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**STANDING COMMITTEE ON FINANCE  
(2011-12)**

**FIFTEENTH LOK SABHA**

**MINISTRY OF CORPORATE AFFAIRS**

**Demands for Grants  
(2012-13)**

**FIFTY FIFTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**April, 2012, Vaisakha, 1934 (Saka)**

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(2011-2012)**

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**MINISTRY OF CORPORATE AFFAIRS**

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(2012-13)**

*Presented to Lok Sabha on 24 April, 2012*

*Laid in Rajya Sabha on 24 April, 2012*



**LOK SABHA SECRETARIAT  
NEW DELHI**

**April, 2012, Vaisakha, 1934 (Saka)**

## **CONTENTS**

	Page
Composition of the Committee	(iii)
Introduction	(v)
 <b>PART – I</b> 	
I. Budgetary Allocation	1
II. Registrar of Companies (ROCs)	9
III. Early Warning System (EWS)	12
IV. Competition Commission of India (CCI)	13
V. Serious Fraud Investigation Office (SFIO)	18
VI. Investor Education and Protection Fund (IEPF)	19
VII. Corporate Governance/Corporate Social Responsibility	22
 <b>PART – II</b> 	
Observations / Recommendations	28
 <b>APPENDICES</b> 	
Minutes of the sittings of the Committee held on 26 March, 2012 and 20 April, 2012.....	36

## **COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2011-12**

**Shri Yashwant Sinha - Chairman**

### **MEMBERS**

#### **LOK SABHA**

2. Shri Shivkumar Udasi
3. Shri Jayant Chaudhary
4. Shri Harishchandra Deoram Chavan
5. Shri Bhakta Charan Das
6. Shri Gurudas Dasgupta
7. Shri Nishikant Dubey
8. Shri Chandrakant Khaire
9. Shri Bhartruhari Mahtab
10. Shri Anjan Kumar Yadav M.
11. Shri Prem Das Rai
12. Dr. Kavuru Sambasiva Rao
13. Shri Rayapati S. Rao
14. Shri Magunta Sreenivasulu Reddy
15. Shri Sarvey Sathyanarayana
16. Shri G.M. Siddeswara
17. Shri N. Dharam Singh
18. Shri Yashvir Singh
19. Shri Manicka Tagore
20. Shri R. Thamaraiselvan
21. Dr. M. Thambidurai

#### **RAJYA SABHA**

22. Shri S.S. Ahluwalia\*
23. Shri Raashid Alvi\*
24. Shri Vijay Jawaharlal Darda
25. Shri Piyush Goyal
26. Shri Moinul Hassan\*
27. Shri Satish Chandra Misra
28. Shri Mahendra Mohan\*
29. Dr. Mahendra Prasad \*
30. Dr. K.V.P. Ramachandra Rao
31. Shri Yogendra P. Trivedi

#### **SECRETARIAT**

- |    |                       |   |                     |
|----|-----------------------|---|---------------------|
| 1. | Shri A.K. Singh       | - | Joint Secretary     |
| 2. | Smt. Meenakshi Sharma | - | Deputy Secretary    |
| 3. | Shri Ujjwal Pant      | - | Executive Assistant |

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\* Ceased to be the Member of the Committee consequent upon their retirement from Rajya Sabha w.e.f. 2 April, 2012

## INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Fifty-fifth Report (15th Lok Sabha) on the 'Demands for Grants (2012-13)' of the Ministry of Corporate Affairs.

2. The Demands for Grants (2012-13) of the Ministry of Corporate Affairs were laid on the Table of the House on 22 March, 2012. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took oral evidence of the representatives of the Ministry of Corporate Affairs on 26 March, 2012.

4. The Committee considered and adopted this Report at their sitting held on 20 April, 2012. Minutes of the sittings of the Committee are given in appendix to the Report.

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 (2012-13).

**New Delhi;**  
**20 April, 2012**  
**31 Chaitra, 1934 (Saka)**

**YASHWANT SINHA,**  
**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 Competition Act, 2002; and
- (viii) The Limited Liability Partnership Act, 2008

1.2 During the year, the Companies Bill, 2011, the Chartered Accountants (Amendments) Bill, 2011, the Cost and Works Accountants (Amendment) Bill, 2011, and the Company Secretaries (Amendment) Bill, 2011 were introduced in Parliament. The other major initiatives undertaken during this year were notification of Combination Regulations under the provisions of the Competition Act, 2002; adoption of 'Carve Outs' in Indian Accounting Standards (Ind Ass); several notifications/statutory orders simplifying rules and procedures; reform of Cost Accounting Rules; 'Green Initiatives' integrated with transparency by way of e-governance tools; e-filings under the XBRL mode permitting large scale data processing; acceptance of e-stamps in a joint venture between the States and the Centre etc. The Ministry also issued 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business 2011' to promote greater accountability of the corporates to the society at large.

1.3 The offices under the Ministry are:

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

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

- Company Law Board
- Competition Commission of India
- Indian Institute of Corporate Affairs

1.5 The total Budget Demand of the Ministry for the year 2012-13 amounts to Rs. 245.50 crore, out of which Rs. 213.50 crore is under the Revenue Expenditure and Rs. 32.00 crore under the Capital Expenditure.

**STATEMENT OF BUDGET ALLOCATION AND EXPENDITURE AND OF THE  
MINISTRY FOR THE LAST 3 YEARS**

Year	Budget Estimates			Revised Estimates			Actual Expenditure*		
	Plan	Non-Plan	Total	Plan	Non-Plan	Total	Plan	Non - Plan	Total
2009-10	33.00	196.62	229.62	33.00	206.05	239.05	33.00	190.15	223.15
2010-11	40.00	209.01	249.01	87.36	198.89	286.25	86.72	183.09	269.81
2011-12	28.00	210.94	238.94	28.00	210.94	238.94	16.03	172.56	188.59

\* The data on actual expenditure for 2011-12 is upto February, 2012.

\*\* The actual expenditure includes authorizations of `8.44 crore to different agent Ministries/Departments upto February, 2012.

1.6 The grants of the Ministry of Corporate Affairs in Demand No.18 provides for the expenditure on the Secretariat of the Ministry of Corporate Affairs, Office of the Director General of Corporate Affairs, six offices of Regional Directorates including one newly created Regional Directorate for Southern Eastern Region at Hyderabad, fifteen offices of Registrar of Companies (ROCs), nine offices of Registrar of Companies-cum-Official Liquidators (ROC-cum-OLs) and thirteen Official Liquidators (OLs), attached offices of Company Law Board, Serious Fraud Investigation Office, National Company Law Tribunal, Competition Appellate Tribunal, Grants-in-aid-General for the Competition Commission of India (CCI) and Indian Institute of Corporate Affairs.

## Statement showing the detailed provisions object head-wise

(Rs. in crore)

Sl. No.	Sub Heads	2009-10			2010-11			2011-12		
		BE	RE	AE	BE	RE	AE	BE	RE	AE
1.	Office Expenses	16.54	14.90	12.26	16.50	15.25	13.47	16.45	17.12	14.06
2.	Grants-in-aid General (CCI)	20.00	19.00	16.00	44.03	34.38	34.38	39.49	39.49	37.49
3.	Investors Education and Protection Fund	5.00	5.00	3.42	5.00	5.00	4.35	5.00	5.00	3.81
4.	Modernisation, Computerisation and Networking	52.99	68.84	66.37	44.83	44.83	41.67	44.19	46.11	31.25
5.	Major Works, Lands & Buildings (IICA)	30.00	30.00	30.00	34.00	81.36	81.35	25.00	25.00	13.03

1.7 The detailed item-wise position giving budgetary estimates, revised estimates, actual expenditure, achievements vis-à-vis targets along with the reasons for not achieving the targets, if any, in respect of various schemes of this Ministry during the last three years is as follows:-

### 1. Salaries:

(Rs. in crore)

Year	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	71.68	70.10	69.48	(-) 2.2
2010-11	64.04	64.45	62.60	(-) 1.44
2011-12	68.96	68.96	65.88	

\*The data on actual expenditure for 2011-12 is upto February, 2012.

The savings of expenditure under Salaries of the Ministry have been on account of non-filling of various categories of vacant posts in the field and attached offices under the administrative control of the Ministry.

### 2. Office Expenses:

(Rs. In crore)

Years	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	16.54	14.90	12.25	(-) 4.29
2010-11	16.50	15.25	13.47	(-) 3.03
2011-12	16.45	17.12	14.06	

\* The data on actual expenditure for 2011-12 is upto February, 2012.



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

### 3. Rents, Rates & Taxes:

(Rs. in crore)				
Year	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	6.52	6.00	5.63	(-) 0.89
2010-11	6.34	7.10	6.09	(-) 0.25
2011-12	7.90	7.10	4.69	

\*The data on actual expenditure for 2011-12 is upto February, 2012.

The savings provided under the Rents, Rates & Taxes during 2009-10 and 2010-11 was due to the fact that the field offices of the Ministry which were functioning from rented buildings at various stations like Chandigarh, Jaipur, Bangalore and Chennai have now shifted to the Ministry's own office complexes. The funds provided for National Company Law Tribunal (NCLT)/National Company Law Appellate Tribunal (NCLAT) could not be utilized as these offices could not be made operational during the said years.

### 4. MCA 21 e-Governance Project:

(Rs. in crore)				
Year	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	52.99	68.84	66.37	(+)13.38
2010-11	44.83	44.83	41.67	(-) 3.16
2011-12	44.19	46.11	31.25	

\* The data on actual expenditure for 2011-12 is upto February, 2012.

The detailed justification in respect of less expenditure incurred during 2009-10, 2010-11 as well as expenditure in 2011-12 is as follows:

#### FY 2009-10

1.8 During the FY, an amount of Rs. 52.99 crore was provided in the BE for meeting the expenditure of MCA21 project. The provision was made on the basis of anticipated outflow of funds and completion of project final certification. Apart from regular O&M cost which is linked with achievement of milestones

specified in the contract, there were 43 items identified, to be delivered/completed by the operator (TCS) for reaching the stage of Project final certification. The status of completion of pending items was reviewed by the Empowered Committee constituted for the MCA21 project (consisting of Secretary, Ministry of Corporate Affairs, Secretary, Department of Information Technology, Secretary, Statistics & Program Implementation and Financial Adviser, Corporate Affairs). Due to completion of certain pending items by the operator, the Empowered Committee decided that certain payments withheld in the earlier years were required to be released in addition to allocated BE during this financial year i.e. an amount of Rs.15.91 crore. Accordingly, the RE for the FY 2009-10 was reviewed and revised to Rs. 68.84 crore that includes an amount of Rs. 9.43 crore raised through supplementary demand. Out of the allocated RE, an amount of Rs. 66.37 crore has been spent during the FY 2009-10.

#### FY 2010-11

1.9 During the FY, an amount of Rs. 44.83 crore was provided in the BE for meeting the expenditure requirements of the MCA21 project. The provision was made on the basis of anticipated expenditure on O&M 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).

1.10 After, booking an expenditure of Rs. 41.67 crore, Rs. 3.12 crore left as surplus during FY 2010-11. The surplus mainly occurred due to decision of the Empowered Committee to release Rs. 2.09 crore out of Rs. 4.95 crore to operator based on the progress achieved in completing the partially completed and pending items of the identified 43 items for attaining the implementation completion of the project.

#### FY 2011-12

1.11 This is the current FY. The BE for this current FY (2011-12) has been provisioned at Rs. 44.19 crore for meeting the expenditure of O&M cost of the project. Anticipating an additional expenditure due to substantial progress in the

partially completed and pending items, at the RE stage, the BE provision has been reviewed and increased to Rs. 46.11 crore.

1.12 Out of the provisioned BE; Rs. 31.25 crore has been utilized till February, 2012, leaving behind a balance of Rs. 12.94 crore to meet the remaining expenditure in the project.

1.13 Invoice for an amount of Rs. 9.00 crore towards EQI payments has already been processed and the sanction orders will be issued after due clearance from IFD. Besides, payments were also required to be released to the National Institute for Smart Government (NISG) for Project Monitoring Unit (PMU) services and to the TCS towards cost of Change Control Notes.

1.14 In addition, the Empowered Committee constituted for the Project recently reviewed the progress in the project (meeting held on 1<sup>st</sup> March 2012). After detailed examination, it has recommended 'final certification' of the Project on completion of all 43 pending items. Due to this recommendation, an amount of Rs. 2.84 crore payable to operator becomes eligible for release. In addition, Rs. 0.99 crore is payable to TCS against cost of changes in application software.

1.15 It is expected that the provisioned BE/ RE will be fully utilized during the financial year 2011-12.

## 5. Investor Education and Protection Fund (IEPF)

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

(Rs. in crore)				
Year	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	5.00	5.00	3.42	(-)1.58
2010-11	5.00	5.00	4.35	(-) 0.65
2011-12	5.00	5.00	3.81**	

\* The data on actual expenditure for 2011-12 is upto February, 2012.

\*\* The actual expenditure includes authorization of Rs.1.00 crore.

The detailed justification in respect of less expenditure incurred during 2009-10, 2010-11 as well as expenditure in 2011-12 is as follows:

1.17 The Companies Act 1956 provides for establishment of the Investor Education and Protection Fund (IEPF) under Section 205 C for promoting investor awareness and protecting their interests.

1.18 The Ministry had been conducting investor awareness programmes with the help of NGOs. In 2011-12, the Ministry decided to entrust the organization of investor awareness programmes mainly to the three professional institutes – ICSI, ICAI & ICWAI to improve the quality of such programmes. It is aimed to have around 30 such programmes in ‘Metros and big cities’ and 1200 programmes in the State Capitals and District Headquarters by the PIs themselves. The approved scale of financial allocation for such programmes varies from Rs. 25,000 to 30,000 per programme. At towns and District Headquarters level the Programmes are being organized through Resource Persons (RPs) appointed by the Professional Institutes at a unit outlay of Rs. 5000 each. In so far as North-Eastern States are concerned, the approved scale of financial allocation for such programmes is Rs. 30,000 per programme to be conducted by PIs and Rs. 7,000/- per programme for the programmes to be conducted through RPs in towns.

1.19 Impact Assessment study has been conducted to ascertain the impact of the initiatives of the Ministry through the Indian Institute of Public Administration (IIPA). The report has been received and being examined in the Ministry.

1.20 For meeting the expenditure incurred on activities relating to investors’ awareness, the Ministry gets a budgetary allocation of Rs. 5.00 crore every financial year. The utilization of the budgetary allocation has increased over the period of time. During the current financial year also, Rs. 5.00 crore have been allotted for investor awareness programmes. There are no constraints/ difficulties and the Ministry expects 100% utilization of funds during the current financial year also.

1.21 The Ministry is planning to make a website where the data on unpaid / unclaimed amounts due to investors will be available. The investors can access this website to know the details about their family members.

## 6. Capital Section (Non-Plan)

(Rs. In crore)

Year	BE	RE	Actual Expenditure *	(-)Savings (+) Excess
2009-10	10.00	11.00	10.89	(+)0.89
2010-11	12.00	12.00	11.71	(-) 0.29
2011-12	12.00	12.00	8.05	

\* The data on actual expenditure for 2010-11 is upto February, 2012.

### FY 2009-10

1.22 During 2009-10, an amount of Rs. 10.00 crore was provided as BE. However keeping in view the requirement of funds on the basis of progress of construction/renovation at various sites, the BE was augmented by Rs. 1.00 crore in the First Batch of Supplementary Demands for Grants. RE was kept at Rs. 11.00 crore. The actual expenditure incurred during 2009-10 was Rs. 10.89 crore on renovation of office space at Allahabad, Bangalore, RoC, Mumbai, Paryavaran Bhawan and Shastri Bhawan, New Delhi, Office of Competition Appellate Tribunal at Jawahar Vyapar Bhawan, New Delhi, part payment of cost of construction of office complexes at Jaipur, Chandigarh and Cuttack and cost of construction of boundary wall of Corporate Bhawan at Hyderabad.

### FY 2010-11

1.23 During 2010-11, an amount of Rs. 12.00 crore was provided as BE. However keeping in view the requirements of funds on the basis of progress of construction/renovation at various sites, RE was kept at Rs. 12.00 crore. During the year, Ministry had incurred expenditure to the extent of Rs. 11.71 crore upto March, 2011 on the projects i.e. (i) cost of construction of office complexes at Chandigarh, Jaipur and Cuttack, (ii) release of balance funds towards cost of boundary wall of Corporate Bhawan at Hyderabad, (iii) installation of transformer in the office of OL, Allahabad, (iv) payment of ground rent for Chandigarh Property, (v) renovation of SFIO in Everest Building, Mumbai and Paryavaran Bhawan, New Delhi, (vi) payment of lease rent of Jaipur Property and (vii) construction of Corporate Bhawan at Hyderabad.

## FY 2011-12

1.24 The BE for the FY 2011-12 has been provisioned at Rs. 12.00 crore. Out of the provisioned BE, Rs. 8.04 crore has been utilised till January, 2012, leaving behind a balance of Rs. 3.96 crore to meet the remaining expenditure on the ongoing projects. The Ministry has utilized the amount on the projects i.e. (i) Installation of Video Conferencing System in the Ministry and its field offices, (ii) Renovation of office space of ROC, Kolkata, (iii) Construction of additional floors on ROC Bhavan, Goa, (iv) Payment of ground rent of Chandigarh Property, (v) Construction of Corporate Bhavan at Cuttack and Hyderabad and (vi) Registration of property at Chennai and (vii) Renovation of R&A Division at Paryavaran Bhavan and office of OL, Delhi at Lok Nayak Bhavan.

## **II. Registrars of Companies (ROCs)**

2.1 The 20 offices of the Registrars of Companies are located throughout the Country. They perform the Registry functions as envisaged under the Companies Act, 1956 starting with the incorporation of Companies, acceptance of statutory annual filing and event based return/applications and accord approvals wherever required. The Registrars are also responsible for ensuring that the companies incorporated in their respective jurisdictions comply with the statutory provisions of the Companies Act, 1956. The regulatory functions include scrutiny of the Annual Returns, Balance Sheets and other documents filed by companies under the provisions of the Companies Act, 1956, taking necessary action on the irregularities and non-compliance noticed as a result of such scrutiny, and initiating legal action against defaulting companies for contravention of the provisions of the Companies Act, 1956.

2.3 As per the mandate provided under Section 234 and 234A of the Companies Act, the Registrar of Companies (ROCs) are also required to scrutinize the Balance Sheets of Companies filed before them. The Committee in the 37<sup>th</sup> Report had recommended that the Ministry should augment the cadre strength of the services manning the field posts and also, if required, engage qualified personnel on deputation or short term contracts.

2.4 During examination of Demands for Grants (2012-13) of Ministry of Corporate Affairs, the Ministry was asked as to how many cases were investigated and booked by the ROCs during the year 2011-12 against erring companies who violated the provisions of the Companies Act and the status of these cases, the Ministry of Corporate Affairs furnished the following reply:

“The Registrars of Companies (ROCs) are not investigating into the affairs of the Companies. The investigation is carried out by the Serious Fraud Investigation Office (SFIO) under Section 235/237 of the Companies Act, 1956. The Inspection Wing of the office of the Regional Directors are carrying out inspections of books of accounts and other records of companies under Section 209A of the Companies Act. However, the ROCs are carrying out technical scrutiny of the records available with them under Section 234 of the Companies Act.

Investigation by SFIO into the state of affairs of the company may be ordered under the provisions of Section 235 or Section 237 of the Companies Act, 1956. Section 235 requires that ROC should furnish these reports under Section 234(6) or (7) of the Act with the recommendation to order investigation. Investigation under Sec 237 requires directions/orders from the Court/Company Law Board (CLB). On receipt of such report from the ROC or directions/orders from the Court/CLB, Ministry examines the matter and order investigation by appointing inspectors drawn from SFIO wherever that officer's participation is considered useful.

During the year 2011-12, 13 investigations were given to the SFIO. In addition, inspections in respect of 80 companies and technical scrutiny in respect of 80 companies have been received during 2011-12. The orders for prosecution or otherwise on merits of each case are issued after examining the reports.

During the period 2011-12 (upto 31-12-2011), a total number of 6882 prosecutions were launched and pursued in various courts under the Companies Act, 1956.”

2.5 During the current year (up to 31.12.2011), a total number of 67,040 prosecutions including 60,258 prosecutions brought forward from the previous year were launched and pursued in various courts under the Company Act, 1956. During this period 14,839 prosecutions were disposed off. As on 31.12.2011, the number of pending cases stood at 52,201.

2.6 On being asked about the specific steps taken in the last one year or so to strengthen the ROCs and to beef up the regulatory and enforcement machinery, the Ministry of Corporate Affairs *inter-alia* furnished their reply as under:

“The Ministry is trying to improve the manpower position in the field offices including the offices of ROCs. The matter is being expedited with Staff Selection Commission (SSC) and Union Public Service Commission (UPSC). As on date, requisition for filling up 39 vacancies in STA grade is pending with SSC. It is understood that the selection process (interview) for 20 posts has been completed.

2. As on date, 29 number of officers (Junior Time Scale, Group A) are undergoing training in the IICA (Indian Institute of Corporate Affairs) and are likely to be posted in the field offices (including ROCs) in the near future, on requirement basis, in two batches. The first batch of 8 ICLS probationers will be completing the training in May 2012 and the second batch of 21 probationers will be completing the training in May 2013. Further, the Ministry has reported 21 vacancies to UPSC (Union Public Service Commission) for Civil Services Examination, 2011 and 6 vacancies for CSE 2012.

3. It was decided to take the officers on deputation in ICLS cadre and accordingly, a proposal was made to the UPSC, in which they were approached for one time relaxation in the Indian Corporate Law Service (ICLS) Rules for filling up of the vacancies in the Grades of Junior Administrative Grade (JAG) and Junior Time Scale (JTS grade). However, Commission has differed from the proposal of the Ministry and advised that the Ministry may consider relaxation in the conditions of qualifying years service in respect of the feeder grade for promotion to higher grades, with the approval of the DOPT and the Commission. Accordingly, a proposal of relaxation in qualifying service for promotion to Junior Administrative Grade by combined service of two feeder grades is being prepared for concurrence of DOPT.

4. The Ministry is trying to rationalize the cadre structure also. Presently 25 grades exists in Group B and Group C posts in the field offices of MCA. To bring them in line with the current and future requirements of the Ministry of Corporate Affairs, it has been decided to restructure Gr. B and Gr. C cadres. It has been decided that future recruitment will be done only in Company Prosecutor, STA (Senior Technical Assistant) and JTA (Junior Technical Assistant). All other cadres (including vacant post) shall be abolished and matching posts will be created. Accordingly, a proposal has been sent to Department of Expenditure for creating 10 posts of Junior Technical Assistant, 18 posts in Junior Time Scale, 30 posts of Senior Technical Assistant

5. It has been decided to commence a system of engagement of the trainees from ICSI (Institute of Company Secretaries of India) and ICWAI (Institute of Cost Accountants of India) for six months and on continuous basis in the field offices and Headquarters to help the staff members in routine work, so that they can follow up more critical activities. The field



offices are engaging these trainees on requirement basis and the feedback of such scheme is very good.

6. Reference has already been made to the XBRL initiatives and the refinement of Early Warning Systems. It is also proposed to expose personnel in the offices of ROCs to other capacity building measures in conjunction with the IICA.”

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

3.1 The Ministry has evolved a system of early alerts called the Early Warning System (EWS) to ensure that there is no recurrence of cases like that of the Satyam scandal. In its 37<sup>th</sup> Report on Demands for Grants (2011-12) of the Ministry of Corporate Affairs, the Committee had recommended that this system of generating early warning alerts should be nurtured earnestly and such valuable information should be shared with related agencies like SEBI, RBI, SFIO, Directorate of Enforcement, etc.

3.2 During examination of the Demands for Grants (2012-13), the Ministry of Corporate Affairs were asked about the concrete steps taken in regard to the functioning of the Early Warning System (EWS) and its efficacy for ensuring investor protection. The Ministry of Corporate Affairs, *inter-alia* furnished their reply as stated below:

“The Ministry has devised the parameters that give an early signal for scrutiny/examination of the records of companies to prevent frauds. In the first year of its implementation in 2009, the Ministry has identified 149 companies after running the parameters on the Balance Sheets available in the MCA-21 records. The Ministry revisited and revised the criteria for identifying companies under Early Warning System and has prepared a list of companies of which salient features are given below:-

- (i) The Companies (listed & unlisted) are run through certain 5 parameters as first filter;
- (ii) The set of the companies identified/selected under category (i) above, are run through another set of 5 parameters for listed and unlisted companies separately as second filter;
- (iii) List of listed and unlisted companies are also generated in various categories such as (a) disqualification of directors, (b) companies which failed to repay the matured deposits and interest thereon, (c) companies having charges but have not filed balance sheets and annual reports.

After having run the revised parameters, a list of 122 companies has been finalized for examination from the point of view of 'public interest' involved. For the purpose of examination, public interest has been shifted to mean (i) the companies having accepted deposits but have not repaid matured amount and interest; (ii) companies having collected money through IPO; and (iii) the companies having taken secured loan but have not filed their due annual returns with the ROCs. It shows that the interest of investors is protected under Early Warning System. However, it is not feasible to provide the specific number of investors.

The Chit fund companies are registered under the Chit fund Act administered by the respective States Governments. These companies are registered under the Companies Act and filing their Balance Sheets and Annual Returns at par with other companies registered under the Act. This Ministry is not controlling their day to day business relating to collection of funds etc., and for that purpose they are reporting their matters to the concerned regulator in the respective States.

In regard to the money circulation/pyramid scheme, it is stated that the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 provides for ban on the promotion or conduct of prize chits and money circulation schemes. This Act is administered by the Ministry of Home Affairs through the state machinery. The type of scheme provides for easy and quick money to its distributors. The distributors get all this money as a consideration for promise made by the sponsor at the time of enrollment. So the matters are dealt with case to case basis and also on merits.

Though there is no mechanism to share the early alerts generated by the Early Warning System with other regulatory agencies, but after technical scrutiny/ inspection/ investigation, the information, if any, relevant to other regulatory bodies, such as SEBI, RBI, Income Tax Department/ PF Authorities, ED, IRDA etc. is shared with them for their necessary action."

#### **IV. Competition Commission of India (CCI)**

4.1 The Competition Commission of India (CCI) was established under the Competition Act, 2002 for the administration, implementation and enforcement of the Act, and was duly constituted in March 2009. The following are the objectives of the Commission:

- (a) To prevent practices having adverse effect on competition
- (b) To promote and sustain competition in markets

- (c) To protect the interests of consumers, and
- (d) To ensure freedom of trade.

4.2 In brief, the Competition Act has essentially the following four components:

\*It prohibits anti-competitive agreements like cartels, which restrict freedom of trade and cause consumer harm by way of limiting production and distribution of goods and services and fixing prices higher than normal;

\*It prohibits abusive behavior of a dominant firm, who through its position of dominance may restrict markets and set unfair and discriminatory conditions;

\*It regulates mergers and acquisitions of large corporations in order to safeguard competitive markets

\*Mandates competition advocacy.

4.3 The details of Budget Estimate(RE), Revised Estimates (RE) and Actual Expenditure (AE) under this head of account as furnished by the Ministry of Corporate Affairs are as below:

(Non-Plan)		Rs. in crore	
Year	Budget Estimates	Revised Estimates	Actuals
2009-10	20.00	19.00	16.00
2010-11	44.03	34.38	34.38
2011-12	39.49	39.49	37.49
2012-13	44.74		

4.4 On being asked as to why has the Ministry marginally increased the budget allotment of CCI from Rs. 39.49 crore in financial year 2011-12 to Rs. 44.74 crore in financial year 2012-13. The Ministry of Corporate Affairs furnished the following reply:

“The Ministry had sent a budgetary demand of Rs.242 crore for the year 2012-13 to the Ministry of Finance, against which, an allocation of only Rs.213.5 crore has been made by the Ministry of Finance for the year 2012-13. This amount was required to be distributed among all participating offices of this Ministry. Accordingly, an allocation of Rs. 44.74 crore was made in respect of CCI, which is almost 13.3 percent more than the allocation made in the year 2011-12 (current financial year), which was to the tune of Rs. 39.49 crore. In case of any shortfall that may accrue in the budget of CCI, the same would be taken care of at the RE stage.”

4.5 During examination of Demands for Grants (2011-12) of the Ministry of Corporate Affairs, it was enquired as to how the CCI is protecting and promoting the consumer interest from its functioning. The Ministry furnished the following reply:-

“While examining the issues in anti competitive agreements and abuse of dominant cases or combination notices, the interest of the consumer remains a central focal point in consideration of the Commission while arriving at the conclusion. In order to spread awareness amongst the consumers various advocacy measures are also taken from time to time through workshops, seminars and lectures etc.

CCI rely on sources other than information received under section 19 (1) and for which regular screening of media reports is carried out and market study both internally and outsourced in respect of the various sectors is also carried out to study structure, conduct and performance in these sectors to develop cases. The Commission has taken suo moto cognizance in the cases related to sugar price, Air fare, onion market, LPG cylinders Manufacture, Ammonium phosphate in view of the possible anti competitive conduct in these sectors.”

4.6 The Ministry was further probed during their oral evidence before the Committee as to whether CCI is engaging external agencies, research institutions to carry out the market study to identify the possibility of market distortion/anticompetitive conduct and about the process being adopted by CCI for identification / removal of such agency. The Ministry of Corporate Affairs furnished their reply as under:

“In pursuance of the mandate under section 49, sub-section 3 of the Competition Act, 2002, before the notification of enforcement provisions of the Act, the Competition Commission of India (CCI) had undertaken 18 market studies for the promotion of competition advocacy, creating awareness and identification of competition related issues as well as capacity building in the institution.

However, after the commencement of enforcement of the Act, the Commission outsourced 3 market studies on ‘Steel’, ‘Paper’ & ‘Agricultural marketing with special focus on Onion’.

The studies on paper and steel were given to CRISIL for which reports have already been submitted and being examined within the Commission. The study on Competitive assessment on agricultural marketing in India with special focus on Onion was commissioned to ISEC following the investigation report of DG on a *suo-moto* case taken up by the Commission about the anticompetitive practices prevalent in agricultural market in India which is in progress.

The studies undertaken prior to enforcement activities were taken from advocacy and capacity building point of view and later three studies are undertaken to identify competitive conduct from enforcement point of view. These studies were very useful to Commission and relied several times by the Commission to understand structure conduct and performance of the sector.”

4.7 During the examination of Demands for Grants (2012) of Ministry of Corporate Affairs, CCI was asked about the status report on investigation done with regard to anticompetitive conduct/cartelization in cement sector, aviation sector and onion market, the Ministry of Corporate Affairs furnished the following reply:

“The cases of alleged anticompetitive conduct/cartelization in cement sector and onion market are under consideration in the Commission.

Details of Aviation sector is as under:

The Commission ordered investigation in one suo moto case and case referred by Ministry of Corporate Affairs. The cases have been finally disposed by the Commission vide order dated 10.1.2012 and 11.1.2012 respectively.

The Commission could not find any violation of provisions of Competition Act by the Airlines. The Commission had made following observations in the order:

“The Commission notes from the findings of DG that like in any peak season, during diwali of 2010, load factor on airlines had increased and in some cases it was about 100%. Keeping with this trend, the percentage of tickets sold in the higher buckets of airlines had also gone up. To this extent, it may be said that there is a pattern in air fares going upwards together in a sense that during the period of high demand, fares of all airlines tend to move together. However, in absence of evidence of any organized, express or tacit collusion among the airlines, the Commission feels that it cannot be concluded that the airlines have entered into any anti-competitive agreement in violation of section 3 (3) of the Act.

The Commission also observes that in course of investigation, DG has not come across any evidence which would suggest that there was any concerted action on part of airlines to reduce the capacities with a view to raise the fares in face of high demand during February 2009 and October-November 2010. Before DG, Airlines like GoAir, IndiGo and SpiceJet have denied that there was any reduction in number of flights during October-December 2010. In fact, IndiGo has submitted that on many sectors to cater to the demand, number of flights was increased. There is no evidence which brings out any

concerted action on part of airlines to reduce capacities in February 2009 either.

Based upon the foregoing, the Commission finds that no case of contravention of any of the provisions of section 3 (3) of the Act is made out against the airlines as has been alleged in these two cases. Accordingly, the Commission concludes that since there are no evidences on record to suggest that the airlines operators raised the air fares and /or withdrew their promotional fares across all sectors because of some agreement among them during the period under investigation, the proceedings in matter deserve to be closed forthwith.”

4.8 The Committee in its 37<sup>th</sup> Report on Demands for Grants (2011-12) had also recommended to fill the vacant posts and engage consultants and domain experts in CCI.

4.9 On being asked as to what efforts have been made by the Commission to fill the vacant position both at the level of Commission and DG, CCI, the Ministry of Corporate Affairs in a written submission stated as under:

“At present, out of a sanctioned strength of 195 posts in CCI (including DG office), 101 posts are filled. In addition, there is one post each of Secretary and DG and both of them are filled.

The total sanctioned strength of the Commission alone is 155 posts out of which 86 posts are filled. 35 posts had been advertised for filling up on deputation basis in CCI. Two Advisers have already joined as a result of this latest initiative. Interviews have been held/are being held for the remaining posts. The vacant posts have been advertised again and efforts are being made to appoint as many eligible officers as possible without compromising on quality of manpower.

Office of DG, CCI has a sanctioned strength of 44, out of which, 15 officers are in place. Appointment letters with respect to 4 more officers have been issued/ are under issue. The selection process for the remaining 21 posts is also under way and is in different stages of written exam/ interview. The process is likely to result in filling up most of the vacant positions. In addition, CCI is engaging professionals as experts on contract to carry out the work related to critical analysis to ensure that no cases are dealt / pending due to shortage of manpower.”

## **V. Serious Fraud Investigation Office (SFIO)**

5.1 The SFIO has been set up by the Government of India in the Ministry of Corporate Affairs by way of a resolution dated 2.7.2003. It is a multi-disciplinary Investigating Agency, wherein experts from banking sector, capital market, company law, law, forensic audit, taxation, information technology etc. work together to unravel a corporate fraud. SFIO takes up investigation of corporate 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 (Rs. 50 crore or more, or where the paid up capital of the company is Rs. 5 crore or more of which at least 20% has been subscribed by the public), or in terms of persons affected (at least 5000 persons); and (c) the possibility of investigations leading to, or contributing towards, a clear improvement in systems, laws or procedures SFIO is carrying out investigation under provisions of the Companies Act, 1956 from Sections 235 to 247. The Companies Bill, 2011 provides for statutory status to the SFIO and enhanced powers to take police action in cases of corporate frauds.

5.2 During the financial year 2010-11, six cases were ordered for investigation under Section 235/237 of the Companies Act, 1956 by the Central Government under separate orders. During the current year, seven cases were ordered for investigation. Besides these thirteen cases, one case ordered for investigation by Government during 2008-09 is also currently pending. In two cases, investigation has either been withdrawn or kept in abeyance.

5.3 Since its inception, 89 cases have been referred to SFIO for investigation. Out of these, SFIO has submitted investigation reports in 73 cases till 31.12.2011 [including thirteen submitted in 2010-11 and eleven during the current year (up to 31.12.2011)] and four cases have been either stayed or dismissed by Courts. As on 31.12.2011, twelve cases are under investigation by SFIO.

5.4 During the examination of Demands for Grants (2012) of Ministry of Corporate Affairs, the Ministry was asked as to why the budget provision of SFIO has been reduced from Rs.595 lakh in the RE of 2011-12 to Rs.511 lakh in BE of 2012-13. The reply of the Ministry is as follows:

“The budget projections for the next financial year are required to be made based on actual expenditure upto the month of September in which the budget exercise is being done. Accordingly, based on the actual expenditure incurred by the SFIO upto September, 2011 which was Rs.276 lakhs, a budget allocation of Rs.511 lakhs was made for SFIO for BE 2012-13, taking into account the overall budget allocation of Rs.21350 lakhs made by the Ministry of Finance against a demand of Rs.24200 lakhs made by the Ministry to the Ministry of Finance for BE 2012-13. Keeping in mind the reduced allocation of the Ministry, the budget allocation for SFIO had to be kept at Rs.511 lakhs.

To offset any shortfall that may arise in the budget of SFIO during the year 2012-13, the Ministry proposes to seek additional funds either through supplementary demands for grants or at the Revised Estimates Stage.”

## **VI. Investor Education and Protection Fund (IEPF)**

6.1 The Investor Education and Protection Fund (IEPF) has been set-up under Section 205C of the Companies Act, 1956, with a view to support the activities relating to investor education, awareness and protection. The following unclaimed amounts are credited to the Fund:-

- (a) Unpaid dividend accounts of the companies;
- (b) Application moneys received and due for refund;
- (c) Matured deposits;
- (d) Interest accrued in the amounts referred to above;
- (e) Matured debentures;
- (f) Grants and donations by the Central Govt., State Govt., companies or any other institutions; and
- (g) Interest or other income received out of the investments made from the Fund.

6.2 The objectives/activities of the Fund are:

- Educating investors about market operations;
- Equipping investors to analyse information to take informed decisions;
- Making investors aware about market volatilities;
- Empowering the investors by making them aware of their rights and responsibilities under various laws;



- Continuously disseminating information about unscrupulous elements and unfair practices in securities market;
- Broadening the investors' base by encouraging new investors to participate in securities market; and
- Promoting research and investor surveys to create a knowledge base that facilitate informed policy decisions.

6.3 A Committee, set up under the Act, takes decisions regarding spending moneys out of the Fund for carrying out the above objectives and activities relating to investors' education, awareness and protection.

6.4 Under the IEPF 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. Ministry has decided to conduct the investor awareness programmes through the Professional Institutes to improve the quality of these programmes.

6.5 The Ministry has restructured its complaint module on MCA-21 System with a view to making investor grievance redressal more effective and responsive. In order to avoid duplicacy of work and also to save Government funds, it was decided to discontinue the Investor Helpline project.

6.6 The Ministry organized the "India Corporate and Investor Meet" from February 6-22, 2012 to bring a national focus on the subject of investor awareness and contribution of corporate sector in Indian Social and economic development. As part of the India Corporate and Investor meet, five events were organized in Kolkata, Chennai, Bangalore, New Delhi and Mumbai alongwith a large number of programmes throughout the country with an objective of bringing the investors of the region into the mainstream through investor awareness agenda. A comprehensive "Investors Handbook" in English and two booklets – "First Steps to Investing – A Beginner's Guide" and "Primer for First-Time and Existing Investors", which were published in English, Hindi and major regional languages, were distributed during the events. The theme of the event was 'Corporate Growth, Governance and Inclusion'.

6.7 During the examination of Demands for Grants (2012-13) of Ministry of Corporate Affairs, the Ministry was asked that under the IEPF activities, since Ministry is releasing lot of funds to private institutions, namely, Prime Investors Protection Association and Midas Touch Investors Association, what steps have been taken by the Ministry to review the working of these organisations, the Ministry of Corporate Affairs in a written submission stated as under:

“The total money collected under IEPF from the year 2001-02 to 2010-2011 is Rs.105066.18 Lakh and is credited to the Consolidated Fund of India. Against this, the Ministry has been getting a budgetary allocation of Rs.5 Crore each financial year for various activities under IEPF.

Out of the amounts allocated in the budget, funds have been released to M/s Prime Investors Protection Association and League (PIPAL) and M/s. Midas Touch Investor Association, New Delhi for running the websites [www.watchoutinvestors.com](http://www.watchoutinvestors.com), [www.iepf.gov.in](http://www.iepf.gov.in) and [www.investorhelpline.com](http://www.investorhelpline.com). The website [www.watchoutinvestors.com](http://www.watchoutinvestors.com) is a national web-based registry covering entities including companies, intermediaries and individuals who, have been indicted for an economic default and/or, have been non-compliant of laws/guidelines and/or, are no longer in the specified activity. This website is receiving an average hit of more than 25,000 per month in recent times.

However, the Ministry having developed the functionality for investor complaints as available on the website [www.investorhelpline.com](http://www.investorhelpline.com) in the MCA21 portal, the monetary support to M/s Midas has been discontinued with effect from 01.09.2011.

We are also providing funds to the three Professional Institutes, namely ICSI, ICAI and ICWAI (re-named as ICAI) for conducting investor awareness programmes.

During the current financial year i.e. 2011-12(till 27.03.2012) the Ministry had conducted 1919 programmes through the three Professional Institutes. Out of these 1761 programmes were conducted in tier II and tier III cities i.e. smaller cities.”

6.8 On being asked as to what steps are being taken to promote investor awareness in the North East so that more and more shareholders of North East region join the capital market, the Ministry inter-alia furnished their reply as stated below:

“To give impetus to these programmes in North East States, the Ministry enhanced the financial assistance for the programmes in this region only to Rs.30,000/- from Rs.25,000/- for the programmes being conducted through Professional Institutes and to Rs.7,000/- from Rs.5,000/- for

programmes being conducted through Resource Persons in the interest of the country. During the current financial year, 12 programmes have been conducted in North East States. 8 programmes have been conducted in Assam, 3 programmes have been conducted in Sikkim and 1 in Tripura.”

6.9 The Committee in its 37<sup>th</sup> Report on Demands for Grants (2011-12) of Ministry of Corporate Affairs had recommended to the Ministry to augment the corpus of the IEPF by increasing the budgetary allocation to this Fund which has remained stagnant at Rs. 5 crore for many years. However, the Ministry has reduced the budgetary provision to 1.4 crore in BE of 2012-13. Instead, a provision of Rs. 3.6 crore has been made for investors’ awareness programmes under IEPF by Regional Directors. On being asked as to why has the Ministry proposed such a shift for one sub-head to another sub-head, the reply of the Ministry was as follows:

“For better monitoring and coordination of IEPF activities and also to reduce administrative delays, the Ministry decided to get the Investor Awareness Programmes conducted through Regional Directors. The RDs have been allocated Rs.60 lakh each for the financial year 2012-13 i.e. Rs. 60 lakhs x 6 = 3.60 crore out of Rs.5.00 crore of allocation to IEPF Head. It is felt that the number of programmes may increase and be more effective due to this arrangement.”

## **VII. Corporate Governance/Corporate Social Responsibility**

7.1 With a view to promoting good corporate governance practices amongst the Indian corporate sector, the Ministry of Corporate Affairs, through National Foundation of Corporate Governance (NFCG), has provided a platform to harmonize various initiatives on corporate governance at the national level and interact with similar organizations across the world. The activities conducted under the aegis of NFCG include seminars and conferences on subjects related to corporate governance, research activities on corporate governance practices in Indian companies etc. During the year 2011-12 (upto December, 2011), NFCG has conducted a Directors’ Orientation Programme, and thirteen Seminars/Conferences/Workshops across the country and abroad.

## **National Foundation of Corporate Governance (NFCG)**

7.2 The National Foundation for Corporate Governance (NFCG) was set up on 1.1.2003 by the Ministry with a view to promoting better corporate governance practices in India as the key to sustainable wealth creation. The Foundation has been established as a Trust in partnership with Confederation of Indian Industry (CII), Institute of Company Secretaries of India (ICSI) and Institute of Chartered Accountants of India (ICAI). The NFCG was expanded to include ICWAI and the National Stock Exchange in the year 2010. NFCG also functions as a platform to harmonize various initiatives on corporate governance at the national level and remains in contact with similar organizations across the world.

7.3 The internal governance structure of NFCG consists of a Governing Council, chaired by the Hon'ble Minister of Corporate Affairs; a Board of Trustees, chaired by Secretary, Ministry of Corporate Affairs; and an Executive Directorate.

7.4 The Board of Trustees deals with the implementation of policies and programmes and laying down the procedure for the smooth functioning. The Executive Directorate implements the decisions of the Board of Trustees. The Executive Director is the Chief Executive Officer of NFCG. The Executive Directorate exercises power delegated by the Board of Trustees to carry out functions entrusted by the Board. The Executive Director is supported by full time dedicated professional secretariat.

7.5 When asked about the lessons that were learnt in the matter of Satyam Scam. The Ministry of Corporate Affairs, inter-alia furnished their reply as stated below:

“The Satyam Case in itself was an atypical case. After a detailed examination of the case, the Ministry felt that there is a need to refurbish Corporate Governance in the company to prevent further slide. Hence, the Government has taken steps to strengthen corporate governance standards in the country by way of including a number of policy measures in the Companies Bill, 2011 introduced in the Parliament on 14.12.2011. The more salient among them are code for Independent Directors, Corporate Social Responsibility, rotation of auditors, enhanced disclosure norms and e-Governance initiatives. Besides, Voluntary Guidelines on Corporate Governance have been issued in 2009 to provide a well defined framework of good corporate

governance. To further firm up the framework, a Committee has also been recently appointed to formulate a policy on corporate governance which will embrace elements not forming part of the legislation. Further, Ministry's e-Governance programme (MCA21) ensures compliance and transparency which promote corporate governance."

7.6 During examination of the Demands for Grants (2012-2013) of the Ministry of Corporate Affairs, the Ministry made the following written submission with regard to formulation of National Corporate Governance Policy:

"The Ministry has set up a committee to formulate a policy document on corporate governance under the chairmanship of Shri Adi Godrej. The other members are as under:

- (i) Dr. Kiran Mazumdar Shaw, CMD, Biocon Ltd;
- (ii) Shri Sidharth Birla, FICCI;
- (iii) A Nominee of CII;
- (iv) Nominee of ASSOCHAM;
- (v) Director-General, IICA;
- (vi) Shri M.K. Chauhan, Vice Chairman, Asian Centre for Corporate Governance & Sustainability;
- (vii) Shri R.S. Sharma, former MD, ONGC;
- (viii) A representative of Ministry of Corporate Affairs ;
- (ix) Shri G. Ramaswamy, former President, ICAI;
- (x) Shri Y.M. Deosthali, Chairman, L&T Finance Holdings Limited;
- (xi) Shri S. Balasubramaniam, former Chairman, Company Law Board ;
- (xii) Shri S.K. Rungta, ex-CMD, SAIL;
- (xiii) Shri Keki Mistry, Vice Chairman and CEO, HDFC;
- (xiv) Ms. Zia Modi, Lawyer;
- (xv) Nominee of the Institute of Cost Accountants of India;
- (xvi) President, ICSI-Member Secretary/Convener

7.7 The terms of reference of the Committee are as under:-

- (a) Elicit opinions about the necessity of having a formal policy document on corporate governance;
- (b) Hold wide consultations with all the stakeholders in the corporate sector, academics and members of Public;
- (c) Hold seminars, workshops and meetings as may be considered necessary for clarification of issues and obtaining clarity;
- (d) Issue questionnaires and invite written comments through public advertisements ;and
- (e) Take such other steps as may be considered necessary to suggest a comprehensive policy framework to enable corporate governance

of highest quality in all classes of companies without impinging on their internal autonomy to order their affairs in their best judgment.

- (f) To suggest ways and means of engendering and enhancing the synergies between the public governance system and corporate governance.
- (g) To examine the case for making sustainability reporting an integral part of the corporate governance policy framework
- (h) Take into consideration the recommendations of Kiran Karnik Committee on revised national voluntary guidelines.

7.8 The Committee was formed on 7<sup>th</sup> March, 2012 and it proposes to meet on 5<sup>th</sup> April, 2012. The Committee is required to submit its report within six months from the date of its first meeting.

7.9 Besides, as the Hon'ble Committee is aware that for the first time a number of policy measures are included in the Companies Bill, 2011. The more salient among them are –

- (i) A code for Independent Directors.
- (ii) Corporate Social Responsibility.
- (iii) Rotation of Auditors.
- (iv) E-Governance Initiatives.”

7.10 During examination of Demands for Grants (2012-13), the Ministry was informed that the Companies Bill, 2011 is casting a major responsibility on Chartered Accountants including the role of whistle blowers. The Ministry enquired as to how it has ensured the independence of auditors in the proposed corporate law regime and whether the role and functions of the Chartered Accountants have been clearly delineated from the role and functions of Cost Accountants, the reply of the Ministry was as follows:

“Ensuring independence of audit and an enabling environment for auditors to discharge their duties without fear or favour and in a truly effective manner is not only one of the basic tenets of corporate governance but has acquired urgency and significance in the light of instances of corporate misgovernance and scams that have come to light in the last few years.

The Companies Bill, 2011, presently under consideration of the Hon'ble Parliamentary Standing Committee on Finance after its introduction in the Lok Sabha has recognized the importance of strengthening the audit

mechanism of companies and the independence thereof. It is provided that auditors will not perform specified non audit services to the auditee company, auditors will be rotated and their tenure fixed etc. The Bill also provides for conducting internal audit of the functions and activities of the company by either a CA or a Cost Accountant or such other professional as may be decided by the Board for prescribed class of companies. The freedom of auditors to work is also ensured by provisions in the Companies Bill which provide for penalties against auditors only if they work with an intention to deceive or act in a fraudulent manner.

As far as a whistle blower policy is concerned, a whistle blower is a conscience keeper who works as a good samaritan in public interest. The Companies Bill provided for listed companies or prescribed class of companies to establish a vigil mechanism for directors and employees to report genuine concerns. This mechanism will also provide for adequate safeguards against victimization of persons who use such mechanism.

It is true that the name of the Institute of Cost and Works Accountants of India has been changed by a recent amendment in the Cost and Works Accountants Act 1959 to the 'Institute of Cost Accountants of India' and the members of this Institute are called Cost Accountants. In the original proposal of the Ministry, it was proposed to change the nomenclature of the Institute to 'Cost and Management Accountants of India' and the practitioners of the profession to be called as 'Cost and Management Accountants'. However, in view of the feed back received from the Institute of Chartered Accountants of India and also due to the fact that the word 'management' is a very generic term and it might not be possible to attach it to a particular profession, it was decided that the word 'management' be dropped from the nomenclature of the Institute and the members thereof and the Institute should simply be called the 'Institute of Cost Accountants of India'. It is felt that with the dropping of the word "management" from the nomenclature of the profession Cost Accountants, the line of demarcation between the two professions is now well defined."

7.11 On being asked as to whether CSR activities being practiced by companies in India are monitored at any level with a view to assess the degree of their commitment to CSR, the reply of the Ministry was as follows:

"CSR activities as a part of the business process and business profiles of companies, both in the public and private sector, have become increasingly important over the years. It has come to be generally accepted that the aim of business is not only to generate profits but to function in an environment which is in harmony with nature and which creates value for all stakeholders in the field of economy, society, environment, distributive justice, equity, ameliorating the conditions of the poor and deprived sections of the society, and so on. At present only CSR initiatives of PSUs is monitored by the Department of Public Enterprises as part of the commitment of PSUs made in their MoUs. For private

companies the initiatives are currently purely voluntary but find increasing mention in Annual Reports of the companies concerned. Once the companies Bill 2011 becomes a law a more structured monitoring may be possible.

It is true that many corporates have floated their own CSR outfits in the form of Foundations, Trusts and NGOs which are also often synergistically aligned to the business profiles of these companies. These organizations are primarily registered as NGOs under the Societies Registration Act, 1860 or as a “non profit company” under the section 25 of the Companies Act or as trusts and foundations under the applicable laws. Instances where such outfits receive Government grants arise on account of various schemes of the Central and State Governments having enabling provisions to involve NGOs in implementation of the respective schemes. It is proposed that this Ministry will suggest to social sector Ministries to consider suitably amending guidelines for release of funds to NGOs so that outfits floated or patronized by corporates show the degree of support that these bodies receive from such corporates as part of CSR initiative of the founder company.

Organizations like the ICSI take into account CSR commitment of the companies while judging them for their corporate governance excellence awards.

The Ministry proposes to request an organization like the National Foundation of Corporate Governance to assess CSR spendings and standards of certain randomly selected companies.”



## **RECOMMENDATIONS/OBSERVATIONS**

### **Budgetary Allocation**

1. The scrutiny of Demands for Grants of the Ministry of Corporate Affairs reveals substantial and persistent underutilization of the total expenditure in the Non Plan outlay. For instance, the provisions of Rs. 196.62 crore at the BE stage in the year 2009-10 was increased to Rs. 206.05 crore at the RE stage, while the actual expenditure was to the tune of Rs. 190.15 crore only. Though, the provision of Rs. 209.01 crore at the BE stage in the year 2010-11 was reduced to Rs. 198.89 crore at the RE stage, the actual expenditure turned out to be Rs. 183.09 crore, which was even less than the RE. Further, in the year 2011-12, provision of Rs. 210.94 crore at the BE stage remained unchanged during the RE stage, still, the actual expenditure was Rs. 172.56 crore only till February, 2012. This trend reflects that the formulation of Budget of Ministry of Corporate Affairs has been reduced to an exercise of unrealistic estimates projection coupled with underutilization of funds. The Committee in their earlier reports had commented upon the Ministry's failure in regard to appropriate projection of fund requirements while formulating budget estimates. However, recurrent and substantial underutilization of allocated funds indicate that the budgetary mechanism in place has been ineffective. The Committee, therefore, expect the Ministry of Corporate Affairs to exercise greater care in formulating their budget estimates and are of the view that

periodic/quarterly meetings should be held to review and constantly monitor the trend and progress of expenditure.

### **Registrar of Companies (ROCs)**

2. The Committee note that inspite of the efforts made by the Ministry in trying to beef up the regulatory and enforcement machinery in its field offices, the situation at the ground level is rather disappointing with 52,201 cases pending as on 31.12.2011. The Committee in its 37<sup>th</sup> Report on Demands for Grants (2012-13) of Ministry of Corporate Affairs had recommended that the Ministry should augment the cadre strength of the services manning the field posts and also if required, engage qualified personnel on deputation or short-term contracts. The Committee feel that to clear the technical backlog of work the Ministry should consider engaging professionals like practicing Chartered Accountants, Company Secretaries, etc. as consultants who being peer group are better equipped to scrutinize statements and other documents prepared on behalf of companies. Since the experience of the Ministry in engaging trainees (semi-qualified professionals of ICSI and ICWAI) for 6 months and on continuous basis in the field offices and Headquarters to assist the staff members in routine work enabling them to follow up more critical activities has been found to be satisfactory, the Committee expect the Ministry to increase the scale of such engagement. To make this system work efficiently, the Committee desire the Ministry to clearly define the duties

and accountability of these hired professionals in their terms of engagement.

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

3. The Committee observe that the Early Warning System put in place by the Ministry of Corporate Affairs has achieved some results in generating early alerts about defaulting companies. The Committee, however, desire that this system should be made more robust by developing an interdepartmental IT enabled interface in which related Government agencies like SEBI, Enforcement Directorate and Income Tax Department, etc. are able to share system generated early warning alerts about potential corporate defaults so that timely action could be taken by the respective Government Departments.

### **Competition Commission of India (CCI)**

4. The Competition Commission of India was constituted in the year 2009 with the main objective of promoting and sustaining competition and to make markets more responsive to consumer preferences. The Committee feel that since CCI is still in its formative years, it has to increase its visibility amongst all the stakeholders. This would require involving law colleges, professional institutes like ICSI, ICAI etc., and Chambers of Commerce for conducting various workshops and seminars.

5. The Committee further observe that CCI has also undertaken market studies to identify market distortionary activities. Considering the scale

and size of the Indian economy, these studies have covered very few sectors. The Committee, therefore, expect the Commission to increase the scale and size of its market research studies in the coming years.

6. The Committee also urge the Ministry to expedite the investigation of cartelization in cement and onion sectors and report its findings to the Committee at the earliest. The Committee note that in case of the aviation sector, the Commission has closed the matter as it has found no evidence on record to suggest that airlines operators raised the airfares and/or withdrew their promotional fares across all sectors because of some agreement between them. While disagreeing with the findings of the commission, the Committee would like to have details of the investigation on the basis of which such conclusion has been drawn by the Commission.

7. The Committee note marginal increase in the budget allotment of CCI from Rs. 39.49 crore at the BE stage of 2011-12 to Rs. 44.74 crore at the BE stage of 2012-13. According to Committee, such increase in budgetary allocation may be adequate to meet the increase in salary, allowances and other administrative expenses of the Commission but to incur additional expenditure in promoting competition advocacy, conducting market research studies to identify anti-competitive practices in the economy, etc. the Committee suggest to the Ministry to increase the budgetary support to CCI.

8. The Committee fail to understand as to why the Commission has not filled the sanctioned strength of posts both in the CCI and the DG office year after year. The Committee desire the Commission to chalk out a

revised recruitment strategy to attract young and qualified talent from a diverse pool. The Commission may also consider empanelment of professionals on annual basis to tide over the shortage of skilled manpower.

### **Serious Fraud Investigation Office (SFIO)**

9. SFIO is a multi-disciplinary investigating agency wherein experts from the field of banking, Capital Market, Company Law, Forensic, Audit, Taxation, Information Technology, etc. work together to unravel a corporate fraud. The Committee notice that on one hand, the Ministry have proposed statutory status to the SFIO through Companies Bill, 2011 while on the other hand the budgetary provision for FY 2012-13 has been reduced from Rs. 595 lakh in RE of the year 2011-12 to Rs. 511 lakh in BE of the year 2012-13. The reason furnished by the Ministry for this shortfall that since there has been an overall reduction in the Budget allocation of the Ministry of Corporate Affairs, budgetary allocation for SFIO had also been pro-rata reduced is not convincing. In view of SFIO's enhanced powers and responsibilities in the proposed company law regime, the Ministry will have to beef up its resources, both human and technological. The Committee are apprehensive that the reduced outlay for running such important attached office of the Ministry would hamper the investigation of complex corporate frauds, having inter-departmental and multi-disciplinary ramifications. The Committee, therefore, urge the Ministry to provide enhanced funds and skilled manpower to SFIO so that it can effectively discharge its functions.

## **Investor Education and Protection Fund (IEPF)**

10. The Committee note that the Ministry has established the IEPF with the objective of promoting investor awareness and protecting their interest including the small investors. The Committee welcome the move of the Ministry to get Investor Awareness Programmes conducted through Regional Directors, as this would help in covering region-wise maximum number of investors spread across different regions of the country. However, the Ministry has made allocation of Rs. 3.6 crore to Regional Directors for investor awareness programmes by reducing the annual fund allocation of IEPF to Rs. 1.4 crore. The Committee have been recommending time and again to the Ministry for augmenting the corpus of IEPF as this is an emerging area of concern with an ever-increasing number of grievances and widening scope for redressal, involving multitudes of people and organizations. While emphasizing to treat investor awareness and protection with due seriousness, the Committee reiterate the demand for more allocation under this head and suggest the Ministry to devise interactive methods of conducting investor awareness programmes through out the country.

11. The Committee note that the Ministry has decided to discontinue the Investor Helpline Project as it has restructured its complaint module on MCA-21 System. The Committee, however, feel that since net penetration in India is rather low, especially in tier II and tier III cities and remote areas of the country, the Ministry should reconsider its decision to discontinue Investor Helpline Project.

## **Corporate Governance**

12. The Committee note that the Ministry have formed a committee to formulate a policy document on corporate governance. The proposed Committee on Corporate Governance will enable the Government to have free and frank opinion of all stakeholders in the corporate sector, academics and members of public before finalising any policy document on corporate governance. The Committee feel that in order to avoid Satyam like scandals, it is imperative to have strong corporate governance standards in the Country to provide a uniform and well-defined framework of good corporate governance. The Committee, while noting that the Companies Bill, 2011 has recognized the importance of strengthening the audit mechanism of Companies and independence thereof, urge the Ministry to come out with a formal whistle blower policy on the lines of corporate governance policy, so that adequate and uniform safeguards are put in place against victimization of persons who report instances of corporate misgovernance and scams.

13. In the light of emerging industrial practices and evolving accounting / financial norms and standards, the Committee desire that the Ministry may review the role, functions and scope of the two related professions, namely Chartered Accountants and Cost Accountants and bring necessary amendments, if required, in their respective statutes so that the ambiguities and grey areas are duly addressed.

14. The Committee observe that many companies float their own NGOs and Trusts for Corporate Social Responsibility (CSR) activities and have

received government grants and funds instead of spending their own money on CSR activities. The Committee recommend that the proposed corporate governance framework should suggest ways and means of monitoring CSR commitments of the companies. The proposed framework should also suggest methods to check the release of funds from Central and State Governments to such NGOs, Trusts, Foundations, which are often aligned to the business objectives of their respective companies, so that the extent of financial support received by these organizations from their patron companies is clearly brought out.

New Delhi;  
20 April, 2012  
31 Chaitra,1934 (Saka)

**YASHWANT SINHA,**  
Chairman,  
Standing Committee on Finance.



## MINUTES OF THE FIFTEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Monday, the 26<sup>th</sup> March, 2012 from 1500 hrs to 1745 hrs.

### PRESENT

**Shri Yashwant Sinha** – **Chairman**

### MEMBERS

#### LOK SABHA

2. Shri Shivkumar Udasi
3. Shri Harishchandra Deoram Chavan
4. Shri Bhakta Charan Das
5. Shri Nishikant Dubey
6. Shri Chandrakant Khaire
7. Shri Bhartruhari Mahtab
8. Shri Prem Das Rai
9. Dr. M. Thambidurai

#### RAJYA SABHA

10. Shri Mahendra Mohan
11. Dr. Mahendra Prasad

#### SECRETARIAT

1. Shri A.K. Singh – Joint Secretary
2. Shri R.K. Jain – Director
3. Shri Ramkumar Suryanarayanan – Deputy Secretary
4. Smt. Meenakshi Sharma – Deputy Secretary

### Part I

(1500 hrs. to 1620 hrs.)

### WITNESSES

2. **XX** **XX** **XX** **XX**
- XX** **XX** **XX** **XX**

The witnesses then withdrew.

### Part II

(1630 hrs. to 1745 hrs.)

**WITNESSES**

**MINISTRY OF CORPORATE AFFAIRS**

1. Shri Naved Masood, Secretary
2. Shri Sudhir Mital, Additional Secretary
3. Dr. Rajan Katoch, AS&FA
4. Shri A.K. Srivastava, Joint Secretary
5. Smt. Renuka Kumar, Joint Secretary
6. Shri Manoj Kumar, Joint Secretary
7. Ms. Vineeta Barwa, Chief Controller of Accounts
8. Ms. Sibani Swain, Economic Adviser

**ATTACHED/SURBORDINATES OFFICES**

1. Shri Bhaskar Chatterjee, DG &CEO, IICA, New Delhi
2. Shri S.L. Bunkar, Secretary, Competition Commission of India (CCI)
3. Shri Rajesh Sharma, Additional Director, SFIO

3. The Committee then took oral evidence of the representatives of the Ministry of Corporate Affairs in connection with examination of Demands for Grants (2012-13) of the Ministry and issues connected therewith. The major issues discussed during the evidence included amendments to the Acts governing Institutes of Chartered Accountants, Cost Accountants and Company Secretaries; introduction of XBRL platform for filing of documents by companies; Company Law Settlement Scheme; Fast Track Exit Scheme; Indian Institute of Corporate Affairs; steps taken by the Ministry to formulate a national corporate Governance Policy, Investors Protection Fund; role of Serious Fraud Investigation Office in investigating the frauds committed by companies; efficacy of Competition Commission of India in promoting or protecting the interests of consumers; contributions of corporate houses to Corporate Social Responsibility, etc. The Chairman directed the representatives of the Ministry of Corporate Affairs to furnish written replies on the points raised by Members within a week.

A verbatim record of proceedings was kept.

The witnesses then withdrew.

The Committee then adjourned at 1745 hours.

## MINUTES OF THE EIGHTEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2011-12)

The Committee sat on Friday, the 20<sup>th</sup> April, 2012 from 1130 hrs to 1400 hrs.

### PRESENT

**Shri Yashwant Sinha** – **Chairman**

### MEMBERS

#### LOK SABHA

2. Shri Gurudas Dasgupta
3. Shri Nishikant Dubey
4. Shri Chandrakant Khaire
5. Dr. Kavuru Sambasiva Rao
6. Shri Rayapati S. Rao
7. Shri Sarvey Sathyanarayana
8. Shri Yashvir Singh
9. Dr. M. Thambidurai

#### RAJYA SABHA

10. Shri Satish Chandra Misra
11. Dr. K.V.P. Ramachandra Rao

#### SECRETARIAT

- |    |                              |   |                  |
|----|------------------------------|---|------------------|
| 1. | Shri A.K. Singh              | – | Joint Secretary  |
| 2. | Shri Ramkumar Suryanarayanan | – | Deputy Secretary |
| 3. | Smt. Meenakshi Sharma        | – | Deputy Secretary |
| 4. | Shri Kulmohan Singh Arora    | – | Under Secretary  |

### Part I

(1130 hrs. to 1300 hrs.)

### WITNESSES

2.	<b>XX</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>
	<b>XX</b>	<b>XX</b>	<b>XX</b>	<b>XX</b>

A verbatim record of proceedings was kept.

The witnesses then withdrew.

**Part II**  
**(1300 hrs. to 1400 hrs.)**

3. The Committee took up following draft Reports for consideration and adoption: -
- (i) Draft Report on Demands for Grants (2012-13) of the Ministry of Finance (Departments of Economic Affairs, Expenditure, Financial Services and Disinvestment);
  - (ii) Draft Report on Demands for Grants (2012-13) of the Ministry of Finance (Department of Revenue);
  - (iii) Draft Report on Demands for Grants (2012-13) of the Ministry of Planning;
  - (iv) Draft Report on Demands for Grants (2012-13) of the Ministry of Statistics and Programme Implementation; and
  - (v) Draft Report on Demands for Grants (2012-13) of the Ministry of Corporate Affairs.

4. The Committee adopted the draft reports at Sl. nos. (iv) and (v) without any modification and those at Sl. nos. (i), (ii) and (iii) with minor modifications. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

The Committee then adjourned.