI)

ICSI explained the need and importance of monitoring, and shed light on the aspects to be monitored including whether the regulatory framework was being adhered to, how the CSR projects were being implemented, and what the impact of such projects was. It suggested audit for CSR activities. ICSI recommended for certification of CSR works by professionals

based on assessment of implementation of projects/programmes as per the Act and Rules. This could initially be made applicable to companies having prescribed CSR amounts of rupees twenty-five lakhs or more.

Shri. Subhash Mittal, Chartered Accountant

The presentation addressed various issue relating to CSR including the need to define the characteristics of CSR, the constituents of administrative overheads, inserting a quantification limit in Rule 4(5) wherein CSR activities concerning 'only' employees is referred to, the impact of GST on CSR activities undertaken by companies, enlarging the scope of CSR reporting by bringing in outcome and impact analysis, etc.

Federation of Indian Micro and Small & Medium Enterprises (FISME)

FISME put forth the issues of MSMEs and advocated for increasing the profit criteria for applicability of CSR on companies. They also suggested that contribution to MSME associations and institutions working for local governance be eligible as CSR activity under Schedule VII.

Shri. Amit Lahiri, O. P. Jindal Global University

Through this presentation, a case was made for aligning Schedule VII of Companies Act, 2013 with the nationally developed indicators of Sustainable Development Goals 2030. This would serve a two-fold purpose of creating a basis for measuring achievement of SDG goals by business, and also create a framework for developing project design, measuring impact/targets/indicators, build capacity and create a more effective basis for reporting.