

**15**

**STANDING COMMITTEE  
ON FINANCE  
(2009-2010)**

**FIFTEENTH LOK SABHA**

**MINISTRY OF CORPORATE AFFAIRS**

**DEMANDS FOR GRANTS  
(2010-2011)**

**FIFTEENTH REPORT**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*April, 2010/Chaitra, 1932 (Saka)*

FIFTEENTH REPORT  
STANDING COMMITTEE ON FINANCE  
(2009-2010)

( FIFTEENTH LOK SABHA )

MINISTRY OF CORPORATE AFFAIRS

DEMANDS FOR GRANTS  
(2010-2011)

*Presented to Lok Sabha on 19 April, 2010*

*Laid in Rajya Sabha on 19 April, 2010*



LOK SABHA SECRETARIAT  
NEW DELHI

*April, 2010/Chaitra, 1932 (Saka)*

**COF No. 15**

*Price : Rs. 35.00*

© 2010 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Thirteenth Edition) and printed by National Printers, New Delhi-110 028.

## CONTENTS

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

### PART I

#### BACKGROUND ANALYSIS

I. Budgetary Allocation .....	1
II. Indian Institute of Corporate Affairs (IICA) .....	5
III. Investors Education and Protection Fund (IEPF) .....	7
IV. Investor Grievance Management Cell (IGMC) .....	9
V. Vanishing Companies and Monitoring of IPO Proceeds .....	10
VI. Company Law Board (CLB) .....	14
VII. Early Warning System (EWS) .....	15

### PART II

Recommendations/Observations of the Committee .....	18
---	----

#### APPENDICES

Minutes of the sittings of the Committee held on 30 March, 2010 and 15 April, 2010 .....	23
---	----

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
10. Smt. Jayaprada
11. Shri Bhartruhari Mahtab
12. Shri Mangani Lal Mandal
13. Shri Rayapati Sambasiva Rao
14. Shri Magunta Sreenivasulu Reddy
15. Shri Y.S. Jagan Mohan Reddy
16. Shri N. Dharam Singh
17. Shri Sarvey Sathyanarayana
18. Shri Manicka Tagore
19. Dr. M. Thambidurai
20. Shri Anjankumar M. Yadav
21. Shri G.M. Siddeshwara\*

---

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

*Rajya Sabha*

22. Shri Raashid Alvi
23. Dr. K.V.P. Ramachandra Rao
24. Shri Vijay Jawaharlal Darda
25. Shri S.S. Ahluwalia
26. Shri Moinul Hassan
27. Shri Mahendra Mohan
28. Shri S. Anbalagan
29. Dr. Mahendra Prasad
30. Shri Y.P. Trivedi
31. Shri Rajeev Chandrasekhar

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
2. Shri T.G. Chandrasekhar — *Additional Director*
3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*

## INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Fifteenth Report (15th Lok Sabha) on the 'Demands for Grants (2010-11) of the Ministry of Corporate Affairs'.

2. The Committee took oral evidence of the representatives of the Ministry of Corporate Affairs on 30 March, 2010.

3. The Committee considered and adopted this Report at their sitting held on 15 April, 2010. Minutes of the sittings of the Committee are given in appendix to the Report.

4. 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 (2010-11).

NEW DELHI;  
15 April, 2010  

---

26 Chaitra, 1932 (Saka)

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

## REPORT

### PART I

#### 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
- (viii) The Competition Act, 2002; and
- (ix) The Limited Liability Partnership Act, 2008.

The offices under the Ministry are:—

Regional Directors, Registrar of companies, Official Liquidators and Serious Frauds Investigation Office

The Ministry of Corporate Affairs is also the administrative Ministry for:—

- Company Law Board



- Competition Commission of India
- Indian Institute of Corporate Affairs

1.2 The total Budget Demand of the Ministry for the year 2010-11 amounts to Rs. 249.01 crore, out of which Rs. 209.01 crore is under the Revenue Expenditure and Rs. 40.00 crore under the Capital Expenditure.

**Statement of budget allocation and expenditure and receipts of the Ministry**

Year	Budget Estimates		Total	Expenditure		Total
	Plan	Non-Plan		Plan	Non-Plan	
2006-07	0	145	145	0	122.57	122.57
2007-08	47.00	138.10	185.10	0	113.66	113.66
2008-09	63.00	160.00	223.00	63.00	142.46	205.46
2009-10	33.00	206.05	239.05	33.00	194.00	227.00
2010-11	40.00	209.01	249.01			

**Receipts**

2006-07	1038.18
2007-08	1304.17
2008-09	1231.78
2009-10	1084.90 (upto Feb. 2010)

1.3 The following statement shows the details of BE, RE and AE under major objects Heads in the Detailed Demands for Grants 2010-11, where there has been shortfall in Actual Expenditure (AE).

(Rs. in crores)

Objects Heads		2007-2008					2008-2009					2009-2010		
		BE	RE	AE	%AE to BE	%AE to RE	BE	RE	AE	%AE to BE	%AE to RE	BE	RE	AE upto to Feb.10
28	Professional Services	0.75	1.51	1.47	96.00	-2.65	1.61	2.10	1.58	-1.86	-24.76	2.61	2.35	1.15
32	Contribution	0.01	0.02	0.000	-100.00	-100.00	0.02	0.01	0.00	-100.00	-100.00	0.01	0.01	0.00
41	Secret Services Expenditure	0.04	0.04	0.03	-25.00	-25.00	0.04	0.04	0.02	-50.00	-50.00	0.04	0.04	0.03
05.04.50	Investors Education and Protection Fund	5.00	5.00	3.10	-38.00	-38.00	5.00	4.68	3.57	-28.60	-23.72	5.00	5.00	1.81
05.05.50	Setting up of a Center for Corporate Excellence	0.00	0.00	0.00			0.00	0.00	0.00			0.00	0.00	0.00
05.99.50	Modernization, Computerization and Networking of Corporate Affairs and its field offices	64.28	55.57	48.36	-24.77	-12.97	72.31	60.00	53.96	-25.38	-10.07	52.99	68.84	55.66

3

BE= Budget Estimates

RE= Revised Estimates

AE=Actual Expenditure

1.4 The reasons for the shortfall in actual expenditure as cited by the Ministry are as follows:—

**(i) Professional Bodies**

“The Ministry does not have any technical resources available on its rolls for supporting the MCA-21 programmes and therefore it had engaged the services of IT professionals in consultation with the Department of Information Technology (DIT). An amount of Rs. 0.73 crore on IT consultants was paid during 2007-08. A Memorandum of Undertaking (MoU) was entered into with ICSI for Rs. 30 lakhs out of which payment of Rs. 17.05 lakhs was made in 2007-08.

.....the bills expected to be submitted by the advocates/ Standing Counsels were not received. Regional Directors incurred an expenditure of Rs. 16.74 lakh against BE of Rs. 20.00 lakhs and RE of Rs. 21.24 lakhs. SFIO also incurred less expenditure of Rs. 12.22 lakh against BE of Rs. 25.30 lakh and RE of Rs. 22.77 lakh. Similarly Registrars of Companies incurred an expenditure of Rs. 2.60 lakh against BE of Rs. 5.00 lakh and RE of Rs. 4.67 lakh. Further MOU with ICAI was undertaken involving payment of Rs. 12 lakhs. A provision was made in the budget but no bill/claim has been raised by ICAI.”

**(ii) Contribution**

“The expenditure during 2007-08 and 2008-09 has been Rs. 42000/- only and while rounding off in terms of crore of rupees, the same has not been reflected. Similarly, the expenditure in 2009-2010 has been Rs. 50000/- only.”

**(iii) Secret Services Expenditure**

“Funds against SSF are being utilized by SFIO as per the requirement and depend upon the nature of the investigation cases that were/are being handed over to this organization by the Ministry of Corporate Affairs. .... There can not be any pre-conceived design or pattern of expenditure under this Object Head.”

**(iv) IEPF**

“The utilization of budget available under this head is dependent on the number of proposals which are received from the partner institutions/organizations.”

**(v) Modernisation, Computerization and Networking of Corporate Affairs and its field offices**

“...the BE could not be utilized fully because the release of payments to the operator are linked with the achievement of number of milestones which constitute the Conditions Precedent for achieving the Project implementation completion..... Accordingly, an amount of Rs. 7.82 crore was withheld on account of final certification. The total payment which could be released during 2007-08 was Rs. 48.36 crore.

At the RE stage, the completion of deliverables was reviewed and the BE provision was revised and reduced to Rs. 60.00 crore. Since, the status of final certification remained unchanged, the payment for the subsequent quarters were released withholding 15% of amount due to TCS every quarter..... In this year (2008-09) also, the payment was released after following the prescribed procedure and an amount of Rs. 53.96 crore could be released during 2008-09.

The latest status is that out of 43 items, 26 have been completed, 14 are partially complete where 3 are pending... As per the recommendation of the Empowered Committee (EC), an amount equivalent to 3% of EQ 1 in each quarter has been deducted as ‘withheld amount’ for pending closure of these items towards final certification.”

Some important issues concerning the Ministry have been discussed in the succeeding paras.

## **II. Indian Institute of Corporate Affairs (IICA)**

2.1 The Union Cabinet approved the setting up of Indian Institute of Corporate Affairs (IICA) as a registered society under the auspices of Ministry of Corporate Affairs to provide institutional support to the Ministry, corporates, professionals and other stakeholders.

### **Main Objectives of IICA:**

- Develop capacity for undertaking holistic study and harmonized treatment of all issues impacting on governance and corporate functioning with a global perspective, and determine priorities for collaborative action in the context of emerging trends and opportunities.

- Set-up a state-of-the-art Knowledge Management (KM) system for constant creation, collation and dissemination of knowledge to internal and external stakeholders on all issues affecting the corporate sector.
- Think-tank to advise Government holistically on all issues impacting on corporate functioning.
- Training and capacity building for officials of the ministry and all stakeholders.
- Platform for the Government, business, academia, professional, civil society to converge for ongoing upgradation of corporate governance and functioning.
- Develop and establish a new discipline called 'Corporate Affairs', for holistic treatment and coverage of all subjects involved in, or impacting on, corporate functioning.
- Assisting Ministry of Corporate Affairs and other Central/ State Governments in taking e-governance initiatives, including integrated regulation, service delivery and e-security.

2.2 While submitting that the proposed allocation for IICA for the year 2010-11 is less than the funds required, the Ministry of Corporate Affairs have submitted as follows:—

“The Planning Commission sanctioned Rs. 211 crores for the purpose of setting up IICA. This includes Rs. 171.36 crores under the capital head and Rs. 39.64 crores under the revenue head. The construction of IICA campus has commenced since August 2009 and is expected to be completed by December, 2010. The cost of construction of the campus is expected to be about Rs. 106 crores. Besides, about Rs. 10.50 crores will be payable to NBCC as agency charges and Rs. 3 crores for boundary wall, land scaping etc. In addition, as per rough estimate of NBCC, for interior designing and furnishing of the campus, funds to the tune of Rs. 20 crores will be required. Estimated cost of registration of land will be about Rs. 3 crores. In all, total expenditure for the construction part of the project is expected to be about Rs. 142.50 crores. Out of this, an amount of Rs. 37.30 crores has been paid to NBCC so far”.

2.3 Further explaining their difficulty on this issue, the Ministry have informed as under:—

“Although, on the capital side the funds requirement is estimated to be about Rs. 195.20 crores, the Ministry has been allocated only Rs. 171.36 crores on the capital side, translating to an anticipated shortfall of about Rs. 24 crores.

For the year, 2010-11 the Ministry had raised a demand for Rs. 81.36 crores under the Capital Head from the Planning Commission. However, they have provided Rs. 34.00 crores only (Rs. 40.00 crores is gross budgetary support which includes Rs. 6.00 crores under the Revenue Head). Ministry had also written to Ministry of Finance to release Rs. 10.00 crores as Supplementary Grants for the year 2009-10, however, it is learnt, that the same have been refused by the Ministry of Finance. According to the Ministry, this may lead to serious problems in the next financial year, as they will be required to make whole of the payments under the Capital Head by the time the campus is ready (*i.e.* December 2010). The Minister for Corporate Affairs has already written to Deputy Chairman, Planning Commission seeking whole of Rs. 81.36 crores for the next financial year. A reply from the Planning Commission is awaited.

Under the Revenue Head, anticipating the doubling of requirement of IICA for the year 2011-12 from the year 2010-11 *i.e.* from Rs. 6 crores to Rs. 12 crores the total outgo from Revenue Head by the end of plan period *i.e.* March, 2012 will come to Rs. 24 crores, resulting in saving of about Rs. 15.64 crores under the Revenue Head”.

### **III. Investors Education and Protection Fund (IEPF)**

3.1 The Ministry of Corporate Affairs has established the Investors Education and Protection Fund (IEPF) under the provisions of Section 205 (c) of the Companies Act, 1956 with the objective of promoting investor awareness and protecting their interests. Under this initiative, the Ministry while promoting the concept of prudent and informed investment decision making, also provides services related to making available informational and educational content for investors, investor grievance redressal and technical/financial assistance to organizations engaged in investor education activities. The activities undertaken through the aegis of IEPF include the following:—

- Providing (simple user friendly) educational and awareness content to all the investors through the website [www.iepf.gov.in](http://www.iepf.gov.in).

- Providing the National Registry of economic offenders through the website *www.watchoutinvestor.com* which covers all entities who have been found guilty under different economic laws of the country.
- Providing online investor grievance redressal facility through the website *www.investorhelpline.com*.
- Undertaking investor awareness programmes in partnership with Institute of Chartered Accountants of India, Institute of Company Secretaries of India, Institute of Cost and Works Accountants of India specifically targeting investors in tier II and tier III cities.
- Providing technical/financial assistance to voluntary organizations for undertaking investor awareness related activities.
- Undertaking multi-lingual media campaigns (including regional and local languages) to reach out to investors across the country.

3.2 In their earlier report on Demands for Grants (2009-10) of the Ministry the Committee had made the following observation on the management and utilization of funds under IEPF:—

“The Committee found that the shortfall in the utilization of budget allocations under IEPF has been unduly large and regular feature year after year. It is apparent that the same amount *i.e.* Rs. 5 crores is being allocated under this head by the Ministry every year in a routine manner without applying any financial yardstick. 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. The Committee, while deprecating the Ministry for their indifferences in managing the IEPF would expect them to become more pro-active with regard to capacity building of NGOs for undertaking investor education activities.”

3.3 In their written reply, the Ministry have stated that although the utilization under IEPF was only to the extent of Rs. 1.81 crore (upto Feb. 2010) as against BE/RE of Rs. 5 crore, the entire amount has since been utilized as some pending bills have been subsequently settled in the month of March. In this regard, the Ministry have further submitted that:—

“The utilization of budget available under this head is dependent on the number of proposals which are received from the partner

institutions/organizations. Over the last 3 years, the Ministry has built up capacity of the three professional institutes to undertake investor awareness activities and the number of investor awareness camps organized by these institutes has increased considerably. As a result, the utilization of IEPF has also improved considerably and in the current financial year the entire amount of Rs. 5 crores has already been utilized.”

“The Ministry has already prepared the electronic media campaign for undertaking mass investor awareness campaign which is going to be released shortly.

“This Fund is to be utilized for promotion of investor awareness and protection of the interests of the investors in accordance with the Rules as may be prescribed. Till this date, approximately Rs. 463.44 crores has been credited to this Fund by various companies. The Ministry of Finance has not agreed with the proposal of constituting a separate Fund to be made available to the Ministry of Corporate Affairs for the purpose of fulfilling the obligations u/s 205C. However, a budgetary allocation of Rs. 5 crores is made every year for undertaking various activities for the promotion of investors awareness.”

3.4 While tendering evidence before the Committee, the representative of the Ministry of Corporate Affairs further clarified regarding unclaimed dividend and its allocation for IEPF by stating:—

“Actually, the Government of India has not set up a separate fund so far. All this money is being credited into the CFI. It is about Rs. 500 crore now, and against that this Ministry gets a Budget allocation every year for spending on investor education and awareness. Last year, we have got Rs. 5 crore, and this year also we have got Rs. 5 crore. The amount of unclaimed dividend per annum would be about Rs. 60 crore or Rs. 70 crore, and the total so far thereof is about Rs. 500 crore.”

#### **IV. Investor Grievance Management Cell (IGMC)**

4.1 Investor Grievance Management Cell (IGMC), renamed from earlier Investor Protection Cell (IPC), of the Ministry of Corporate Affairs was set up in 1993 to deal with the investors’ grievances. Its function is to take up the grievance of investors’ through the jurisdictional Registrars of Companies. It also coordinates with the Reserve Bank of India, Department of Economic Affairs and the Securities and Exchange Board of India for redressal of complaints received in the Ministry pertaining to those agencies.



4.2 On being asked about the number of complaints presently pending with the IGMC as on date and to state whether the IGMC has made any time line for settling complaints, the Ministry of Corporate Affairs *inter alia* furnished the following written reply:—

“IGMC received 239 complaints during the period 1.1.2010 to 18.03.2010 whereas 1251 complaints pending with Registrar of Companies (RoCs) for resolution were carried forward from the previous year. Out of these, 92 complaints have been settled and 13 were marked duplicate and 1385 complaints are pending as on date including 1365 complaints pending with Registrar of Companies. Investors’ complaints are resolved through Registrar of Companies working under Ministry of Corporate Affairs. IGM section forwards the complaints to them for their resolution at the earliest under intimation to the complainants and advise that further follow up may be taken up with the concerned organization. As the final settlement of the complaint involves a number of steps to be taken by ROC time limit for final settlement cannot be set/ fixed by the Ministry.”

4.3 The Ministry were asked to furnish the number of complaints lodged on line through the Ministry’s website and the complaints lodged manually. The Ministry furnished the following information:—

“Out of 1385 pending cases, 1365 cases were lodged online through the Ministry’s website and are currently pending with ROCs for resolution and 20 cases have been received manually.”

4.4 The Committee wanted to know as to how the grievances of investors is redressed. The Ministry *inter alia* furnished their reply as under:—

“As soon as ROC receives an investor’s complaint, he writes to the concerned company for suitable resolution/reply. If the reply of the company is found satisfactory by ROC, the same is informed to the complainant and asked to confirm the redressal. If the complainant is satisfied, the matter is treated as closed. However, if the grievances are not redressed and the provisions of the Companies Act are contravened, ROC takes legal action by issue of Show Cause Notice to the company and their directors.”

## **V. Vanishing Companies and Monitoring of IPO Proceeds**

5.1 The Capital Market Boom of early 1990s witnessed a large number of companies tapping the capital market through public issues.

However, some companies which had raised funds by making public issue later vanished with the investors' money.

5.2 On this issue, the Ministry submitted as follows:—

“Of the 229 companies that came out with IPOs during 1992-98 and later identified as ‘vanished’, 116 companies have been traced back and are now regular in filing statutory returns etc. After the Coordination and Monitoring Committee (CMC) started functioning, the number of vanishing companies has reduced significantly and for the period 1998-2001, only eight companies have been identified as ‘vanishing’, while the number of companies which vanished after this period is ‘NIL.’”

5.3 On being asked whether any exercise for identification of vanishing companies in respect of companies that came out with IPOs after 2005 has been undertaken, the Ministry *inter alia* furnished the following reply:—

“The exercise for identification of vanishing companies which came out with IPOs after 2005 has been done by the Regional Task Forces. Till the last meeting of the Coordination and Monitoring Committee held on March 8, 2010, no fresh cases of companies having come out with IPOs after 2005 and having vanished has been reported by the Task Forces.”

5.4 When the Committee enquired about the criteria used by the Ministry to identify ‘vanishing’ companies and also whether the criteria were adequate and effective, the Ministry *inter alia* submitted as under:—

“Since the term ‘vanishing company’ is not defined in any of the statute, the CMC had developed a criteria for identifying a company as a vanishing company in 2000. This criterion was:—

A company would be deemed to be a vanishing company, if it is found to have:—

- (a) Companies, which have not complied with listing requirement/filing requirement of Stock Exchanges/ROCs respectively for a period of 2 years.
- (b) No correspondence has been received by the Exchange from the company for a period of 2 years.
- (c) No office of the company is located at the mentioned registered office address at the time of Stock Exchange inspection.

This criterion was revised by the CMC in its meeting held on 4.3.2008. The revised criterion is as under:

“A company would be deemed to be a vanishing company, if it is found to have:—

- (a) Failed to file returns with Registrar of Companies (ROC) for a period of two years;
- (b) Failed to file returns with Stock Exchange (SE) for a period of two years (if it continues to be a listed company);
- (c) It is not maintaining its registered office of the company at the address notified with the Registrar of Companies/Stock Exchange; and
- (d) None of its Directors are traceable.
  - (i) All the conditions mentioned above would have to be satisfied before a listed company is declared as a vanishing company;
  - (ii) The conditions mentioned at (a), (c) and (d) would suffice to declare a company as vanishing if such company has been de-listed from the Stock Exchange.”

5.5 On this issue, the Committee have been further informed as below:—

“The Ministry undertakes enforcement of the Companies Act, 1956 in regard to all companies including the vanishing companies through the offices of Regional Directors and the Registrars of Companies. In cases of those companies that come out with IPOs, instructions have been issued to all the field offices to undertake the technical scrutiny of their balance sheets so as to detect any violations. In case such technical scrutiny results in cases of violations, the cases are taken up for further inspection/investigation as per the provisions of the Companies Act. The Ministry has also undertaken other steps for tightening of the regulatory framework. These include establishment of MCA-21, e-Governance system, mandating DIN, Early Warning System etc. SEBI has also taken steps to strengthen the enforcement system on their side. With these efforts, there has been no case of vanishing companies since 2001.”

5.6 The Ministry further clarified in the matter that:—

“As regards the criteria for vanishing company, the CMC in its meeting held on 8.3.2010 has decided that the original criteria should continue to be followed. It may be reiterated that no company has been identified as vanishing company since 2001.”

5.7 During oral evidence, when the Ministry of Corporate Affairs were asked whether only listed companies come under the scanner for identification of 'vanishing' companies, the representative of the Ministry submitted as below:—

“Vanishing companies are today from amongst the listed companies. Now the other kinds of companies which you are mentioning are two types of companies. One are private limited companies which can raise capital only from amongst the main promoters who formed that company. They are not allowed to raise deposits from the public. The others are public limited companies. These are allowed to raise deposits from the public. So, out of that 1,72,000 which are not available on MCA-21 about 27,000 are the public limited companies.”

### **IPO Proceeds**

5.8 When asked as to how the responsibility of monitoring the end-use of IPO proceeds was being shared by the Ministry of Corporate Affairs and the SEBI and the steps being taken by the Ministry of Corporate Affairs to enable SEBI to track funds raised by companies through IPOs, the Ministry in their written submission stated as under:—

“SEBI is the primary regulatory authority for the capital market. The companies, who want to raise money in the capital market through the IPOs, have to file the Prospectus as per the regulations prescribed by SEBI. Under the SEBI Act, the companies that have raised funds through IPOs are required to disclose the utilization *vis-à-vis* the objects stated in the Prospectus to the shareholders. For this, they are required to file quarterly returns to the Stock Exchanges which are placed on the website for viewing by the shareholders. SEBI has also provided for monitoring of end-use of IPO fund through the institution of “Monitoring Agencies” for cases where IPO exceeds Rs. 500 crores. This monitoring agency is normally a public financial institution or scheduled commercial bank named in the offer document as the banker of the issue and is required to disclose the end use of funds to the stock exchanges.

On its part, the Ministry has issued instructions to the ROCs to undertake technical scrutiny of the balance sheets of all companies that have come out with IPOs. These instructions have been issued in 2006 and were reiterated in 2008/2009. The ROCs, while conducting the technical scrutiny, also look into the issue of utilization of the IPO funds and in case there are deviations in the utilization of IPO proceeds from the objects stated in the prospectus,

further action under the Companies Act is taken. The Ministry of Corporate Affairs and SEBI are also sharing information and reports filed by the companies with each other for a better coordinated approach for this purpose.”

## VI. Company Law Board

6.1 Company law Board functions as an independent, quasi judicial body created under the Act of Parliament. It derives its power under section 10 E of the Companies Act, 1956. It became functional on 31 May 1991. The Company Law Board, being a quasi judicial body, has framed its own regulations. The Company Law Board Regulations, 1991 prescribes the procedure for filing the applications/petitions before it. The Board has its Principal Bench at New Delhi and Regional Benches at New Delhi, Kolkata, Mumbai and Chennai.

6.2 When asked whether the Company Law Board is functioning in full strength, the representative of the Ministry deposed as under:—

“In the Company Law Board we have a total strength of nine—one Chairman, one Vice-Chairman and seven Members. We have two vacancies of Members at present. Selection for one Member is already completed. ACC approval is expected any moment. The process of filling up the other posts – one Vice-Chairman and one more Member – is being initiated.”

6.3 When the Committee desired to know about the total number of cases pending with the various Benches of Company Law Board, the Ministry furnished the following year-wise information as on 28 February 2010:—

Year	Total
2000-01	2
2001-02	1
2002-03	88
2003-04	41
2004-05	214
2005-06	103
2006-07	89
2007-08	130
2008-09	655
2009-10 (upto 28/2/2010)	2377
<b>Total</b>	<b>3700</b>

6.4 On being asked to explain the reason for the sudden spurt of number of pending cases in the years 2008-09 and 2009-10 and whether any study has been done by the Ministry to know the reasons for the same, the representative of the Ministry of Corporate Affairs submitted during oral evidence that:—

“We have not done an analysis of reasons as to why so many cases have come in these two years.”

6.5 On the issue, Secretary, Ministry of Corporate Affairs further added:—

“Actually the 2009-10 cases are not a backlog in that sense of the term. One-year old cases in the normal process go on during this time. But it is increasing. CLB is a separate organisation. It is not directly under our control. I will ask a team of people to analyse the types of cases. If we get some new ideas out of that, the Ministry will take care of that.”

6.6 On being specifically asked whether any timeframe has been set for clearing cases pending with the CLB, the Ministry submitted as below:—

“CLB is a Quasi- Judicial Body headed by retired High Court Judge as Chairman. Accordingly “no time frame can be set for clearing pending cases as finalization of cases would depend on arguments being completed by the parties.”

## **VII. Early Warning System (EWS)**

7.1 With regard to the newly developed Early Warning System (EWS) and the parameters used in the system to detect potential corporate frauds, the Ministry furnished the following written submission:—

“Ministry has devised an Early Warning System (EWS) based on certain risk parameters (including financial and non-financial measures) to generate alerts regarding possibility of existence of unusual tendencies in the financial statements of the companies, the examination of which may lead to detection of ongoing fraud. To start with, based on the risk parameters, names of certain companies have been identified. The concerned Registrars of Companies have been advised to carry out scrutiny of documents filed by these companies with a view to validate the alerts generated through the Early Warning System. The Early Warning System will

be fine tuned on the basis of inputs received from the Registrars of Companies.

The Ministry, besides taking action on the basis of alerts generated through the Early Warning System, also takes up cases for scrutiny, inspection and investigation on the basis of complaints received, adverse press reports, reports received from Regional Economic Intelligence Committees, references received from other Ministries, references from stakeholders, qualifying report of the Auditors, etc. At the first instance, references/reports are examined in the Ministry as well as in the field offices and based on the findings, further instructions are issued for technical scrutiny/inspection/ investigation on merits of the case.”

7.2 While tendering oral evidence before the Committee, the representative of the Ministry of Corporate Affairs further elaborated on EWS as follows:—

“What happens in the Early Warning System is that we receive the balance sheets under MCA21 from the companies. Along with the balance sheet, we take a summary of financial details in form 23AC. Based on that we have developed certain algorithms. If a company is having 50 per cent of its current assets as cash and bank balances for more than two years, then our system throws up an alert. If a company is having share application money for more than one year of ten per cent of its paid up capital, then also our system throws up an alert. If a company is showing abnormal increase in profits of more than 100 per cent where the basic profit is Rs. 100 crore at least, then also our system throws up an alert. This way we identified a set of algorithms.

We said that if any company fulfils three or more of these parameters, we will take up non-invasive scrutiny of the documents. We identified certain companies on that basis. We took up their non-invasive scrutiny. Three-fourths of the number of reports we have already got. Based on the reports, in most of the cases we have asked the company for their replies. In some of them we have taken a view and ordered inspection of the books of accounts.”

7.3 During the evidence, when the Committee specifically enquired about the cases detected through EWS thus far, the representative of Ministry of Corporate Affairs made the following oral submission:—

“Actually the total number is 149 and 11 of them are Government-owned companies. They are essentially State PSUs. There are also

issues like a company having share application money and Government has given that money but they have not yet allotted the shares to the Government. In such cases what we are doing is we are sending those reports to the C&AG. We are asking the C&AG to have a look at it and if they feel that any action is required by the company, we will take input from them and take action.”



## PART II

### RECOMMENDATIONS/OBSERVATIONS

1. The Committee note that there has been persistent shortfall in the overall Actual Expenditure (AE non-plan) as compared to the Budget Estimate (BE)/Revised Estimate (RE) during the period 2005-06 to 2008-09; it was Rs. 41 crore in 2005-06, Rs. 22 crore in 2006-07, Rs. 40 crore in 2007-08 and Rs. 28 crore in 2008-09. The Committee are not convinced by the reasons advanced by the Ministry, which indicates lack of seriousness, being of casual and routine nature. The Committee would, therefore, expect the Ministry of Corporate Affairs to exercise greater care and diligence in formulating their estimates and incurring expenditure thereon.

2. With regard to the major budget head *i.e.* modernization, computerization and networking, the Committee note that shortfall in actual expenditure continues year after year; as a percentage of AE to BE, the shortfall was 24.77% in 2007-08 and 25.38% in 2008-09. In the year 2009-10 the AE under this head (upto February, 2010) was Rs. 55.66 crore as compared to the RE of Rs.68.84 crore, resulting in a shortfall of about Rs. 13 crore. The Ministry have stated that their Budget Estimate under this head could not be utilized fully, because the release of payments are linked with the achievement of a number of project milestones, which constitute the Conditions Precedent for achieving the completion of the project. The Committee desire that the Ministry must strive to fully utilize the budgeted funds under this head, as the timely completion of the ongoing computerization and networking programme (MCA-21) of the Ministry is crucial for efficient functioning in important areas like scrutiny by Registrars of Companies (ROCs), operations in Official Liquidators' offices etc. The Committee would, therefore, like networking of the various field offices of the Ministry to be expedited and glitches, if any, in the implementation of the programme be ironed out with the vendors immediately.

3. The Indian Institute of Corporate Affairs (IICA) has been established under the auspices of the Ministry of Corporate Affairs to provide institutional support to the Ministry, corporates, professionals and other stakeholders. For the year 2010-11, the Ministry had raised a demand of Rs. 81.36 crores under the capital head from the Planning

Commission for this project. However, the Planning Commission has provided them with only Rs. 34 crores during this year. According to the Ministry of Corporate Affairs, this shortfall may lead to serious problems in this financial year, as they will be required to make whole of the payments under the capital head by the time the IICA campus is ready in December, 2010. The Ministry have, therefore, already requested the Planning Commission to release this year itself whole of the sanctioned amount of Rs. 81.36 crores. The Committee, while endorsing the plea of the Ministry, would recommend that the Government should release the entire amount sanctioned under capital head for the IICA project, so that the project is completed on schedule.

4. The Committee had been urging the Ministry of Corporate Affairs to fully utilize the Investors Education and Protection Fund, while extensively undertaking activities and campaign for investor education and awareness. In this regard, the Committee are satisfied to note that the Ministry has been able to fully utilize the allotted fund of Rs. 5 crores this year. However, the Committee are of the considered view that routine allocation of Rs. 5 crores for this fund year after year is meagre, considering the magnitude of the work required for investor protection, awareness as also grievances redressal. It may not thus leave much impact on the activities undertaken under this fund. Considering the geographical spread of the country, its diversity and the surge in the number of investors across the country, the Committee feel that the corpus of this fund warrants substantial increase. In this context, it has been suggested to the Committee that a separate fund comprising of the amounts of unclaimed dividend could be legitimately constituted or merged with the IEPF for ensuring greater investor protection. The Committee have, however, been informed that the Ministry of Finance has not agreed to this proposal of constituting a separate fund out of proceeds of unclaimed dividend to be made available to the Ministry of Corporate Affairs. The Committee would recommend that the Government should re-consider the proposal for augmenting the corpus of IEPF by including a part of the amount collected by way of unclaimed dividends with a view to enabling the Ministry of Corporate Affairs to fulfill their statutory obligations of investor awareness, investor protection and grievances redressal.

5. With regard to the much-neglected area of Investors Grievances and its redressal, the Committee are concerned to note that the Investors Grievances Management Cell of the Ministry has been receiving numerous complaints, but the same have not been redressed promptly. It is observed that during the period 1st January, 2010 to 18th March, 2010, the Investors Grievances Management Cell of the Ministry received 239 fresh complaints, while 1251 complaints from the previous

year remained pending with the Registrars of Companies (ROCs) for resolution. Out of these cases, about 1365 cases related to investor grievances lodged on-line through the Ministry's website and are currently pending with the ROCs for resolution. Although, the Ministry have pleaded that no time limit can be stipulated for settlement of grievances of investors, the Committee are of the view that investors grievances should be redressed in a time bound manner to the satisfaction of the complainant, by putting in place a fast-track mechanism, if required. The Registrars of Companies (ROCs) should be sensitized for this purpose so that investor grievances are taken up and resolved on priority. The Committee would like to be apprised about the steps taken to galvanize the Investors Grievances Management Cell and the status of pendency therein.

6. The Committee understand that a company would be deemed to be a 'Vanishing Company', if it is found to have failed to file returns with the Registrar of Companies and Stock Exchanges for a period of 2 years since floating an IPO or not maintaining its registered office at the notified address or none of its Directors is traceable. In this regard, the Ministry have sought to impress upon the Committee that since 2001, no company which floated an IPO has been identified as 'Vanishing Company'. When asked about those companies or entities who have defaulted on repayments of public deposits etc., the Ministry clarified that present definition of 'Vanishing Companies' covered only listed companies. The other types of entities like Private Limited Companies and unlisted companies, who raised deposits from the public, are out of the present criteria of 'Vanishing Companies'. The Committee are not satisfied with such a narrow definition and scope of 'Vanishing Companies', which has resulted in weak enforcement action against entities defaulting on public money. The Committee, therefore, recommend that the Ministry should consider widening the scope of 'Vanishing Companies' by broadening its definition so as to include within the statutory ambit those entities, who collect huge sums of money from the public by way of IPOs, deposits, insurance and myriad savings schemes.

7. In pursuance of the Committee's earlier recommendation for better coordination between the Ministry of Corporate Affairs and SEBI with regard to monitoring of IPO proceeds, the Ministry have stated to have issued instructions for coordination between the Ministry, its field offices and SEBI for sharing information and reports filed by companies with regard to utilization of IPO proceeds exceeding Rs. 500 crores. While expressing satisfaction on this count, the Committee would now like the Ministry to operationalise this coordination mechanism on-line, so that the process of coordination

and monitoring amongst all the concerned agencies becomes institutionalized.

8. The Committee are also concerned that the Company Law Board (CLB), which is the quasi judicial body under the Ministry of Corporate Affairs for adjudicating upon various disputes, complaints and grievances relating to corporate matters, has not been functioning in full strength as two vacancies of members has not been filled up so far. This has obviously resulted in large accumulation of pending cases, which has now peaked to as high as 2377 cases (upto February, 2010). The Committee are also alarmed to notice that this pendency also includes 214 cases pertaining to 2004-05, 103 cases of the year 2005-06, 130 cases of 2007-08 and 655 cases of 2008-09, which has still not been settled. The Ministry of Corporate Affairs do not seem to have reviewed or done any analysis of the reasons for such accumulation of pending cases in the CLB. On the other hand, the Ministry seem to be taking shelter behind the quasi judicial nature of the CLB, while pleading that no time frame can be set for clearing pending cases. The Committee, however, would expect the Ministry to use all administrative means available with them like timely filing up of vacancies and providing better infrastructure as also procedural devices such as early hearing applications etc. with a view to minimizing the pendency of cases in the CLB, on whose efficient functioning rests corporate equity and justice.

9. The Committee are happy to note that in pursuance of their recommendation for a fool proof Early Warning System (EWS) to detect corporate frauds, the Ministry of Corporate Affairs have developed such a system to detect potential corporate frauds based on certain risk parameters to generate alerts regarding possibility of existence of unusual tendencies in the financial statements of companies. The Ministry have also stated to have advised the concerned ROCs to carry out scrutiny of documents filed by these companies with a view to validating the alerts generated. The Committee understand that besides taking action on the basis of alerts generated through the EWS, the Ministry also takes up cases for scrutiny, inspection and investigation on the basis of complaints received, adverse press reports, information received from Regional Economic Intelligence Committees, references received from other Ministries and stakeholders, reports of Auditors, etc. The Committee desire that the Ministry should furnish a report on the efficacy of the system put in place to detect corporate frauds and the extent to which it has acted as a deterrent. The Committee would also like to be apprised about the streamlining or fine tuning done in respect of the EWS on the basis of cases detected thus far as well as inputs received from the Registrars of Companies. In this

context, the Committee also recommend that the Registrars of Companies should endeavour to cover at least five percent of the companies filing returns with them, in their random scrutiny of balance sheets and annual returns of the companies.

MINUTES OF THE SIXTEENTH SITTING OF THE  
STANDING COMMITTEE ON FINANCE

The Committee sat on Tuesday, the 30th March, 2010 from  
1100 hrs. to 1400 hrs.

PRESENT

Dr. Murli Manohar Joshi — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Sudip Bandyopadhyay
3. Shri Nishikant Dubey
4. Shri Mangani Lal Mandal
5. Shri Rayapati Sambasiva Rao
6. Shri Magunta Sreenivasulu Reddy

*Rajya Sabha*

7. Shri Raashid Alvi
8. Shri Vijay Jawaharlal Darda
9. Shri Moinul Hassan
10. Shri Mahendra Mohan
11. Shri S. Anbalagan
12. Dr. Mahendra Prasad
13. Shri Y.P. Trivedi
14. 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

(1100 hrs. to 1245 hrs.)

2. \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*  
\*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*

*The witnesses then withdrew.*

*A verbatim record of proceedings was kept.*

PART-II

(1310 hrs. to 1400 hrs.)

WITNESSES

**Ministry of Corporate Affairs**

1. Shri R. Bandyopadhyay, Secretary
2. Shri P.D. Sudhakar, Special Secretary
3. Shri Saurabh Chandra, AS&FA
4. Shri A.K. Srivastava, Joint Secretary
5. Ms. Renuka Kumar, Joint Secretary
6. Shri V.R. Ghodeswar, Chief Controller of Accounts

**Indian Institute of Corporate Affairs (IICA)**

Shri Jitesh Khosla, OSD, New Delhi

**Competition Commission of India (CCI)**

Shri S.L. Bunker, Secretary, New Delhi

**Serious Fraud Investigation Office (SFIO)**

Shri Anuj Kumar Bishnoi, Director, SFIO

**Company Law Board (CLB)**

Shri A. Samanta Rai, Secretary, CLB, New Delhi

3. The Committee took oral evidence of the representatives of the Ministry of Corporate Affairs in connection with examination of Demands for Grants (2010-11). The Secretary, Ministry of Corporate Affairs made a power point presentation on the Budget Grants and Programmes and Schemes of the Ministry. Major issues discussed included activities undertaken by the Ministry to promote awareness of investors and protection of their interest, under the Investors Education and Protection Fund (IEPF), construction of Indian Institute of Corporate Affairs (IICA) campus, management of unclaimed dividends, convergence with IFRS, mode of recruitment of ICLS officers, bringing of more types of companies under the ambit of the criteria for identification of vanishing companies, companies that come in the net of Early Warning System (EWS), the strength of the Company Law Board and the cases pending therewith etc. The Chairman directed the representatives of the Ministry to furnish written replies to the points raised by members during the evidence for which information was not readily available.

*The witnesses then withdrew.*

A verbatim record of the proceedings was kept.

*The Committee adjourned at 1400 hours.*



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 Harishchandra 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. 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.*