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**STANDING COMMITTEE
ON FINANCE
(2008-2009)**

FOURTEENTH LOK SABHA

MINISTRY OF CORPORATE AFFAIRS

**DEMANDS FOR GRANTS
(2008-2009)**

*[Action taken by the Government on the Recommendations contained in
the Seventy-first Report of the Standing Committee on Finance on
Demands for Grants (2008-09) of Ministry of Corporate Affairs]*

SEVENTY-SEVENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2008 / Agrahayana, 1930 (Saka)

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(2008-2009)

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Presented to Lok Sabha on 18.12.2008

Laid in Rajya Sabha on 18.12.2008



LOK SABHA SECRETARIAT
NEW DELHI

December, 2008/Agrahayana, 1930 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON
FINANCE (2008-2009)

Shri Ananth Kumar — *Chairman*

MEMBERS

Lok Sabha

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Shyama Charan Gupta
5. Shri Vijoy Krishna
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7. Dr. Rajesh Kumar Mishra
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18. Shri M.A. Kharabela Swain
19. Shri Suresh Prabhakar Prabhu
20. Shri Ramakrishna Badiga*
21. Vacant[#]

* Nominated to this Committee *w.e.f.* 26.8.2008.

Vacant *w.e.f.* 14.11.2008 on nomination of Shri Brajesh Pathak to Rajya Sabha.

Rajya Sabha

22. Shri Raashid Alvi
23. Shri M. Venkaiah Naidu
24. Shri S.S. Ahluwalia
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26. Shri C. Ramachandraiah
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30. Shri K.V.P. Ramachandra Rao
31. Shri Shivanand Tiwari

SECRETARIAT

- | | | |
|----------------------------|---|-----------------------------|
| 1. Shri R.C. Ahuja | — | <i>Additional Secretary</i> |
| 2. Shri A.K. Singh | — | <i>Director</i> |
| 3. Shri T.G. Chandrasekhar | — | <i>Deputy Secretary</i> |

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee to present the Report on their behalf, present this Seventy-seventh Report on action taken by Government on the recommendations contained in the Seventy-first Report of the Committee (Fourteenth Lok Sabha) on Demands for Grants (2008-2009) of the Ministry of Corporate Affairs.

2. The Seventy-first Report was presented to Lok Sabha on 16 April, 2008 and laid in Rajya Sabha on 15 April, 2008. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 12 September, 2008.

3. The Committee considered and adopted this Report at their sitting held on 11 December, 2008.

4. An analysis of action taken by Government on the recommendations contained in the Seventy-first Report of the Committee is given in the Appendix.

5. For facility of reference observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
11 December, 2008
20 Agrahayana, 1930 (Saka)

ANANTH KUMAR,
Chairman,
Standing Committee on Finance.

CHAPTER I

REPORT

This report of the Standing Committee on Finance deals with action taken by the Government on the Recommendations/Observations contained in their Seventy-first Report on Demands for Grants (2008-2009) of the Ministry of Corporate Affairs, which was laid in Rajya Sabha on 15 April, 2008 and presented to Lok Sabha on 16 April, 2008.

2. The report contained 10 recommendations. Action Taken Notes have been received from the Government in respect of all the Recommendations contained in the report. These have been categorized as follows:—

- (i) Recommendations/Observations that have been accepted by the Government:

Recommendation Nos. 1, 2, 3, 5, 6 & 10

(Total 6)

(Chapter II)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies:

Nil

(Chapter III)

- (iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee:

Recommendation No. 7

(Total 1)

(Chapter IV)

- (iv) Recommendations/Observations in respect of which final reply of the Government is still awaited:

Recommendation Nos. 4, 8 and 9

(Total 3)

(Chapter V)

3. The Committee desire that the replies to the comments contained in Chapters I & V should be furnished to them expeditiously.

4. The Committee will now deal with action taken by the Government on some of their recommendations.

A. Streamlining prosecution mechanism

Recommendation (No. 4)

5. In view of the increasing number of cases of prosecution against companies year after year, the Committee expressed agreement with the views of the Vaish Committee, 2005 on formulating a suitable framework/in house structure for speeding up the process of prosecution and introducing a "Company Law simplified Settlement Scheme" on the lines of a similar Scheme launched in 2000, which had evoked encouraging response. The Committee hoped that required proposals in this regard would be initiated without further delay.

6. The Government in their action taken reply, stated *inter-alia* as under:—

"At present, the Government is in the process of comprehensive revision of the Companies Act, 1956 through a Companies Bill. Proposals for effective and efficient disposal of prosecution/other action taken in response to violations of the provisions of the Bill or to enable better compliance are also a part of the revision proposed and are expected to provide a better framework once enacted.

The possibility of introducing a new Company Law Simplified Settlement Scheme (CLSSS) needs to be viewed in the light of the compliance requirements of different classes of companies and the imperative of imposing adequate and effective punishment for violation of the Law for which data was being collected. It was the intention to enable a regime that provides adequate signals in favour of compliance while firmly dealing with non-compliance/violation of Law."

7. The Committee are constrained to note the apathy of the Ministry of Corporate Affairs to the recommendations of the Vaish Committee, 2005 for formulating a suitable framework/in-house structure for speeding up the process of prosecution against companies in default. The Committee reiterate that a suitable in-house structure is imperative to speed up the process of prosecution of defaulting companies. The Committee expect the Government to address this issue urgently on the basis of factual data on the number of prosecution cases pending and desire a detailed action taken note thereon. The Committee also stress that the process of collection of data for deciding on introducing a new Company Law Simplified Settlement Scheme (CLSSS) be completed expeditiously. The

Committee desire to be apprised of the initiatives taken and progress made in this direction within a timeframe of one month.

B. Identification of Vanishing Companies

Recommendation (No. 6)

8. As per the revised criteria for identification of vanishing companies, in case of listed companies failing to file returns with the stock exchanges, the SEBI was expected to explore the possibility of initiating proceedings against the companies in default in consultation with stock exchanges. As the matter had a bearing on identifying potential vanishing companies, which would help in securing the interest of the investors, the Committee had desired to be apprised of the initiatives taken in this direction and their effectiveness in identifying and initiating action against errant companies.

9. The Government, in their action taken reply, stated *inter-alia* as follow:—

“...The default period of two years in filing the statutory returns was a very long period for a company likely to indulge in any mischief or fraudulent activities, which would come to the notice of the Registrar of companies through the Balance Sheet and Annual Return filed subsequent to completion of the relevant financial year. On the other hand, the listed companies are required to file quarterly returns with Stock Exchanges. Hence, SEBI is in a better position to identify the potential of any fraud at an earlier stage. Accordingly, SEBI has been requested to examine the action to be taken against such companies in the event of non-filing of two successive quarterly returns. SEBI is also in discussion with Stock exchanges to explore the possibility of generation of alerts by them which can be of use to the Ministry. However, SEBI has not filed their Action Taken Report with MCA so far.”

10. The Committee take a serious view of the indifference on the part of the Ministry of Corporate Affairs (MCA) to the Committee's recommendation. It appears that the Ministry of Corporate Affairs have not bothered to obtain SEBI's reply and have derived satisfaction by stating that “SEBI has not filed their Action Taken Report with Ministry of Corporate Affairs so far”. This, the Committee feel, is an unacceptable response and desire the SEBI to furnish their action taken report in the matter at once. As Ministry of Corporate Affairs is the nodal Ministry administering both listed and unlisted corporate entities, the Committee expect the Ministry

of Corporate Affairs to play a pro-active role in identification of vanishing companies on the basis of the revised criteria. The Committee, therefore, stress that the Ministry of Corporate Affairs should obtain desired inputs from SEBI on regular basis and evolve appropriate initiatives for identifying and prosecuting errant companies failing to file the mandatory returns with the stock exchanges. The Committee expect the Government to urgently take positive initiatives in this direction and desire to be apprised of the details of the same within fifteen days of submission of this Report to Parliament.

C. Prosecution of Vanishing Companies

Recommendation (No. 7)

11. The Committee felt that precious little seemed to have been done in prosecuting the companies which raised approximately Rs. 793.31 crore through IPO's during the period 1992-1998. The Ministry had informed that the detailed information on the status of the prosecution action will be compiled on the basis of the review of each of the cases by the Regional Task Forces on vanishing companies. The Committee desired that the review process be completed expeditiously and appropriate initiatives be taken for early conclusion of the prosecution process against the companies involved. The Committee also wished, *inter-alia*, to be apprised of the progress and outcome of the prosecution action against vanishing companies identified during the period 2001-05.

12. The Government, in their action taken reply, stated *inter-alia* as follows:—

“It is stated that the prosecution cases have been launched against all the vanishing companies and its promoters/directors under various sections of the Companies Act, 1956 including those pertaining to mis-statement in the Prospectus, false inducement of persons to invest money and for non-filing of statutory returns. FIRs have also been filed against the promoters/directors of such companies with the jurisdictional police station under the provisions of Indian Penal Code.

It is submitted that under the Companies Act, 1956, the jurisdictional Registrar of Companies has the authority to file the prosecution cases before various Courts and file FIRs with the jurisdictional police station under the provisions of Indian Penal Code. After the stage of filing of complaints or registering an FIR,

the action is to be taken by the respective court/police station only. While the required legal representation caused to be undertaken by the ROC before the Courts as and when the cases are listed for hearing, the matter is also regularly pursued with the local police authority through the Regional Task Force. For any of the matter to be taken to its logical conclusion, the ROC has a substantive external dependency on other organizations.

It may however be appreciated that the instrument of setting up of the CMC and its functioning have been successful in effectively controlling the phenomenon of vanishing companies. It has been observed that after the CMC started functioning, the number of vanishing companies has reduced significantly and for the period 1998-2001 only 08 companies have been taken to be vanishing while the number of companies which vanished after this period is NIL. The Ministry however is making all efforts to ensure that the complaints filed against the vanishing companies and its promoters/directors are taken to their logical conclusion at different forums."

13. The reply of the Government is silent in regard to the status of the review process of the cases against companies, which raised approximately Rs. 793.31 crore through IPOs during 1992-1998. The Ministry of Corporate Affairs had informed the Committee that detailed information on the status of prosecution against the errant companies would be furnished on the basis of the review of each of the cases by the Regional Task Forces (RTFs) on vanishing companies. The Committee are constrained to infer from the Ministry's silence that there seemed to be no progress in this regard during the last six months. The Committee desire that there should be no further loss of time in this regard and it should be ensured that the review process is completed within a time frame and the Committee be informed of the status of prosecution. The information desired by the Committee regarding the progress and outcome of the prosecution action against vanishing companies identified during the period, 2001-05 has also not been furnished by the Ministry so far. The Committee take exception to the lackadaisical attitude of the Government in acting on their recommendation and desire to be provided with a detailed action taken note within one month.

D. Utilisation of IPOs proceeds

Recommendation (No. 8)

14. Considering the fact that identifying instances of misutilisation of IPO proceeds by companies helps in serving the interest of investors

and initiating appropriate action against errant or partial errant companies, the Committee recommended that the exercise of technical scrutiny of balance sheets of companies that came out with IPOs from 2001 onwards be completed expeditiously. The Committee also desired that an expert group be set up in consultation with SEBI to evolve a detailed mechanism to effectively evaluate and monitor the utilisation of IPO proceeds so as to identify and take remedial steps against the fraudulent companies.

15. The Government in their action taken reply stated *inter-alia*:—

“As regards setting up of an expert group, it is submitted that companies are required to file information annually in the form of Balance Sheet and Annual Return under the Companies Act, 1956 subsequent to completion of the relevant financial year. The same companies are also required to file quarterly financial returns with the respective Stock Exchanges. Therefore, current financial data would be available with SEBI. In addition, listed companies who come out with IPOs are subject to extensive regulatory supervision by SEBI with regard to their actions in the capital market.

Further, keeping in view of the framework for investor protection under SEBI Act, 1992, SEBI has been requested to review the existing system of monitoring of utilization of IPO proceeds through constitution of an Expert Group in which Ministry of Corporate Affairs will be a nominee.”

16. The Committee had recommended that the exercise of technical scrutiny of balance sheets of Companies that came out with IPOs from 2001 onwards be completed expeditiously. The Ministry of Corporate Affairs have not furnished any information regarding the current status in this regard. Similarly, nothing has been mentioned as to what was the response of SEBI to Ministry of Corporate Affairs’ request to review the system of monitoring of utilization of IPO proceeds through constitution of an Expert Group. The Committee desire that the Government should take up these matters in right earnest and due seriousness. The Committee also desire to be apprised of the progress made in this direction within a time frame of one month.

E. Investor Education & Protection Fund (IEPF)

Recommendation (No. 9)

17. The Committee had regretted among other things, to observe the under utilisation of budget outlays in respect of Investor Education and Protection Fund, which ranged from 36 percent to 49 percent

during the years 2004-05 to 2007-08. The Committee were not convinced of the reasons adduced therefor and desired the Ministry of Corporate Affairs to chalk out a strategy to ensure full utilisation of funds to give impetus to efforts for education and protection of small investors.

18. The Government, in their action taken reply stated *inter-alia*:—

“Regarding, chalking out a strategy by giving impetus to efforts for education and protection of small investors and thereby ensuring full utilisation of funds, the Ministry is working with DAVP, in framing a comprehensive media campaign strategy with the help of electronic and print media. As such, action has been initiated for making the media campaigns more focused and effective.”

19. The Committee feel that unduly long time has been taken in framing media campaign strategy in regard to investor education. The Committee had pointed out gross underutilization of funds under the IEPF, which ranged from 36 percent to 49 percent during 2004-05 to 2007-08. The Committee stress that the campaign of investor education should not be delayed any further and the Committee be apprised of the action taken in this regard.

F. Financial Assistance under IEPF

Recommendation (No. 10)

20. The Committee were anguished that the financial assistance provided under IEPF has remained mostly confined to Northern Region with Rs. 3.24 crore allocated as on 15-02-2008 to NGOs based at New Delhi. The Committee, therefore, recommended that a departmental enquiry be conducted regarding the funds allocation to NGOs/VOs for undertaking investor education activities. The Committee wished to be apprised of the outcome of the enquiry within three months. The Committee also desired that efforts be made to promote establishment of investor fora in all places and intensify efforts for protection and welfare of investors, by appropriate awareness campaigns and assistance to various organizations.

21. The Government, in their action taken reply, stated *inter alia* that even though the Ministry has a limited role in evaluation of applications/proposals submitted by the organisations, which are evaluated/vetted by an independent expert agency – Indian Institute of Capital Market (established by UTI) – a Group has been constituted for examining the procedure of evaluation/vetting of proposals for allocation of funds.

22. In this regard, in action taken note further stated:—

“In compliance with the directions of the Standing Committee on Finance, the Ministry of Corporate Affairs constituted a Group to look into the funds allocated to NGOs/VOS for undertaking Investors Education Activities.”

23. The recommendations made by the Group on the basis of the review of the procedure adopted for the evaluation of applications for registration of NGOs/ VOs and for grant of financial assistance, whose report has been appended to the action taken note, are as follows:

- “(i) The existing procedures have been well laid out which ensure evaluation of the applications on the basis of technical expertise of the institute engaged for the purpose. However, the institute may be asked to assist such new NGOs/VOs who were approved for registration but were not granted any financial assistance in view of inappropriate proposals framed by them or lack of infrastructure to take up the scale of operations/programmes which were proposed by them, to frame smaller programmes so as to ensure increased participation and awareness;
- (ii) The IICM was having 114 number of proposals pending with it, as on May 17, 2008. The institute may be asked to expedite the vetting of proposals and send their recommendations on such reports at the earliest;
- (iii) The IICM may be asked to focus on such NGOs/VOs whose applications have been recommended for rejection for reasons other than ‘not having the capability for implementing the programmes’ and arrange for repeated trainings to the office bearers as well as arrange for a panel of speakers and experts for such organisations to enable them to successfully implement the proposed programmes on investor education and awareness;
- (iv) The Ministry of Corporate Affairs to play a proactive role in involving larger number of NGOs/VOs through Media Campaigns so as to encourage them to participate and contribute in increasing investor awareness and education.”

24. The Committee appreciate that as recommended by the Committee, the question of allocation of funds to NGOs/VOs for undertaking investors education activities has been gone into by a separate group constituted by the Ministry of Corporate Affairs. The

Group has concluded that there appeared to be no scope for influencing the laid out procedure and consequently no bias in favour of NGOs stationed at New Delhi. The recommendations of the Group, *inter alia*, include assisting new NGOs/VOs in formulating Investors Education Programmes, expediting the vetting of proposals pending with the Indian Institute of Capital Market (IICM), the Ministry of Corporate Affairs playing a pro-active role in involving larger number of NGOs/VOs in investor awareness and education activities etc. The Committee desire that these recommendations should be implemented in right earnest to ensure that there is no regional disparity in allocation of funds under the IEPF programme.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS, WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1)

The budget outlays and expenditure of the Ministry of Corporate Affairs reveal substantial variations in the budget estimates (BE) and actual expenditure (AE) year after year. While the budget outlay of the Ministry at the stage of BE in 2005-06 was Rs. 116.27 crore the actual expenditure was Rs. 75.18 crore. Likewise, for the year 2006-07 as against the originally budgeted expenditure of Rs. 145 crore, the actual expenditure (AE) was only Rs. 122.19 crore, and the budgeted expenditure of Rs. 75 crore incurred upto December, 2007 for the year 2007-08 is less than 50% of the total outlay for the year. Under utilization of the budgeted outlays of the Ministry of Corporate Affairs has been, pronounced in regard to the programme of modernization and computerisation and for the Indian Institute of Corporate Affairs (IICA). The Ministry of Corporate Affairs also generated revenue to the tune of Rs. 728.22 crore, Rs. 1037.98 crore and Rs. 1123.89 crore through statutory fees during the years 2005-06, 2006-07 and 2007-08 (upto February, 2008). Specific issues concerning the Ministry of Corporate Affairs are discussed in the subsequent sections of this report.

Reply of the Government

The major reasons for underutilization of the funds under the Object Heads 'Modernisation and Computerisation Networking' and 'Indian Institute of Corporate Affairs' are as under:

(a) Modernisation and Computerisation Networking

The position of Budget Estimates, Revised Estimates and Actual Expenditure under the Object Head 'Modernisation and Computerisation Networking' (MCN) for last three years was as follows:

(Rs. in crore)

Year	BE	RE	Actual expenditure
2005-06	60.0000	28.1310	16.6958
2006-07	70.8370	39.1500	29.2637
2007-08	64.2760	55.5700	48.3607

The Budget provision under the Object Head 'MCN' is meant for the MCA-21 e-Governance project which seeks to provide easy and secure on-line access to all the MCA services including filing and registration. The total outlay of the project is estimated to be Rs. 341.21 crore spread over six years. The implementation of the Project started with the signing of the Contract with M/s TCS Ltd. on March 1, 2005. The Project was launched at all locations in a phased manner from 18.2.2006 to 4.9.2006. The Government mandated e-filing of all documents from 16.9.2006. As per the contract, the Equated Quarterly Instalments (EQI) are to be released to M/s TCS only after completion of deliverables duly certified as per the prescribed system. The project encompasses a large number of parameters and is being monitored by an Empowered Committee under the chairmanship of Secretary, MCA with Secretary, Statistics & Programme Implementation, Secretary, DIT and AS&FA, MCA as Members.

The Budget provision for the Scheme is being made every year on the basis of the targets and objectives envisaged. However, the Ministry did not release full payments to the Operator as a conscious decision as certain parts of the deliverables were not completed and the certification of the same was yet to be achieved inspite of a few rounds of testing of the software by STQC engaged for this purpose. The Ministry has been very conscious not to compromise on the quality of the software and hence the certification with closure of all the outstanding items was insisted upon. Deliberate decisions have therefore, been taken in favour of expediency of the quality of the programme rather than utilization of the Budget only. In these circumstances, only that amount was released to M/s TCS whatever became due strictly in accordance of the contract. The Project was being regularly monitored by the Ministry and at the time of RE, only that amount was projected which could have been actually utilized. However, keeping in view the state of completion/certification of deliverables, it was not possible to release the entire Budget kept under RE, which resulted in the savings.

The entire sequence of activities in implementation of MCA-21 Programme and corresponding expenditure over the last three years need to be appreciated in the light of the fact that MCA-21 is an ambitious and innovative project, inevitably involving great deal of uncertainties in navigating through previously uncharted waters and introduction/acceptance/operation of technology in a countrywide scale. It is a matter of great satisfaction that despite the enormity of the

project involving large number of parameters and cropping up of several unforeseen technical problems, the project has been implemented very successfully through proper planning and monitoring. In fact, the delayed expenditure is a result of the efforts of the Ministry to adhere to strict project monitoring, efforts to achieve highest quality standards and following the canons of financial propriety.

(b) Indian Institute of Corporate Affairs (IICA)

The proposal to establish an Indian Institute of Corporate Affairs (IICA) to provide policy research and knowledge support to the Ministry and to serve as a 'think tank' and implementation arm for various initiatives of the Ministry, was included in the Eleventh Five Year Plan at a total estimated cost of Rs. 211 crore. This is the first Plan Scheme of the Ministry for which an outlay of Rs. 47 crore was kept as BE 2007-08. The approval of the Cabinet has been accorded to the Scheme only on 1.5.2008. Hence, no expenditure could be incurred on this Plan Scheme during 2007-08.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 2)

MRTPC – Salary Expenditure

The Committee note that MRTP Commission is proposed to be wound up in 2009-10. Consequently no action has been taken to fill up the vacant posts. The Committee are, therefore, surprised that budget outlays are continued to be made even for vacant posts, resulting in substantial mismatch between the Budget Estimates, Revised Estimates and Actual Expenditure. The Committee are not happy with this fiscal imprudence and desire the Ministry of Corporate Affairs to ensure the allocation of funds only for the anticipated requirement relating to the posts being operated upon.

Reply of the Government

The Ministry has noted the observations of Standing Committee for compliance. Ministry will take a conscious view in respect of the basic requirements of MRTPC and will accordingly make provisions in the Revised Estimate.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 3)

Indian Institute of Corporate Affairs

Indian Institute of Corporate Affairs (IICA) is proposed to be set up during the Eleventh Plan period to provide policy research and knowledge support to the Ministry of Corporate Affairs on an on-going basis and serve as think tank and implementation arm for initiatives of the Ministry. The Committee are surprised to note that though CCEA approval was still awaited, an outlay of Rs. 40 crores was made in 2007-08 which was subsequently revised for inexplicable reasons to Rs. 46 crore at RE stage. For the year 2008-09, the Ministry has understandably scaled down the outlay to Rs. 30 crore, as there was no likelihood of any other expenditure except the release of funds towards the cost of land amounting to Rs. 25 crore. The Committee would like the Ministry of Corporate Affairs to pursue the matter vigorously with CCEA for early clearance of the proposal and ensure that IICA is set up expeditiously.

Reply of the Government

The establishment of IICA was approved by the Cabinet on 01.05.2008. The Ministry has initiated action in various steps required for the establishment. In this regard, a sum of Rs. 29 crore has been paid to HSIIDC towards cost of acquisition of land at Manesar, Gurgaon.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 5)

Company Law Board (CLB)

The Committee had, in their report on the Demands for Grants of the Ministry of Corporate Affairs for the previous year (2007-08) expressed the need for filling up the vacant positions in the Company Law Board so as to address the problem of increasing number of cases before the Board. According to the Ministry of Corporate Affairs, presently four of the nine posts in the Company Law Board are vacant, while the number of cases pending has risen from 205 in 2005-06 to 731 in 2007-08. The Committee expect that, as assured by the Ministry, necessary action will be taken in a time bound manner within three months for filling up the vacant posts in the Company Law Board. The Committee also wish to be apprised of the progress in this regard.

Reply of the Government

Based on the circular issued on March 18, 2008, the Ministry has completed the process of selection of Members of the Company Law Board. The process was completed through three meetings of the Selection Committee. The process of appointment of the selected members is being taken up with the Appointments Committee of the Cabinet.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 6)

Identification of Vanishing Companies

The Committee appreciate the fact that as recommended in their report on the Demands for Grants of the Ministry for the previous year, 2007-08, the criteria for identification of vanishing companies have been reviewed and streamlined. The revised criteria for identification of vanishing companies include the additional aspects of failure on the part of listed companies to file returns with the stock exchanges, and non-traceability of Directors of companies. As per the revised criteria for identification of vanishing companies, in case of listed companies failing to file returns with the stock exchanges, the SEBI is expected to explore the possibility of initiating proceedings against the companies in default in consultation with stock exchanges. As the matter has a bearing on identifying potential vanishing companies, which would help in securing the interest of the investors, the Committee wish to be apprised of the initiatives taken in this direction and their effectiveness in identifying and initiating action against errant companies.

Reply of the Government

As per the revised criteria for identification of vanishing companies, a company which failed to file returns with Registrar of Companies/ Stock Exchange for a period of two years will be considered for inclusion in the list of vanishing companies subject to compliance with other criteria. The default period of two years in filing the statutory returns was a very long period for a company likely to indulge in any mischief or fraudulent activities, which would come to the notice of the Registrar of companies through the Balance Sheet and Annual Return filed subsequent to completion of the relevant financial year. On the other hand, the listed companies are required to file quarterly returns with Stock Exchanges. Hence, SEBI is in a better position to

identify the potential of any fraud at an earlier stage. Accordingly, SEBI has been requested to examine the action to be taken against such companies in the event of non-filing of two successive quarterly returns. SEBI is also in discussion with Stock exchanges to explore the possibility of generation of alerts by them which can be of use to the Ministry. However, SEBI has not filed their Action Taken Report with MCA so far.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 10)

The Committee are also anguished that the financial assistance provided under IEPF has remained mostly confined to Northern Region with Rs. 3.24 crore allocated as on 15-02-2008 to NGOs based at New Delhi. There appears to be concentration of investors' fora only in some places. For instances, out of 69 registered NGOs/VOs, 9 are from Delhi, 4 from Madurai and only one from Mumbai. The Committee, therefore, recommend that a departmental enquiry be conducted regarding the funds allocation to NGOs/VOs for undertaking investor education activities. The Committee wish to be apprised of the outcome of the enquiry within three months. The Committee also desire that efforts be made to promote establishment of investor fora in all places and intensify efforts for protection and welfare of investors, by appropriate awareness campaigns and assistance to various organisations.

Reply of the Government

The NGOs/VOs from 15 States/UTs are registered with IEPF. Further, out of the 69 organisations registered with IEPF, 20 organisations have never forwarded any proposal for taking up activities under IEPF. Also, there are few organisations that are regularly sending proposals and taking activities for promotion of investor welfare.

Even though the Ministry has a limited role in evaluation of applications/proposals submitted by the organisations, which are evaluated/vetted by an independent expert agency – Indian Institute of Capital Market (established by UTI) – a Group has been constituted for examining the procedure of evaluation/vetting of proposals for allocation of funds. The report of the Group would be submitted to the Committee in due course.

The awareness campaigns are taken up by various investors for a registered with IEPF, the ICAI and ICSI and other educational/research

institutions under the aegis of IEPF. Such campaigns are also taken up through DAVP and Prasar Bharati in the Print and Audio/Visual Media. However, to give proper impetus to reach out to the investors in far-flung areas, assistance has been sought from DAVP, who has the requisite technical expertise, in framing a comprehensive media campaign strategy.

In compliance with the directions of the Standing Committee on Finance, the Ministry of Corporate Affairs constituted a Group to look into the funds allocated to NGOs/VOs for undertaking Investors Education Activities. A copy of the Report of the Group is enclosed as Annexure-I.

[No. G-20018/7/2008-BGT]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS, WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW
OF THE GOVERNMENT'S REPLIES

—NIL—

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl. No. 7)

Prosecution of Vanishing Companies

The Committee had, in their report on Demands for Grants (2007-08) of the Ministry of Corporate Affairs, *inter-alia*, emphasized on taking appropriate initiatives in ensuring early prosecution of the companies, which raised approximately Rs. 793.31 crore through IPOs during the period, 1992-1998 and have been identified to have vanished. While precious little seems to have been done in prosecuting the companies, the Ministry have informed that the detailed information on the status of the prosecution action will be compiled on the basis of the review of each of the cases by the Regional Task Forces on vanishing companies. The Committee desire that the review process be completed expeditiously and appropriate initiatives be taken for early conclusion of the prosecution process against the companies involved. The Committee also wish to be apprised of the progress and outcome of the prosecution action against vanishing companies identified during the period 2001-05. The Committee further desire that a detailed investigation should be carried out to identify the reasons for the companies registered at Hyderabad during 1998-2007 getting vanished.

Reply of the Government

It is stated that the prosecution cases have been launched against all the vanishing companies and its promoters/directors under various sections of the Companies Act, 1956 including those pertaining to mis-statement in the Prospectus, false inducement of persons to invest money and for non-filing of statutory returns. FIRs have also been filed against the promoters/directors of such companies with the jurisdictional police station under the provisions of Indian Penal Code.

It is submitted that under the Companies Act, 1956, the jurisdictional Registrar of Companies has the authority to file the prosecution cases before various courts and file FIRs with the jurisdictional police station under the provisions of Indian Penal Code.

After the stage of filing of complaints or registering an FIR, the action is to be taken by the respective court/police station only. While the required legal representation caused to be undertaken by the ROC before the courts as and when the cases are listed for hearing, the matter is also regularly pursued with the local police authority through the Regional Task Force. For any of the matter to be taken to its logical conclusion, the ROC has a substantive external dependency on other organizations.

It may however be appreciated that the instrument of setting up of the CMC and its functioning have been successful in effectively controlling the phenomenon of vanishing companies. It has been observed that after the CMC started functioning, the number of vanishing companies has reduced significantly and for the period 1998-2001 only 08 companies have been taken to be vanishing while the number of companies which vanished after this period is NIL. The Ministry however is making all efforts to ensure that the complaints filed against the vanishing companies and its promoters/directors are taken to their logical conclusion at different forums.

As far as the recommendations concerning the companies registered at Hyderabad and identified as Vanishing is concerned, it is stated that these companies had been incorporated during the period of a boom in the software sector where a large number of IT Enabled Service companies had come up in Hyderabad which was promoted as a favourite destination for IT Sector. Some of these companies, even after accessing the capital market could not sustain their business and had subsequently closed down. However, FIRs have been filed against these companies for offences punishable under various Sections of the Indian Penal Code and the cases are being pursued regularly by the Regional Task Force.

[No. G-20018/7/2008-BGT]

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

Recommendation (Sl. No. 4)

Streamlining prosecution mechanism

It has been observed that the cases of prosecution against the companies has risen from 39,899 at the end of 2001-02 to 45,705 at the end of 2005-06. Considering that relevant data for subsequent years are readily available, the Committee are inclined to believe that there is lack of seriousness and efforts on the prosecution process. The Committee are in agreement with the views of the Vaish Committee for the desirability of a suitable framework in house structure to speed up the process of prosecution and introduction of a "Company Law simplified Settlement Scheme" on the lines of a similar Scheme launched in 2000, which evoked encouraging response. The Committee hope that required proposals in this regard will be initiated without further delay.

Reply of the Government

As on 31st March, 2007, the total number of prosecutions pending all over India was 47797 as compared to the 45,705 prosecutions pending as on 31st March, 2006. The total number of cases disposed off increased from 8484 to 8509 from 31.3.06 to 31.03.07. The increase in the number of prosecutions is also due to implementation of MCA-21, e-Governance System which has enabled better compliance monitoring.

At present, the Government is in the process of comprehensive revision of the Companies Act, 1956 through a Companies Bill. Proposals for effective and efficient disposal of prosecution/other action taken in response to violations of the provisions of the Bill or to enable better compliance are also a part of the revision proposed and are expected to provide a better framework once enacted.

The possibility of introducing a new Company Law Simplified Settlement Scheme (CLSSS) needs to be viewed in the light of the compliance requirements of different classes of companies and the imperative of imposing adequate and effective punishment for violation of the Law for which data is being collected. It is the intention to

enable a regime that provides adequate signals in favour of compliance while firmly dealing with non-compliance/violation of Law.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 8)

Utilisation of IPOs proceeds

The Committee concur with the view of the Ministry of Corporate Affairs, that 'mis-utilisation of IPO proceed in the first few years is an early warning towards a potential vanishing company'. Considering the fact that identifying instances of mis-utilisation of IPO proceeds by companies help in securing the interest of investors and initiating appropriate action against errant or potential errant companies, the Committee recommend that the exercise of technical scrutiny of balance sheets of companies that came out with IPOs from 2001 onwards be completed expeditiously. The Committee also desire that an expert group in consultation with SEBI be set up to evolve a detailed mechanism to effectively evaluate and monitor the utilisation of IPO proceeds as to identify and take remedial steps against the fraudulent companies.

Reply of the Government

As regards setting up of an expert group, it is submitted that companies are required to file information annually in the form of Balance Sheet and Annual Return under the Companies Act, 1956 subsequent to completion of the relevant financial year. The same companies are also required to file quarterly financial returns with the respective Stock Exchanges. Therefore, current financial data would be available with SEBI. In addition, listed companies who come out with IPOs are subject to extensive regulatory supervision by SEBI with regard to their actions in the capital market.

Further, keeping in view of the framework for investor protection under SEBI Act, 1992, SEBI has been requested to review the existing system of monitoring of utilization of IPO proceeds through constitution of an Expert Group in which Ministry of Corporate Affairs will be a nominee.

[No. G-20018/7/2008-BGT]

Recommendation (Sl. No. 9)

Investor Education and Protection Fund (IEPF)

The Committee are not convinced of the reasons advanced by the Ministry for not transferring the IEPF to SEBI, as had been recommended by the JPC on Securities Scam. The Committee, therefore, desire that the matter should be looked into afresh. The Committee

also regret to observe the under-utilisation of budget outlays in respect of Investor Education and Protection Fund, which ranged from 36 percent to 49 percent during the years 2004-05 to 2007-08. The Committee are not convinced by the reasons adduced therefor and desire the Ministry of Corporate Affairs to chalk out a strategy to ensure full utilisation of funds to give impetus to efforts for education and protection of small investors.

Reply of the Government

The Ministry reiterates that as per the intent of the provisions of Section 205 C of the Companies Act, 1956 inserted by Act 21 of 1999, the Investor Education and Protection Fund has to be maintained for the purpose of undertaking activities for education and awareness of investors. As such, the onerous responsibility has been cast upon the Government to take up activities relating to promotion of investors' welfare. The Ministry of Corporate Affairs not only administers the corporate entities which are listed in the stock exchanges but also those corporate entities which are unlisted. Many of the unlisted corporate entities are very big public companies which invite public deposits and/or issue bonds/debentures. Thus, the jurisdiction of the Ministry envelops the capital market.

The SEBI, however, is concerned with the administration of listed companies only. As such, the jurisdiction of the SEBI is limited to bourses only.

Since the accruals to the Fund are from various resources such as unpaid and unclaimed deposits/interest/debentures/bonds, etc. which are common to unlisted companies, the administration of the Fund by the Ministry of Corporate Affairs has been in line with the intention of the legislation.

Regarding, chalking out a strategy by giving impetus to efforts for education and protection of small investors and thereby ensuring full utilisation of funds, the Ministry is working with DAVP, in framing a comprehensive media campaign strategy with the help of electronic and print media. As such, action has been initiated for making the media campaigns more focused and effective.

[No. G-20018/7/2008-BGT]

NEW DELHI;
11 December, 2008
20 Agrahayana, 1930 (Saka)

ANANTH KUMAR,
Chairman,
Standing Committee on Finance.

MINUTES OF THE TENTH SITTING OF THE
STANDING COMMITTEE ON FINANCE

The Committee sat on Thursday, the 11th December, 2008 from 1600 hrs. to 1700 hrs. in Committee Room No. 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Ananth Kumar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Shyama Charan Gupta
5. Shri Vijoy Krishna
6. Shri Rupchand Pal
7. Shri Suresh Prabhakar Prabhu

Rajya Sabha

8. Shri Mahendra Mohan
9. Shri Vijay J. Darda
10. Shri Moinul Hassan
11. Shri K.V.P. Ramachandra Rao
12. Shri S.S. Ahluwalia

SECRETARIAT

- | | | |
|-------------------------------------|---|-----------------------------|
| 1. Shri R.C. Ahuja | — | <i>Additional Secretary</i> |
| 2. Shri A.K. Singh | — | <i>Director</i> |
| 3. Shri T. G. Chandrasekhar | — | <i>Deputy Secretary</i> |
| 4. Shri Ram Kumar
Suryanarayanan | — | <i>Deputy Secretary-II</i> |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. The Committee, then took up the following draft Reports for consideration :-

- (i) Draft action taken Report on the recommendations/ observations contained in the 67th Report on Demands for Grants (2008-09) of the Ministry of Finance (Departments of Economic Affairs, Expenditure, Financial Services and Disinvestment);
- (ii) Draft action taken Report on the recommendations/ observations contained in the 68th Report on Demands for Grants (2008-09) of the Ministry of Finance (Department of Revenue).
- (iii) Draft action taken Report on the recommendations/ observations contained in the 69th Report on Demands for Grants (2008-09) of the Ministry of Planning.
- (iv) Draft action taken Report on the recommendations/ observations contained in the 70th Report on Demands for Grants (2008-09) of the Ministry of Statistics and Programme Implementation.
- (v) Draft action taken Report on the recommendations/ observations contained in the 71st Report on Demands for Grants (2008-09) of the Ministry of Corporate Affairs.

The Committee adopted the Report at (iii) above without any amendment and the Reports at (i), (ii), (iv) and (v) with modifications as shown in the Annexure-A.

4. The Committee authorized the Chairman to finalise these Reports in the light of the modifications made and present the same to Parliament.

5. The Committee decided to defer consideration of the two draft Reports on (i) 'Flow of Credit to Agriculture Sector'; and (ii) 'Counterfeit Currency Notes in Circulation', to a subsequent sitting.

The Committee then adjourned.

ANNEXURE-A

- (a) Modification made in Chapter-I of the draft action taken report on the 67th Report on Demands for Grants (2008-09) of Ministry of Finance (Departments of Economic Affairs, Expenditure, Financial Services and Disinvestment);

** ** *

** ** *

- (b) Modification made in Chapter-I of the draft action taken report on the 68th Report on Demands for Grants (2008-09) of Ministry of Finance (Department of Revenue).

** ** *

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- (c) Modification made in Chapter-I of the draft action taken report on the 70th Report on Demands for Grants (2008-09) of the Ministry of Statistics and Programme Implementation.

** ** *

** ** *

- (d) Modification made in Chapter-I of the draft action taken report on the 71st Report on Demands for Grants (2008-09) of the Ministry of Corporate Affairs.

Para	Line	Amendments/Modifications
1	2	3
7	11	For <p>“The Committee would await details of the progress made in this connection and the decision of the Government on introducing the new ‘Settlement Scheme’ for companies on the lines of the scheme launched earlier”</p> <p>Substitute</p> <p>“The Committee desire to be apprised of the initiatives taken and progress made in this direction within a time frame of one month”.</p>

1	2	3
10	5	<p>After</p> <p>“so far”.</p> <p>Add</p> <p>“This, the Committee feel, is an unacceptable response and desire the SEBI to furnish their action taken report in the matter at once”</p>
10	13	<p>For</p> <p>“The Committee would await information on the initiatives taken in this direction”</p> <p>Substitute</p> <p>“The Committee expect the Government to urgently take positive initiatives in this direction and desire to be apprised of the details of the same within fifteen days of submission of this Report to Parliament”.</p>
13	Last	<p>For</p> <p>“The Committee would await the same”.</p> <p>Substitute</p> <p>“The Committee take exception to the lackadivical attitude of the Government in acting on their recommendation and desire to be provided with a detailed action taken note within one month”</p>
16	Last	<p>For</p> <p>“The Committee would await information in this regard”.</p> <p>Substitute</p> <p>“The Committee desire that the Government take up these matters in right earnest and due seriousness. The Committee also desire to be apprised of the progress made in this direction within a time frame of one month”.</p>

ANNEXURE I

REPORT OF THE GROUP ON FINANCIAL ASSISTANCE TO NGOS UNDER INVESTOR EDUCATION AND PROTECTION FUND

The Standing Committee on Finance on Demand for Grants had observed that the financial assistance provided under Investor Education and Protection Fund (IEPF) appeared to be confined to the investors' fora based in Northern Region, particularly, to NGOs based at New Delhi with Rs. 3.24 crore allocated as on 15.02.2008 to such NGOs. The Committee, therefore, recommended that a departmental enquiry be conducted regarding the funds allocation to NGOs/VOs for undertaking investor education activities. The Committee wished to be apprised of the outcome of the enquiry within three months.

Accordingly, the Secretary, Ministry of Corporate Affairs constituted a Group headed by Additional Secretary consisting of Director and Deputy Secretary as members of the Group.

The Group held its first meeting on June 4, 2008 followed by another three meetings in the months of June and July 2008 and examined, in detail, the provision relating to the establishment of IEPF, the rules framed for administration of the Fund, the procedure being followed for the registration and grant of financial assistance to the NGOs/VOs and the cases where substantial grant has been provided to the NGOs during the last five years ended March 31, 2008. The Group also invited representatives of a few stakeholders and discussed the procedure relating to registration and utilisation of financial assistance under the IEPF.

The following paragraphs bring out the observations of the Group:

1. Introduction:

1.1 Investor Education and Protection Fund (IEPF) has been set-up under Section 205C of the Companies Act, 1956 by way of the Companies (Amendment) Act. 1999.

1.2 As per the Act, the following amounts which have remained unclaimed and unpaid for a period of seven years from the date they became due for payment shall be credited to the IEPF:

- (a) Unpaid dividend accounts of the companies;
- (b) The application moneys received and due for refund;

- (c) Matured deposits;
- (d) matured debentures;
- (e) The interest accrued in the amounts referred to in clauses (a) to (d);
- (f) Grants and donations by the Central Govt., State Govt., companies or any other institutions; and
- (g) The interest or other income received out of the investments made from the Fund.

1.3 The Fund has been established with a view to support the activities relating to investor education, awareness and protection. Following are the objectives/activities of the Fund:

- Educating investors about market operations;
- Equipping investors to analyze information to take informed decisions;
- Making investors aware about market volatilities;
- Empowering the investors by making them aware of their rights and responsibilities under various laws;
- Continuously disseminating information about unscrupulous elements and unfair practices in securities market;
- Broadening the investors' base by encouraging new investors to participate in securities market; and
- Promoting research and investor surveys to create a knowledge base that facilitate informed policy decisions.

1.4 The Act provides for setting up of a Committee for taking decisions regarding spending moneys out of the Fund for carrying out the objects as mentioned above.

1.5 For the purpose of administration of IEPF, the Investor Education and Protection Fund (awareness and protection of investors) Rules 2001 were notified on 1st October 2001 (copy placed as Annex. I). These Rules, *inter alia*, contain provisions relating to constitution and functions of the Committee, activities relating to investors' education, awareness and protection to be undertaken with the recommendation of the Committee, conditions for utilisation of Funds by the Committee, proforma for applications for registration of associations, institutions or organisations and also for seeking financial assistance under IEPF, etc.

1.6 The present Committee has been constituted of member who are experts in various fields of Capital Market, Accountancy, Taxation, Media, Management Consultancy, etc. Presently, following are the members of the Committee on IEPF, which has been constituted for a period of 2 years and its tenure is going to end on 19.06.2008:

Committee on IEPF

Secretary, Ministry of Corporate Affairs	Chairman
Additional Secy. & Fin. Adviser, Ministry of Corporate Affairs	Member
Dr. Nithish Sengupta	Member
Shri R.K. Pandey	Member
Shri S.R. Bansal	Member
Executive Director, RBI	Member
Shri Dilip Cherian	Member
Shri Chinubhai R. Shah	Member
Executive Director, SEBI	Member
Shri Mohan Guruswamy	Member
Shri B.D. Narang	Member
Joint Secretary, Ministry of Corporate Affairs	Convenor

1.7 The Committee is supported by a Sub-Committee on IEPF which has been constituted from among the members of the Committee in order to facilitate efficient and speedy discharge of its functions. Secretarial assistance is provided to the Committee and Sub-Committee by the Ministry. Presently, following are the members of the Sub-Committee on IEPF:

Sub-Committee

Addl. Secy. & Fin. Adviser, Ministry of Corporate Affairs	Chairman
Shri R.K. Pandey	Member
Shri S.R. Bansal	Member
Shri Dilip Cherian	Member
Joint Secretary, Ministry of Corporate Affairs	Convenor

2. Procedure for registration and providing financial assistance

2.1 The Ministry has laid out a well-defined procedure for processing the applications received for registration and providing financial assistance under IEPF. All applications in the prescribed format for registration under IEPF, *i.e.*, Form 3 are received by the Ministry for processing as also the proposals for carrying out programmes on investors' education and awareness, in the prescribed Form No. 4.

2.2 As per the criteria, the applications received in the prescribed Form 3 should conform to the following criteria/guidelines:—

- Any entity that has a viable project proposal on investor education and protection shall be eligible for registration.
- The entities already engaged in activities relating to investor awareness, education and protection and proposing to take up investors programmes, organizing seminars, symposia etc. shall undertake projects for investor protection including research activities.
- The entities shall be registered under the Societies Registration Act or formed as Trusts or incorporated companies.
- Entities shall, unless specific exemption has been made in this regard by the IEPF Committee, be in existence for a minimum period of 2 years prior to its date of application for registration.
- Entities shall have a minimum of 20 members and a proven record of at least 2 years.
- Entities shall have rules, regulations and/or by-laws for its governance and management. These rules, regulations and/or by-laws shall be in conformity with the conditions of registration.
- The entity shall be managed by a governing board/management committee.
- No profit-making entity shall be eligible for registration for the purposes of financial assistance from the fund. Notwithstanding the above, the IEPF Committee can give a project to any organization.
- The amount of grant assistance given from IEPF shall be subject to an audit by the Ministry of Corporate Affairs to ensure its proper utilization.
- While considering proposals, the IEPF Committee shall take into account the audited accounts and the annual reports of the last three years of the entity seeking assistance from IEPF.

2.3 The applications as well as the proposals have to be evaluated/ vetted with respect to the genuineness of the claims enumerated in the applications received as well as to ascertain the capacity and capability of the organisation to organise and conduct such programmes.

2.4 However, since the Ministry neither has the requisite expertise nor the resources required for evaluation of the applications for registration and proposals for financial assistance, it has engaged the services of an institute, *viz.*, the Indian Institute of Capital Market (IICM). The Institute was established in the year 1990 by Unit Trust of India and has been engaged in:—

- Educating and developing professionals for the securities industry in India and other developing countries.
- Dissemination of information about Indian and International capital markets by creating a comprehensive body of knowledge.
- Contribution to the orderly and healthy development of securities markets by bringing expertise to bear on structural and policy issues concerning the securities industry.
- Functioning as a centre for creating investor awareness through research and training.
- Providing specialised consultancy related to the securities industry.

2.5 The Institute evaluates the applications and proposals through its team of field assistants who visit the premises of the applicant organisations, conduct verification of particulars mentioned and give report to the Institute. The Institute, in turn, examines the reports regarding acceptance or rejection of application. This verification is known as 'Pre-sanction Scrutiny'. Further, the Institute also conducts 'Training of Trainers (TOT)' programmes for the organisations who apply for registration. After evaluation of the trainees, the Institute submits its composite recommendations to the Ministry. These recommendations are then placed before the Sub-committee for its consideration, on case to case basis. The Sub-committee after considering the recommendations of the Institute and taking into cognizance the views of the members, accords approval or rejects the application, as the case may be and accordingly, the letter conveying the decision regarding granting of registration/financial assistance or rejection is conveyed to the applicant organisation.

2.6 Similarly, the Institute has also been engaged to conduct verification of accounts pertaining to the utilisation of financial assistance released to an organisation under IEPF. This verification is known as 'Post-sanction Scrutiny'. The accounts submitted by an organisation to whom financial assistance had been granted under IEPF, are audited by an auditor appointed by the institute who submits its audit report to the Institute. The Institute, based on the observations contained in the Auditors' Report, submits its post-sanction scrutiny report to the IEPF Secretariat of the Ministry. The Secretariat, on the basis of this report processes the case for final settlement of accounts.

3. Regional Distribution of organisations registered with IEPF

3.1 Following is the regional distribution of the organisations/associations registered with IEPF as on 31.03.2008:—

Sr. No.	Region	No. of organisations registered till date	Financial assistance provided (Rs. in lakh)
1.	All India	03	279.96
2.	Northern	13	59.57
3.	Eastern	15	5.37
4.	Western	13	51.13
5.	Southern	25	22.36
Total		69	418.39

3.2 It would be seen from above that IEPF has granted more than 67% of the total financial assistance over the last five years to the two NGOs, *viz.*, PIPAL and MIDAS [reference Para Nos. 5.2.1 and 5.2.2 *infra*] and the Institute of Company Secretaries of India (ICSI). The ICSI is an All India body which has been conducting programmes on investor education and awareness throughout the country through its regional chapters (reference Para No. 5.2.3 *infra*). The NGOs—PIPAL & MIDAS, on the other hand, have implemented two very important projects which have 'All Indian' reach and utility. Further, among the NGOs registered in the Northern Region, the Society for Capital Market Research and Development (SCMRD) has implemented two research projects (reference Para No. 5.2.5 *infra*) which have pan-Indian utility and as such its contribution is not restricted to the Northern Region only.

3.3 The status regarding financial assistance in the regions also indicates that the receipt of proposals for financial assistance from NGOs registered does not necessarily correlate to the number of associations registered. This is evident from the table, the Northern and Western Region account for carrying out more programmes under IEPF as compared to Southern and Eastern Region where there are more NGOs registered under IEPF.

4. Utilisation of the Budgetary Allocation

4.1 The details of the budget and the expenditure incurred during the previous years are as under:—

(Amount in Rupees)		
Financial Year	Budget	Expenditure
2004-05	3,00,00,000	1,63,37,684
2005-06	3,00,00,000	1,93,30,279
2006-07	5,00,00,000	2,61,54,871
2007-08	5,00,00,000	3,41,82,044

4.2 The Group observed that there has been healthy increasing trend in the expenditure incurred over the last four years indicating increased level of activities undertaken under the aegis of IEPF. However, efforts need to be made to ensure full utilisation of budget.

5. Review of NGOs given financial assistance

5.1 For the purpose of scrutiny of cases where financial assistance under IEPF was extended, following were the NGOs/ VOs who were registered and given financial assistance for an amount of Rs. 20 lakh or more over the period of last six years:—

- (a) Prime Investors Protection Association and League, New Delhi
- (b) MIDAS Touch Investor Association, New Delhi
- (c) Institute of Company Secretaries of India, New Delhi
- (d) Society for Capital Market Research & Development, New Delhi.
- (e) Investors' Grievance Forum, Mumbai, Maharashtra

5.2 The Group discussed and analysed the grant of financial assistance of more than Rs. 20 lakh under IEPF which are located in Northern Region and following was observed with regard to the 'value for money' created in such cases:—

5.2.1 Prime Investor Protection and Association League (PIPAL)

5.2.1.1 PIPAL is a company incorporated on December 2, 2003 under Section 25 of the Companies Act, 1956 with the main objective of implementing the project involving creation of a website for investor education and protection under the name "watchoutinvestors.com".

5.2.1.2 The Company had proposed a project named 'watchoutinvestors.com' which intended to serve as an internet based user friendly, quick search facility leading to details of the selected entity/person who have been indicted by a regulator for an economic default and/or for non-compliance of laws/guidelines and/or who are no longer in the specified activity.

5.2.1.3 The Group observed that this project was the first-of-a-kind initiative to help the investors by providing very useful details so as to protect them from unscrupulous entities/persons which have been indicted for any economic offence. As the project was wholly in line with the objectives of the IEPF, the Committee on IEPF had approved the project with a total cost of Rs. 110 lakh. The website was launched on November 9, 2004 and at present contained information about 60,000 companies and 28,000 persons indicted for any economic offence.

5.2.2 MIDAS Touch Investors Association (MIDAS)

5.2.2.1 MIDAS Touch Investors Association is a society registered under The Societies Act with registered office at Pearey Lal Bhavan, 2, Bahadurshah Zafar Marg, New Delhi. It is registered, as an investor protection group, with the investor Education & Protection Fund, Ministry of Corporate Affairs, Government of India, and Securities and Exchange Board of India (SEBI).

5.2.2.2 The MIDAS had proposed to launch an internet-based, free of charge, grievance redressal facility—Investor Helpline—which was intended to provide the investors with an easy and reliable platform to register their grievances which would then be processed by the Helpline for proper redressal.

5.2.2.3 The Helpline project, again first-of-its-kind, has been implemented by MIDAS with total project cost of Rs. 99,04,000/-

provided under Investor Education & Protection Fund, Ministry of Corporate Affairs, Government of India. The helpline was launched on September 8, 2006 by the Hon'ble Minister for Corporate Affairs. The Group discussed the performance of the website and observed that at present the redressal rate has been an impressive 39 per cent.

5.2.3. Institute of Company Secretaries of India (ICSI)

5.2.3.1 The ICSI is incorporated on 1.1.1981, under the Company Secretaries Act, 1980 and has been involved with following activities:

- Providing oral/postal coaching and training enabling students to qualify as Company Secretaries;
- Organises professional development programmes in collaboration with chambers of Commerce, Ministry of Corporate Affairs, Department of Public Enterprises and other professional bodies;
- Conducts various seminars, training programmes and workshops from time to time all over India on subjects of financial and corporate affairs.

5.2.3.2 The Group observed that the institute has been actively partnering with the Ministry in conducting Investor Awareness and Education Programmes, Seminars, Workshops, Research Activities and Publication of material on investor related issues, under the aegis of IEPF through its various chapters located all across the country. The greatest benefit derived by the participants of such programmes has been the services of the professionals of the institutes who provide them with expert financial knowledge and assistance in the field of investment.

5.2.3.3 Recently, the Institute was associated with observing September 2007 as 'Investor Awareness Month' under which programmes on investor awareness and education were conducted at 25 locations across the country.

5.2.4 Investors' Grievance Forum

5.2.4.1 Investors Grievance Forum (IGF) is a Society registered under the Societies Registration Act, 1980-474/1994 GBBSD, Mumbai, on 05.05.1994. The objective of the IGF is protection and safeguarding the rights of small investors in capital/financial market through continued education and awareness and redressal of their grievances through regulatory or government bodies.

5.2.4.2 The Forum has been active in conducting 'Investor Melas' in various cities across the country wherein the participants have been provided with literature on financial literacy, tips on safe investments, grievance redressal mechanism & process and taking up grievances with the concerned corporate entities for redressal. Further, the Forum had also published monthly news bulletin containing literature on investor awareness and education relating issues and had also designed a website for the assistance of investors.

5.2.4.3 The Group observed that the Forum had been granted financial assistance in 2004-05 and 2005-06 for the above mentioned initiatives, for a total amount of Rs. 23.05 lakh, for which post-sanction scrutiny had been satisfactorily completed by the IICM and the accounts have also been settled.

5.3.5 Society for Capital Market Research and Development

5.2.5.1 Society for Capital market Research and Development is a society registered under Societies Registration Act, 1860, Delhi (Registration No. S/20422 dated 04.10.1989). The Society was established with the aim of conducting research on capital market related problems and through such research, helping in the development of capital market and strengthening the protection of investors.

5.2.5.2 The Society had proposed conducting a Research Project on 'Indian Household Investors' which would enable a deeper understanding of the investors' concerns, needs, preferences, attitudes, etc. and thus would not only be able to provide a key to effective implementation of the IEPF's objectives but would also provide a resource for policy framing for capital market in India.

5.2.5.3 The Group observed that the Research Study which was published in June 2005 brought out various problems of the Household Investors, not only on account of deficient legal framework but also on account of lack of awareness among the Indian Corporates regarding good corporate governance practices.

5.2.5.4 The Group also observed that the Society had again conducted a Research Project, namely 'Empirical Examination of Problems faced by Shareholders of Delisted Companies' which explores several aspects of delisting by analyzing the underlying reasons, rationale, the related regulatory framework and the evaluation of the effectiveness of the steps taken till now to address the problem.

5.2.5.5 The Group concluded that the financial assistance provided to the Society in the years 2003-04 and 2005-06 for a total amount of Rs. 26.63 lakh for the above mentioned research studies had provided appropriate value-for-money in terms of making available pioneering references on the issues pertaining to investors. It also observed with concern that apart from the Society, no other NGO had proposed to conduct research studies on the issues pertaining to investors till date.

5.3 Further, there were only four NGOs, who were granted financial assistance of Rs. 5 lakh or more but less than Rs. 20 lakh. The Group observed that these NGOs were from four different states *i.e.*, from Maharashtra, Tamil Nadu, New Delhi and Rajasthan.

5.4 The Group therefore concluded that given the limited role of the Ministry in the process of registration and extending financial grant to NGOs for which an expert institutional support (IICM) has been engaged and the profile of NGOs who have been granted financial assistance of Rs. 5 lakh or more, there appeared to be no scope for influencing the laid out procedure and consequently no bias in favour of NGOs stationed at New Delhi.

6. Operationalisation of Investor Education and Protection Fund

6.1 Section 205C, providing for establishing of the Investor Education and Protection Fund was inserted in the Companies Act, 1956 by way of Act 21 of 1999 (with *r.e.f.* 31.10.1998). As per the provisions of the said Section (Para 1.2 *supra*), the Fund has been established by the Government to be maintained as a separate Fund and the amounts accruing under the Fund are supposed to be re-invested so as to earn returns and such returns constitute a source of revenues to the Fund.

6.2 However, by the procedure approved for the present, by the Controller General of Accounts in consultation with the Ministry of Finance, the amounts accruing to the Fund are following to the Consolidated Fund of India (CFI). As such, the fund is not being maintained under the Public Account by the Finance Ministry.

6.3 The Parliamentary Standing Committee on Finance recommended in its 20th Report that the amounts under the Fund should be reflected under the Public Account in the Union Budget and should further be classified as interest bearing deposits. Further, the C&AG, in their Performance Appraisal Audit of the Ministry has observed that no separate Fund has been created as envisaged. In this connection, the Chief Controller of Accounts also opined that

considering the nature and accrual of Fund, keeping this Fund in Consolidated Fund of India does not go well with the Article 266(1) of the Constitution of India and therefore, the Fund cannot form part of Consolidated Fund of India.

6.4 Accordingly, the issue was taken up with the Ministry of Finance/Ministry of Law to create a Fund under the Public Account in the scope of Article 266(2) of the Constitution of India.

6.5 It may, however, be observed that the transfer of unclaimed amounts by the Companies to the Fund is based on the principle that 'undue enrichment of companies' on account of funds not belonging to them is not to be allowed. This is achieved, through the expropriation by the Government of such sums of money for a defined larger good, *i.e.*, investor education and awareness. The IEPF is on the same lines as in the case of Consumer Welfare Fund created by the Central Government.

6.6 The Group while reviewing the above position concluded that effectively, in terms of the existing procedure, the statutory duty on this Ministry to operate a Fund as provided under Section 205C would not be discharged.

7. Recommendations

7.1 The Group, on the basis of the review of the procedure adopted for the evaluation of applications for registration of NGOs/VOs and for grant of financial assistance, submitted following recommendations:—

- (i) The existing procedures have been well laid out which ensure evaluation of the applications on the basis of technical expertise of the institute engaged for the purpose. However, the institute may be asked to assist such new NGOs/VOs who were approved for registration but were not granted any financial assistance in view of inappropriate proposals framed by them or lack of infrastructure to take up the scale of operations/programmes which were proposed by them, to frame smaller programmes so as to ensure increased participation and awareness;
- (ii) The IICM was having 114 number of proposals pending with it, as on May 17, 2008. The institute may be asked to expedite the vetting of proposals and send their recommendations on such reports at the earliest;

- (iii) The IICM may be asked to focus on such NGOs/VOs whose applications have been recommended for rejection for reasons other than 'not having the capability for implementing the programmes' and arrange for repeated trainings to the office bearers as well as arrange for a panel of speakers and experts for such organisations to enable them to successfully implement the proposed programmes on investor education and awareness;
- (iv) The Ministry of Corporate Affairs to play a proactive role in involving larger number of NGOs/VOs through Media Campaigns so as encourage them to participate and contribute in increasing investor awareness and education.

1.7 The Group also observed that in order to coordinate the efforts and activities undertaken by various agencies for investor education and awareness, a decision was taken in the meeting taken by the Joint Secretary (Capital Market), Ministry of Finance on April 13, 2007 to create an institutional mechanism through an IEPF Sub-committee. The Sub-committee was to comprise of nominees of each segment of financial market.

7.3 The Ministry has informed the Department of Economic Affairs that nominations have been received from the various agencies. However, there is already a Committee in the Ministry of Corporate Affairs to administer IEPF and it would, therefore, be more appropriate to assign the responsibilities/ tasks proposed for the Committee so as to avoid duplication. The representatives of other agencies/authorities can either be included in the Committee or attend as special invitees.

7.4 Apparently, the Ministry has no objection in coordinating the activities related to investor education, however, the Group opined that the issue of creation of the IEPF as a separate Fund under the Public Accounts be considered and approved in the Ministry of Finance. This would correct the present position which is inconsistent with the legislative mandate given u/s 205C of the Companies Act, 1956. Simultaneously, it will also enable the Ministry to expand the activity levels under Investor Education & Protection initiatives.

Sd-	Sd-	Sd-
(Savita Prabhakar) Deputy Secretary	(Manoj Kumar Arora) Director	(P.D. Sudhakar) Additional Secretary

APPENDIX

(Vide Para 3 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE
RECOMMENDATIONS CONTAINED IN THE SEVENTY- FIRST
REPORT OF THE STANDING COMMITTEE ON FINANCE
(FOURTEENTH LOK SABHA) ON DEMANDS FOR GRANTS
(2008-2009) OF THE MINISTRY OF CORPORATE AFFAIRS

	Total	% of Total
(i) Total number of recommendations	10	
(ii) Recommendations/observations which have been accepted by the Government (Vide Recommendations at Sl. Nos. 1, 2, 3, 5, 6 & 10)	6	60.00
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies (Nil)	Nil	00.00
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee (Vide Recommendation at Sl. No. 7)	1	10.00
(v) (Recommendation/observation in respect of which final reply of the Government is still awaited (Vide Recommendations at Sl. No. 4, 8 and 9)	3	30.00