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STANDING COMMITTEE ON FINANCE
(2009-10)

FIFTEENTH LOK SABHA

MINISTRY OF CORPORATE AFFAIRS

(Action taken by the Government on the recommendations contained in the Fifth Report of the Standing Committee on Finance on Demands for Grants (2009-10) of the Ministry of Corporate Affairs)

TWENTIETH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

APRIL, 2010/ Chaitra, 1932 (Saka)

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Presented to Lok Sabha on 19 April, 2010
Laid in Rajya Sabha on 19 April, 2010

LOK SABHA SECRETARIAT
NEW DELHI

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2.	Shri T.G. Chandrasekhar	-	Additional Director
3.	Shri Ramkumar Suryanarayanan	-	Deputy Secretary

* Nominated to this Committee w.e.f. 09.03.2010 vice Shri Gopinath Munde, MP

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorised by the Committee, present this Twentieth Report on action taken by Government on the recommendations contained in the Fifth Report of the Committee (Fifteenth Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Corporate Affairs.

2. The Fifth Report (15^{th} Lok Sabha) was presented to Lok Sabha/laid in Rajya Sabha on 2 December, 2009. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 26 March, 2010.

3. The Committee considered and adopted this report at their sitting held on 15 April, 2010.

4. An analysis of action taken by Government on the recommendations contained in the Twentieth 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;	**DR. MURLI MANOHAR JOSHI,**
15 April, 2010	**Chairman,**
25 Chaitra, 1932 (Saka)	**Standing Committee on Finance.**

CHAPTER I

REPORT

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations / observations contained in the Fifth Report (Fifteenth Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Corporate Affairs which was presented to Lok Sabha and laid in the Rajya Sabha on 2nd December, 2009.

2. The Report contained 9 recommendations. Action taken notes have been received from the Government in respect of all the recommendations. The action taken notes have been categorized as below :

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

Recommendation Nos. 1,2,3,4,5,6,7,8 & 9

(Total 9) (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:

NIL (Chapter IV)

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

NIL (Chapter V)

3. Although the Government have accepted in principle all the recommendations of the Committee, the action taken notes furnished by the Ministry of Corporate Affairs reveal certain inadequacies and inconclusiveness, which has been commented upon in the succeeding paragraphs.

4. **The Committee desire that specific replies to the comments contained in Chapter I of this Report should be furnished to them expeditiously, in any case not later than three months of the presentation of this Report.**

A. <u>Monitoring of IPO Proceeds</u>

5. The Committee had recommended in their earlier Report that the statutory monitoring mechanism presently provided under the Companies Act and the powers vested in the Registrars of Companies (ROCs) should be fully invoked and it should be ensured that the IPO proceeds are utilized for the stated purpose and within the stipulated time period. Any deviation in utilization or non-utilization should be strictly monitored and then deviant Companies duly penalized for the same.

6. In their Action Taken Note, the Ministry of Corporate Affairs have submitted as below :

> "The Ministry has directed all the Registrar of Companies (RoCs) to strictly follow the instructions of the Ministry, already issued, regarding carrying out the scrutiny of balance sheets of all those companies which came out with the IPOs and in cases where balance sheets are not yet due for filing, the RoCs have been asked to call for copies of quarterly reports, filed by those companies, with the stock exchanges so as to know advance indication of likely misuse or diversion of funds. If any deviation in utilization or non-utilization of funds is found, the same will be strictly dealt with to ensure necessary penal action as per law. Expert Group constituted as a follow up of the recommendations made by the Committee (71st Report – 2008-09) to review the framework and institutional mechanism for investors protection and monitoring of IPO proceeds is likely to submit its report to the Ministry shortly for further consideration and necessary action by the Ministry of Corporate Affairs."

7. The Committee understand that an Expert Group was constituted as a follow up of the recommendations made by the Committee (71st Report – 2008-09) to review the framework and institutional mechanism for investors protection and monitoring of IPO proceeds. From the action taken reply furnished by the Ministry, the Committee understand that the Expert Group submitted its report on 22 March, 2010. The Committee are unable to

understand as to why the Expert Group which was constituted way back in July, 2008 has been able to submit its report only now, that is almost two years since constitution. This only seems to suggest laxity on the part of the Ministry in getting the administrative process expedited. The Committee would like to be apprised about the follow-up action taken in the matter within a month.

B. <u>Early Warning System (EWS)</u>

8. In their earlier Report on the subject, the Committed had inter-alia recommended, as a consequence of the Satyam Computer Services episode, that a fool proof system, whereby such frauds could be pre-empted, should be developed. The Committee desired that the Ministry should conclude their findings on this issue expeditiously and ensure that the proposed system is able to generate timely alerts through institutionalized checks/scrutiny on serious non-compliance and insufficiency of disclosures by companies.

9. In their Action Taken Note, the Ministry have inter-alia submitted that :

> "In the process of development of an Early Warning System (EWS), the Ministry has identified 10 Risk Parameters which can be run on the data available in the MCA-21 System. The Risk Parameters are at the testing stage and some of the initial alerts generated through the initial run are being validated through manual examination of available records. The Ministry will further refine the initially identified 10 risk parameters based on the validation of results generated through these parameters."

10. The Ministry have informed that in the process of development of Early Warning System (EWS) to detect corporate frauds, the Ministry have identified 10 Risk Parameters which can be run on data available in their existing MCA – 21 System and the testing of the Early Warning System mechanism were being validated through manual examination of available records. The Committee would like to be apprised about the opertionalisation of the new system and the details of cases of corporate frauds detected thus far and the follow-up action

initiated thereafter including review of existing provisions and procedures to pre-empt frauds / corporate delinquency.

C. Automation of Liquidation Process

11. The Committee had earlier observed that as the winding up process in this country has become an extremely long drawn affair, it is expected that the e-governance project initiated in the Official Liquidator's office will bring down drastically the average time required for winding up of companies. They had desired that the rules and procedures associated with liquidation and winding up of companies be rationalized in a manner compatible with the automation processes.

12. While stating that the observations/ recommendations of the Committee have been noted for compliance, the Ministry of Corporate Affairs have submitted a brief note on the progress of automation and e-governance project of Official Liquidator's office as follows:-

(i) A meeting of the Committee of Secretaries was held on 7th March 2007 under the chairmanship of Cabinet Secretary to discuss the "World Banks Report 'Doing Business in 2007' – presentation on 'Enforcing Contracts' and 'Closing a Business'. As per the World Bank Report, the process of closing a business in India is very slow and inefficient in terms of time taken, costs incurred and recoveries. The estimated time taken for winding process in India is 10 years. The World Bank has rated India at 137 out of 175 countries evaluated in so far as closing a business is concerned. It was decided in the meeting that a Committee under the Chairmanship of Secretary, Ministry of Company Affairs and including Secretaries of Ministries/ Departments of Banking, DIPP and Legal Affairs will deliberate and recommend ways for reducing the time taken to close a business in India.

(ii) A presentation was made before the Secretary, Planning Commission on 28.01.2008 on the desirability of reform of the process of insolvency of companies and in the working of Official Liquidators so as to make the entire process more efficient with the initiative being referred to as Efficient Exit Scheme. Accordingly, a Scheme on the improvement of functioning of Official Liquidators and introduction of e-governance in the process of liquidation and winding up of companies with an estimated cost of Rs.72.5 crores was submitted to Planning Commission on 13.10.2008 for consideration and its inclusion in Plan Scheme.

(iii) Planning Commission informed that in view of the serious funds constraint, the new scheme can be considered after the Mid Term appraisal of Eleventh Five Year Plan. However, in case the Ministry is in a position to accommodate the proposal within its 11th Plan outlay, the Planning Commission can concur 'in principle'.

(iv) Further, a meeting of the Apex Committee (NeGP) was held on 16th June 2009, wherein the following decisions were taken regarding office of Official Liquidators: -

(a) The e-governance project for Official Liquidators would be a separate project within the existing MCA.

(b) The funds required for the preparation of the Official Liquidator project report can be met from the non plan allocation of MCA 21 and later on for implementation of the project, the Planning Commission would start the process of funding it under plan.

(v) In this regard, the Department of Information Technology (DIT) has recommended to engage National Institute for Smart Government (NISG) for preparation of Detailed Project Report (DPR) and Request for Proposal (RFP) for the e-Governance project of the Official Liquidators. Accordingly, NISG have been awarded the said work at cost of Rs.1.7 crores plus applicable taxes out of the internal budget allocation of this Ministry (under non plan head). The Ministry would be approaching Apex Committee again for additional funds once the DPR & RFP is received. NISG has given a time schedule for six months to prepare DPR and another one month for formulation of RFP. The above processes along with the Bid Process Management would be completed in ten months. NISG has already started their work.

13. The Committee would expect the Ministry of Corporate Affairs to accomplish the automation and e-governance project of Official Liquidator's office within a stipulated time-period, while ensuring that the existing rules and procedures are also suitably streamlined so as to be in harmony with the automation processes. The Committee desire that the time taken for winding up operations of Companies should be considerably reduced from the existing average of ten years or so, while protecting the interest of the employees and investors. The Committee would like to be apprised about the results

achieved in actual liquidation of companies as a consequence of the e-governance liquidation project.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS, WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendations No.1

Budget allocation

1. The Committee, in the course of their examination of Demands for Grants (2009-10) of the Ministry of Corporate Affairs have found persistent mismatch between the Budget Estimates (BE) and Actual Expenditure (AE) in the Non Plan outlay. The shortfall in the Actual Expenditure were to the tune of Rs.22.42 crore, Rs.40.34 crore and Rs.26.74 crore for the years 2006-07, 2007-08 and 2008-09 respectively. As regards the Plan outlay, Rs.47 crore was allocated by the Ministry as Budget Estimates in 2007-08, but the Actual Expenditure for the year turned out to be Nil. As a stark contrast, in the subsequent year, i.e. 2008-09, Actual Expenditure almost doubled to Rs.63 crore. The Committee do not find tenable the explanation furnished by the Ministry regarding non-availability of approvals etc. for not utilizing the funds. Such persistent shortfall in the utilization of the Non-Plan Budget outlay coupled with consistent mismatch in the Plan outlay, clearly indicates fiscal indiscipline and laxity on the part of the Ministry. The Committee would, therefore, expect the Ministry to the more prudent in their budget formulation and make their estimates only after proper assessment and planning. Specific issues concerning the Ministry of Corporate Affairs are discussed in the subsequent paras of the report.

Reply of the Government

The reasons for shortfall in expenditure in Financial Years 2006-07, 2007-08 & 2008-09 and the Plan Scheme are explained as under:

A. Reasons of Savings/shortfall in expenditure during F.Y. 2006-07:

During financial year 2006-07, budgetary allocation of Rs. 70.837 cr. was provided for 'Modernization, Computerization & Networking', out of which actual expenditure was Rs. 29.2637 crore only. The Budget provision is made every year on the basis of the targets and objectives envisaged. The reason for shortfall in expenditure was that under the ongoing MCA 21 project, the payment to Tata Consultancy Services (TCS) is linked to the deliverables 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. Ministry of Corporate Affairs deliberately withheld the release of Equated Quarterly installments (EQ) on account of non-completion of certain parts of deliverables. The payment is released by the Ministry to the operator on completion of the deliverables strictly as per the Agreement.

B. Reasons of Savings/shortfall in expenditure during F.Y. 2007-08:

(i) There was savings of Rs. 6.62 cr. due to a large number of posts (existing & newly created) remaining unfilled/vacant.

(ii) During financial year 2007-08, budgetary allocation of Rs. 64.2760 cr. was provided for 'Modernization, Computerization & Networking', out of which actual expenditure was Rs. 48.37 crore only leading to savings of Rs.15.91 cr. The Budget provision is made every year on the basis of the targets and objectives envisaged. The reason for shortfall in expenditure was that under the ongoing MCA 21 project, the payment to Tata Consultancy Services (TCS) is linked to the deliverables being monitored by an Empowered Committee as in para "A" above. Ministry of Corporate Affairs deliberately withheld the release of Equated Quarterly installments (EQ) on account of non-completion of certain parts of deliverables. The payment is released by the Ministry to the operator on completion of the deliverables strictly as per the Agreement.

(iii) There was savings of Rs. 2.09 cr. in the sub-head "Grants-in-Aid (CCI)" due to non filling up of vacant posts.

(iv) There was savings of Rs. 1.33 cr. in the sub-head "Investor Education and Protection Fund" due to lack of receipt of quality proposals from NGOs for release of grant.

(v) There was savings of Rs. 8.74 cr. in the Major head “Capital Section” under Non-Plan as the projects for construction of Corporate Bhawans at Chandigarh and Cuttack that were expected to commence during 2007-08 but could not commence.

(vi) In addition, savings of Rs. 2.1371 cr. occurred due to implementation of Govt. instructions on economy in expenditure, cancellation / postponement of visits abroad, etc.

C. Reasons of Savings/shortfall in expenditure during F.Y. 2008-09:

(i) The budgetary provision was brought down from Rs.10318.00 lakhs to Rs.8745.58 lakhs at RE stage. This explains Rs.1572.42 lakhs of savings.

(ii) Supplementary provision was granted suo-moto by Ministry of Finance for implementation of recommendations of 6th CPC towards payment of 40% arrears. The due and drawn statements were prepared subsequent to the above.

Rs.326.83 lakhs was surrendered as savings in salary of MCA Hqrs, OL, MRTP and SFIO as there was excess allocation of funds for payment of arrears as well as a large number of posts (existing & newly created) remaining unfilled/vacant.

(iii) The Committee to administer the Investor Education and Protection Fund was reconstituted only on 25/02/2009. Further, quality proposals were not received from the NGOs/VOs registered under IEPF for organizing and conducting workshops/programmes on Investor Education and Awareness. This resulted in savings of Rs. 86.95 lakhs.

(iv) For Modernization, Computerization & Networking (MCN), the provision was made on the basis of anticipated completion of the project and the outflow of funds following the implementation completion and clearance of some balance payments due to the operator (i.e. amount of Rs.593.28 lakhs could not be released on account of non-completion of some deliverables by the operator) during the year 2008-09. The payment under MCA-21 is on contractual basis linked to deliverables.

(v) In addition, savings occurred due to implementation of Govt. instructions on economy in expenditure, cancellation / postponement of visits abroad etc.

D. Reasons for shortfall/variations in expenditure under the Plan Scheme:

(i) The Plan Scheme for Establishment of Indian Institute of Corporate Affairs (IICA) was approved as a Plan Scheme by the Planning Commission in November, 2006. In all, Rs.211 crores were approved as the total Plan Outlay. Out of this, Rs.171.36 crores were sanctioned under the Capital Outlay and Rs.39.64 crores under the Revenue Outlay. The plan allocation of Rs.47.00 crore for this scheme was made during 2007-08 for the first time. No amount could be spent during 2007-08 as the approval of Cabinet for the Scheme could only be obtained on 1st May, 2008.

(ii) In the financial year 2008-09, Rs.30 crores under the Capital Head and Rs.3 crores under the Revenue Head was allocated for IICA. Out of Rs.30 crores from Capital Head, a sum of Rs.29 crore was paid to Haryana State Industrial & Infrastructure Development Corporation (HSIIDC) towards cost of acquisition of 10 acres of land at Manesar for the construction of the campus of IICA. In order to meet the rest of the expenditure on land and expenditure the Ministry of Finance allocated additional fund of Rs.30 crores under the Capital Head at the RE stage. Accordingly balance payment of Rs.1.27 crores were released to HSIIDC towards the land cost of 10 acre plot. Besides, Rs.15 crores were released to National Building Construction Corporation (NBCC) as mobilization advance and as part payment for building of IICA campus at IMT, Manesar. Subsequently, the Ministry was allocated additional 4 acres of land at IMT, Manesar. The Ministry paid Rs.14.73 crores as part payment for the 4 acres plot in the year 2008-09. As such Ministry was able to expend whole of Rs.60 crores allocated to it in the Capital Head.

(iii) Meanwhile, out of Rs.3 crores allocated under the Revenue Head, Rs.2.70 crores were transferred to the IICA as Grants-in-aid with the due approval of the Parliament. Rs.30 lakhs were spent for activities of the IICA being undertaken from the Institute's interim office at Paryavaran Bhawan, New Delhi. Therefore, the Ministry was able to spend the allocation under the Revenue Head as well.

2. In view of above, it is submitted that the Ministry has tried to follow the principles of financial propriety.

3. However, as observed by the Hon'ble Committee, Ministry undertakes to be more prudent in future while formulating budget.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No. 2

Investors Education and Protection Fund (IEPF)

The shortfall has also been noticed in the utilization of Investors' Education and Protection Fund (IEPF) administered by the Ministry of Corporate Affairs. According to the Ministry, the main reason for the shortfall in the utilization of the Budget allocations under this head was the non-receipt of quality proposals from Non-Governmental Organizations (NGOs) for conducting workshops/programmes on investor education and awareness. The Committee are not inclined to accept the reasons adduced by the Ministry, as the shortfall in the utilization of the Budget allocations has been unduly large and a regular feature year after year. It is apparent that the same amount i.e., Rs.5 crore is being allocated under this head by the Ministry every year in a routine manner without applying any financial yardstick. The Committee are dismayed that Budget formulation has thus been reduced to a ritualistic exercise without application of mind. It is obvious that the Ministry has not managed the IEPF with due seriousness, thus defeating the very purpose for which the Fund was set up. This is also amply reflected by the findings of the Internal Group showing large pendency of proposals awaiting disposal. The Committee note with disapproval that the Ministry have not implemented so far the suggestions of this Internal Group for better management of IEPF, although it was constituted in pursuance of the Committee's recommendations to enquire into the process of funds allocation to NGOs etc. The Committee, while deprecating the Ministry for their indifference in managing the IEPF, would expect that at least from this year onwards, the funds would be administered in a more diligent manner, making investor education and protection a more meaningful exercise. The Ministry should also implement forthwith the suggestions of the Internal Group set up to enquire into funds allocation under IEPF in order to ensure optimum utilization thereof. The Ministry is expected to become more pro-active with regard to capacity building of NGOs for undertaking investor education activities. Further, financial assistants under the IEPF should not be confined to northern region alone but well-dispersed across different regions of the country. Similarly, investor awareness campaign should also be conduced not merely in English but also in Hindi and all the regional languages of the country.

Reply of the Government

Keeping in view the recommendations of the Internal Group set up to enquire into funds allocation under IEPF, the IICM was advised to speed up the work of examination of proposals. Till September 2009, IICM submitted its recommendations in respect of 67 proposals. IICM recommended registration for 10 Organizations, registration and financial assistance for 25 Organizations and rejected the proposals of 35 as these did not meet the criteria of registration/financial assistance under IEPF. Now the number of Organizations registered under IEPF has increased to 100. It may, thus, be seen that the Ministry has become more active in regard to capacity building of the NGOs. It may further be added that these NGOs are from different parts of the country and they conduct investor awareness programmes in regional languages of their areas. The investors' awareness programmes through print media are also in different regional languages besides English and Hindi.

Till the end of December 2009, the Ministry had released Rs.3.75 crore for various investors' awareness programmes out of Rs. 5 crore allotted for this purpose during the current financial year. The Ministry expects 100% utilization of Funds during the current financial year.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.3

Competition Commission of India

The Budget Estimates and the Actual Expenditure with regard to the head – Competition Commission of India – Grants-in-aid have shown yawning gap in the yea 2008-09. The Ministry's explanation for this mismatch refers to the unexpected delay in the appointment of the Chairman and Members of the Competition Commission of India. Having delayed its constitution for about two years the Committee desire that the Commission should be made fully functional without any further delay. The Committee would like to be apprised about the performance of the Competition Commission in due course.

Reply of the Government

The Commission has become fully functional as the Chairperson and all the six Members of the Commission have been appointed as per following details:-

S.No.	Name	Designation	Date of assumption of charge
1.	Shri Dhanendra Kumar	Chairperson	28.02.2009
2.	Shri H.C. Gupta	Member	28.02.2009
3.	Shri R. Prasad	-do-	01.03.2009
4.	Shri P.N. Prashar	-do-	14.04.2009
5.	Dr. Geeta Gouri	-do-	16.04.2009
6.	Shri Anurag Goel	-do-	02.09.2009
7.	Shri M.L.Tayal	-do-	03.11.2009

The recommendation of the Standing Committee to be apprised about the performance of the Commission in due course has been noted for compliance.

Ministry of Corporate Affairs
F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.4

Manpower Shortage

The Committee note that the manpower requirement of the Ministry and its field Offices does not correspond with the huge increase in the number of companies registered in India. It is observed that while the number of companies increased from 2, 50,361 in 1992 to 8, 78,777 on 31st January, 2008, the manpower strength surprisingly decreased to 1529 from 2122 during the corresponding period. Considering the expanding volume of work, the Committee would urge the Ministry to immediately fill up all the vacant posts and then, if required, also enhance the sanctioned strength of requisite posts, while also roping in professionally qualified persons at the lateral level on short term contract, wherever necessary.

Reply of the Government

The Ministry has taken up following steps to address the shortage of manpower requirement of the Ministry and its field offices:-

(i) All out efforts are being made to fill up the existing vacancies and the matter is vigorously being taken up with the Union Public Service Commission and the Staff Selection Commission;

(ii) The number of vacancies reported for Civil Service Examination, 2009 for the Indian Corporate Law Service has been increased from 10 to 20;

(iii) 20 vacancies in the Indian Corporate Law Service have been reported for Civil Service Examination, 2010;

(iv) To increase the manpower strength and also in roping professionally qualified persons, the Ministry has proposed launching of Special Drive to fill up 30 vacancies in the Indian Corporate Law Service from the professionals viz. Chartered Accountants, Cost and Works Accountants, Company Secretaries and Law Graduates etc.

(v) The Department of Personnel & Training in 2001 had introduced a scheme known as 'Optimization of Direct Recruitment to Civilian posts' which allowed filling up of only 1/3 vacancies in Direct Recruitment or 1% of the authorized strength, whichever is less . As a result of this scheme, the Ministry had to abolish 245 posts in 2005. Moreover, 284 posts qualify for abolition under the scheme till 31.03.2009. The matter has been taken up with the Department of Personnel & Training and the Department of Expenditure to allow the Ministry to continue these posts so that the shortage of manpower requirement of the Ministry is addressed;

(vi) The Ministry had undertaken Cadre Review of Indian Corporate Law Service (Group 'A') which resulted in increase of 60 new posts raising its strength from 231 to 291;

(vii) The proposal of Cadre Review of Group ‘B’ & Group ‘C’ posts i.e. feeder services of Indian Corporate Law Service viz. Senior Technical Assistant, Junior Technical Assistant, Company Prosecutor, Investigating Officer and Statistical Assistant are being initiated.

2. With the above steps, the manpower requirement of the Ministry will be addressed to a great extent.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.5

Monitoring of IPO Proceeds

The committee note that presently, there is a self-regulatory mechanism available in the companies for monitoring the end use of IPO proceeds. There is also a provision in the Companies Act for scrutinizing the Balance Sheet of the issuer -Companies and for conducting inspection of the Books of Accounts regarding the utilization of the IPO proceeds as per the objects stated in the prospectus. The Committee hope that the statutory monitoring mechanism presently provided under the Companies Act and the powers vested in the Registrars of Companies (ROCs) is fully invoked and it is ensured that the IPO proceeds are utilized for the stated purpose and within the stipulated time period. The ROC must also effectively coordinate in this regard with SEBI for better compliance. Any deviation in utilization or non-utilization should be strictly monitored and then deviant Companies duly penalized for the same. In this regard , the Committee may be apprised of the findings of the Expert Group constituted as a follow- up of the recommendations made by this Committee(71st Report -2008-09) to review the frame work and institutional mechanism for investor protection and specifically to monitor utilization of IPO proceeds.

Reply of the Government

The Ministry has directed all the Registrar of Companies (RoCs) to strictly follow the instructions of the Ministry, already issued, regarding carrying out the scrutiny of balance sheets of all those companies which came out with the IPOs and in cases where balance sheets are not yet due for filing, the RoCs have been asked to call for copies of quarterly reports, filed by those companies, with the stock exchanges so as to know advance indication of likely misuse or diversion of funds. If any deviation in utilization or non-utilization of funds is found, the same will be strictly dealt with to ensure necessary penal action as per law. Expert Group constituted as a follow up of the recommendations made by the Committee (71st Report – 2008-09) to review the framework and institutional mechanism for investors protection and monitoring of IPO proceeds is likely to submit its report to the Ministry shortly for further consideration and necessary action by the Ministry of Corporate Affairs.

Ministry of Corporate Affairs
F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.6

Statutory Status to Serious Fraud Investigation Office (SFIO)

The Serious Fraud Investigation Office (SFIO) was set up in the year 2003 as a multi-disciplinary organisation for unraveling corporate frauds. Subsequently, in the year 2006, a Committee headed by Shri Vepa Kamesam was constituted to make recommendations to the Government on the role and functioning of the SFIO. In their report, it was suggested that the investigative powers of SFIO should be strengthened and statutory recognition should be accorded to SFIO with the obligation for other entities to cooperate with SFIO. Further, it was also suggested that a separate offence may be defined to deal with instances of unauthorized removal, concealment, destruction, tampering with company records for a company records for a company under investigation or a related party. The Committee strongly deprecates the non-serious approach of the Ministry towards strengthening SFIO to effectively unearth and prevent corporate frauds. The Committee, therefore, recommends that the Ministry should take steps to implement the recommendations of the Vepa Kamesam Committee and also consider granting statutory status to SFIO, containing inter alia provisions empowering the SFIO to effectively investigate corporate offences.

Reply of the Government

The following measures have been/are being taken to implement Vepa Kamesam Committee Report:-

(i) A Market Research and Analysis Unit has been set up in SFIO to disseminate information, undertake research to continuously develop the available skills and improve the regulatory system.

(ii) 29 posts of Sr. Assistant Directors and 5 posts of Sr. Prosecutors have been created in the pay scale of Rs.15600-39100 + Grade Pay Rs.5400 by abolition of equal number of posts of Assistant Directors/Prosecutors II in the pay scale of Rs.15600-39100 + Grade Pay Rs.4800 to attract the best talent available across different departments.

(iii) Director (SFIO) has been given full powers to outsource the services of experts in accordance with the provisions of GFRs.

(iv) A proposal for creation of a Permanent Cadre of SFIO is under active consideration.

(v) Grant of Investigation Allowance to SFIO officers at par with the CBI officers is under active consideration in consultation with Ministry of Finance, Department of Expenditure.

(vi) Government sanction for setting up the Regional Office of SFIO at Hyderabad has already been accorded.

(vii) A working Group has been constituted in the Ministry to draft legislative changes recommended by the Vepa Kamesam Committee for incorporation in the Companies Bill, 2009. The Working Group Committee is expected to submit its report by 15th January, 2010.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.7

Follow-up on Satyam Episode

As a consequence of the Satyam Computer Services episode wherein acts of corporate fraud were committed, the Committee had expressed their concern about having a fool proof system whereby such frauds could be pre-empted. In this context, the Ministry have informed that they have constituted a Committee under the chairmanship of the Additional Secretary for developing the framework for an Early Warning System. The Committee would expect the Ministry to conclude their findings on this issue expeditiously and would also recommend that the proposed system should be able to generate timely alerts through institutionalized checks/scrutiny on serious non-compliance and insufficiency of disclosures by companies. Such a system will help the Ministry to enhance its regulatory capacity in preventing corporate frauds.

Reply of the Government

In the process of development of an Early Warning System (EWS), the Ministry has identified 10 Risk Parameters which can be run on the data available in the MCA-21 System. The Risk Parameters are at the testing stage and some of the initial alerts generated through the initial run are being validated through manual examination of available records. The Ministry will further refine the initially identified 10 risk parameters based on the validation of results generated through these parameters.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No. 8

Functioning of Registrar of Companies (ROCs)

The Registrar of Companies (ROCs) appointed under Section 609 of the Companies Act, 1956, covering various States and Union Territories are vested with the duties of registering companies floated in the respective States/Union Territories and moiré significantly ensuring that such companies comply with the statutory requirements under the Act. As per their mandate provided under Sections 234 and 234A of the Act, the Registrar of Companies are also required to scrutinize the Balance Sheets of Companies filed before them. The Committee would like the Ministry to take necessary measures to strengthen and streamline the offices of the Registrar of Companies, as they are the only instrument available with the Ministry to monitor statutory compliance at the cutting edge level. In this regard, the Committee would also like to emphasise that proper coordination between the Registrar of Companies and SEBI is also called for, particularly in regard to technical scrutiny of Balance Sheets.

Reply of the Government

The Ministry has directed all the Registrar of Companies (ROCs) to strictly follow the instructions of the Ministry, already issued, regarding carrying out the scrutiny of balance sheets of all those companies which came out with the IPOs and in cases where balance sheets are not yet due for filing, the RoCs have been asked to call for copies of quarterly reports, filed by those companies, with the stock exchanges so as to know advance indication of likely misuse or diversion of funds.

Ministry of Corporate Affairs
F.No.G-20018/24/2009-BGT dated 26.03.2010

Recommendation No.9

Automation of Liquidation Process

The Ministry is stated to have drawn up a scheme for improving the functioning of the offices of Official Liquidators and extension of e-governance to the process of liquidation and winding up of companies. The Committee hope that automation in liquidation process would facilitate a holistic approach to winding up of companies, while enhancing the efficiency in the Official Liquidator's operations and speed up the winding up process. In this connection, the Committee desire that the interests of key stakeholders, particularly employees of the company apart from creditors and shareholders should be adequately addressed. As the winding up process in this country has become an extremely long drawn affair, it is expected that the e-governance project initiated in the Official Liquidator's office will bring down drastically the average time required for winding up of companies. This also warrants that the rules and procedures associated with liquidation and winding up be rationalized in a manner compatible with the automation processes. The Committee would like to be kept apprised of the progress of the automation and e-governance projects initiated by the Ministry.

Reply of the Government

The observations/ recommendations of the Standing Committee on Finance have been noted.

2. A brief note on progress of automation and e-governance project of Official Liquidator is as follows: -

(i) "A meeting of the Committee of Secretaries was held on 7th March 2007 under the chairmanship of Cabinet Secretary to discuss the "World Banks Report 'Doing Business in 2007' – presentation on 'Enforcing Contracts' and 'Closing a Business'. As per the World Bank Report, the process of closing a business in India is very slow and inefficient in terms of time taken, costs incurred and recoveries. The estimated time taken for winding process in India is 10 years. The World Bank has rated India at 137 out of 175 countries evaluated in so far as closing a business is concerned. It was decided in the meeting that a Committee under the Chairmanship of Secretary, Ministry of Company Affairs and including Secretaries of Ministries/ Departments of Banking, DIPP and Legal Affairs will deliberate and recommend ways for reducing the time taken to close a business in India.

(ii) Liquidation and winding up of companies takes place under the Companies Act, 1956, which provides for detailed procedure to be followed in case of winding up and liquidation of companies. The process takes place under the supervision and direction of Hon'ble High Courts.

(iii) A presentation was made before the Secretary, Planning Commission on 28.01.2008 on the desirability of reform of the process of insolvency of companies and in the working of Official Liquidators so as to make the entire process more efficient with the initiative being referred to as Efficient Exit Scheme. Accordingly, a Scheme on the improvement of functioning of Official Liquidators and introduction of e-governance in the process of liquidation and winding up of companies with an estimated cost of Rs.72.5 crores was submitted to Planning Commission on 13.10.2008 for consideration and its inclusion in Plan Scheme.

(iv) Planning Commission informed that in view of the serious funds constraint, the new scheme can be considered after the Mid Term appraisal of Eleventh Five Year Plan. However, in case the Ministry is in a position to accommodate the proposal within its 11th Plan outlay, the Planning Commission can concur 'in principle'.

(v) Further, a meeting of the Apex Committee (NeGP) was held on 16th June 2009, wherein the following decisions were taken regarding office of Official Liquidators: -

(a) The e-governance project for Official Liquidators would be a separate project within the existing MMP of MCA and would be taken up as an e-governance project under NeGP. However, linkages with the other projects of the MCA, MMP could be worked out as per requirement.

(b) The funds required for the preparation of the Official Liquidator project report can be met from the non plan allocation of MCA 21 and later on for implementation of the project, the Planning Commission would start the process of funding it under plan.

(vi) In this regard, the Department of Information Technology (DIT) has recommended to engage National Institute for Smart Government (NISG) for preparation of Detailed Project Report (DPR) and Request for Proposal (RFP) for the e-Governance project of the Official Liquidators. Accordingly, NISG have been awarded the said work at cost of Rs.1.7 crores plus applicable taxes out of the internal budget allocation of this Ministry (under non plan head). The Ministry would be approaching Apex Committee again for additional funds once the DPR & RFP is received. NISG has given a time schedule for six months to prepare DPR and another one month for formulation of RFP. The above processes along with the Bid Process

Management would be completed in ten months. NISG has already started their work.

Ministry of Corporate Affairs

F.No.G-20018/24/2009-BGT dated 26.03.2010

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

-NIL-

CHAPTER V

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

-NIL-

New Delhi;
<u>15 April, 2010</u>
25 Chaitra, 1932 (Saka)

DR. MURLI MANOHAR JOSHI,
Chairman,
Standing Committee on Finance.

Minutes of the Seventeenth sitting of the Standing Committee on Finance

The Committee sat on Thursday, the 15th April, 2010 from 1530 hrs. to 1700 hrs.

PRESENT

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Shri Harischandra Chavan
3. Shri Khagen Das
4. Shri Nishikant Dubey
5. Shri Bhartruhari Mahtab
6. Shri Rayapati Sambasiva Rao
7. Dr. M. Thambidurai

RAJYA SABHA

8. Shri S.S. Ahluwalia
9. Shri Mahendra Mohan
10. Dr. Mahendra Prasad
11. Shri Rajeev Chandrasekhar

SECRETARIAT

1.	Shri A.K. Singh	-	Joint Secretary
2.	Shri T.G. Chandrasekhar	-	Additional Director
3.	Shri R.K. Suryanarayanan	-	Deputy Secretary
4.	Smt. B. Visala	-	Deputy Secretary

2. The Committee took up the following draft Reports for consideration and adoption:-

(i) Draft Report on Securities and Exchange Board of India (Amendment) Bill, 2009;

(ii) Draft Report on Demands for Grants (2010-11) of the Ministry of Finance (Departments of Economic Affairs, Financial Services, Expenditure and Disinvestment);

(iii) Draft Report on Demands for Grants (2010-11) of the Ministry of Finance (Department of Revenue);

(iv) Draft Report on Demands for Grants (2010-11) of the Ministry of Planning;

(v) Draft Report on Demands for Grants (2010-11) of the Ministry of Statistics and Programme Implementation;

(vi) Draft Reports on Demands for Grants (2010-11) of the Ministry of Corporate Affairs;

(vii) Draft Report on action taken by the Government on the recommendations contained in the First Report (15th Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Finance (Departments of Economic Affairs, Financial Services, Expenditure and Disinvestment);

(viii) Draft Report on action taken by the Government on the recommendations contained in the Second Report (15th Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Finance (Department of Revenue);

(ix) Draft Report on action taken by the Government on the recommendations contained in the Third Report (15th Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Planning;

(x) Draft Report on action taken by the Government on the recommendations contained in the Fourth Report (15th Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Statistics and Programme Implementation; and

(xi) Draft Report on action taken by the Government on the recommendations contained in the Fifth Report (15th Lok Sabha) on Demands for Grants (2009-10) of the Ministry of Corporate Affairs.

3. The Committee adopted the draft reports at (i), (ii) and (iii) above with few modifications/amendments as indicated in Annexures I, II and III. The Committee adopted the remaining draft reports without any change. The Committee authorized the Chairman to present all the reports to Parliament in the current session.

The Committee adjourned at 1700 hours.

ANNEXURE

(*Vide* Para 3 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FIFTH REPORT OF THE STANDING COMMITTEE ON FINANCE (FIFTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2009-2010) OF THE MINISTRY OF CORPORATE AFFAIRS

		Total	% of Total
(i)	Total number of Recommendations	9	
(ii)	Recommendations/observations which have been accepted by the Government (*Vide* Recommendations at Sl. Nos. 1,2,3,4,5,6,7,8 & 9	9	100
(iii)	Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies	Nil	0.00
(iv)	Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee	Nil	0.00
(v)	Recommendation/observation in respect of which final reply of the Government is still awaited	Nil	00.00