

Minutes of the 18th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies held on 26.07.2006 at 3:00 P.M. in the Chamber of Secretary, Ministry of Company Affairs, Shastri Bhawan, New Delhi.

The 18th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies was held on 26.07.2006 at 3.00 P.M. under the Chairmanship of Secretary, Ministry of Company Affairs, Shastri Bhawan, New Delhi. The list of officers who attended the meeting is given at **Annexure I**. Chairman, SEBI could not attend the meeting.

Secretary, MCA welcomed the participants to the meeting of the CMC. Agenda items were taken up for discussion and decisions taken are as follows.

18.1 Confirmation of the minutes of the 17th Meeting held on 29.05.2006:

1. Minutes of the 17th meeting of Co-ordination and Monitoring Committee (CMC) on Vanishing Companies held on 29.05.2006 at 3.00 P.M. were confirmed.

18.2 Review of Action Taken:

Follow-up action was reviewed item-wise. The details are given hereunder:

2. As regards item no. 17.2 para 2 of the minutes of CMC meeting held on May 29, 2006, which has not been included in the ATR, SEBI representatives informed that they had undertaken the task as suggested by CMC and had sought some clarifications on certain issues from MCA vide its letter dated July 13, 2006. Any further action in the matter would be taken upon receipt of reply from MCA.

As regards finalization of format of verification report, it was informed that Task Forces had already sent their comments to Small Group consisting of RD (WR) as Chairman, RD (NR) and two representatives from SEBI, for their consideration. The Small Group also gave its 'No Objection' to the draft

format of verification report forwarded by the Task Forces. Accordingly, the Committee approved the format for recording verification of non-compliances for identifying a company as a " vanishing company".

2.1 As regards the case of M/s. Sparkle Foods Limited, RD (WR) informed that neither the Regional Director nor RoC, Mumbai was a party in the Criminal Application filed by Mr. Bhavesh Jhaveri, Managing Director of the company before the Hon'ble High Court. The Hon'ble High Court, Mumbai directed the applicant to deposit an amount of Rs. 2 crores with the Company Registrar, which has not been complied with by the Applicant. It was also informed by the RD (WR) that consequently one of the investor associations had decided to file (P.I.L.) Public Interest Litigation to take up the interest of investors.

The Committee discussed about the need for a pro-active role on the part of the Government to protect the interests of the investors. It was decided that the opinion of the Ministry of Law & Justice may be obtained as it appeared to be a fit case for contempt of Court orders. For this, RD (WR) was advised to send a self-contained note for making a reference to the Law Ministry.

2.2 As regards exploring the terms of reference for creating a system of developing linkages with the database of other economic agencies on directors who have been charged of having committed any economic offence, the Working Group (comprising of Shri B.M. Anand, DII, Shri V.S. Rao, RD (WR), Mr. Amarjeet Singh, RM, NRO, SEBI and Ms. Neelam Bhardwaj, BGM, SEBI) informed that they would meet on 26th July 2006 to discuss this issue. It was also decided that Working Group should submit its report within one month.

2.3 It was decided that each RD should submit a detailed account of the progress made on the decisions taken during a meeting one month after the date of meeting, and again as soon as the notice is issued for the next CMC meeting.

18.3,4 & 5: Review of the Working of Task Forces, action taken under various provisions of the Companies Act, 1956 and FIRs filed / registered under IPC:

Regarding functioning of the Regional Task Forces, a concern was expressed about lack of progress on the action taken against vanishing companies. It was decided that the Small Group would submit a note within one month on making the working of the Task Forces effective. Further, it was decided that each Task Force would give---

- State-wise analysis of the cases.
- Stage-wise status of individual cases.
- Status of prosecutions launched and follow up mechanism.
- State Governments may be requested to handover investigation of such cases to their Economic Offence Wings.
- Analytical views of the Task force on each case should be provided.

18.6 Identification of Vanishing Companies in respect of the IPOs during the period 1998-2001:

I. Review of status of 201 companies (IPOs during the period 1998-2001):

- RD (SR) informed that they had recommended 9 companies under their jurisdiction to the Small Group for addition to the list of vanishing companies.
- RD (NR) and RD (ER) informed that none of companies falling under their jurisdiction was covered within the criteria of vanishing companies, and
- RD (WR) informed that the status of the companies falling under their jurisdiction was still under examination.

II. Review of status of 604 companies (Z category shares forwarded by Bombay Stock Exchange):

- RD (SR) informed that they had recommended 38 companies under their jurisdiction to the Small Group for addition to the list of vanishing companies.

- RD (WR), RD (ER) & RD (NR) informed that the status of the companies falling under their jurisdiction was still under examination.

III. Review of status of 148 companies (forwarded by MIDAS):

- RD (SR) informed that they had recommended 4 companies under their jurisdiction to the Small Group for addition to the list of vanishing companies.
- RD (WR), RD (ER) & RD (NR) informed that the status of the companies under their jurisdiction was under examination.

18.7 Recommendations/ Observations contained in the 40th Report of the Standing Committee on Finance on Demands for Grants (2006-07) of the Ministry of Company Affairs (Para No 51& 52):

7. As regards observations of the Standing Committee on "no correspondence has been received by the Exchange from the company for a long time", the Committee decided to amend the said criterion by substituting 'a period of two years' in place of 'long time' for identifying the company as a vanishing company. Further, it was decided to reiterate that all of the three parameters would need to be satisfied cumulatively in order to classify a company as vanishing.

7.1 As regards the recommendation of the Standing Committee to involve the representatives of Department of Economic Affairs, Ministry of Finance in addition to Ministry of Company Affairs and SEBI in this coordination mechanism, the committee observed that it would welcome such association and decided to take up the matter with the Department of Economic Affairs, Ministry of Finance to depute their representative to be a Member on the CMC.

18.8 Consideration of matter regarding public issue of M/s.Tanla Solutions Ltd (formerly known as M/s. Prism Foods Ltd, a vanishing company under watch list):

8. As regards the public issue of M/s. Tanla Solutions Ltd. (formerly known as M/s. Prism Foods Ltd.), SEBI representative informed that as per legal opinion there was no objection in company making a public issue subject to compliance with SEBI (DIP) guidelines and giving additional disclosures, as there was no subsisting order restraining company from accessing the capital market. CMC was also informed that in view of an unusual jump in price of the scrip during a short span, SEBI had internally referred the matter to its surveillance department. Thus as far as SEBI is concerned, it will process the case as per the practice followed for such cases. Considering the legal opinion of SEBI, the Committee decided that so far as the public issue is concerned, it has no objection.

To consider the request of the company for deleting its name from the Watch List, it was decided that the Small Group, which has been reconstituted, shall examine the policy issues emanating from the companies kept on the watch list and based on the recommendation/outcomes, a policy decision could be taken by the Committee.

18.9 Consideration of reference received from Shri Sriprakash Jaiswal, Minister of State for Home Affairs regarding systemic reforms to check the menace of Re-vanishing companies and vanishing companies:

9. As regards the reference received for systemic reforms to check the menace of Re-vanishing companies and vanishing companies, it was stated that the Minister of Home Affairs had been informed by the Ministry that the legislative measures through amendment to the Companies Act, 1956 were being examined.

18.10 Small Group:

10. The Committee decided to reconstitute the Small Group with the following members:

RD (WR) as Chairman, RD (SR), Ms. Neelam Bhardawaj, DGM and Ms. Jyoti Jungar, Dy. General Manager, SEBI as Members. The terms of references for the small group are as under:

- (a) Examine recommendation of Task Forces for addition/deletion in list of vanishing companies, for onward submission to CMC.
- (b) Submit a note on making the working of the Task Forces effective within one month.
- (c) Prepare a clear set of guidelines for the companies kept under watch list.
- (d) Work on the procedure for taking these companies out of the watch list.
- (e) Define the respective roles of the both organizations Viz Ministry of Company Affairs and SEBI.

17.11 It was decided that the next meeting of the CMC may be held during the 1st fortnight of October, 2006.

Annexure I

List of officers who attended the 18th meeting of the Coordination & Monitoring Committee (CMC) on Vanishing Companies held on 26.07.2006 at 3.00 P.M. in the Chamber of Secretary, Ministry of Company Affairs (MCA), New Delhi.

Ministry of Company Affairs

1. Shri Anurag Goel, Secretary
2. Shri Jitesh Khosla, Joint Secretary
3. Shri Y. S. Malik, Joint Secretary
4. Shri V.S. Rao, RD, Western Region
5. Shri R. Vasudevan, RD, Southern Region
6. Shri Rakesh Chandra, RD, Northern Region
7. Shri U.C. Nahta, RD, Eastern Region
8. Shri Pawan K Kumar, Director
9. Shri L. M. Gupta, DII
10. Shri B.M. Anand, DII
11. Shri Alok Samantarai, JD (L)
12. Shri Diwan Chand JD (I)

SEBI

1. Dr. T. C. Nair, Whole Time Member, SEBI
2. Ms. Neelam Bhardwaj, Dy. General Manager
3. Ms. Jyoti Jungar, Dy. General Manager
4. Shri Amarjeet Singh, Regional Manager, NRO, SEBI.
