

STANDING COMMITTEE ON FINANCE

(2009-10)

FIFTEENTH LOK SABHA

Ministry of Corporate Affairs

**Demands for Grants
(2009-10)**

FIFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2009/Agrahayana, 1931 (Saka)

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STANDING COMMITTEE ON FINANCE
(2009-2010)
(FIFTEENTH LOK SABHA)

Ministry of Corporate Affairs

Demands for Grants
(2009-10)

Presented to Lok Sabha on 02 December, 2009
Laid in Rajya Sabha on 02 December, 2009



LOK SABHA SECRETARIAT
NEW DELHI

December, 2009/Agrahayana, 1931 (Saka)

CONTENTS

COMPOSITION OF THE COMMITTEE.....	PAGE. (iii)
INTRODUCTION.....	(iv)

PART –I

Background Analysis	Page Nos.
I. Budgetary Allocation	1
II. Investors Education and Protection Fund (IEPF)	6
III. Competition Commission of India	9
IV. Shortage of Manpower	10
V. IPO Proceeds	13
VI. Serious Fraud Investigation Office (SFIO).	16
VII. Follow up on Satyam episode.	19
VIII. Registrars of Companies (ROCs)	21
IX. Automation of Offices of Official Liquidators (OLs)	23

PART –II

Recommendations/Observations	27
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Appendices

Minutes of the sittings of the Committee held on 15 September, 2009 and 26 November, 2009

COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2009-2010

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Dr. Baliram (Lalganj)
3. Shri Sudip Bandyopadhyay
4. Shri C.M. Chang
5. Shri Harishchandra Chavan
6. Shri Bhakta Charan Das
7. Shri Gurudas Dasgupta
8. Shri Khagen Das
9. Shri Nishikant Dubey
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12. Shri Mangani Lal Mandal
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14. Shri Rayapati Sambasiva Rao
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RAJYA SABHA

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26. Shri Moinul Hassan
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28. Shri S. Anbalagan
29. Dr. Mahendra Prasad
30. Shri Y.P. Trivedi
31. Shri Rajeev Chandrasekhar

SECRETARIAT

- | | |
|-----------------------------|------------------------|
| 1. Shri R.C. Ahuja | - Additional Secretary |
| 2. Shri A.K. Singh | - Joint Secretary |
| 3. Shri T.G. Chandrasekhar | - Additional Director |
| 4. Shri R.K. Suryanarayanan | - Deputy Secretary |

INTRODUCTION

I, the Chairman, Standing Committee on Finance (2009-10), having been authorized by the Committee to present the Report on their behalf, present this Fifth Report (15th Lok Sabha) of the Standing Committee on Finance (2009-10) on the 'Demands for Grants (2009-10)' of the Ministry of Corporate Affairs.

2. The Demands for Grants (2009-10) of the Ministry of Corporate Affairs were laid on the Table of the House on 9 July, 2009. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, the Standing Committee on Finance are required to consider the Demands for Grants of the Ministries/Departments under their jurisdiction and make Reports on the same to both the Houses of Parliament. Thereafter, the Demands are considered by the House in the light of the reports of the Committee. However, this year, the Demands for Grants (2009-10) of the Ministry of Corporate Affairs were passed by Lok Sabha on 23 July, 2009 prior to their consideration by the Standing Committee on Finance. Nonetheless, in pursuance of the observation made by the Chair, the Committee examined the Demands for Grants (2009-10) of the Ministry of Corporate Affairs and issues arising out of these.

3. The Committee took oral evidence of the representatives of the Ministry of Corporate Affairs on 15 September, 2009.

4. The Committee considered and adopted this Report at their sitting held on 26 November, 2009.

5. The Committee wish to express their thanks to the representatives of the Ministry of Corporate Affairs for appearing before the Committee and furnishing the material and information which the Committee desired in connection with the examination of the Demands for Grants (2009-10).

New Delhi;
18 November, 2009
27 Kartika, 1931 (Saka)

Dr Murli Manohar Joshi,
Chairman,
Standing Committee on Finance

REPORT

I. BUDGETARY ALLOCATION

1.1 The Ministry of Corporate Affairs is primarily concerned with the regulation of the corporate sector. In that process, the Ministry administers specific statutes, the key among them being 'The Companies Act, 1956'. The other statutes administered are as follows:

- i) The Chartered Accountants Act, 1949
- ii) The Cost and Works Accountants Act, 1959
- iii) The Company Secretaries Act, 1980
- iv) The Partnership Act, 1932
- v) The Societies Registration Act, 1860
- vi) The Companies (Donation to National Fund) Act, 1951
- vii) The Monopolies and Restrictive Trade Practices (MRTP) Act, 1969; and
- viii) The Competition Act, 2002
- ix) The Limited Liability Partnership Act, 2008

1.2 The total Budget Demand of the Ministry for the year 2009-10 amounts to Rs.229.62 crore, out of which 196.62 crore is under the Revenue Expenditure and Rs.33.00 crore under the Capital Expenditure. Details of budgetary provisions for various appropriation units are given in the following table:-

(Rs. in crores)				
Section	S.No	Office	Budget Estimates 2009-10	
Plan/Non-Plan Revenue			Plan	Non Plan
	1	Headquarters		100.10
	2.	Regional Directors		9.72
	3.	Registrar of Companies		38.42
	4.	Official Liquidators		17.19
	5.	Monopolies & Restrictive Trade Practices Commission		6.51
	6.	Director General of Investigation and Registration		1.68
	7.	Company Law Board		3.32
	8.	Serious Fraud Investigation Office		5.18
	9.	National Company Law Tribunal		.37
	10.	Competition Appellate Tribunal		4.12
	11.	Indian Institute of Corporate Affairs (IICA)	3.00	.00
Capital	12.	Purchase of Land/building/construction of office premises/Residential accommodation for staff	30.00	10.00
Total:			33.00	196.62

1.3 The object head-wise details are as under:-

(Rs. in crores)

Section	S. No.	Sub-Head	Budget Estimates 2008-2009	
			Plan	Non Plan
Plan/Non-Plan Revenue				
	1.	Salaries		70.41
	2.	Wages		.12
	3.	Overtime Allowance		.15
	4.	Medical Treatment		1.07
	5.	Domestic Travel Expenses		1.86
	6.	Foreign Travel Expenses		.51
	7.	Office Expenses		15.55
	8.	Rent, Rates & Taxes		5.42
	9.	Publication		.08
	10.	Other Administrative Expenses		1.02
	11.	Advertising & Publicity		3.19
	12.	Professional Services		2.55
	13.	Grants-in-aid		.004
	14.	Contributions		.01
	15.	Investors Education & Protection Fund		5.00
	16.	Grants-in-Aid (Competition Commission of India)		20.00
	17.	Limited Liability Partnership (LLP)		2.50
	18.	Competition Appellate Tribunal		4.12
	19.	Modernisation, Computerisation and Networking of Department of Company Affairs and its field offices		52.99
	20.	Secret Service Expenditure		.04
	21.	Indian Institute of Corporate Affairs (IICA)	3.00	.00
Capital	22.	Purchase of land/building/construction of office premises/ residential accommodation for staff	30.00	10.00
Total			33.00	196.62

1.4 The budget of the Ministry of Corporate Affairs provides for the expenditure on the Secretariat of the Ministry of Corporate Affairs, four Offices of Regional Directors, twenty Offices of the Registrars of Companies, sixteen Offices of Official Liquidators and also for expenditure on attached offices of Monopolies and Restrictive Trade Practices Commission, Director General of Investigation & Registration, Company Law Board, Competition Commission of India, Serious Fraud Investigation Office, the National Company Law Tribunal &

Indian Institute of Corporate Affairs. Briefly, the Budget Estimates, Revised Estimates and Actual Expenditure of the Ministry for 2006-07, 2007-8 and 2008-09 are as under:-

(Rs. in Crore)												
	Budget Estimates			Revised Estimates			Annual Expenditure			(-) Savings (+) Excess		
	Plan	Non-Plan	Total	Plan	Non-Plan	Total	Plan	Non-Plan	Total	Plan	Non-Plan	Total
2006-07	0	145.00	145.00	0	145.00	145.00	0	122.58	122.58	0	-22.42	-22.42
2007-08	47.00	154.00	201.00	47.00	138.10	185.00	0	113.66	113.66	-47.00	-40.34	-87.34
2008-09	33.00	170.00	203.00	63.00	160.00	223.00	63.00	143.26	206.26	+30.00	-26.74	+03.26

1.5 As regards the reasons for not achieving the targets in respect of allocation of Non-Plan Funds, the Ministry of Corporate Affairs submitted their explanation for different heads as follows:

“Office Expenses

(Rs. in crore)

Year	BE	RE	Actual Expenditure	Savings
2006-07	13.00	13.00	11.07	(-) 1.93
2007-08	13.00	12.36	11.04	(-) 1.96
2008-09	12.40	11.22	10.32	(-) 2.08

The savings under Office Expenses was on account of the Ministry strictly enforcing the austerity measures of the Ministry of Finance, following the prescribed ceilings on expenditure.

Rents, Rates & Taxes

(Rs. in crore)

Year	BE	RE	Actual Expenditure	Savings
2006-07	5.00	6.65	5.00	0.00
2007-08	5.69	4.35	3.87	(-) 1.82
2008-09	4.34	5.13	4.39	(+) 0.05

The savings under Rents, Rates & Taxes during the year 2007-08 was due to the fact that the National Company Law Tribunal (NCLT) was

to become operational but the same could not materialize due to litigation. The matter is still sub-judice. Under the circumstances, the budget provision of Rs. 2.00 crore for NCLT could not be fully utilized.

MCA 21 e-Governance Project:

(Rs. in crore)

Year	BE	RE	Actual Expenditure	Savings
2006-07	70.84	39.15	29.26	(-) 41.58
2007-08	64.28	55.57	48.36	(-) 15.92
2008-09	72.31	60.00	54.07	(-) 18.24

The MCA21 is one of the Mission Mode Projects under the National e-governance plan aimed at enhancing the efficiency and speedy delivery of services. The project has been rolled out at all Registrars of Companies (ROCs) locations. All registries related services are being delivered online in a 24X7X365 time frame to the corporate sector since September 16, 2006. Since then filings are accepted in paper-less electronic form with the exception of stamp duty related documents.

During the FY, an amount of Rs. 72.31 crore was provided in the BE for meeting the expenditure requirements of the MCA21 project. 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 withheld on account of non-completion of some deliverables by the operator). At the RE stage, the completion of deliverables was reviewed and the BE provision was revised and reduced to Rs. 60.00 crore.”

1.6 On the issue of non-utilisation on the plan side, the Ministry furnished their clarification as under:

“The Ministry of Corporate Affairs has only one Plan Scheme viz. Indian Institute of Corporate affairs (IICA). The Scheme aims at establishment of a state-of-the-art knowledge management, capacity building and service delivery center for assisting the Ministry in

providing a dynamic regulatory response to the changing business environment in line with the expectations of the corporate sector and other stakeholders. 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 competent authority could be obtained only on 1st May, 2008.”

II INVESTORS EDUCATION AND PROTECTION FUND (IEPF)

2.1 As per the information furnished by the Ministry of Corporate Affairs the following activities are taken up in the area of investor education and awareness under the IEPF:

- i) Organising workshops and seminars for investor education through Non-Governmental Organizations (NGOs) & Voluntary Organizations (VOs) across the country;
- ii) Organising interactive workshops with professionals and experts through the Institute of Chartered Accountants of India (ICAI) and Institute of Company Secretaries of India (ICSI);
- iii) Broadcasting of audio and video spots on investor awareness through radio & TV;
- iv) Publishing investor awareness messages in newspapers and other print media;
- v) Maintenance of website – ‘Investor Helpline’ through an NGO – MIDAS, which provides an online system for lodging of investors grievances;
- vi) Maintenance of website ‘Watchoutinvestors.com’ by a Section 25 Company – PIPAL. The website is a registry of all such entities and persons indicted for economic offences;
- vii) Maintenance of another website on Investors Education and Protection Fund (IEPF) (www.iepf.gov.in) which is a knowledge sharing platform on issues related to investors.

2.2 The yearly allocation for undertaking the activities under IEPF is Rs 5.00 crore. The yearly grant has been utilised for the above mentioned activities during the last three years as per the details mentioned below: -

Non Plan			(Rs. in Crore)
Year	BE	RE	Actuals
2006-07	5.00	5.00	2.55
2007-08	5.00	5.00	3.10
2008-09	5.00	4.68	3.57
2009-10	5.00		

2.3 Asked to furnish the reasons for gross under utilization of the budget allocation under this Head year after year, the Ministry, in a written reply stated as follows:

“The main reason for not fully utilizing the budget allocation for the last three years is non-receipt of quality proposals from the NGOs/ VOs for organising and conducting workshops/ programmes on investor education and awareness. It would be seen from the activities listed out in the previous para, which are taken up under the aegis of IEPF, that the utilization of the budget allocation is mainly dependent upon the proposals received from NGOs/ VOs. Numerous proposals are received every year from various NGOs/ VOs asking for financial grant. However, the vetting of these proposals indicated that most of the proposals were lacking in capability and clarity of purpose and therefore, financial grant to such applicants had to be rejected.

The Committee on IEPF which administers the Fund and its utilization felt it prudent to observe the canons of propriety by disbursing the financial grants out of the budget allocation only to such NGOs/ VOs which had submitted quality proposals.”

2.4 Questioned whether the poor utilization of the grants in the preceding years did not amount to diluting the efficacy of the investor education programmes and also asked to detail the measures initiated or proposed for undertaking meaningful investor awareness programmes, the Ministry, inter-alia submitted as follows:

“...With a view to enabling the NGOs/ VOs to understand the subject, the Ministry provides a free training by finance professionals to the members of the NGOs/ VOs who seek registration with the Fund. It is expected that over a period of time, this would definitely help in increasing the response as well as the quality of their proposals.”

2.5 In pursuance of the recommendation made in the 71st report (14th Lok Sabha) of the Committee on the Demands for Grants (2008-09) of the Ministry of Corporate Affairs on undertaking an enquiry into the funds allocation to NGOs/VOs under IEPF, the Ministry constituted a Group to look into related issues. The Group, in their report made the 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 organizations 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.

2.6 Questioned on the measures for ensuring that investor awareness campaigns/activities are undertaken evenly in all regions of the country and in regional languages as well, a representative of the Ministry of Corporate Affairs, while tendering evidence before the Committee stated:

"....what we are planning to do is that we start three-four programmes in every State on the education of the investors. That will be done mostly in the regional languages."

2.7 When pointed out that for ensuring effectiveness, it would be essential to highlight investor education literature with prominence, particularly in the print media, a representative of the Ministry, stated:

"We will take your instructions. We will see that if it is in our power, we will instruct them; and if it is in the powers of the SEBI, we will instruct SEBI to do it."

III COMPETITION COMMISSION OF INDIA

3.1 The Budget Estimates, Revised Estimates and Actuals for the years 2006 to 2008 and the Budget Estimates for 2009-10 under the Budget Head- Competition Commission of India-Grants-aid are as follow:

Non-Plan		(Rs. in Crore)	
Year	BE	RE	Actuals
2005-06	-	-	1.33
2006-07	3.00	3.00	2.40
2007-08	5.00	5.00	2.78
2008-09	10.00	3.49	3.49
2009-10	20.00		

3.2 When asked to furnish the reasons for the continued mismatch between the Budget Estimates and Actual Expenditure witnessed under this head of account year after year, the Ministry inter-alia stated as follows:

“The Competition Commission of India was established in October, 2003 and since then grants-in-aid to the Commission was being released to run the affairs of the Commission. However, the Commission could not pick up activities as certain provisions of the Competition Act and rules framed thereunder were challenged in the Supreme Court of India. The decision of the Supreme Court was available in January, 2005 which necessitated amendments to the Competition Act. Amendments were moved by the government, which were finally approved by the Parliament in Monsoon Session, 2007. Thereafter, action was initiated to frame the rules under the revised amended Act and to recruit Chairperson, Members and other staff of the Commission. In the absence of fully constituted Commission, the Commission was undertaking only administrative and competition advocacy activities. Due to all these the position about the activities of the Commission were little bit uncertain which is the reason for mismatch between Budget Estimates and actuals.”

3.3 Asked to furnish the reasons for the steep downward revision of the budget allocation from Rs. 10.00 crore to Rs. 3.49 crore at the stage of Revised Estimates in 2008-09, the Ministry furnished the following reply:

“After the Act was amended and relevant rules were framed, one post of Chairperson and five posts of Members in the Commission were advertised in May, 2008. After receipt of applications, obtaining recommendations of the Selection Committee and requisite approvals in the government, the Chairman and Members could be appointed only at the fag end of the year (February/March, 2009). Apart from this the requisite manpower could be sanctioned only in January, 2009, after due deliberation with various concerned. The appointments of Chairperson and Members took longer time than expected. As such the grants-in-aids had to be revised at the RE stage.”

IV. SHORTAGE OF MANPOWER

4.1 On the issue of manpower requirements, the Ministry of Corporate Affairs had, in the previous year, 2008-09, informed the Committee as follows:

“The Ministry of Corporate Affairs has been experiencing acute shortage of manpower resources especially for its enforcement and inspection functions. This is evident from the fact that over the last fifteen years, the number of companies registered in India has increased from 2,50,361 as on 01.01.1992 to 8,78,777 as on 31st January 2008 whereas there has been decrease in sanctioned strength from 2122 as on 01.01.1992 to 1529 as on 31.12.2007. This includes officials in the Headquarters and all the field offices.

4.2 The steps taken, for addressing the problem of shortage of manpower, as informed by the Ministry, are as under:

- (i) Filling up the vacant posts;
- (ii) The Cadre Review proposal of the ICLS officers, including creation of additional posts, has been submitted to the Ministry of Finance with a view to provide impetus to the enforcement and regulatory functions;
- (iii) Cadre Review proposal in respect of Group ‘B’ and ‘C’ posts is under preparation;
- (iv) Capacity Building measures to increase efficiency.

4.3 Asked whether the cadre review proposal pertaining to ICLS officers as well as the proposal made by the Ministry for creating additional posts have since been approved, the Ministry of Corporate Affairs, inter-alia, submitted as under:-

“Ministry of Finance, D/o Expenditure has increased the strength of ICLS to 291 involving creation of 67 additional posts and abolition of 7 posts as per following details:

Grade & Scale of pay (pre-revised)	Pre-revised cadre structure	No. of posts created	No. of posts abolished	Revised Cadre structure
Higher Adm. Grade (HAG) (Rs. 22,400-24500/-)	-	1	-	1
Senior Adm. Grade (SAG) (Rs. 18,400-22,400/-)	6	4	-	10
Junior Adm. Grade (JAG) (Rs. 12000-16500/-)	38	27	2	63
Senior Time Scale(STS) (Rs. 10,000-15200/-)	66	15	1	80
Junior Time Scale (JTS) (Rs. 8000-13500/-)	121	20	4	137
Total	231	67	7	291

4.4 Questioned whether steps were taken for attracting and roping in professionally qualified persons in the Indian Corporate Law Service (ICLS), the Ministry, inter-alia, submitted as follows in reply:

“The Recruitment Rules for ICLS have been revised and notified on 5.11.2008. The revised ICLS Rules, 2008 have the following salient features:

- i. The recruitment shall be made only at Junior Time Scale level through the Civil Service Examination, 2009 for which the educational qualification is Graduation.
- ii. Two years extensive induction training will be provided to the officers at JTS level on the lines of other organised Group ‘A’ central services.
- iii. All lateral entry to ICLS has been stopped.
- iv. The Accounts and Legal branches of the ICLS have been merged.

It is presumed that the recruitment for ICLS through Civil Service Examination of UPSC coupled with better career progression avenues will lead to regular recruitment of quality persons in the Service.”

4.5 On the current status of the vacancies at officer level grade in Indian Corporate Law Service and the steps taken to fill up the vacancies, the Ministry of Corporate Affairs informed as under:-

“There are 291 Group ‘A’ ICLS posts, which include 60 posts newly created on 5-11-2008. Out of these, 170 posts are presently filled up and 33 candidates have been recommended by UPSC who will be joining shortly. Moreover, proposals for filling up of 38 posts are with UPSC. For the remaining vacancies, the proposal for filling up posts in the promotion quota will be submitted to the UPSC shortly and for the vacancies in the direct recruitment quota, the same will be filled up in a phased manner to avoid stagnation at the higher level and from the point of view of better cadre management.”

4.6 On the issue of problems encountered in filling up vacancies in various grades of ICLS, the Ministry of Corporate Affairs, had, in the previous year, 2008-09, informed the Committee as under:-

“Problems have been faced on account of the guidelines contained in OM No.2/8/2001-PIC dated 16th May, 2001 issued by the DOP&T on Optimization of Direct Recruitments whereby not more than 1/3rd of the direct recruitment vacancies are allowed to be filled up. The Ministry has prepared a proposal for seeking exemption from the purview of these guidelines. Similarly, a proposal for creation of 142 additional posts in various Grades of the ICLS has been submitted to the Department of Expenditure which is under examination with them”.

4.7 Asked about the latest status in regard to the proposal seeking exemption from the purview of the guidelines issued by DOPT vide OM No.2/8/2001-IC, dated 16th May, 2001, the Ministry, inter-alia, submitted as under:

“This proposal was returned by the Cabinet Secretariat as in the meantime, the Government constituted a Screening Committee under the Chairmanship of Secretary, DOPT to consider proposals for exemption from the preview of Optimization of Direct Recruitment to Civilian Posts. The proposal was, therefore, submitted for consideration to the newly Constituted Committee. However, the proposal has been returned by the DOPT to reconsider and submit a revised proposal with observations to identify Statutory/Constitutional/Technical, Operational and Safety related posts and seek exemption for these posts. This exercise has now been completed and a revised proposal has been formulated which is being resubmitted to the DOPT.”

V. IPO PROCEEDS

5.1 On the mechanism available for ensuring that IPO proceeds raised by companies are used for the purposes as listed in the offer document/prospectus of the companies concerned, the Ministry of Corporate Affairs informed the Committee *inter-alia*:

“..... By scrutinizing the Balance Sheets of the issuer companies and conducting inspection of the books of accounts and other books and papers of those companies u/s 209A of the Companies Act, 1956, utilization of the IPO proceeds are examined. Besides this, Companies (Auditor's Report) Order, 2003 provides in Clause No.(XX) that the Auditors shall, in his report and confirm as to whether the company has utilized the IPO amount in the project envisaged in the prospectus.”

5.2 On the existing stipulations/regulations relating to monitoring utilisation of IPO proceeds, the Ministry, in a written note informed *inter-alia*:

“For monitoring of issue proceeds, every issuer making an issue of more than Rs.500 crore is required to appoint a monitoring agency which is required to file the monitoring report with the issuer company so as to enable the company to place the report before its Audit Committee. Further, every issuer company shall be required to inform material deviation in the utilisation of issue proceeds to the Stock Exchange and shall also be required to simultaneously make the material deviation / adverse comments of the Audit Committee / Monitoring Agency public through advertisement in Newspapers.”

5.3 By way of specifying the role of Registrar of Companies (ROCs) in monitoring utilisation of IPO proceeds, and informing of the outcome of technical scrutiny of balance sheets of companies undertaken by the ROCs, the Ministry of Corporate Affairs informed as under:

“As far as Ministry of Corporate Affairs is concerned, there are administrative directions to RoCs to scrutinise the balance sheet of all those companies which have raised funds through IPO regardless of the issue size and action is taken in respect of prima-facie violation of Companies Act observed during such scrutiny.

The technical scrutiny by RoCs has not thrown up any case of diversion / mis-utilisation of funds mobilised by the companies raising more than Rs. 500 crores from the market through IPOs during the last five years.”

5.4 Asked about the mechanism of ensuring compliance by companies in filing their balance sheets and ensuring their scrutiny by the Registrars of Companies (ROCs), a representative of the Ministry of Corporate Affairs, while deposing before the Committee, inter-alia stated as under:

“We have obtained this input from the SEBI for placing before the Committee. What the Ministry is doing or what it proposes to do is given here. The Ministry has, way back in 2006, already ordered that in all cases of IPOs, there should be technical scrutiny of the balance sheets.”

5.5 On the same issue he further added:

“We are examining the balance sheets. Recently, after receiving the questionnaire from the Committee, we have instructed the ROCs to obtain the quarterly statements from the SEBI and to examine them.”

5.6 The Committee, in their 71st report on Demands for Grants (2008-09) of the Ministry of Corporate Affairs (14th Lok Sabha) recommend setting up an Expert Group in consultation with SEBI for evolving a detailed mechanism to effectively evaluate and monitor the utilization of IPO proceeds so as to identify and take remedial steps against the fraudulent companies. In their action taken note on the recommendation of the Committee, the Ministry, submitted as follow:

“Keeping in view of the framework for investor protection under SEBI Act, 1992, SEBI was requested to constitute an Expert Group in which nominee of Ministry of Corporate Affairs may be included. However, SEBI requested MCA to set up the Expert Group. Accordingly, an Expert Group was set up vide order No.1/3/2008-Spl.Cell dated 30.07.2008. The Group consists of members from MCA, SEBI, BSE and NSE to study and examine the institutional mechanism of various Regulators to monitor the utilization of IPO proceeds, identify the gaps in effective regulation and suggest remedial steps. The Group has already held three meetings and it is expected to submit its report shortly.”

5.7 While taking evidence of the representatives of the Ministry of Corporate Affairs in connection with examination of Demands for Grants (2009-

10) of the Ministry, the Committee expressed the need for under taking investigating whether 'tainted' or 'terror money' was also invested in IPOs of companies. In this regard, the Secretary, Ministry of Corporate Affairs stated:

"What you have said is a very serious issue. I will look with this thing. I will also look into what is the present mechanism available. There are other bodies working on the same lines and we coordinate with them."

5.8 The Secretary also added as under:

"There are other authorities also, who are looking into this like SEBI etc. I will coordinate with them and come back."

5.9 When pointed out that it would be essential to build a proper system of coordination between the ROCs and SEBI; and the exercise of technical scrutiny of balance sheets undertaken by the ROCs was neither regular nor periodic, the Secretary, Ministry of Corporate Affairs, stated as follows in response:

"That is why the advice that you have given is very important. We will look into that. We can come to know whether there is any diversion or whether that has been used only after looking into balance-sheet. That is what my colleague has said. The Finance Ministry has certain agencies, but we will coordinate with them."

VI. SERIOUS FRAUD INVESTIGATION OFFICE (SFIO)

6.1 The Serious Fraud Investigation Office (SFIO) was set up by a Cabinet decision on 9 January, 2003. SFIO was set up by Government of India in the Ministry of Corporate Affairs by way of a resolution dated 02.07. 2003. The administrative order issued by the Ministry of Corporate Affairs on July 2, 2003 in regard to SFIO states as under:

“The SFIO will only take up investigation of frauds characterized by: (a) complexity, and having inter-departmental and multi-disciplinary ramifications; (b) Substantial involvement of public interest to be judged by size, either in terms of monetary misappropriation, or in terms of the persons affected; and (c) the possibility of investigations leading to, or contributing towards, a clear improvement in system, laws or procedures.”

6.2 As a result of one of the recommendations of the Naresh Chandra Committee, a Committee headed by Shri Vepa Kamesam known as Vepa Kamesam Committee was constituted in 2006, to make recommendations to the Government on:

- (a) Assessment of the need for and details of a separate statute to govern the constitution and functioning of SFIO;
- (b) The nature and details of the legislative changes as may be required in existing laws, to enable effectively functioning of SFIO including prosecution of offences detected by it;
- (c) The mechanism for referral of cases to SFIO and coordination of activities of SFIO with other agencies/organizations of the Central and State Governments, including investigating;
- (d) Powers of SFIO and its investigation officers;
- (e) Specification of offences and penalties to enable effective conduct of investigation agencies and need for Special Courts for trial of corporate fraud cases; and
- (f) Other matters consequential to or in pursuance of the above.

6.3 The major recommendations of Vepa Committee as furnished by the Ministry of Corporate Affairs are as below:

- ❖ A comprehensive, inclusive definition, defining the offence of fraud with regard to the affairs of a company, may be included in the Companies Act, 1956 irrespective of whether it has features of an offence under the Indian Penal Code or not.
- ❖ There is a need to review the compliance requirements and corporate governance regime in the Companies Act, 1956 to enforce transparency and accountability at all levels and provide adequate statutory means to address situations resulting from corporate fraud through an appropriate investigative, enforcement and penalty structure.
- ❖ The Government should consider strengthening the investigative powers of SFIO and to accord statutory recognition to the SFIO in the Companies Act itself with the statutory obligation for other entities to cooperate with it.
- ❖ Government may consider making amendments to the Companies Act so as to streamline the procedures and strengthen the powers of the inspectors appointed under the Companies Act for being more effective in dealing with frauds in relation to affairs of companies.
- ❖ Government should consider in the long term, a special legislation, to deal with the subject of fraud in a broader sense and provide for the constitution, setting up, functions and powers of an agency to investigate fraud that enables it to function effectively.
- ❖ SFIO being a specialized organization intended to bring together multidisciplinary expertise to unravel fraud, should not be burdened with routine investigations or inquiries into various complaints. It would be appropriate for the Central Government to strengthen its arrangements for inspections and inquiries to be carried out by field organization of the Ministry to handle such work without imposing the burden on SFIO.
- ❖ The seriousness of an investigation may be assessed in terms of amount of exposure to public funds, the number of stakeholders or complexity involved. The assessment of seriousness would have to be based on the particular circumstances of each case.
- ❖ Enhanced level punishments be provided. For instance, imprisonment for (a) non furnishing information to the investigating inspector without reasonable cause may be enhanced to a maximum of three years from the present level of six months and (b) furnishing false information or withholding relevant information from the current two years to seven years. Many offences should not be compoundable so that the punishment acts as deterrent.

- ❖ The inspector should have powers to seize books and papers of company under investigation for a period of 180 days and may retain the same for further period of 180 days with the permission of the Court.
- ❖ A separate offence may be defined to deal with actions resulting in unauthorized removal, concealment, destruction or tampering with company records for a company under investigation or a related party.
- ❖ SFIO should be able to collect evidence by way of sending letters rogatory (letter of request) from outside India and for examination of a person residing outside India, by inserting suitable provision in the Companies Act and authorizing a suitable authority to issue the same.
- ❖ A high Powered Committee on a pattern similar to Corporate Fraud Task Force (CFTF) of USA be constituted by the Central Government having senior level officers of proven integrity, experience and expertise in matters of financial transactions, investigations and economic offences as members, to clear cases referable to SFIO.
- ❖ The Companies Act may be suitably amended so as to provide for establishing of special courts, vested with requisite civil and criminal jurisdiction, to deal with company matters including cases involving fraud.

6.4 Asked whether the Government has accepted all the recommendations of the Vepa Kamesam Committee Report, the Ministry of Corporate Affairs inter alia submitted a written reply as stated under:

“The report submitted by Vepa Kamesam Committee is under consideration of the Ministry.....”.

VII. FOLLOW-UP ON SATYAM EPISODE

7.1 Asked to detail the steps initiated for ensuring non-recurrence of M/s Satyam Computer Services Ltd., like scandals in the country, the Ministry, in a written reply stated *inter alia*:

“An elaborate regulatory framework is already in place to deal with such incidents. This framework provides for statutory disclosures about the affairs of companies intended to inform the stakeholder the truth about the state of affairs of companies. To facilitate making of such disclosures by companies, and for stakeholders and regulatory agencies to easily access and view them, Government has set up an electronic registry with round the clock access through internet. The Government has powers of inspection of the books of accounts of companies and also to investigate their affairs, if need be, under the Companies Act, 1956. In addition, the Act provides for appointment of independent, statutory auditors to audit the accounts and report to the shareholders. Such audited accounts are also displayed on the electronic registry for general viewing. While the reporting requirements are regulated under the Companies Act, 1956, the conduct of auditors is regulated under the Chartered Accountants Act, 1949. In addition, for listed companies, compliance with these statutory requirements is required to be certified by a company secretary in practice, who in turn is regulated under the Company Secretaries Act, 1980. Government has amended the Chartered Accountants Act, 1949 and the Company Secretaries Act, 1980 in 2006 to provide for a more effective disciplinary mechanism to deal with cases of misconduct by Chartered Accountants, Company Secretaries respectively. In 2006, the Government has notified Accounting Standards to enable accounts of companies to be drawn up and disclosed on the basis of fair, transparent and internationally accepted principles”.

7.2 Asked further to provide an update on the investigation/follow-up initiated in the matter of M/s. Satyam Computer Services Ltd., the Ministry of Corporate Affairs *inter-alia* informed as follows:

“The Serious Fraud Investigation Office (SFIO) submitted its investigation report in April, 2009 and after examination of report, interim instructions were issued to the SFIO for coordination with CBI to work out strategy and modalities for filing of prosecutions and trial. SFIO was also directed to find out and reconcile discrepancies, relating to facts and figures, if any, in the investigation of CBI as compared to findings reported in the

investigation report of SFIO. Solicitor General of India has been asked to taking forward the prosecution process on the SFIO report and future course of action is being worked out in coordination with CBI”.

7.3 Emphasising on evolving a system of early alerts for identifying potential fraudulent activities, the Outcome Budget Document 2009-10 of Ministry of Corporate Affairs, states as under:-

“....an important item on the agenda of the Ministry is to evolve a system of early alerts to ensure that there is no recurrence of cases like that of Satyam.”

7.4 Questioned on the measures proposed or initiated for strengthening the regulatory framework and thereby prevent corporate frauds, the Ministry in a written reply stated as follows:

“In this context, the Ministry of Corporate Affairs has constituted a Committee under the Chairmanship of the Additional Secretary for developing the framework for an Early Warning System that can generate alerts 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”.

VIII. REGISTRARS OF COMPANIES (ROCs)

8.1 Registrars of Companies (ROCs) appointed under Section 609 of the Companies Act, 1956 covering various States and Union Territories are vested with the primary duty of registering companies floated in the respective States and the Union Territories and ensuring that such companies comply with statutory requirements under the Act. These offices function as registry of records, relating to the companies registered with them, which are available for inspection by members of the public on payment of the prescribed fee. The Central Government exercises administrative control over these offices through the respective Regional Directors.

8.2 Following are the functions of Registrars of Companies (ROCs):

Registration of Companies - Incorporation of company and matters incidental thereto as provided under Part II of the Companies Act, 1956. Availability of name, incorporation of company and issue of certificate of Incorporation, Commencement of Business Certificate as provided under sections 20, 32, 33, 34 of the Act. ROC is also authorized to register the documents in respect of opening of Branch Office or liaison office by Foreign Companies.

Registration of documents - ROCs are registering (i) statutory documents as provided under section 159, 220, 303, 97 and other provisions of the Act such as Annual Return, Balance Sheets, Profits and Loss Accounts, documents effecting change in authorized capital of the companies change in directorship, registration of agreements and special resolutions etc; (ii) non-statutory documents such as court/Company Law Board orders etc. Apart from these, ROCs are registering documents relating to creation, modification and satisfaction of charge on the assets of the company.

Inspection and Investigation into the affairs of the company - Section 209A of the Act empowers the Roc to inspect the records of the company and furnish his report to the Central Government for orders before filing prosecution. He is also authorized to undertake investigation as provided under section 235-247 of the Act after calling for the information under section 234 of the Act.

Filing of prosecutions - Under the provisions of section 621 of the Act ROCs are authorized for filing of complaint against the companies and its officers in default for violation of provisions of the Act in the appropriate court of law.

Striking off names of defunct companies - Section 560 of the Act empowers the ROCs to strike off names of companies where a company is not carrying on business or in operation after following the procedure.

Filing of petition before the Court - ROC is also authorized to file petition before the Hon'ble High Court for winding up of a company on just and equitable ground under sub section (f) of section 433 and 439 of the Act.

Other functions - ROCs is empowered to grant extension under section 166 and 210 of the Act, revalidation of Share Transfer Deeds, allow inspection of documents under public domain and issue certified copies thereof on demand to the public under section 610 of the Act.

8.3 On the power of Registrar (of companies) to call for information on explanation from a company, Section 234(1) of the Companies Act, 1956 stipulates as below:

“Where, on perusing any document which a company is required to submit to him under this Act, the Registrar is of opinion that any information or explanation is necessary with respect to any matter to which such document purports to relate, he may, by a written order, call on the company submitting the document to furnish in writing such information or explanation, within such time as he may specify in the order.”

8.4 In regard to the issue of seizure of documents by the Registrar, the provision under Section 234 A, of the Companies Act, 1956 stipulates as follows:

“Where, upon information in his possession or otherwise, the Registrar has reasonable ground to believe that books and papers of, or relating to, any company or other body corporate or managing director or manager of such company or other body corporate, may be destroyed, mutilated, altered, falsified or secreted, the Registrar may make an application to the Magistrate of the First Class or as the case may be, the Presidency Magistrate having jurisdiction for an order for the seizure of such books and papers.”

IX. AUTOMATION OF OFFICES OF OFFICIAL LIQUIDATORS (OLs)

9.1 On the measures initiated for improving the functioning of the offices of Official Liquidator (OLs) the Ministry of Corporate Affairs in a written note submitted as follows before the Committee:

“The Ministry has 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.”

9.2 On the e-governance model assigned for facilitating the process of liquidation and winding up of companies, the Ministry of Corporate Affairs in a written note, submitted as under:-

“In order to improve the efficiency of staff and to manage with a smaller number of staff, the day to day work and the functions OL offices need to be computerized. E-Governance would, however, be a more complex process which will have to take in its ambit the interface between the stakeholder, the Official Liquidator and the adjudicatory forum. Therefore, e-Governance will also be taken up as a distinct project separate from other legislative and administrative measures. However, computerization would facilitate introduction of e-Governance.

The total number of the cases of liquidation of companies in the country is estimated to be about 6,000. Even a small sized OL office handles a few hundred cases of liquidation. The staffing pattern to handle such a large volume of work consists of both OL's own officials and staff hired to assist the management of the affairs of the Companies under liquidation. As regards the work related to the Companies, there is also an increasing trend to outsource the work related to Administration of Company matters and guardianship of assets. Staff needed for matters supporting Company administration (or functions outsourced in lieu of this) are being paid out of the finances of the Company while OL's own functions are carried out by employees of OL. This model of staffing has been adopted as it would be necessary for OL to administer the matters of the Companies besides carrying out the core tasks related to liquidation as described above. Besides, OL would also need to manage the functions related to their own establishment (i.e. office management, payroll, accounts, human resources, etc.).”

9.3 In this regard the Ministry also added as follows:

“Considering the needs of automation, a holistic approach to OL computerization would cover four distinct aspects:

- i. Administration and guardianship of assets pertaining to companies under liquidation
- ii. Conduct of the process of Company Liquidation
- iii. Meeting with statutory obligations – primarily related to Courts and ROC
- iv. Establishment functions related to the OL offices.”

9.4 As per the Ministry, the proposed automation of offices of official Liquidators would effectively address the needs of the following stakeholders:

- a) Creditors
- b) Employees and other associates of the Company
- c) Other Government / Statutory Agencies
- d) Courts & Statutory Bodies (including NCLT/NCLAT as and when they become operational)
- e) Share holders of the company

9.5 By way of pointing out the limitations of the current system of the operation of OLs and the need for automation, the Ministry submitted as follows:

“It is also useful to note that at the present, OL administers each company under liquidation as independent entities disconnected from one another. This ‘*a la carte*’ approach’ seems to be adopted with regard to the administration of company matters due to the sheer lack of automated systems that can provide the much needed ‘integrated view’ which can enhance efficiency in OL operations. The limitations of the current system is a constraint to providing visibility in terms of gross value of assets, their carrying costs or the rate of depreciation for the OL to make well informed decisions related to value maximization. In addition, there are no mechanisms that allow for effective utilization of available staff and other resources that are at the disposal of the OL which could directly impact reduction of processing cycle times”.

9.6 As informed by the Ministry automation of OL operations would involve, *inter alia*, the mitigation or elimination of the following problems that are generally observed:

- a) Inconsistencies and redundancies inherent in the OL operations due to legacy processes;
- b) Lack of efficient coordination and communication amongst various stakeholders;
- c) Fragmented activities on performance of core tasks such as inviting claims, Asset classification, Inventory Management, Auctioning, General Accounting and Registration;
- d) Difficulty in accessing data and records, including their consistency;
- e) Ineffective management of the movable and immovable assets of the company under liquidation;
- f) Non-optimal paper forms (about 20 in number) that are being used at various stages during the company dissolution;
- g) Lack of responsiveness in follow-up action after the High Court has passed orders for dissolution;
- h) No close monitoring and follow through on all judicial matters;
- i) Difficulty and lack of efficiency in compliance of statutory requirements;
- j) Unproductive end-to-end process for adjudicating claims; and
- k) Delayed turnaround in the settlement of claims to creditors and employees, including the interface with the Banks.”

9.7 On the time presently taken for liquidation/winding up of companies in High Courts, the Ministry *inter-alia* stated:

“Liquidation/winding up of companies are Court driven processes where there are no time limits specified for winding up in the Companies (Court) Rules, 1959. The time taken for winding up varies from one year to three decades. As per the World Bank report on ‘Doing Business – 2008, the average time for winding up process in India is 10 years”.

9.8 Asked to specify whether the 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 would substantially reduce the time taken to wind up a company, the Ministry in reply *inter alia* stated as follow:

“The Ministry has decided to take multipronged action for reducing the time taken to wind up a company. This includes (i) legislative measures which includes the Companies (Second) Amendment Act, 2002 for setting up of National Company Law Tribunal/ National Company Law Appellate Tribunal. However, due to legal challenge the provisions of this amendment Act could not be implemented. The proposed Companies Bill, 2009 introduced in this session of the Parliament also has provisions to address Insolvency issues. (ii) improvement in infrastructure in OL offices (iii) training and capacity building of the officers and staff of OL offices (iv) review of Companies (Court) Rules and (v) introduction of e-governance in the process of winding up which would include computerization of OL offices, automation of business processes and interlinking with concern High Courts and offices of the ROCs. Action in respect of legislative measures has already been initiated.”

PART – II

OBSERVATIONS/RECOMMENDATIONS

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 be 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.

Investors Education and Protection Fund (IEPF)

2. 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 Organisations (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 assistance 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 conducted not merely in English but also in Hindi and all the regional languages of the country.

Competition Commission of India

3. 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 year 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.

Manpower Shortage

4. 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.

Monitoring of IPO Proceeds

5. 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 ROCs must also effectively coordinate in this regard with SEBI for better compliance. Any deviation in utilization or non-utilisation should be strictly monitored and the 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 framework and institutional mechanism for investor protection and specifically to monitor utilization of IPO proceeds.

Statutory Status to Serious Fraud Investigation Office (SFIO)

6. 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 under investigation or a related party. The Committee strongly deprecate the non-serious approach of the Ministry towards strengthening SFIO to effectively unearth and prevent corporate frauds. The Committee, therefore, recommend 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.

Follow-up on Satyam episode

7. 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 institutionalised 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.

Functioning of Registrar of Companies (ROCs)

8. 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 more 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.

Automation of Liquidation Process

9. 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 rationalised 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.

New Delhi;
18 November, 2009
27 Kartika, 1931 (Saka)

(Dr. Murli Manohar Joshi)
Chairman,
Standing Committee on Finance

Minutes of the Second sitting of the Standing Committee on Finance

The Committee sat on Tuesday, the 15th September, 2009 from 1015 hrs. to 1415 hrs.

PRESENT

Dr. Murli Manohar Joshi - Chairman

MEMBERS

LOK SABHA

2. Shri C.M. Chang
3. Shri Bhakta Charan Das
4. Shri Khagen Das
1. Shri Nishikant Dubey
2. Shri Bhartruhari Mahtab
3. Shri Mangani Lal Mandal
4. Shri Rayapati Sambasava Rao
5. Shri M. Sreenivasulu Reddy
6. Shri N. Dharam Singh

RAJYA SABHA

7. Shri Raashid Alvi
8. Shri S.S. Ahluwalia
9. Shri Mahendra Mohan
10. Dr. Mahendra Prasad
11. Shri Y.P. Trivedi

SECRETARIAT

- | | | |
|----------------------------|---|----------------------|
| 1. Shri R.C. Ahuja | - | Additional Secretary |
| 2. Shri A.K. Singh | - | Joint Secretary |
| 3. Shri T.G. Chandrasekhar | - | Additional Director |
| 4. Dr. Ram Raj Rai | - | Additional Director |

Part I (1015 to 1130 hours)

2. XX XX XX XX XX

Part II
(1130 to 1230 hours)

3. XX XX XX XX XX

Part III
(1230 to 1415 hours)

WITNESSES

Ministry of Corporate Affairs (Headquarters)

1. Shri R. Bandyopadhyay, Secretary
2. Shri P.D. Sudhakar, Additional Secretary
3. Shri Saurabh Chandra, Additional Secretary and Financial Advisor
4. Shri A.K. Srivastava, Joint Secretary
5. Smt. Renuka Kumar, Joint Secretary

Attached/subordinates Officers

1. Shri Jitesh Khosla, OSD, IICA, New Delhi
2. Shri Rajesh Sharma, Additional Director, SFIO, New Delhi

4. The Committee heard the representatives of Ministry of Corporate Affairs in connection with the examination of the Demands for Grants (2009-10) of the Ministry. The Secretary, Ministry of Corporate Affairs made a power point presentation on the Budget Grants and programmes and schemes of the Ministry. Members posed queries to the witnesses, which included, restructuring of the Indian Corporate Law Services (ICLS), functioning of the Serious Fraud Investigation Office (SFIO) and the proposal to accord statutory status to SFIO, E-governance for functioning of Official Liquidator (OL) offices, monitoring utilization of IPO proceeds, operation of Investor Protection and Education Fund (IEPF), convergence with International Financial Reporting Standards for companies etc. The Chairman directed the witnesses to send written replies in response to the questions for which information was not readily available.

A verbatim record of proceedings was kept.

The Committee then adjourned.

Minutes of the Seventh sitting of the Standing Committee on Finance

The Committee sat on Thursday, the 26th November, 2009 from 1530 hrs. to 1700 hrs.

PRESENT

Shri Mahendra Mohan - Acting Chairman

MEMBERS

LOK SABHA

2. Shri C.M. Chang
3. Shri Bhakta Charan Das
4. Shri Bhartruhari Mahtab
5. Shri Mangani Lal Mandal
6. Shri Gopinath Munde
7. Shri Rayapati Sambasiva Rao
8. Shri M. Srenivasulu Reddy
9. Shri Manicka Tagore

RAJYA SABHA

10. Dr. K.V.P. Ramachandra Rao
11. Shri Vijay Jawaharlal Darda
12. Shri Y.P. Trivedi
13. 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 |

Part I

(1530 hours to 1630 hours)

2. In the absence of the Chairman, the Committee chose Dr. Mahendra Mohan to chair the sitting under Rule 258 (3) of the Rules of Procedure.

- | | | | | |
|----|----|----|----|----|
| 3. | XX | XX | XX | XX |
| | XX | XX | XX | XX |

Part II
(1630 hours to 1700 hours)

4. The Committee, took up the following draft Reports for consideration and adopted the same without any amendment/modification:-

- | | | | | | | |
|-------|--|----|----|----|----|----|
| (i) | XX | XX | XX | XX | XX | XX |
| (ii) | XX | XX | XX | XX | XX | XX |
| (iii) | XX | XX | XX | XX | XX | XX |
| (iv) | XX | XX | XX | XX | XX | XX |
| (v) | Draft report on Demands for Grants (2009-10) of the Ministry of Corporate Affairs. | | | | | |

5. The Committee then authorized the Chairman to present the aforementioned reports to both the Houses of Parliament.

The Committee adjourned at 1700 hours.

