Government of India
Ministry of Finance

PROGRESS OF THE ACTION TAKEN PURSUANT TO THE RECOMMENDATIONS OF JOINT PARLIAMENTARY COMMITTEE ON STOCK MARKET SCAM AND MATTERS RELATING THERETO

December 2003

INTRODUCTION

The Report of the Joint Parliamentary Committee on Stock Market Scam and matters relating thereto was presented to the Parliament on 19th December 2002. In para 3.31, the JPC recommended that the Government should present its Action Taken Report to the Parliament within six months and thereafter a progress report every six months until action on all the recommendations has been fully implemented to the satisfaction of Parliament. The Government had submitted Action Taken Report to the Parliament on 9.5.2003.

JPC had made 276 recommendations. In the ATR, the recommendations were listed ad-seriatim alongwith the response of the Government in a columnar fashion. In the ATR, final response of the Government in respect of 111 recommendations/observations/conclusions had been given.

The Progress Report lists remaining 165 recommendations ad-seriatim alongwith response of the Government as given in the ATR and further progress after the presentation of the ATR, including final response on further 39 recommendations.

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1.	2.8	The period of the scam, the main players involved, and its intensity have been examined by the Committee. The present scam includes the role of banks, stock exchanges, brokers, the Unit Trust of India (UTI), corporate bodies and chartered accountants. Regulatory authorities like SEBI, RBI and the Department of Company Affairs (DCA) should have been able to lay down and implement guidelines and procedures that could prevent such a scam or at least activate red alerts that could lead to early detection, investigation and action against fraud as well as the rectification of any systemic deficiencies discovered. Equally, supervisory authorities and coordinating bodies, such as the Ministry of Finance and HLCC, should have been more pro-active and vigilant in recognizing that liberalization requires strong and effective regulation and greater autonomy for regulators must go hand-in-hand with the accountability of regulators to the country through the Ministry of Finance which, in our scheme of constitutional jurisprudence, is responsible to Parliament for the financial health of the economy, including sectors regulated by statutory and other regulators. Moreover, the Ministry of Finance, the Regulators and all others concerned had the benefit of the voluminous and detailed Action Taken Reports (ATRs) submitted by Government to Parliament on the numerous recommendations of the 1993 Report of the Joint Committee on irregularities in securities and banking transactions. Concerted mutual interaction between Government and the Regulators, especially through the institutional mechanism of HLCC, could have signally contributed to effective pre-emptive and corrective action to forestall or moderate the scam by the early detection of wrong-doing.	The HLCC was constituted by the MoF to resolve any important regulatory and policy issues requiring consideration at a high level. As per the present terms of reference the HLCC, the Committee is expected to consider only divergence in policy issues among different regulatory authorities. Keeping informed the role of different regulators defined under the acts of Parliament, it is not practical for HLCC to monitor day to day developments in different segments of financial market under different regulators. However, setting up of different technical committees, each headed by senior functionary of RBI, SEBI and IRDA and having representation from other regulator agencies and which can meet more frequently to monitor to developments in the markets and suggest action on early warning signals, is under consideration. HLCC in its present form, would continue to funtion and look after the areas of policy, inter-regulatory co-ordination and sorting out difference of opinion.	Further, HLCCFCM, during its meeting held on 18th July, 2003 approved formation of three committees each headed by senior functionaries of SEBI, RBI and IRDA and having representation from other regulatory agencies to monitor developments in the markets more frequently and suggest action on early warning signals.

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2.	2.15	The Committee note that Ketan Parekh who emerged as a key player in this scam received large sums of money from the banks as well as from the Corporate bodies during the period when SENSEX was falling rapidly. This led the Committee to believe that there was a nexus between Ketan Parekh, banks and the corporate houses. The Committee recommend that this nexus be further investigated by SEBI or Department of Company Affairs expeditiously.	SEBI had conducted investigations into the alleged market manipulations. Based on investigations, SEBI had taken actions as given below: 1. SEBI vide Orders dated April 4, 2001 and April 10, 2001 under section 11B of the SEBI Act debarred Classic Shares and Stock Broking Services (CSSB), Triumph Securities Ltd (TSL), Triumph International Finance India Ltd (TIFL), NH Securities Ltd. (NH Sec), V N Parekh Securities Ltd (VNP Sec), KNP Securities Ltd (KNP Sec), the entities controlled by and connected with Mr. Ketan Parekh, and their directors Mr. Ketan Parekh and Mr. Kartik Parekh from undertaking any fresh business as a stock broker or merchant banker. 2. SEBI has cancelled the certificate of registration granted to Triumph International Finance India Ltd to act as a stock broker. 3. Adjudication order dated July 31, 2002 passed against Ketan Parekh entities namely Classic Credit Ltd, Panther Investrade Ltd for their dealings in shares of Aftek Infosys Ltd, levying a penalty of Rs. 5 lacs. 4. Certificate of registration of Credit Suisse First Boston (I) Securities Pvt Ltd (CSFB Securities) has been suspended for the period of two years w.e.f. April 18,2001 for aiding, abeting and assisting Ketan Parekh entities in market manipulations. 5. Applications submitted by M/s Credit Suisse First Boston (a Foreign Institutional Investor), for renewal of its FII registration and also renewal/registration of its sub-accounts viz. Kallar Kahar Investments Limited, Credit Suisse First Boston (Cyprus) Limited and Credit Suisse First Boston, Singapore Branch have been rejected by SEBI. 6. Prosecutions have been filed on March 7, 2003 vide case no 123/2003 in the court of Addl. Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai against the following entities connected/ associated with Ketan Parekh:	No change in the status.

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			1. Classic Credit Ltd 2. Shri Kirtikumar N. Parekh 3. Shri Ketan V Parekh 4. Shri Kartik K Parekh 5. Panther Fincap & Mgt. Services Ltd. 6. Shri Navinchandra Parekh 7. Luminant Investment Private Ltd 8. Shri Arun J Shah 9. Chitrakut Computers Pvt. Ltd 10. NH Securities Ltd. 11. Shri V N Parekh 12. Classic Shares & Stock Broker Ltd 13. Shri Kaushik C Shah 14. Shri Mukesh Joshi 15. Saimangal Investrade Ltd 16. Classic Infin Ltd 17. Panther Investrade Ltd 7. SEBI has also taken actions against promoters wherever the violations of SEBI Act and Regulations have been observed. Details of such actions given below: a. Actions against DSQ Software Ltd and their promoters · Orders were issued under section 11B of SEBI Act against DSQ Software Ltd and Shri Dinesh Dalmia, which is as given below: ➢ DSQ to cancel this alleged acquisition of Fortuna Technologies being done on swap basis after following the procedure laid down under the Companies Act. ➢ DSQ be prohibited from accessing capital market for a period of one year or completion of investigation and action thereupon whichever is later. ➢ Mr Dinesh Dalmia, Managing Director, DSQ be debarred from dealing in securities for a period of one year or completion of investigation and action thereupon whichever is later.	

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			· Prosecutions have been filed on April 4, 2003 vide case no 2776/2003 in the court of XIII Metropolitan Magistrate, Saidapet, Chennai against DSQ Software, Directors of DSQ Software including Shri Dinesh Dalmia · First Information Report (FIR) filed against DSQ Software, Directors of DSQ Software including Shri Dinesh Dalmia b. Actions against Global Trust Bank promoters Orders were issued under section 11B of SEBI Act against promoter entities not to buy, sell or transfer, pledge or dispose off or deal in any other manner the shares of Global Trust Bank Ltd, directly or indirectly. · Ramesh Gelli · Premkala Gelli · Jayant Madhav · Girrish Gelli · Niraj Gelli · Sridhar Subasri · Annapurna Sridhar · Anjanaya Traders Pvt. Ltd. · Chiranjeevi Traders Pvt. Ltd · Gajanan Financial Services Pvt. Ltd. · Gajmukh Investments Pvt Ltd. · Kadrish Finance & Investments Pvt. Ltd. · Bombay Mahalakshmi Traders Pvt. Ltd. c. Actions against Aftek Infosys promoters Adjudication order dated July 31, 2002 passed against promoters of Aftek Infosys, levying penalty of Rs. 5.50 lakh · Ranjit Dhuru · Nitin Shukla · Ashutosh Humnanbadkar · Mukul Dalal · Pramod Broota · Charuhas Khopkar · Sandip Save · Ravindranath Malekar 8. SEBI has taken note of JPC observations/ recommendations.	

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3.	2.16	The process of liberalization of the economy has continued apace and it is market forces that will increasingly determine economic trends in the country. With liberalization, the role of the Government as a direct player in the financial market will diminish. This makes it all the more necessary that the procedures and guidelines laid down for the creation and perpetuation of fair and transparent financial markets and institutions like stock exchanges and banks have to be more specific, and effective mechanisms have to be put in place to ensure that they are regularly followed. That job will have to be done by the regulatory authorities; viz., SEBI, RBI and DCA in liaison with investigative agencies like the Income Tax Department, Enforcement Directorate and the Central Bureau of Investigation. Coordination with Government on policy issues will, however, continue to be central to good governance as there can be no escaping Government's responsibility to Parliament and the country. Therefore, Government must recognise that transactions in the market will be insulated from scams only if the relinquishment of Government control over the economy is accompanied by strong and effective regulatory bodies. This point had also been underlined by the earlier JPC Report, 1993 on Irregularities in Securities and Banking Transactions.	As regards effective coordination between the Regulatory and Investigative Agencies, Enforcement Directorate have informed that a mechanism is in place through the Regional Economic Intelligence Coordination Committees. There is regular coordination with the RBI through quarterly meetings. The Directorate of Enforcement is also coordinating with SEBI to institutionalize a mechanism for holding mutual consultation on a monthly basis. For coordinated action by different regulatory and investigating agencies, a mechanism does exist in the form of the Special Cell headed by the Director General of Income Tax (Inv.), Mumbai and comprising representatives of SEBI, RBI, DCA, ED and CBI as its Members. Latest meeting of the Cell was on 8.4.2003 to take stock of various market relating issues and other connected fiscal matters. It is proposed to have similar regular meeting by the Cell in future also.	The Directorate of Enforcement & SEBI have formalized a system of monthly meetings. Meetings and discussions on monthly basis are being held with SEBI and RBI by the Mumbai Zonal Office of the Directorate of Enforcement.
4.	2.17	The proceedings before the Committee themselves acted as a catalyst for many reforms in the system, which were put in place during the Committee's pendancy. These actions by regulators like SEBI and RBI and by the Ministry of Finance have been touched upon in various chapters. The Committee feel that after the presentation to Parliament in August and December 1994 of the Action Taken Reports	Out of the 273 individual items of observations/ conclusions/recommendations listed in the report of the Joint Parliamentary Committee set up in 1992 to enquire into the irregularities in securities and banking transactions, Government had identified 107 items which involved specific recommendations for action. In the Action Taken Report submitted by Government in July 1994 Government had accepted 87 recommendations	RBI has reported that departmental action is still pending against 22 persons on account of pendancy of court cases/ stay given by the courts, etc. Regarding appointment of 2 additional Judges in the Special Court, Mumbai, the Registrar General, Supreme Court of India has again been reminded on 20.10.2003 to intimate the action taken in the matter. The matter is being pursued.

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		(ATRs) on the scam relating to irregularities in securities and banking transactions, the will to implement various suggestions of the previous Committee petered out. But, as soon as this Committee began its sittings and searching questions were asked, SEBI, RBI and other regulatory authorities including Ministry of Finance, went into active mode. Had this state of affairs prevailed after the Action Taken Report, the probability of the present Scam would have been negligible.	and reported that 20 recommendations could not be accepted or were only partially accepted. Subsequently, Government has modified its position on some of the points to conform with the JPC's recommendations and in some areas the original response of Government was elaborated to report further steps taken by Government for implementation after the presentation of Action Taken Report in July 1994. The revised response of Government to 147 items of the observations/ conclusions/ recommendations of the JPC were presented to Parliament in December 1994. The action in respect of certain recommendations is long drawn by its very nature such as those involving amendment to Acts, action against officials involved in irregularities, action against statutory auditors who failed in their duties while auditing institutions involved in the irregularities. Action in regard to some recommendations is of continuous nature. Improvement in supervision and control over banks/financial institutions, improvement in the internal control in banks/financial institutions, toning of vigilance machinery in banks etc. are being made on a continuous basis. The RBI is monitoring departmental action being taken against officials of banks/financial institutions involved in irregularities connected with securities transactions. Out of the 285 officials identified, departmental action has been completed against 263 officials and is pending in respect of 22 persons on account of pendancy of court cases/stay given by the court etc. The CBI had registered 72 cases relating to irregularities in securities transactions out of which in 47 cases, charge sheets have been filed in courts and in the remaining 25 cases, the CBI after investigation had recommended departmental action against concerned officials or closure of cases or cases were otherwise disposed off. Out of the 47 cases where charge sheets were	

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			filed in the court judgments were delivered in respect of 9 cases. 27 cases are at pre charge stage and 11 are at evidence stage. In order to expedite disposal of cases pending before the Special Court (Trial of Offences Relating to Transactions in Securities) Act 1992, the Chief Justice of India has once again been requested to consider appointment of 2 more additional Judges in the Special Court, Mumbai for which staff has already been provided for. The Chief Justice of India has also been requested to take up with the respective High Courts for expediting CBI cases pending before the Special Judges (Anti Corruption) in their respective jurisdiction. After presentation of ATR in July 1994, copies of these reports were circulated to various departments concerned with implementation/follow up action on the recommendations of the JPC for compliance. Action was also taken to monitor progress in the matter and after ascertaining the position from the Departments/agencies concerned a consolidated report showing the action taken was reported to Rajya Sabha on 24th March 1999. The Assurance Committee of the Rajya Sabha had also taken evidence of Finance Secretary and other officials during November 1999 and the Committee was apprised of the action taken by Government. In regard to the number of recommendations in the present report which are analogus to the recommendations of earlier JPC revealing the extent of non-implementation, it is stated that the recommendations of the earlier JPC relating to the irregularities in security and banking transactions and the failure to detect these irregularities, the systemic weaknesses, the system of empanelment of brokers by banks for inter-bank transactions, punishment of erring brokers, effective system of handling investors complaints, role of nominee	

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			directors on the boards of nationalised banks/stock exchanges etc. have been implemented. Similarly the recommendations of the earlier JPC relating to setting up of Board for Financial Supervision, action against banks, toning up of vigilance machinery, reform in the system of audit and empowering RBI to impose graded penalty commensurate with the seriousness of the irregularities have also been implemented. The irregularities brought out in the present Stock Market Scam do not reveal any systemic weaknesses but are basically violation of RBI norms and involve transactions of a fraudulent nature by a few private/co-operative banks.	
5.	2.20	This Scam is basically the manipulation of the capital market to benefit market operators, brokers, corporate entities and their promoters and managements. Certain banks, notably private and co-operative banks, stock exchanges, overseas corporate bodies and financial institutions were willing facilitators in this exercise. The scam lies not in the rise and fall of prices in the stock market, but in large scale manipulations like the diversion of funds, fraudulent use of banks funds, use of public funds by institutions like the Unit Trust of India (UTI), violation of risk norms on the stock exchanges and banks, and use of funds coming through overseas corporate bodies to transfer stock holdings and stock market profits out of the country. These activities went largely unnoticed. While the stock market was rising, there was inadequate attempt to ensure that this was not due to manipulations and malpractices. In contrast, during the precipitous fall in March 2001 the regulators showed greater concern. Another aspect of concern has been the emergence of a practice of non-accountability in our financial system. The effectiveness of	Government have noted the observations of the Committee. Detailed replies have been given in the relevant paragraphs. However, SEBI has taken various steps to tone up the administration of stock exchanges. The broker members have been debarred to hold the position of president, vice-president, treasurer etc. in the stock exchange. Besides, to segregate ownership, management and trading rights in the stock exchanges, SEBI had set up a Group under the chairmanship of Justice M H Kania on Corporatisation and Demutualisation of the Stock Exchanges. The recommendations of the Group have been approved by the SEBI Board and for its implementation necessary steps are being taken. SEBI had also issued a circular to stock exchanges to submit the scheme for corporatisation and demutualisation within six months. Steps are being taken by the Government to amend the Securities Contract (Regulation) Act, 1956 to implement the scheme of demutulisation of stock exchanges.	The Securities Laws (Amendment) Bill, 2003 seeking to amend the Securities Contracts (Regulation) Act, 1956 (SCRA) and Depositories Act, 1996, inter alia, to give effect to the policy of corporatisation and demutualisation of stock exchanges has been introduced in the Parliament on 18th August, 2003 and subsequently referred to the Standing Committee on Finance for examination. As the Bill is primarily aimed to incorporate the recommendations of the JPC on Stock Market Scam, 2001 regarding demutualisation and corporatisation of stock exchanges, Finance Minister has requested the Hon'ble Speaker for consideration and passing of the Bill on priority.

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		regulations and their implementation, the role of the regulatory bodies and the continuing decline in the banking systems have been critically examined, for which the regulators, financial institutions, banks, Registrars of Co-operative Societies, perhaps corporate entities and their promoters and managements, brokers, auditors and stock exchanges are responsible in varying degrees. The parameters of governmental responsibility have also been taken into account.		
6.	2.21	It is the considered view of the Committee that besides the factors detailed in the previous paragraph, the lack of progress in implementing the recommendations of the last Joint Parliamentary Committee set up in 1992 to enquire into Irregularities in Securities and Banking Transactions emboldened wrong-doers and unscrupulous elements to indulge in financial misconduct. The Special Cell constituted by the Ministry of Finance in June 1994 to investigate the nexus between brokers and industrial houses in pursuance of the recommendation of the previous Committee having gone defunct since 22 May 1995, without coming out with any tangible findings or recommendations for remedial action, is one of the examples of apathy on the part of different agencies and departments concerned. The Committee express their concern at the way the supervisory authorities have been performing their role and the regulators have been exercising their regulatory responsibilities. That the regulatory bodies failed in exercising prudent supervision on the activities of the stock market and banking transactions, became evident during the course of evidence taken by the Committee and this has been detailed in the succeeding chapters. In the Committee's view no financial system can work efficiently even if innumerable	Action taken by the Government is covered in the reply to para 2.17. Regarding the Special Cell, it is submitted that in the wake of the outbreak of the scam DGIT (Inv) Mumbai was working in several areas including coordination with various enforcement agencies looking into transactions involved in the scam, working as a Member of Disposal Committee for disposal of assets taken over by the special court appointed under a Separate Act for this purpose in 1992. Income Tax Department has till date made recovery of Rs. 913.01 crore towards outstanding liabilities of notified persons after satisfying the Special Court. DGIT (Inv.), Mumbai was also actively engaged in aiding investigation and assessment in cases of large number of notified persons. All these work with which DGIT (Inv.) was actively engaged in essence implied the pursuit of the very subject which the Special Cell was asked to investigate. The final report submitted by the Cell in October, 2002 has been circulated to all concerned agencies to take note of and to implement its observations and recommendations.	The Special Cell is periodically conducting the meetings and information is being exchanged among various agencies on real time basis. Director General of Income Tax(Inv.), Mumbai who is the head of the Special Cell has also collected the feed back from various agencies in respect of the action taken on the observations and recommendations contained in the report of the Special Cell. SEBI/CBI has informed that they have taken the following action: **SEBI** 1. All Stock Exchanges now have screen based automated trading. This has resulted in greater transparency of operations and makes audit trail possible. 2. Orders are executed on the exchanges on a price time priority. 3. Annual inspection of 10% of brokers has been taken up by stock exchanges. 4. Annual inspection of stock exchanges is being taken up and report on compliance with findings are being assured. 5. Kerb trading has been banned. 6. Stock exchanges have been directed to post their balance sheet on the web sites. 7. SEBI has taken several additional measures towards investor protection and growth of a well

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		regulations are put in place, unless there is a system of accountability, cohesion and close cooperation in the working of different agencies of the government and the regulators.		regulated and transparent stock market, such as:- - restructuring of governing boards and statutory committees - defining role and responsibility of Executive Directors of SEs - directing SEs to have a separate surveillance cell/deptt. under the Executive Directors of SEs. 8. Unique Client code has been made mandatory by SEBI and all brokers are required to indicate client code before putting in orders. **CBI** 1. The CBI had registered various cases against the bank officials, the PSU officials and the brokers. During the course of investigation, it was found that the RBI cheques/ bankers cheques issued in favour of banks had been credited to individual accounts. These have been incorporated in CBI charge sheet filed against Harshad S. Mehta (HSM), V.B.Desai and other notified persons. Similarly, the CBI had filed charge sheet relating to illegalities in BR transactions. It was also found that the differential amount in the sale-purchase transaction between SBI and UCO Bank had been credited to HSM's account. This is the subject matter of the Spl. Case No. 4 of 96 pending before Hon'ble Spl. Court. The other instances were incorporated in the respective charge sheets, wherever applicable. **2. <u>CALL MONEY TRANSACTIONS</u>:** One case relating to call money transaction pertaining to UCO Bank i.e. RC 41/A/92 is pending trial before Hon'ble Spl. Court. 3. Hiten Dalal is facing trial, on account of irregularities committed by him in transaction with Andhra Bank vide RC 11/S/92.

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				4. The CBI, BS&FC, Mumbai branch has registered RC 2(E)/95-BS&FC/BOM on 16.6.95. On completion of investigation, a closure report was filed before the Hon'ble Special Court (TORTS), Mumbai and the same was accepted by Hon'ble Court. **5. STANDARD CHARTERED BANK** For various irregularities committed by Hiten Dalal & others in Standard Chartered Bank, RC.11/S/92 is pending trial before Spl.Court. 6. The very fact that charge sheets were filed by CBI against officers of the financial institution, officers of banks and the brokers on the charge of criminal conspiracy, indicate that the CBI came to know about the nexus between bankers/financial institutions and the brokers during investigation and had taken appropriate action as such. However, the role of industrial houses calling for criminal action against them did not surface during criminal investigation by the CBI. 7. As far as the CBI's role is concerned, it is reiterated that CBI comes into picture when commission of such offences results in loss to Central Govt. money or if there is involvement of Central Govt. employees, notified under Delhi Special Police Establishment Act (DSPE). Otherwise, such cases had to be either ordered by the Hon'ble High Court or Supreme Court to be taken up by the CBI, or it had to be transferred by State Govt. for taking up investigation. 8. In RC 2/BSC/94-BOM (Special Case No. 2/98) charge-sheet was filed by CBI, BS&FC, Mumbai on 24.2.1998 against M/s. Dhyan Investment & Trading Co. Ltd., Hiten P.Dalal and others for causing wrongful loss to Canfina to the tune to Rs. 62.50 crores. Charges have been framed in this case.
7.	3.11	Lack of urgency on the part of the Government has led to a stage where after more than 9 years,	Already covered in reply to para 2.17	The Registrar General, Supreme Court of India has again been reminded on 20.10.2003 to

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		66 out of 72 cases of 1992 scam have yet to be adjudicated. This clearly sends out a signal that future wrong doers can evade the consequences of their wrongs and can also enjoy their ill-gotten gains. The Committee emphasize that adequate number of courts should be set up to ensure final disposal of cases within two years.		intimate the action taken regarding appointment of additional Judges in the Special Court, Mumbai and to take up with the respective High Courts for expediting CBI cases pending before the Special Judges (Anti-corruption) in their respective jurisdiction.
8.	3.14	The Committee regret to note that the Special Cell constituted by CBDT on the recommendation of the previous JPC in order to examine the role of Industrial Houses with regard to the Securities Scam 1992 became non-functional without arriving at any findings after holding 5 meetings in 1994 and 1995. The Special Cell was reactivated after the present JPC commenced functioning. The Cell has now arrived at the finding that nexus between brokers and banks/financial institutions was prominently visible more with Foreign Banks through various Instruments. The nexus between Industrial/Business Houses and the Banks was mainly through the Portfolio Management Scheme in violation of RBI guidelines, etc. The Committee hope that in the light of these findings necessary action will be taken.	Regarding Special Cell, the position is explained in reply to para 2.21.Regarding Portfolio Management Scheme (PMS), RBI have given detailed guidelines to banks/subsidiaries according to which banks require specific approval of RBI to introduce PMS schemes. Banks are now not operating PMS schemes and RBI has not given any approval except in the case of State Bank of India which manages statutory funds like accounts of Employees' Provident Fund, Coal Mines Provident Fund etc.	As in para 2.21
9.	3.18	The Department of Company Affairs exercises supervision over the affairs of Institute of Chartered Accountants of India and 6 members nominated by the Central Government are on the Council which manages the affairs of the Institute. The delay in adjudicating 23 out of 27 disciplinary proceedings and the approval of the names of 3 firms to conduct audit of banks even though the disciplinary proceedings are pending in their case shows complete lack of urgency and disregard of the promises on the JPC's recommendations by the Institute of Chartered Accountants of India (ICAI), the government as well as the RBI. This	ICAI has clarified and stated that they were aware of 17 cases listed by the JPC as Appendix No XVIII in Volume II of its report. Apart from these 17, ICAI had also identified 48 other entities based on other reports such as the Janakiraman Report. The status with regard to these 65 entities is as follows; 1.Filed on prima facie stage – 35 2.Referred to Disciplinary Committee – 30 Out of the above (2) (a) Number of entities where the Respondents are exonerated (at the Council level) – 13 (b) Number of entities in which there is punishment (at the Council level) – 06	No change in the status.

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		Committee have also come across failures on the part of certain auditors in the present scam. Auditors have a greater responsibility and if they themselves become a part of malaise, the financial checks and balances would collapse. Department of Company Affairs should ensure expeditious disposal of disciplinary proceedings.	(c) Pending with Disciplinary Committee – 02 (d) Pending with Council for consideration of Disciplinary Committee Report – 09 Out of the said 17 entities, in the case of 8 entities, there was case for the year 1990-91 as well. The relevant data is as under: - 1.Filed on prima facie stage – 03 2.Referred to the Disciplinary Committee – 05 Out of the above (2) (a) Number of entities where the Respondents are exonerated (at the Council level) – 01 (b) Number of entities in which there is punishment (at the Council level) – 03 (c) Pending with Disciplinary Committee – NIL (d) Pending with Council for consideration of Disciplinary Committee Report – 01	
10.	3.21	Dual control (that of RBI and the Registrar of Cooperative society of the State) is a matter of serious concern. RBI should have followed it up with financial penalty or such like punishment.	Duality of control over cooperative banks emanates from constitutional provisions. Cooperatives are a state subject under the Constitution. Their formation, registration, operation and winding up are all governed by State laws and regulations. The Reserve Bank does not control their management, order their winding up nor can it impose penalty on them. Measures which enable RBI to safeguard interests of depositors and general public do not apply to cooperatives. The Task Force on Rural Cooperatives under Shri Jagdish Capoor, the then Deputy Governor, RBI and the High Power Committee on Urban Cooperative under Shri K. Madhva Rao, former Chief Secretary, Andhra Pradesh have examined this issue and recommended removal of duality of control over cooperative banks by way of either replacing the existing State Cooperative Societies Act with the Model Cooperative Societies Act recommended by Choudhary Brahm Perkash Committee or by way of incorporating essential features of the Model Act in their respective Cooperative Societies Act by the	A Bill to amend the Banking Regulation Act, 1949 has been introduced in the Lok Sabha on 13.8.2003. The Bill has been referred to the Standing Committee on Finance.

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			State Governments. Ministry of Finance is also of the view that removal of duality of control is essential for proper regulation and management of cooperative banks. Therefore, the above legislative change has been made a principal pre-condition for taking up revitalization of cooperative banks as announced in the Union Budget for the year 2002-2003 to usher reforms in the cooperative banking sector. The revitalization scheme with contribution of 60:40 from Central and State Governments is under consideration of Government. This scheme is expected to encourage State Governments to undertake the above legislative exercise for availing revitalization assistance by the cooperative banks. Amendments to various Acts is an on-going process and suggestions/proposals received from RBI are dealt with in the Ministry of Finance with due care and alacrity. Thus, since its enactment in 1949, the Banking Regulation Act has been amended 33 times. Amendments have also been carried out to the RBI Act, NABARD Act, Small Industries Development Bank of India Act and may other Acts administered by the Ministry of Finance. RBI proposal regarding setting up an apex supervisory body for supervising urban cooperative banks did not find favour with the Government since it did not address the basic issue of duality of control on the cooperatives. Even the proposals submitted by RBI in May 2001 to the Ministry of Finance were not found to be adequate in tightening the supervisory control of RBI over the cooperative banks. These proposals have been further discussed with RBI and NABARD and amendments to Banking Regulation Act are now being finalized which would give RBI adequate powers to effectively supervise cooperative banks. These proposals are in the final stages and Government expects to introduce a Bill in the	

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			Parliament in this regard in the ensuing Monsoon Session.	
11.	3.22	These instances of regulatory laxity in the present scam are a result of delay by the RBI in following up its own inspection and observations on the functioning of banks' operations. It was also noticed by the Committee that RBI seemed content with the routine replies of the banks concerned. There appears to have been a lack of concern and absence of strict action till matters went out of hand.	Reserve Bank of India has reported as follows:- 1.The MMCB, Ahmedabad, was first registered on September 27, 1968 under Gujarat Co-operative Societies Act, 1961 and later, got registered itself under the Multi-State Co-operative Societies Act, on January 9, 1975. The bank is thus under the control of Central Registrar of Co-operative Societies (CRCS), Government of India. 2. Prior to the crisis faced by it in 2001, the bank was last inspected by RBI with reference to its financial position as on March 31, 1999, between September 30, 1999 and October 20, 1999. The findings of the statutory inspection did not reveal any serious irregularities; the irregularities revealed were of rectifiable in nature, such as, absence of an effective credit appraisal system, constitution of audit committee, etc. These irregularities did not warrant any drastic action against the bank. These deficiencies were discussed by the inspecting officers with the Chairman and the board on the concluding day of the inspection and the board was asked to take expeditious action to rectify the deficiencies. As per the normal system followed in the case of scheduled urban cooperative banks, the Chairman, directors and CEO of the bank were called for discussion on the findings of the inspection, steps taken / proposed to be taken for rectifying the irregularities etc., at Central Office of RBI on June 23, 2000. The Chairman and the directors, were advised to initiate immediate corrective action to remove the deficiencies observed in the inspection report. The Chairman and the directors assured that the irregularities observed would be rectified expeditiously. Since the irregularities observed were of rectifiable in nature and no serious violation of the RBI	RBI have informed that a circular dated April 29, 2003 was issued advising UCBs that they should not extend any loans and advances (both secured and unsecured) to the directors, their relatives and firms/concerns/companies in which they are interested with immediate effect. UCBs were also advised therein that the existing advances extended prior to April 29, 2003 may be allowed to continue upto the date when they were due and that the advances should not be renewed or extended further. In view of the representations received by RBI to provide some more time, UCBs were advised on June 24, 2003, that the aforesaid instructions would become effective from October 01, 2003. Subsequently, UCBs were advised on October 01, 2003 that the prohibition imposed in terms of the recommendation of the JPC on extension of loans and advances (both secured and unsecured) to the directors, their relatives and the firms/concerns/companies in which they are interested would become effective from October 01, 2003. Further, the banks were advised not to disburse the loans and advances, if any, sanctioned on or before September 30, 2003. UCBs were also advised that while the existing loans and advances extended prior to October 01, 2003 may be allowed to continue upto the date when they are due, the advances should not be renewed or extended further. UCBs were also advised to submit to RBI not later than October 31, 2003 details of loans and advances outstanding to their directors, relatives, firms/concerns/companies in which they are interested, together with an action plan for recovery of the outstandig amount. The details

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			guidelines were observed, no monetary penalty was imposed on the bank. 3. The bank faced a sudden rush of depositors at the bank's Ahmedabad branches for withdrawal of their deposits on March 9, 2001, which increased steadily up to March 12, 2001 and this run was triggered by strong rumours that the bank had extended bank guarantees to Shri Ketan Parekh, a leading stock broker at Mumbai, who had suffered huge losses in his stock exchange transactions. RBI had deputed its officials to the bank's head office to ascertain the factual position and also whether the bank had any account in the name of the said broker Shri Ketan Parekh, if so the extent of financing. The bank had denied in writing that it had any account of Ketan Parekh. It had also promised to furnish to the RBI, the trial balances as at the close of business of March 8 and 9, 2001 by March 12, 2001 (March 10 and 11 being holidays). This assurance was not met by the bank. Meanwhile, the bank went on meeting the heavy demands of depositors by extending its working hours well past the normal business hours until the morning of March 13, 2001, when it suddenly closed down all its branches, ostensibly as it was no longer in a position to cope with the run. The bank closed its shutters on March 13, 2001 onwards without giving any notice. This triggered a run on the deposits of several cooperative banks, not only in Ahmedabad but also in other towns of Gujarat. Meanwhile, both the Chairman and the Managing Director of the bank disappeared from the scene and were not contactable. 4. The bank's Head Office and branches remained closed with effect from March 13, 2001 to March 16, 2001. The Chairman and the Managing Director resurfaced on March 15, 2001 and with the persuasion of Reserve Bank and assistance of Government of Gujarat, the bank opened its	should relate to the position as on September 30, 2003 and it should be certified by the Chief Executive Officer. A Bill to amend the Banking Regulation Act, 1949 has been introduced in Lok Sabha on August 13, 2003. The same has now been referred to the Standing Committee on Finance.

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branches on March 16, 2001. A quick scrutiny was taken up with reference to the bank's position as on March 16, 2001 as to the circumstances leading to the run on the bank and the present financial position.

Salient features of scrutiny

5. The irregularities revealed in brief were the following:

i) The bank had built up huge exposure to share brokers after October, 2000, in violation of the RBI instructions. The urban co-operative banks are prohibited from making any loans to share brokers/ share broking firms. This increased exposures led to spurt in borrowings by the bank, leading to severe liquidity crunch in first week of March 2001.

ii) Of the advances outstanding at Rs.1594.17 crores (as on March 16, 2001) a sum of Rs.1082.22 crores, constituting 68% of the advances were in the nature of unsecured advances, granted mainly to 21 borrowal accounts belonging to or related to stock brokers. At least 10 such accounts indicated linkages with Shri Ketan Parekh in respect of whom the exposure was Rs.843.57 crores i.e., 77.9% of total advances to share brokers. In several cases, the balances outstanding in the borrowal accounts were far beyond the sanctioned limits – the gap ranged between 100% to 400%. The unauthorized over-drawals were allowed as per the oral instructions of the Chairman and not confirmed subsequently. The purpose for which such advances were given was indicated as "Loans against Fixed Assets" primarily with a view to camouflage its lending to share brokers which is prohibited by RBI.

iii) Connected lending to stock broking firms associated with the Chairman were also observed.

iv) The bank had issued in violation of RBI guidelines three Bank Guarantees involving a sum of Rs.1.50 crore to the Ahmedabad Stock

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			Exchange on behalf of the Chairman's firm viz., M/s. Madhur Shares and Stock Ltd. The guarantees were issued against deposits of only Rs.0.20 crore. The Ahmedabad Stock Exchange has invoked all these Bank Guarantees on account of non-settlement by the party. v) The bank has blatantly violated RBI directive with respect to credit exposure for single borrower (20% of capital funds) or group of borrowers (50% of capital funds) by sanctioning credit limits much in excess of its credit exposure ceiling. It was thus clear that the irregularities observed in MMCB were an aberration on account of the deliberate intention on the part of the board of directors, its Chairman, and CEO, to flagrantly violate the RBI guidelines, throw out sound banking practices to make personal gains. These types of irregularities were not noticed during the inspection conducted by RBI during September-October 1999 and clearly indicates unethical practices indulged in by the Chairman and the board. 1. When the irregularities were noticed in March 2001, RBI had taken prompt action by issuing directions under Section 35A of the Banking Regulation Act, 1949 (AACS), filing of criminal complaint against the Chairman, the board, etc. 2. A directive by RBI under Section 35(A) of the B.R. Act, 1949, was imposed on MMCB, on March 13, 2001, directing the bank not to accept fresh deposits or give fresh loans and not to repay more than one thousand rupees to any single depositor. The ceiling was imposed taking into account the overall liquidity position of MMCB. 3. Since MMCB was unable to meet its clearing obligations due to insufficient balance in its current account with RBI, Rule 11 of the Clearing House rules was invoked to unwind the clearing transaction and the bank was compelled to return all the presentation made on it by the various members banks.	

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			4. A criminal complaint was lodged in the Court of Chief Metropolitan Magistrate, Ahmedabad against the bank, its Chairman and Managing Director on March 14, 2001 under Section 46 of the B.R. Act, 1949 read with Section 58 B of the RBI Act, 1934 for having made false statements to RBI, with respect to their call money borrowings and also failing to meet its assurance for submitting the required information. 5. With a view to securing proper management at the instance of RBI on March 14, 2001, the Board of Directors of the bank was superseded and an administrator appointed on March 19, 2001 by the Central Registrar of Co-operative Societies to manage the bank's affairs. 6. In pursuance of the Court's Orders, the criminal complaint lodged by the Administrator of MMCB on March 21, 2001 at Madhavpura Police Station, Ahmedabad against above mentioned officials was transferred to CBI, B.S. & FC, Mumbai, for investigation and an FIR has been registered with Special Police Establishment B. S. & FC/CBI/ Mumbai branch on May 18, 2001. 7. As recommended by the JPC, the Government of Gujarat has been requested to get the nexus between the Chairman, MMCB and the Chairman of KP Group Companies investigated further by appropriate agencies. 8. The RBI has also set up a one-man Enquiry Commission under a retired Banking Ombudsman to look into the involvement of RBI officials, if any, in the irregularities committed by MMCB. In order to strengthen the supervisory framework over UCBs, RBI has issued instructions making concurrent audit compulsory for all urban cooperative banks. Instructions have also been issued requiring urban cooperative banks to designate a compliance officer to ensure compliance with and apprise the progress of	

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			compliance of the inspection reports of the RBI to the Audit Committee/ Board of Directors. The Audit Committee of urban cooperative banks are also now required to monitor implementation of RBI guidelines. A summary of important findings of inspection of urban cooperative banks is sent to the concerned State Government for further action. RBI has also issued instructions to urban cooperative banks that deficiencies/irregularities observed during the inspection should be fully rectified by the banks and a certificate submitted. False certificate would invite penalties. The Banking Regulation Act is being amended to give greater powers to Reserve Bank of India for taking action against Cooperative Banks for non-compliance of its directives. Steps taken to strengthen/improve quality of internal control, audit and management, legal reforms, etc. In the light of developments concerning the UCBs, RBI has taken concerted efforts to strengthen the internal control system, compliance with the RBI instructions/guidelines, governance in UCBs, etc. as under: <u>Designating Compliance Officer in UCBs</u> - UCBs have been advised to designate a senior official as Compliance Officer, who should ensure to furnish compliance of the observations made in inspection reports to the RBI within the prescribed time limit, apprise the position on the above matters to the Audit Committee of the bank/Board of Directors, etc. - Furnishing important findings to the Chief Secretary of the State. Prior to January 2002, a copy of the inspection report on UCBs was being forwarded only to the Registrar of Cooperative Societies. Since January 2002, a summary of important findings of the inspection of UCBs is being sent to the Chief Secretary of the concerned	

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			State also to enable the State Government to take immediate action. System of concurrent audit - The system of concurrent audit, which was applicable only to UCBs having deposits in excess of Rs. 50 crore, was extended to all UCBs, in pursuance to the recommendations made by the Hon. JPC at paragraph 10.9 of its report. - The concurrent auditors are now required to certify that the investments held by UCBs as on the last reporting Friday of each quarter and as reported to RBI are actually owned / held by the UCB as evidenced by physical securities or the custodian's statement. Monitoring of implementation of RBI guidelines - The Audit Committees of the Boards required to be set up at the board level for overseeing the follow up action on the findings of the inspection reports, instructions issued by RBI, etc. have been vested with the responsibility for monitoring implementation of the RBI guidelines. Rectification of deficiencies within 6 months - As recommended by JPC, UCBs have been advised that they should rectify the deficiencies / irregularities observed during the inspection in all respects for specific compliance in each case within a maximum period of four months from the date of inspection report and submit a certificate to that effect. The UCBs have also been advised that if the certificate submitted by the bank is found to be false, penal provisions of the Banking Regulation Act, 1949 (AACS) would be invoked. Governance in co-operative banks - The UCBs have been asked to co-opt two professional directors with experience in banking and related areas with a view to improving the governance standards in the banks. Off-site surveillance of UCBs - RBI has also initiated steps to strengthen off-site	

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			surveillance of UCBs. With this end in view, an Off-Site Surveillance Division (OSS) has been set up in the Central Office of the Department to detect early warning signals, which will facilitate initiation of immediate corrective action. Technical Assistance Programme (TAP) - RBI has also initiated a Technical Assistance Programme (TAP) to strengthen the Management Information System (MIS) in urban cooperative banks in collaboration with external training institutions like National Institute of Bank Management (NIBM), Pune. This initiative will ensure that the UCBs have a robust MIS, which will meet with the twin objective of having in UCBs, a robust management information system as a support decision making and regulatory compliance. Asset-Liability Management (ALM) - With effect from June 2002, asset liability management system has been introduced to scheduled UCBs under which the UCBs are required to manage their asset liability mismatches within acceptable tolerance levels. Monitoring of CD ratio - The Regional Offices of the Department have been advised to monitor the CD ratio of all UCBs and to ensure that the high level of CD ratio is not being achieved, by violating the statutory requirements on maintenance of cash reserve and liquid assets. 2. Other issues (i) MMCB, is one of the largest scheduled banks in the State of Gujarat. The bank had a large amount of institutional deposits which amounted to as much as Rs. 350.55 crore as on March 31, 1999 forming 49.9% of the total deposits which increased to Rs. 590 crore in March 2001. The bank's inter-bank funds transfers were accordingly high. However, the need for such high fund transfers and high call-	

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			money borrowings was also discussed at Central Office on June 23, 2000 with the Chairman, directors, CEO, etc. as part of the follow up discussion on the findings of the inspection conducted in 1999. It was indicated that the large volume of transactions was to meet the bank's operational requirements on account of institutional deposits, remittance facilities, etc. The Chairman and the directors were, however, cautioned to reduce the level of inter-bank deposits and borrowings. (ii) As recommended by the JPC, full ban on granting of loans and advances to the directors and their relatives and the concerns in which they are interested, is being imposed. (iii) The penal provisions for submitting false returns and for non-compliance with RBI instructions are being enhanced, in the proposed amendments to the Banking Regulation Act, 1949.	
12.	3.29	Regular inspection and follow up action of Stock Exchanges was obviously not implemented properly by SEBI. The CSE and erring brokers were let off the hook as early as 1994 which resulted in the payment crisis on CSE in March 2001. Both CSE and SEBI were lax in monitoring, surveillance, investigation and implementation. SEBI's action was totally inadequate in dealing with irregularities mentioned in paras 3.26 and 3.27. Had the action been prompt, many of the CSE's shortcomings could have been corrected in time.	SEBI has informed that the objective of annual inspection of stock exchanges was generally to ascertain the compliance of the stock exchange with Securities Contracts (Regulation) Act 1956, Securities Contracts (Regulation) Rules 1957, the various directions issued by SEBI from time to time and the Rules, and Byelaws of the exchange, also to look into the organization and systems of the exchange. These annual inspections did not cover the surveillance and monitoring systems of the exchange. It was also the policy of SEBI to follow up the compliance with the findings of the inspection and rectification through off site reporting requirement. As the compliance reports were submitted by the stock exchange with the approval of respective Boards, these were relied upon. The compliance of previous year's inspection was checked in the subsequent year's inspection of the stock	As a result of measures adopted by SEBI towards follow up on inspection reports, the compliance level has shown significant improvement both in case of stock exchanges and subsidiaries. In case of CSE, where there were continued concerns regarding compliance status, SEBI has superseded the Committee of the CSE Association Ltd. with effect from 4.12.2003 for a period of one year and has appointed Shri Tushar Kanti Das, IAS (Retd.) as the Administrator of the Exchange to exercise and perform all the powers and duties of the Committee.

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			exchange. This was the policy and practice then followed by SEBI in respect of all stock exchanges. In the case of CSE also, the same practice was followed and no deviation was made. The quarterly compliance reports submitted by CSE by and large showed the compliance or indicated that the deficiencies were in the process of rectification. On the observation regarding the findings of the inspection of CSE in 1994, it may be mentioned that the subsequent action was taken by SEBI only after the approval of SEBI board. The SEBI board had considered the report of the inquiry into the affairs of CSE and decided to issue a show cause notice under Section 11 of SC (R) Act. The reply to the show cause notice was considered by the SEBI board which also heard the President and Executive Director of CSE who has shown their willingness to take corrective action. The SEBI board decided to review the progress made by CSE after the period of four months. Thereafter, SEBI board at the meeting in November 1994 took note of the steps taken by CSE in implementing/ complying with the findings of the inquiry and expressed satisfaction over the same. On the issue of monitoring, as mentioned above SEBI had been following a uniform monitoring policy for all stock exchanges. The steps taken by SEBI in the case of CSE were as follows: · The findings of the inspections were being communicated to the CSE advising them to rectify the deficiencies, improve the system and ensure compliance with SEBI guidelines. · As per the then existing practice, the exchanges are required to send compliance reports to SEBI, after being approved by their respective Governing Boards, informing the actions taken by them with respect to the findings of the inspection. · CSE were sending such compliance reports.	

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			Further Improvement and Action SEBI has since further strengthened its internal capability of inspection and monitoring of the stock exchanges. For this purpose, a separate division with exclusive responsibility of inspection with separate staff has already been set up. SEBI is taking steps to continuously modernize and upgrade its follow up system making effective use of technology. Besides, it may be mentioned that SEBI has taken the following specific measures: · It has been decided to conduct joint inspection of stock exchanges, both for routine operation of stock exchanges, compliance with various rules, regulations byelaws as well as for surveillance and monitoring. · An action plan for follow-up of inspection findings has also been put in place. As per the action plan, in line with the decision of the Board of SEBI, letters of displeasure were issued to exchanges, inspections in respect of which were conducted during the year 2002 and had failed to comply with the suggestions for improvement and to rectify deficiencies pointed out in SEBI's previous inspection reports. · Meetings were held with the Executive Directors/ Managing Directors and other operational heads of the stock exchanges to discuss the findings and status of implementation of the inspection reports. · The exchanges have been advised to submit to SEBI a time-bound action plan for implementation. · Continuous follow-up is being done for achieving implementation by the outlined date. There is also a quarterly reporting of the status of compliance and follow up on inspection to the Board of SEBI. · The subsidiaries of stock exchange are also being inspected and the findings are discussed with the Executive Directors of the parent exchanges as well as the heads of the subsidiaries. Letters of	

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			displeasure have been issued to the subsidiaries. The exchanges were advised to ensure implementation of the reports relating to their subsidiaries. · SEBI has framed a new policy for subsidiaries and issued a circular for restructuring the management of the subsidiaries, to reduce the conflict of interest. Additionally, the following measures taken by SEBI would also help in reducing / eliminating conflict of interest, and ensure more efficient and transparent working of the exchanges. · SEBI had discontinued the account period settlement and introduced the rolling settlement from T+5 cycle to now T+2. This would reduce significantly the types of problem emerged from the account period settlement. · VAR based margining system would enhance the risk management and margining system. Demutualization and Corporatisation of the stock exchanges would eliminate the conflict of interest.	
13.	3.30	The instances of lack of implementation indicated above are illustrative. But this Committee's main concern is that a thorough inquiry can become meaningless unless concrete steps emerge from such an inquiry, and that their recommendations, as accepted by the Government, are implemented effectively to their logical conclusion. This is borne out of our experience from the report of JPC 1992, and the two ATRs.	As against Para No. 3.29	As against Para No. 3.29
14.	3.31	Accordingly, this Committee feel that fresh thinking has to go into the implementation aspect. The Committee recommend following steps to effectively implement the recommendations contained in this report: (a) The Government should present their ATR on this report within 6 months of the presentation of the report.	(a) and (c) accepted. (b) HLCC addresses policy issues of coordination of regulatory gaps amongst various regulators. Stand of the Government regarding redefining the role of HLCC is covered in reply to para 13.38. However, it will be the endeavour of the Government to ensure that recommendations of JPC are implemented expeditiously.	As against para 2.8

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		(b) The High Level Co-ordination Committee (HLCC) functioning in the Ministry of Finance in addition to its existing function, should be entrusted with the task of ensuring expeditious implementation of the recommendations of the JPC. For this purpose, there should be a separate Secretariat in the Ministry of Finance to assist HLCC for its efficient and effective functioning. (c) Every six months, the government should present to Parliament a report of progress on ATRs on the recommendations of JPCs until action on all the recommendations has been fully implemented to the satisfaction of Parliament.		
15.	3.32	The Committee are concerned to learn that the Ministry of Finance took so casual an approach to the implementation of JPC, 1992 recommendations, as set out in the two ATRs of 1994, that they neither monitored implementation nor informed successive Finance Ministers about non-implementation. This culture must change.	As against 2.17	As against para 2.17
16.	3.33	At Appendix-III is given a chart which sets out how many recommendations contained in this Report are analogous to the recommendations of the earlier JPC, starkly revealing the extent of non-implementation which characterises the system.	As against 2.17	As against para 2.17

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17.	4.42	The Committee find that Shri Ketan Parekh was a key person involved in all dimensions of the stock market scam which surfaced in March 2001, as also in payments problem in the Calcutta Stock Exchange (CSE) and the crash of Madhavpura Mercantile Cooperative Bank (MMCB). He was operating through a large number of entities which facilitated hiding the nexus between source of funds flow and their ultimate use. Various layers were created in his transactions so that it became difficult to link the source of fund with the actual user of fund. SEBI's investigations after the scam have revealed that the amount outstanding from Ketan Parekh entities to certain corporate houses at the end of April, 2001 was over Rs. 1,273 crore. Dues to Ketan Parekh entities to MMCB were around Rs. 888 crore and to Global Trust Bank over Rs. 266 crore. There were also dues to other entities. The funds received from corporate houses and banks have gone to three major broker groups in CSE and been utilized in capital market operations. Ketan Parekh entities appear to have chosen CSE mainly to exploit the known weaknesses of the Exchange. They also used a networking of various Overseas Corporate Bodies, Foreign Institutional Investor sub-accounts and mutual funds for large transactions. Not till the MMCB crash occurred did the regulatory authorities even begin looking in Shri Ketan Parekh's directions although this was being underlined in Parliament and the media. It is difficult to believe that the Stock Exchanges or SEBI were quite unaware of what was going on in the market when Ketan Parekh entities were manipulating the market	Different regulators and investigating agencies have to perform the task assigned to them. HLCC is expected to consider only divergence in policy issue among different regulatory agencies. It was also not practical for this body, which meets occasionally, to monitor day-to-day developments in markets or keep track of emerging trends in different segments of the financial markets supervised by different regulatory agencies. SEBI has informed that they had taken actions as given below: 1. SEBI vide Orders dated April 4, 2001 and April 10, 2001 under section 11B of the SEBI Act debarred Classic Shares and Stock Broking Services (CSSB), Triumph Securities Ltd (TSL), Triumph International Finance India Ltd (TIFL), NH Securities Ltd. (NH Sec), V N Parekh Securities Ltd (VNP Sec), KNP Securities Ltd (KNP Sec), the entities controlled by and connected with Mr. Ketan Parekh, and their directors Mr. Ketan Parekh and Mr. Kartik Parekh from undertaking any fresh business as a stock broker or merchant banker. 2. SEBI has cancelled the certificate of registration granted to Triumph International Finance India Ltd to act as a stock broker. 3. Adjudication order dated July 31, 2002 passed against Ketan Parekh entities namely Classic Credit Ltd, Panther Investrade Ltd for their dealings in shares of Aftek Infosys Ltd, levying a penalty of Rs. 5 lacs. 4. Prosecutions have been filed on March 7, 2003 vide case no 123/2003 in the court of Addl. Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai against the following entities connected/	With regard to completion of the investigation by Income Tax Department in Ketan Parekh Group of cases in which a search was conducted by the Department in March 2001, investigation/assessment proceedings have been completed in October 2003 and undisclosed income has been assessed at Rs.1,993.26 crore raising the tax demand of Rs.1365.37 crore. Officers of the Income Tax Department are in touch with the CBI, which is investigating this matter. Regarding the Special Cell, the position has been explained in para 2.21.

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		using their network. Nor did the High Level Coordination Committee (HLCC) or the SEBI seek a check on where Shri Ketan Parekh was getting his funds from or his methods of manipulating the market. This is all the more disturbing in the context of the previous JPC's findings against Shri Ketan Parekh.	associated with Ketan Parekh: 1. Classic Credit Ltd 2. Shri Kirtikumar N. Parekh 3. Shri Ketan V Parekh 4. Shri Kartik K Parekh 5. Panther Fincap & Mgt. Services Ltd. 6. Shri Navinchandra Parekh 7. Luminant Investment Private Ltd 8. Shri Arun J Shah 9. Chitrakut Computers Pvt. Ltd 10. NH Securities Ltd. 11. Shri V N Parekh 12. Classic Shares & Stock Broker Ltd 13. Shri Kaushik C Shah 14. Shri Mukesh Joshi 15. Saimangal Investrade Ltd 16. Classic Infin Ltd 17. Panther Investrade Ltd Regarding the Special Cell, it is submitted that in the wake of the outbreak of the scam, DGIT (Inv) Mumbai was working in several areas including coordination with various enforcement agencies looking into transactions involved in the scam, working as a Member of Disposal Committee for disposal of assets taken over by the special court appointed under a Separate Act for this purpose in 1992. Income Tax Department has till date made recovery of Rs. 913.01 crore towards outstanding liabilities of notified persons after satisfying the Special Court. DGIT (Inv.), Mumbai was also actively engaged in aiding investigation and assessment in cases of large number of notified persons. All these work with which DGIT (Inv.) was actively engaged in essence implied the pursuit of the very subject which the Special Cell was asked to investigate. The final report submitted by the Cell in October, 2002 has been circulated to all concerned agencies	

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			to take note of and to implement its observations and recommendations.	
18.	4.44	The various acts of omission and commission having been clearly established, the Committee urge that the Government should take all necessary steps to finalize proceedings against Ketan Parekh entities and to ensure that suitable action is taken against them without delay. The Committee also urge that expeditious action should be taken to as certain the facts regarding the Swiss bank account of Shri Ketan Parekh and to follow up the matter.	SEBI has indicated that the action taken by SEBI against Ketan Parekh entities for involvement in price manipulation of certain sciprs, inter-alia, include debarring Ketan Parekh and all entities connected with him from undertaking any fresh business as stock broker/merchant banker and cancellation of the certificate of registration of Triumph International Finance (I) Ltd., one of the broking entities of Ketan Parekh. Prosecution proceedings against Ketan Parekh entities are being initiated for the violation of securities laws. CBI have intimated that the chargesheet in the case relating to Bank of India has already been filed in the competent court. Regarding Madhavpura Mercantile Cooperative bank, investigation is at an advanced stage and is likely to be finalized shortly. Regarding Swiss Bank accounts of Ketan Parekh, the Swiss authorities had intimated in December, 2002 that the Letter Rogatory sent in this matter cannot be executed because of the directions of the High Court at Zurich. Enforcement Directorate have intimated that certain OCB's which SEBI has designated as KP entities, have already been charged for offences under FERA/FEMA through issue of SCN, as, has been pointed out in the JPC report. The Adjudicating Authority has been advised to expedite the proceedings.	Enforcement Directorate has issued Show Cause Notices for contraventions of the provisions of FERA/FEMA to the following OCB's designated by SEBI as KP entities:- 1. Global Trust Bank, the custodian in all the cases. 2. Brentfield Holdings Ltd (BHL) 3. Europian Investments Ltd., (EIL) 4. Wakefield Holdings Ltd. (WHL) 5. Far East Investment Corp. Ltd (FIL) 6. Kensington Investments Ltd. (KIL) In all these cases, the matter is now at the adjudication stage. The Adjudicating Authority has been advised to expedite the proceedings. In addition, a fresh reference was received by the Enforcement Directorate from the RBI dated 9/01/03 regarding the affairs of U.K. subsidiary of Triumph International Finance India Ltd. designated by SEBI as a KP entity. Investigation by the Directorate of Enforcement has so far revealed that the company and its Directors Shri Jatian Sarviya and Shri Ketan Parekh appear to have violated the provisions of Section 3(a) r/w Section 2(v)(iv) of FEMA r/w Regulation 3 of Foreign Exchange Management (Transfer or Issue of any Foreign Security Regulations 2000) by divesting the holding of their Mauritius Subsidiary International Holdings (Triumph) Ltd. in the UK subsidiary, for a total consideration of US $ 7,25,000/- without the approval of the RBI. The investigation is being pursued. With regard to completion of the investigation by Income Tax Department in Ketan Parekh Group of cases in which a search was conducted by the Department in March 2001, investigation/ assessment proceedings have been completed

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				in October 2003 and undisclosed income has been assessed at Rs.1,993.26 crore raising the tax demand of Rs.1365.37 crore. As regards Madhavpura Mercantile Cooperative Bank Ltd. case, investigation in India has been completed and order of Head Office of CBI on the investigation report since been communicated to the branch. Charge sheet in the case would be filed shortly.
19.	4.45	Ketan Parekh entities owe considerable sum of money to Banks. Expeditious action should be taken to recover this amount from Ketan Parekh entities.	As per the information available with Reserve Bank of India (RBI), as on 31.3.2003 Bank of India, Global Trust Bank Ltd (GTB) ICICI Bank Ltd., Centurion Bank Ltd. and Bank of Punjab Ltd. have recovered an amount of Rs.137.31 crores from Ketan Parekh entities as against a total exposure of Rs.424.87. RBI has advised the banks in January 2003 to take effective steps to recover the entire amount from the Ketan Parekh entities expeditiously. Legal action for recovery has already been initiated by GTB, ICICI Bank, Centurion Bank, Bank of Punjab Ltd. Bank of India has been permitted by Government to enter into a compromise settlement in respect of Ketan Parekh Group of companies subject to inclusion of a clause in the compromise agreement that the agreement is without prejudice to the criminal case against Ketan Parekh and others.	Follow up action is in progress.
20.	4.68	The Committee note that the three broking groups belonging to Shri D.K. Singhania, Shri A.K. Poddar and Shri H.C. Biyani were primarily responsible for the payment problem in March 2001 in CSE. Their default in pay-in obligations in three settlements in March -2001 was about Rs. 107 crore. D.K Singhania Group and A.K. Poddar Group along with Sanjay Khemani Group received over a period a sum of Rs. 3191 crore from Ketan Parekh entities for taking deliveries	Pursuant to investigations against Singhania Group, Poddar Group, Biyani Group and Khemani groups, SEBI has filed prosecutions as follows:	Investigation of Kolkatta Police is in progress.

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on behalf of the latter and had close linkages with Shri Ketan Parekh. The Committee find that these broker groups exploited the weaknesses in the working of Calcutta Stock Exchange as discussed in another section of this Report and built large concentrated position in a few scrips in violation of exposure limits. The brokers' plea of ignorance about the defects in the CSE margin system is not convincing. The Committee urge that the civil and criminal proceedings initiated against the defaulted brokers should be expeditiously completed and the guilty punished at the earliest.

No	Name of the Case	Filed against	Case No.	Filed at	Date of filing
1.	SEBI vs. Smt Prema Poddar	Prema Poddar	4910/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
2.	SEBI vs. Tripoli Consultancy Services Pvt. Ltd.	Tripoli Consultancy Services Pvt. Ltd., Shri B P Singhania, Shri Pravin Kumar Agarwal	4908/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
3.	SEBI vs. Shri Ashok Kumar Poddar	Shri Ashok Kumar Poddar	4909/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
4.	SEBI vs. Shri Raj Kumar Poddar	Shri Raj Kumar Poddar	4911/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
5.	SEBI vs. Shri Ratanlal Poddar	Shri Ratanlal Poddar	4912/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
6.	SEBI vs. Doe Jones Investments and Consultants Pvt. Ltd.	Doe Jones Investments and Consultants Pvt. Ltd., Shri Raj Kr. Patni, Shri Raj Kr. Jain, Shri Gopal Singhania	4913/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
7.	SEBI vs.Biyani Securities Pvt.Ltd	Biyani Securities Pvt. Ltd., Shri Aloke Biyani, Shri Ravindra Biyani	4914/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
8.	SEBI vs. Arihant Exim Scrip Pvt. Ltd.	Arihant Exim Scrip Pvt. Ltd., Shri Basudeo Singhania, Shri Sanjay Kr. Jain	4915/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
9.	SEBI vs.Shri Dinesh Kr.Singhania	Shri Dinesh Kr. Singhania	4916/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
10.	SEBI vs.Shri Harish Chandra Biyani	Shri Harish Chandra Biyani	4917/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
11.	SEBI vs Sanjay Khemani	Shri Sanjay Khemani	C/1429/03	Chief Metropolitan Magistrate, Kolkata	March 27, 2003
12.	SEBI vs Sanjay Khemani	Shri Sanjay Khemani	C/1429/03	Chief Metropolitan Magistrate, Kolkata	March 27, 2003
13.	SEBI vs. N. Khemani	Shri N. Khemani	C/1428/03	Chief Metropolitan Magistrate, Kolkata	March 27, 2003

- Registration of the following stock broking entities of CSE has been cancelled by SEBI under Stock Brokers Regulations:

1. Dinesh Kumar Singhania & Co.
2. Doe Jones Investments & Consultants P Ltd.
3. Arihant Exim Scrip P. Ltd.
4. Tripoli Consultancy Services Pvt. Ltd.
5. Biyani Securities P. Ltd.

No	Name of the Case	Filed against	Case No.	Filed at	Date of filing

6. Harish Chandra Biyani
7. Raj Kumar Poddar
8. Ratan Lal Poddar
9. Ashok Kumar Poddar
10. Prema Poddar

- SEBI vide order dated October 18, 2002 issued under Section 11 and 11B of the SEBI Act, 1992 debarred following persons from associating with securities market activities and dealing in securities till the completion of investigation proceedings against Shri Ketan Parekh and some entities associated with him. During the period, they have been directed not to buy, sell or deal in the securities market directly or indirectly.

1. Shri Ashok Kumar Poddar
2. Mrs. Prema Poddar
3. Shri Raj Kumar Poddar
4. Shri Ratan Lal Poddar
5. Shri Dinesh Kumar Singhania
6. Doe Jones Investments & Consultants Pvt. Ltd.
7. Shri Raj Kumar Patni alias Raj Kumar Jain, Director, Doe Jones Investments & Consultants Pvt. Ltd.
8. Shri Gopal Singhania alias Gopal Krishna Singhania, Director, Doe Jones Investments & Consultants Pvt. Ltd.
9. Arihant Exim Scrip Pvt. Ltd.
10. Shri Basudeo Singhania, Director, Arihant Exim Scrip Pvt. Ltd.
11. Shri Sanjay Kumar Jain, Director, Arihant Exim Scrip Pvt. Ltd.
12. Tripoli Consultancy Services Pvt. Ltd.
13. Shri Bhagwati Prasad Singhania, Director, Tripoli Consultancy Services Pvt. Ltd.
14. Shri Praveen Kumar Agarwal ,Director, Tripoli Consultancy Services Pvt. Ltd.
15. Biyani Securities Pvt. Ltd.
16. Shri Aloke Biyani, Director, Biyani Securities Pvt. Ltd.
17. Shri Ravindra Biyani, Director, Biyani Securities Pvt. Ltd.
18. Shri Harish Chandra Biyani

As advised by SEBI, CSE has also filed FIR against Singhania Group, Poddar Group and Biyani Group of brokers with Kolkata Police Authorities (Case Ref. – Hare Street P.S./DD Case no. 476 dated 24.09.2002 U/s 120B/420/409/467 /468 /471/477A IPC).

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21.	4.69	Shri H.C. Biyani had deposited 10 lakh shares of DSQ Software Ltd. as security towards his pay in dues to CSE on 21.3.2001. It transpired during the Committee's examination that Shri Biyani did not have ownership of those shares when he deposited them and could not have transferred the shares to CSE. It was a fraud on CSE by Shri Biyani. CSE has reportedly filed an FIR against Shri Biyani and Biyani Securities in this regard. The Committee expect that the matter	SEBI have informed that Biyani Securities Pvt. Ltd., had tendered 10,00,000 shares of DSQ Software to CSE for meeting its pay-in obligations. It was stated by the broker in correspondence to the CSE that these shares were obtained from one of its clients against the dues of the clients towards the broker. However, later, broker changed his version in investigation before SEBI and said that the entity from whom these shares were obtained did not act as client and was merely an entity of a friend	Investigation of Kolkatta police is in progress.

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		be investigated and on the basis of outcome thereof, appropriate criminal proceedings will be initiated.	who wanted to help it tide over payment difficulties. However, this was contradicted by the stated friend. Accordingly, criminal proceedings were initiated against Biyani Group by CSE with Detective Department, Kolkata Police vide case Ref. – Hare Street P.S./DD Case no. 476 on 24.09.2002 u/s 120B/420/409/467/468/471/477A of IPC. Kolkatta Police have informed that investigation is in progress.	
22.	4.70	In another instance, Shri H.C. Biyani had entered into a transaction with Stock Holding Corp. of India Ltd. (SHCIL), which was classified by CSE as trade in the nature of accommodation and expunged the same. The trade in question related to his sale of DSQ Industries shares under Sell-n-Cash scheme of SHCIL on 2.3.2001 for Rs.24.45 crore where the counter party broker was Shri Biyani himself. This matter has since been looked into by an independent inquiry appointed by SHCIL as discussed in the section on SHCIL.	SEBI has ordered investigation to ascertain as to whether there was any nexus among SHCIL officials, Dinesh Dalmia promoter of DSQ Industries, Biyani Group in relation to the transactions done by Biyani Group through SHCIL and more particularly to ascertain whether any provisions of the SEBI Act, 1992 and various Rules and Regulations made there under have been violated. Investigation is currently in progress.	Investigation has been completed and the same has not found any evidence to prove the nexus among SHCIL officials, Dinesh Dalmia, promoter of DSQ Industries and Biyani group. However, in view of gross negligence/ irregularities in the transactions conducted by SHCIL with Biyani group, SHCIL board has been advised to take action as they deem fit against the following officials of SHCIL who had executed / approved the transactions of Biyani group: a) Former MD and CEO of SHCIL b) Four committee members who approved the transactions with Biyani group. c) Branch Head of Kolkata office of SHCIL Departmental enquiry proceedings have been initiated against the six persons. Charge-sheet were issued to the six officials who have submitted reply. The Board of Directors of SHCIL has approved appointment of an equiry officer to conduct equiry in these cases. Prosecution (No.4537 filed on August 13,2003 filed at Chief Metropolitan Magistrate's Court at Kolkata) has been filed against Shri Dinesh Dalmia, Shri Harish Biyani and Shri Ravindra Biyani.
23.	4.117	SEBI has not so far provided conculsive evidence to substantiate its conclusions in regard to the brokers/groups mentioned in Section 3 above.	SEBI have informed the following action taken by it. **A. First Global Group** Based on investigation findings in the case of First	Pursuant to enquiry proceedings initiated against DKB Securities (DKB), an opportunity of hearing before Whole time Member of SEBI was granted

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		Accordingly, the Committee recommend further investigations in this regard. has not so far provided conclusive evidence to substantiate its conclusions in regard to the brokers/groups mentioned in Section 3 above. Accordingly, the Committee recommend further investigations in this regard.	Global Group, an enquiry was conducted against First Global Stock Broking Pvt. Ltd. (FGSB) and Vruddi Confinvest India Pvt. Ltd. (VCIP). The Enquiry Officer, vide report dated January 09, 2002, recommended cancellation of registration as Stock Broker and Portfolio Manager and cancellation of registration as Sub-broker, granted earlier to FGSB and VCIP. The Board, in pursuance of the directions of the Hon'ble High Court of Bombay and in exercise of the powers conferred by section 4(2) of SEBI Act, 1992 read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair trade practices relating to securities market) Regulations, 1995 read with Regulation 29(3) of SEBI (Stock Brokers and sub-brokers) Regulations, 1992, and Regulation 35 (3) of SEBI (Portfolio Managers) Regulations, 1993, cancelled the certificate of Registration granted to FGSB as Stock broker (SEBI Reg. No. INB230722136 and INB010722152) and Portfolio Manager (SEBI Reg. No. INP000000381) and VCIP (SEBI Reg. No. INS010647738/01-07221) as a Sub-broker. Pursuant to Board's order, Prosecution has been filed on January 15, 2003 (vide C. C. no 23/S/ 2003) against FGSB, VCIP, Shri. Shankar Sharma and Ms. Devina Mehra, for violating SEBI (Prohibition of Fraudulent and Unfair trade practices relating to securities market) Regulations, 1995. Further, SEBI has filed for Prosecution against FGSB, VCIP, Virta Trade Agencies Pvt. Ltd., First Global Finance Pvt. Ltd., Shri. Shankar Sharma and Ms. Devina Mehra on January 15, 2003 (vide C. C. no 23 A /S/ 2003), for non-compliance to SEBI Summons. **B. CSFB Securities:** Credit Suisse First Boston (I) Securities Pvt. Ltd. (CSFB Securities) had transacted in a big way on behalf of entities connected associated with Ketan Parekh, certain	to DKB Securities on 28th July, 2003. Final order is being issued. The enquiry has been completed against Sanjay Khemani and N. Khemani. The brokers through their counsel appeared before the Chairman, SEBI for a personal hearing on October 20, 2003. During the personal hearing, Chairman granted permission to Khemani group's counsel to make further written submissions. Accordingly, the written submission from the Khemani Group's counsel has been received and Chairman's final order in the matter is being issued. SEBI Investigation into the activities of the R.S. Damani Group have been completed. Pursuant to the findings of investigation, enquiry proceedings were initiated against 3 broking entities of M/s R.S. Damani group, namely, Damani Shares & Stock Brokers Pvt. Ltd., Maheshwari Equity Brokers Pvt. Ltd. and Avenue Stock Brokers (I) Pvt. Ltd. for alleged violations of the provisions of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. The enquiry officer has submitted his report and the same is under consideration. SEBI investigation into the activities of the Shailesh Shah Group have been completed. Pursuant to the findings of investigation, enquiry proceedings were initiated against 4 broking entities of M/s Shailesh Shah group, namely, Shailesh Shah Securities Ltd., Dolat Capital Markets Ltd., Pankaj D Shah and Nirpan Securities Ltd. for alleged violations of the provisions of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market)

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			OCBs namely Wakefield, Brentfield, Kensington, FII sub-account—Kallar Kahar Investment Ltd., Mackertich Consultancy Services Pvt. Ltd. and also on its own account SEBI's investigation have concluded that CSFB Securities and CSFB proprietary account aided and abetted Ketan Parekh entities in putting fictitious and non-genuine trades with a view to create misleading appearance of trading. Credit Suisse First Boston also aided, assisted and abetted Ketan Parekh entities in creating artificial volumes and market in certain scrips through circular trades. Shares were being rotated from one entity belonging to Ketan Parekh to other entities belonging to him. There was no change in beneficial ownership. These transactions were put with a view to induce others to purchase and sell the securities. Based on the findings of investigations, SEBI had issued orders against CSFB asking it not to undertake fresh business as a broker and enquiry proceedings were initiated against the broker. Enquiry proceedings have been completed against the broker and SEBI has suspended the certificate of registration of Credit Suisse First Boston (I) Securities Pvt Ltd (CSFB Securities) to act as a stock broker for the period of two years w.e.f. April 18,2001 for aiding, abeting and assisting Ketan Parekh entities in market manipulations. **C.DKB Securities:** SEBI's investigation have concluded that Dresdner Kleinwort Benson Securities (India) Ltd., (DKB Securities), a foreign brokerage registered with SEBI aided and abetted Ketan Parekh entities in putting fictitious and non-genuine trades with a view to create misleading appearance of trading and in creating artificial volumes and market in certain scrips through circular trades. Shares were being rotated from one entity belonging to Ketan Parekh to other entities belonging to him. There was no change in beneficial	Regulations, 1995. Also, adjudication proceedings were initiated against M/s Shailesh Shah Group of companies for alleged contravention of Section 15A of the SEBI Act read with the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. The Enquiry and Adjudication officer has submitted his report and the same is under consideration. Regarding Nirmal Bang Group, the entities filed an appeal before the SAT against SEBI's order. SAT, vide order dated October 31, 2003 modified SEBI's order dated July 30, 2002, by reducing the penalty of cancellation to suspension of registration of M/s Nirmal Bang Securities Ltd. for two years and in case of Bang Equity Broking Pvt. Ltd. (BEB) and Bama Securities Ltd. (BSL) for three years. The order in case of Bang Securities Pvt. Ltd (BS) has been set aside. SEBI is considering filing of appeal in Supreme Court against SAT order.

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ownership. The transactions were put with a view to induce others to purchase and sell the securities. SEBI conducted enquiry against DKB Securities and Enquiry officer has recommended suspension of certificate of registration of DKB Securities to act as a stock broker for the period of two years. Show cause notice has been issued.

E. Khemani Group

The investigation of Khemani Group has revealed the violation of the following provisions by Sanjay Khemani and N Khemani:

- Section 19 of Securities Contracts (Regulation) Act, 1956
- Regulation 4 (b) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995
- Rule 4 (b) of SEBI (Stock brokers and Sub-brokers) Rules, 1992,
- Regulation 7 of SEBI (Stock brokers and Sub-brokers) Regulations, 1992

For the above violations, SEBI vide its Order dated January 21, 2003 issued under Section 11 & 11B SEBI Act, 1992 has debarred Sanjay Khemani and N. Khemani from associating with securities market activities and dealing in securities till the completion of enquiry proceedings against them and the completion of investigation proceedings against Shri Ketan Parekh and some entities associated with him. During the period they are directed not to buy, sell or deal in the securities market directly or indirectly.

H. Bang Group of Entities

In the light of the findings of investigation and after considering the findings of the enquiry officer, in

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			exercise of powers conferred upon under Section 4(3) of SEBI Act, 1992 read with Regulation 29 (3) of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 read with Regulation 13 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 SEBI passed an order dated July 30, 2002 canceling the registration of M/s Nirmal Bang Securities Ltd. (NBS), M/s Bang Equity Broking Pvt. Ltd. (BEB), Bama Securities Ltd. (BSL) - all stock brokers registered with SEBI and Bang Securities Pvt. Ltd. (BS), sub brokers registered with SEBI .	
24.	4.131	The Committee note that SEBI inspection has brought out various irregularties by Stock Holding Corporation of India Ltd. (SHCIL) in respect of is transactions under 'Sell-N-Cash'/ 'Cash-on-Payout' schemes with Biyani Group of Calcutta Stock Exchange. Some of the irregularities are : • Exposure of one-third of its net worth (exposure of about Rs. 43 crore) for one scrip and one broker group viz., Biyani Group; • Doing trade of 7.2 lakh shares when there were only 1.1 lakh shares in the beneficiary account; • Negotiating with promoter Director of the traded scrip for extension of a facility to a broker; • Issue of a letter of comfort/assurance to Induslnd Bank by local office followed by Head Office regarding issuance of cheques; • Issue of cheques by unauthorized signatories; • Reduction of service charge from 0.5% to 0.2%. The Committee hope that SEBI will take suitable action on the basis of its above findings.	SEBI has informed that enquiry conducted by M/s Haribhakti & Co and its findings were sent to SHCIL to obtain their comments and calling for an explanation as a part process of natural justice before taking further action. The comments have since been received and have been examined. Further action including conducting an enquiry in accordance with Securities and Exchange Board of India (Procedure for holding enquiry by an enquiry officer and imposing penalty) Regulations, 2002, or any other action would be taken shortly.	SEBI has informed that vide letter dated June 17, 2003 the " no-objection" (letter no FITTC/ FC/3201/1999 dated December 13,1999) conveyed to SHCIL for their schemes of Sell-n-Cash and Cash-on-Payout has been withdrawn. SHCIL has stopped operation of said Schemes w.e.f. June 18, 2003.
25.	4.132	SHCIL at the instance of JPC instituted an independent enquiry to look into this case. The enquiry was conducted by a Chattered	As against para 4.131	As against para 4.131

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		Accountant (Haribhakti & Co.). The enquiry has concluded that though the Sell-N-Cash scheme was not meant for brokers, SHCIL extended the facility to brokers and that the procedures laid down were not followed. The limits laid down were exceeded and such excesses were ratified by the then Managing Director and C.E.O. The enquiry has concluded that while they have not come across any evidence to indicate malafde intention on the part of officials of SHCIL, there was negligence in operation of the schemes and lack of proper judgment on the part of the Managing Director and C.E.O. in approving the transaction and not keeping the Board informed in advance. The enquiry report has recommended certain corrective measures such as review of the Sell-N-Cash and Cash on-payout Schemes, restricting the schemes only to investors, etc. The Committee urge that necessary action be taken on the measures suggested by the enquiry.		
26.	4.133	SEBI's report has highlighted that SHCIL did not follow prudential norms and regulations while conducting is business. The 'Sell-N-Cash' Scheme envisaged for small investors has been used by SHCIL as an avenue for financing brokers and used as a funding mechanism for creating artificial market in scrips. There was also lack of internal control procedures. The Committee urge SHCIL to look into these issues and devise appropriate norms to ensure that its schemes/ activities do not result in market manipulation or promote unfair trade practices.	As against para 4.131	As against para 4.131
27.	5.55	MMCB was relying on the Call Money Market to meet with exigencies but on no occasions defaulted in its repayment obligations except on 7.3.2001 when its borrowings from Call Money market, attributed largely to the advances it had	The investigation regarding nexus between Chairman, MMCB and Ketan Parekh is being looked into during the investigation of MMCB case. SEBI has informed that the process of improving & institutionalizing coordination between SEBI &	The joint RBI- SEBI group submitted its report on July 30, 2003. This report was discussed in the meeting of the RBI – SEBI Standing Technical Committee held on October 21, 2003. The process of exchange of alerts and information

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		given to the Ketan Parekh and other broking entities in the form of Pay-Orders etc. were left unsecured. While the Ketan Parekh entities were able to avail of instant credit by discounting the MMCB Pay-Orders aggregating to Rs.137 crore from the Stock Exchange Branch of Bank of India, Mumbai, the entities enjoyed substantial sanctioned limits, MMCB failed to meet with its obligations at the Brihan Mumbai Clearing House when the said Pay-Orders were presented for settlement on 9/3/2001. The feasibility of the Bank's harnessing potential alternative means to satisfy its clearance obligations was nipped in the bud when RBI stepped in on 13.3.2001 and invoked Rule 11 barring MMCB from accessing the Clearing House in any manner with retrospective effect from 9.3.2001. The Committee are of the view that while the nexus between Chairman, MMCB and Chairman of KP group companies warrants further investigation by the agencies concerned, it is also necessary for RBI and SEBI to draw the right lessons from the regulatory point-of-view to put in place an integrated system of alerts which would piece together disparate signals from different elements of the market to generate special attention to any unusual activity anywhere in the system which might have a bearing on the integrity of the stock market.	RBI has been initiated and measures have been taken for implementation of JPC recommendations. A group has been formed with representation from SEBI & RBI for exchanging information on alerts related to the areas regulated by the respective bodies. The group will be working on modalities for identifying unusual activity in the system which might have a bearing on market integrity, based on the desparate signals arising from different market segments, regulated by the two regulatory bodies. Two officers from SEBI & three officers from RBI have been nominated in this group.	has been set in motion. CBI has intimated that in RC.4/E/2001- BSFC/ MUM pertaining to MMCB case, investigation in India has since been completed and order of Head Office of CBI on the investigation report since been communicated to the Branch. Charge sheet in the case would be filed shortly.
28.	5.59	The Committee take serious note of the fact that the then Chairman of the Bank was instrumental in getting huge amounts of loans sanctioned by the Bank in blatant violation of extant rules/ guidelines either for his personal gain or for the benefit of his close relations. He misused his official position for his personal business interests by securing from the Bank credit facilities much beyond exposure norms for M/s Madhur Food	CBI has informed that the transfer of funds to the tune of Rs. 135 crore from the account of Ketan Parekh Group entities to M/s Madhur Capital & Finance Pvt. Ltd., a company belonging to the Chairman's Group is being investigated in case RC 4(E)/2001-BS&FC/ Mumbai relating to MMCB. Action taken by RBI is indicated against Para 3.22.	CBI has informed that in RC.4/E/2001-BSFC/ MUM i.e. the MMCB case field investigation in India has been completed, order of Head Office of CBI on the investigation report since been communicated to the branch. The case would be charge-sheeted shortly. Permission of the Govt. of India has been received for sending LRs to Mauritius and UK. Steps are being taken to get the same issued by the Court at the earliest.

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		Products Ltd., a company in which he was a Director. Large funds were transferred between different accounts belonging to the business concerns of the Chairman; for instance, amounts were withdrawn from the loan account of M/s Madhur Food Products and transferred to other accounts of the Chairman, that is, M/s Madhur Shares and Stocks Ltd. and M/s Madhur Capital and Finance Ltd. In the pursuit of his vested interests, the Chairman colluded with Ketan Parekh. For example, between 17.1.2001 and 28.2.2001, Rs. 135 crore were transferred from the hypothecation account of M/s Panther FinCap and Management Services Pvt Ltd.-a company belonging to the Ketan Parekh Group to the current account of M/s Madhur Capital and Finance Pvt Ltd.-a company belonging to the Bank Chairman's group. This appears to have been done in consideration of unduly large credits extended by the Bank to the Ketan Parekh Group at its Mandvi branch, Mumbai, indicating a business nexus between the Chairman and Shri Ketan Parekh.		In the light of outcome thereof, follow up action in the matter would be taken. In RC.3/E/2001-BSFC/ MUM i.e. Bank of India case, charge- sheet was filed in the court of CMM Mumbai on 1.6.2001, and the case is still at the stage of framing of charges.
29.	5.62	The question of duality of control engaged the consideration of the Committee. This aspect is covered in detail under the chapter relating to RBI.	As against para 3.21	As against para 3.21
30.	5.63	The Committee also note the dubious-role played by the auditors who failed to point out serious irregularities while conducting audit for the year 1998-99 and 1999-2000. A formal complaint is reported to have been lodged in this regard by the RCS Gujarat with the Institute of Chartered Accountants of India in March, 2002. Even in the absence of the calculation of the CD ratio, discrepancy between credit to deposit were evident from the face of the records.	Department of Company Affairs have informed that two complaints have been received by the Institute of Chartered Accountants of India, against auditors, from RCS Gujarat, in the context of the 2001 'scam'. The Council of the ICAI has come to the prima facie opinion that a disciplinary inquiry be conducted. Accordingly both the complaints have been referred to the Disciplinary Committee for enquiry.	No change in the status.

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31.	5.64	The Committee were informed that a criminal complaint was lodged by the RBI in the court of Chief Metropolitan Magistrate, Ahmedabad against the MMCB, its Chairman and Managing Director on 14.3.2001 under section 46 of the Banking Regulation Act 1949, read with section 58(B) of the Reserve Bank of India Act, 1934, for having made false statements to RBI with respect to call money borrowing and also failing to meet its assurance for submitting the required information. A criminal complaint had also been lodged by the Administrator of MMCB Ltd. with Madhavpura Police Station, Ahmedabad on 21.4.2001. Later, in terms of the order of the High Court of Gujarat, Ahmedabad dated 2.5.2001, CBI has been directed to investigate the deeds/ misdeeds of the exChairman and Managing Director and other officials involved in the mismanagement of the Bank. In pursuance of court orders, the case was transferred to CBI, Mumbai, and an FIR has been registered with Special Police Establishment, Mumbai Branch on 18.5.2001. On 1.6.2001, charge sheet in the case has been filed against Ketan.V.Parekh, Kartik.K. Parekh, Ramesh Parekh, Chairman, MMCB, Devendra B. Pandya, Managing Director, MMCB and Jagdish.B.Pandya, Branch Manager u/s 120-B,420,467,468 and 471 of IPC. The case is stated to be pending in the Court of the Chief Metropolitan Megistrate, Mumbai. The Committee desire that these cases be decided expeditiously.	The criminal complaint lodged by the Administrator of MMCB on 21.4.2001 with Madhavpura Police Station, Ahmedabad, was registered as CR No. 67 of 2001 and the same has since been transferred to the CBI BS&FC, Mumbai in its RC. 4(ED 7.3.2003)/2001-CBI BAFC Mumbai on 18.5.2001 vide orders dated 2.5.2001 of the High Court of Gujarat, Ahmedabad. The chargesheet filed on 1.6.2001 against Sh. Ketan Parekh and Others relates to RC.3/E/2001-BSFC/MUM registered on 30.3.2001 by CBI BSFC Mumbai and the same is pending trial in the Hon'ble Court of CMM Mumbai as CC No.60/P/2001. The draft charges have been submitted by the prosecution to the court. The CBI has appointed an exculsive special counsel to conduct the trial of this case and all efforts are being made by it with the court to expedite the trial.	As against para 5.59
32.	5.66	It will be seen that almost everything was being wrongly done in MMCB and almost everyone was involved. This case therefore deserve severest action. The Committee recommend the following:	As against para 3.22	
	i	The Committee is of the opinion that in the gross irregularities committed in the functioning of the MMCB, everyone was involved. The Committee	Ministry of Agriculture has informed that (a) Immediately after the problem of Madhavpura Mercantile Cooperative Bank surfaced, the Board	(i) Government of Gujarat has reported that an amount of Rs.173.96 crore has been recovered from the defaulters of the Bank. The Bank has

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		believe that all those involved must be dealt with severely and expeditiously. The Committee recommend that RBI, State Registrar of Co-operative Societies and Central Registrar of Co-operative Societies should fix responsibilities for wrong doings and proceed expeditiously against all those who are found involved. Had such misdeeds not been committed, the fabric of co-operative Banking system could not have been affected to this extent.	of Directors of the Bank was superseded and an Administrator was appointed. In order to assist the Administrator, an Advisory Committee consisting of the RCS, Gujarat, representatives of Gujarat State Urban Cooperative Banks, one Chartered Accountant and representatives of the creditors, consumers and shareholders was constituted. An inquiry under section 69 of the old MSCS Act, 1984 was instituted and a snap scrutiny of the bank was conducted by the RBI and based on the RBI report further action was taken. (b) A criminal complaint against the then Chairman of the Bank, Sh. Rameshchandra Nandlal Parikh, the Chief Executive of the Bank Sh. Devendra Pandya and Branch Manager of the Mandavi Branch, Mumbai, Sh. Jagdish Pandya was lodged with the Police, Ahmedabad on 21.4.2001 under Section 405, 406, 408, 409 and 120B IPC for committing acts of omissions and commission in 19 loan accounts of K.P. Group. These cases were subsequently transferred to the CSI by an order of the Hon'ble High Court of Gujarat. (c) The then Managing Director of the bank and the Branch Manager of the Mandvi Branch who were primarily responsible for the debacle have already been dismissed from the service. (d)13 more criminal cases were filed in June 2002 and another 35 cases on 5-12-2002 against the firms for irregular transactions which are under investigation by the State Police. (e) Recovery proceedings with regard to the loans outstanding have been launched and so far an amount of Rs.142 crores has been recovered from the defaulters. From Mr. Ketan Parikh, an amount of Rs. 16 crores has been recovered. For the remaining amount, the civil court at Ahmedabad has given him a period of 3 years. f) The Institute of Chartered Accountants of India has already been requested to take disciplinary	admitted 801 "Money" suits in various courts worth Rs.1498.56 crores and 56 criminal cases are lodged against defaulters of the Bank. An enquiry against S/Shri S.N. Valera & Co., Chartered Accountants and M/s Manubhai A. Panchal & Co., Chartered Accountants, who were the auditors of the Madhavpura Mercantile Cooperative Bank Ltd. for the years 1999-2000 and 1998-1999 respectively is under progress and the final hearing in the matter is fixed on 17th/ 18th January, 2004. So far as RBI's role is concerned, RBI has informed that One Man Committee under the former MD, NABARD and former Banking Ombudsman for Madhya Pradesh was appointed to look into the involvement, if any, on the part of the officials of the RBI in dealing with the Madhavpura Mercantile Co-op. Bank Ltd., Ahmedabad. The Committee after examining the records available in the RBI has observed that the bizarre misdeeds in the MMCB are a unique case of management's own design to defraud the bank. The Committee has observed in its report that the bank's management has effectively blocked the way for the Reserve Bank to get any insight into the fraudulent activities of the management in conducting the affairs of the bank as under: (i) During the course of the RBI inspection carried out in September-October 1999 i.e. immediately before the unearthing of the scam, all the advances were for small amounts and grouped under advances against composite securities or fixed assets and parked under hypothecation advances, thereby incapacitating the Inspecting Officers from locating these advances which are violative of the RBI directives. (ii) Supplemental sources of information like concurrent audit/internal inspection reports were conspicuous by absence.

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			action against the Chartered Accountants of the bank who failed to point out the serious irregularities committed by the bank.	(iii) Further, these advances were fraudulently closed by the bank during the period of the inspection [i.e. September 30 to October 20, 1999] only to be re-opened with enhanced limits [much above the RBI stipulated exposure norms] soon after the RBI inspection. The Committee has observed that these actions on the part of the bank's management clearly indicated its malafide and criminal intentions. This was clearly evident from the written statement furnished on March 13, 2001 [i.e. after the scam was discovered] by the bank's CEO to the RBI denying sanction of such advances. Further, the stipulated quarterly statements of advances to directors have either not been periodically furnished to Reserve Bank or were given with undue delay and with incomplete information. As the advances to directors also violated the exposure norms of the Reserve Bank, apart from defying the normal prudence of sound banking, the information relating to this area has also been concealed deliberately, from the Reserve Bank as pointed out in the inspection reports on the bank by the Reserve Bank, from time to time. The Committee has noted that the RBI had advised the bank in August 1998 to call back Chairman's group advances in view of the very unsatisfactory operations in these accounts and to classify them as 'NPAs', pending recovery. Despite this instruction, the bank had not only continued to renew the limits to these concerns, year-after-year, but also enhanced them, ignoring its violation of the exposure norms for granting of such advances, as stipulated by the Reserve Bank. As soon as the scam was discovered, RCS has conducted a "re-audit" of the bank for the years 1998-99 and 1999-2000, which endorsed all the major irregularities pointed out by RBI's quick scrutiny of March 2001.

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				The Committee has come to the conclusion that in the circumstances, particularly in view of the criminal misconduct of the bank's own management, RBI's interventions get blurred and in the given frame of its regulatory and supervisory control systems it cannot be said that there were any lapses on the part of the RBI or its officers in dealing with the MMCB, facilitating the perpetration of fraud by the bank's management.
ii		The Ministry of Finance must give a serious thought to the problem of duality of control in the case of co-operative banks which in fact is not only resulting in cross directives adversely affecting the working of the co-operative banks but also since most of the State Registrars are not exercising proper control and surveillance over these banks, it is noticed that the co-operative banks often flout rules with a sense of total impunity without the fear of any kind of accountability. The Committee therefore are inclined to agree with the recommendations made by the High Powered Committee and desire that the bank-related functions of the co-operative banks should be brought fully under the purview of Banking Regulation Act, 1949, so as to bring a clear demarcation of areas of activities of co-operative banks which will fall under the domain of RBI vis-a-vis the Registrar of Co-operative Societies. The legislative proposals submitted by the RBI to the Ministry of Finance as well as the proposal regarding setting up a separate apex body for regulating the entire urban co-operative sector therefore, merits early consideration.	As against para 3.21	As against para 3.21.

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	iii	In order to prevent irregularities of the type surfaced in the case of some of the co-operative Banks which were examined by the Committee they are of the view that full ban on granting of loans and advances to the directors and their relatives in concerns in which they are interested needs to be imposed. Appropriate legal procedures may be initiated to ensure that there is no conflict of interest in the grant of loans and advances to the directors and their relatives in the concerns in which they are interested.	The Reserve Bank of India has informed that it is contemplating to impose a complete ban on loans and advances to the Directors of the banks and their relatives including the secured loans.	In accordance with the announcement made in this regard in the Monetary and Credit Policy 2003-04, instructions have been issued to UCBs.
	iv	The Committee recommend that stringent laws be put in place to deal with fraudulent transaction like the ones that have come to light in relation to the affairs of MMCB and conduct of it Chairman and other senior functionaries. The laws must ensure that those guilty be brought to book expeditiously and disgorge their ill-gotten gains through confiscation of property and other appropriate measures.	Penal provisions for submitting false returns and for non-compliance with RBI instructions are provided in the proposed amendments to the Banking Regulation Act, 1949	As against para 3.21
	v	Penalties under the Banking Regulation Act, 1949 for false return/ information must be enhanced to serve as a deterrent.	Penal provisions for submitting false returns and for non-compliance with RBI instructions are provided in the proposed amendments to the Banking Regulation Act, 1949	As against para 3.21
33.	5.109	The Committee regret to note that the City Cooperative Bank flouted all prudential norms of the RBI. This became clear during the investigation conducted by the RBI. The Bank had no investment policy, loan disbursement policy and credit appraisal system. Carrying out a concurrent audit was also missing. The Bank had opened deposit accounts in respect of four front companies of the promoter of M/s Century Consultants Group viz. Shri Anand Krishna Johari who was also a Director on the Board of the Bank.	RBI has reported as follows:- The City Co-operative Bank, a non-scheduled bank based in Lucknow was inspected with reference to its position as on March 31, 1999, during May-June, 1999. The statutory inspection did not reveal any serious irregularities: the irregularities revealed were of rectifiable in nature, such as, absence of any loan policy, deficiency in credit appraisal system, laxity in post- disbursement supervision, unsatisfactory functioning of management and loan committees, lack of effective internal control system	Chargesheet in RC.19/2001-LKO has been filed by CBI in the Court on 30.8.2003. A Bill to amend the Banking Regulation Act, 1949 has been introduced in the Lok Sabha on 13.8.2003. The Bill has been referred to the Standing Committee on Finance. Government of Uttar Pradesh has reported that the enquiry report has since been received and action against concerned officers has already been initiated by obtaining their explanation. The

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		The accounts were opened without observing the usual safeguards such as introduction, obtaining of Memorandum and Articles of Association etc. The Board had vested full powers of investment on Shri Anand Krishna Johari and all investment decisions were taken by him. The result was that between 5th and 15th March, 2001, the Bank's funds to the extent of Rs. 6.50 crore were utilized for investments in bonds of Cyber Space Infosys-a concern of Shri Johari, contrary to RBI instructions prohibiting equity investment in such companies. There was also a total absence of any loan policy/committee and all credit decisions too were taken only by Shri Anand Johari. The Bank had invested funds to the extent of Rs. 15.68 crore in term deposits and receipts aggregating to Rs. 2.62 crore could not be produced to RBI for verification during the investigations. It was noticed that these were however encashed but not accounted for and the proceeds had simply been siphoned off. Similarly, the Bank did not have any documentary evidence in respect of a large amount of investment amounting to Rs. 21.40 crore indicating that the money had been misutilised by Shri Anand Krishna Johari. The advances were disbursed on the orders of the Secretary cum CEO. In addition, advances against shares in physical form were granted in excess of the ceiling of Rs. 10 lakh per individual as prescribed by the RBI which resulted in turning the entire portfolio to the tune of Rs. 1.53 crore into NPAs. Furthermore, the Bank had violated RBI directives on unsecured advances by sanctioning limits in excess of Rs. 50,000 in a number of cases, in blatant violation of the RBI directive on maximum limit in relation to unsecured advances. During the period January-March, 2001, the Bank had sanctioned large advances to the tune of Rs. 5.88 crore to	and control over branches. These irregularities did not warrant any immediate drastic action against the bank. As per the normal procedure followed, these deficiencies were discussed by the inspecting officers with the Chairman and the board on the concluding day of the inspection and the board was asked to take expeditious action to rectify the deficiencies and submit specific compliance to RBI. Inspection report pointed inter-alia, that the bank had violated the Reserve Bank of India guidelines on credit exposure of individual exposure norm of 20% of its capital funds and group exposure norm of 50% of its capital funds in several cases and the bank had defaulted in maintenance of Cash Reserve Ratio (CRR). The irregularities observed in the bank's functioning were perpetrated after the statutory inspection of the bank conducted by the RBI during May-June 1999 and indicates a clear case of nexus of the board with firm/s connected with the directors. 2. In the light of the findings of the scrutiny, RBI has taken the following measures: (i) With a view to prevent preferential payment to depositors and to contain the run, a Directive by RBI under Section 35 A of the Banking Regulation Act, 1949 (As Applicable to Cooperative Societies), was imposed on March 22, 2001 directing the bank not to accept fresh deposits or give fresh loans and not to repay more than one thousand rupees to any single depositor. (ii) The Registrar of Cooperative Societies, Uttar Pradesh had been requested on April 03, 2001 to supersede the Board of Management of the captioned bank and to appoint an Administrator for securing proper management by invoking the provisions of Sub-section (iii) of Section 90 B of the U.P. Co-operative Societies Act, 1965. Accordingly, the Registrar of Cooperative Societies	matter regarding constitution of Special Court for expeditious disposal of cases is still under consideration of Hon'ble Allahabad High Court.

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		15 borrowers without the backing of any tangible security in blatant violation of RBI directives. Astonishingly loans were sanctioned even against blank applications and without obtaining signatures on the necessary documents. Advances and funds were released by way of demand draft without ensuring their end use.	issued an order on April 09, 2001 superseding the Board and appointing the District Magistrate, Lucknow as the Administrator of the bank. iii) In view of the serious irregularities in the functioning of the bank as revealed in the interim report on scrutiny of books of account of the bank, a criminal complaint was filed by the Reserve Bank against the Chairman, Directors and Chief Executive Officer of the bank in the Court of Judicial Magistrate, Lucknow on April 03, 2001. (iv)The City Co-operative Bank Ltd., Lucknow, has filed two Criminal cases with Police Authorities against Shri Gorakh Nath Srivastava, the ex-Secretary of the bank and Shri Anand Krishna Johari, then Director of the bank, for siphoning of bank's funds to the tune of Rs.3230.22 lakh (approximately) in the form of fictitious investments and benami loans. 3. The City Co-operative Bank Ltd. was allotted four centres for opening of branches (no licence was issued for opening these branches) on February 27, 2001. This was based on the bank's financial position as on March 31, 2000 and the then prescribed eligibility norms for allotment of centres to UCBs. A scrutiny was later carried out in March 2001 on media reports concerning a run on the bank. Certain irregularities were detected and the centres allotted were cancelled on May 09, 2001 well before issue of licences for opening the branches at the allotted centres. 4. A scheme of revival of the bank is under consideration of the Government of Uttar Pradesh. 5. The CBI had registered two cases pertaining to defrauding of City Cooperative Bank to the tune of Rs.28.97 crores and Rs. 1.71 crores respectively. The investigation in the first case has revealed that out of the total amount of Rs.28.97 crores, an amount of Rs.17.16 crores was transferred to Mumbai and utilised for meeting the pay-in	

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			obligations of M/s. Century Consultants Ltd. and its associate companies and persons with Bombay Stock Exchange and National Stock Exchange. The funds were also used for trading in shares of Cyberspace Infosys Ltd. which was done by the promoters themselves for artificially hiking up the price of its shares in the market. Ultimately, when the share price of Cyberspace Infosys Ltd. fell down drastically the money was lost. An amount of Rs 11.81 crores was transferred to the accounts of Century Consultants Ltd. and associate companies and were utilised for meeting various obligations. Funds defrauded from City Cooperative Bank and investors of Century Consultants Ltd. and its group companies are mixed up and were used as one entity as and when required to meet the pay-in obligations to Bombay Stock Exchange and National Stock Exchange. In order to safeguard the interest of City Cooperative Bank and investors of Century Consultants Ltd. the CBI had requested Securities and Exchange Board of India for freezing the pay outs of 21 parties/persons which was the only means to ensure that the funds are not floundered further. The operation of current accounts and depository accounts of Century Consultants Ltd. and associate companies were also stopped. The field investigation has been completed and is under scrutiny in the CBI for taking a final decision in the matter. The CBI has completed investigation in the case pertaining to defrauding of City Cooperative Bank, Lucknow to the tune of Rs.1.71 crores and chargesheet has been submitted in the Court of Special Magistrate, CBI, Lucknow. The trial is at the stage of admission. In this case the CBI had recommended regular departmental action under major penalty against one Shri K. Srinivasan, officer State Bank of Hyderabad. Accordingly the bank has initiated major penalty proceedings against him in	

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			consultation with the Central Vigilance Commission. 6. RBI has issued instructions making concurrent audit compulsory for all urban cooperative banks. Instructions have also been issued requiring urban cooperative banks to designate a compliance officer to ensure compliance with and apprise the progress of compliance of the inspections reports of the RBI to the Audit Committee/ Board of Directors. The Audit Committee of urban cooperative banks are also now required to monitor implementation of RBI guidelines. A summary of important findings of inspection of urban cooperative banks is sent to the concerned State Government for further action. RBI has also issued instructions to urban cooperative banks that deficiencies/ irregularities observed during the inspection should be fully rectified by the banks and a certificate submitted. False certificate would invite penalties. The Banking Regulation Act is being amended to give greater powers to Reserve Bank of India for taking action against Cooperative Banks for non-compliance of its directives. 7. Government of Uttar Pradesh has vide orders dated 24.02.2003 set up a high level enquiry by Member, Board of Revenue to look into the laxity of Registrar of Cooperative Societies and his officers in discharging their duties regarding inspection of a bank. Law Department of Uttar Pradesh has sent a request to the Hon'ble Allahabad High Court for constitution of special court for expeditious disposal of these cases. The matter is under consideration of Hon'ble High Court.	
34.	5.110	The Bank had reportedly violated RBI guidelines on credit exposure in respect of the individual exposure norms of 20% of its capital fund and group exposure norm of 50% of its capital fund	As against para 5.109	As against para 5.109

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		in several cases. The liquidity position of the Bank was extremely unsatisfactory as the deposit liability of the Bank as on the date of scrutiny i.e. 22.3.2001 stood at Rs. 65.90 crore against the liquid assets of Rs. 8.14 crore. The Bank had also circumvented the CRR guideline as laid down under Section 18 of the Banking Regulation Act, 1949. It had adopted a novel way of inflating its balances with notified/eligible Banks in its books of accounts by booking fictitious debit entries. The Committee also note that there was no system of concurrent audit and the Bank had also violated RBI guidelines on income recognition, asset classification and provisioning. This ultimately resulted in systematically siphoning off the Bank's funds to the tune of Rs. 32.30 crore through the companies of Shri Anand Krishna Johari and turning negative the net worth of the Bank.		
35.	5.111	Neither the State Registrar under whose direct control the Bank functions nor the RBI which is an apex regulator in the case of urban cooperative Banks came to know of the misuse of powers and flagrant violation of regulations/directives of the RBI until a public outcry and news in the press. Though under the UP Cooperative Societies Act, 1965 wide powers of conducting inspections, enquiry and audit are vested with the Registrar of the Cooperative Societies, these powers were not exercised to check the functioning of the Bank. RBI too surprisingly issued licences as late as February, 2001 for opening four more branches of the Bank, thereby giving an impression that the Bank was functioning well. In fact even when in the annual inspection report of 1999, the RBI had clearly indicated some glaring irregularities and the auditors of the State Cooperative Department for the period 1997-2000 had pointed out serious irregularities, immediate steps were	As against para 5.109	As against para 5.109

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		not taken for rectifying the irregularities. This leaves the Committee with the impression that both the RCS as well as RBI showed laxity in discharging their duties even prior to March, 2001 when the run on the Bank surfaced.		
36.	5.112	The Committee were informed that RBI has filed criminal complaints against the Chairman, Secretary-cum-Chief Executive Officer and 11 other Directors in the Court of Chief Judicial Magistrate, Lucknow. In addition two FIRS dated 2nd May and 18th May, 2001 were also lodged against the erstwhile Director Shri Anand Krishna Johari and erstwhile Secretary Shri Gorakh Nath Srivastava for siphoning off funds from the Bank in the form of fake investments etc. to the tune of Rs. 30 crore approximately. The second FIR related to siphoning off funds in the form of cheque purchase for Rs. 1.71 crore. These two cases were subsequently taken over by CBI in July, 2001. Whereas in one case CBI has filed a charge sheet, investigations in the other case are not yet over. Departmental proceedings against Shri Gorakh N. Srivastava have also been initiated.	As against para 5.109	As against para 5.109
37.	5.113	In view of the foregoing observations, the Committee recommend the following specific action: (i) In order to expedite action on the criminal complaints which are presently pending adjudication in the Court of the Metropolitan Magistrate, Lucknow, it is recommended that such case be tried by a Special Court. (ii) UP Government may be asked to initiate further enquiry against the concerned State Registrars for not being vigilant and excercising supervision on the working of the Bank even when the UP Cooperative Societies Act, 1965	As against para 5.109	As against para 5.109

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		empowers the Registrar to hold an enquiry into the working of the co-operative society, carry out inspection on his own and even supersede the Committee of Management in case it is found that any act is committed which is prejudicial to the interest of the society or its members or otherwise if the society is not functioning properly. This should be done expeditiously. (iii) CBI must complete the investigations expeditiously in the case wherein FIR has been filed for siphoning off funds in the form of cheque purchase for Rs. 1.71 crore. (iv) RBI must introduce a system whereby the irregularities pointed out in the annual inspection Reports are removed by the Banks and compliance report is submitted within a period of six months from the date of inspection. (v) Strict penal provisions be incorporated in the Banking Regulation Act, 1949 for non-compliance of the directives/guidelines issued by the RBI from time to time and in case of default, strict disciplinary action should be initiated against the erring officials. (vi) As an apex body, though it is not possible for RBI to monitor each and every transaction, it is essential that concurrent audit is conducted in the Banks on a regular basis. The Reserve Bank of India may consider making this mandatory. (vii) Investigation must be conducted to unearth where the siphoned money (Rs. 32.30 Crore) has been deployed. Expeditious action is needed to recover the money.		
38.	5.158	Cases have also reportedly been filed before the Debt Recovery Tribunal for recovery. The Committee were also informed by the RBI that the diversion of funds is not a specific violation under the Banking Regulation Act.	In the light of the JPC recommendation, RBI on 11th January 2003 has again reiterated its guidelines relating to willful defaulters issued in May 2002. RBI has also advised Banks to take action against borrower companies where falsification of accounts and/or negligence/deficiency in auditing is observed. Further, a Working Group under the Chairmanship of Shri D.T. Pai, Banking	The Working Group has submitted its report and its recommendations are under examination of RBI.

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			Ombudsman, Uttar Pradesh, has been set up by RBI to suggest penal measures and criminal action against the borrowers who divert the funds with malafide intention.	
39.	5.159	In view of the foregoing the Committee recommend the following: - (i) Action for recovery of the outstanding advances which have been diverted and the other advances, which have now been categorized as NPAs be expedited. (ii) In case there is any dereliction of duty on the part of the Bank Auditors, the same may be referred to the Institute of Chartered Accountants of India for further enquiry and appropriate action. (iii) Even though there were no breach of regulations, it was observed that certain loans were sanctioned without comprehensive evaluation and therefore, the bank must ensure that proper credit appraisal and monitoring system is in place. (iv) The procedural working of the banks must be strengthened and the RBI must ensure that the rectification, if any, takes place in a time-bound manner. (v) In the immediate aftermath of the Stock Market crash, RBI focused on one new private bank although other private banks also had large exposure to the capital market including some who had exceeded RBI limits. Now that substantial information is available about all the banks concerned, the Committee recommend RBI undertake a thorough review and process matters relating to all concerned in a uniform and consistent manner.	i) Global Trust Bank (GTB) has reported that they are initiating legal action in respect of all Ketan Parekh related NPA accounts. As regards recovery in other NPA accounts, the bank has reported recovery of Rs.5.98 crores and Rs.9 crores during January 2003 and February 2003, respectively. (ii) As regards any dereliction of duty on the part of the Bank Auditors, the matter has already been brought to the notice of Institute of Chartered Accountants of India (ICAI) by RBI. (iii) The bank has been directed by RBI to take corrective action. (iv) RBI has issued Instructions to its regional offices on 29.05.2002 to streamline and strengthen the system of follow-up action on the findings of Annual Financial Inspection of banks in a time bound manner. Details have given in reply to Para No.10.8. (v) In order to review the capital market exposure of banks in a uniform and consistent manner, the Reserve Bank of India is obtaining monthly reports on capital market exposure from all banks.	Follow up action is in progress.
40.	5.174	The Committee take a serious note that the Bank of India did not follow laid down rules, procedures and norms. The Committee specifically note that the Bank of India : (a) delegated unlimited power to the Branch	Bank of India has reported that at the time when the scam came to light, Branch Managers had full powers to discount/ purchase pay orders issued by Scheduled Commercial Banks. The powers were originally granted in 1986 and the Delegation	Recovery suits filed in DRT, Mumbai against Ketan Parekh group of companies and Madhavpura Mercantile Co-operative Bank Ltd. are in progress. System of selection of officers in sensitive posts

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		Managers/officials of the Bank in respect of discounting the pay orders without weighing either the financial standings/status of the counter party Bank or the track record of the client. While observing this, it is recognized that though the delegated powers stood the test of time over a period of about 15 years, the Bank could have revised this and that the Reserve Bank of India could not detect the unlimited powers so given by the bank, during the Annual Financial Inspections conducted by it for so many years and further that the Board of the Bank which included representatives of Government and RBI had approved these delegations; (b) did not prescribe any system of reporting these transactions by the Branch to the controlling office through an omission with the result that the latter remained totally oblivious of what transpired down below; (c) despite detailed instructions issued by the RBI, the Bank had discontinued concurrent audit of its Mumbai Stock Exchange Branch after October, 2000 and the same was not re-introduced till June, 2001; (d) no regular audit of the branch took place after November, 1999; (e) no effort was made to exercise control and to put the risk management measures in place and guidelines issued by the RBI on the subject were flouted with impunity. While observing this, it is recognized that Bank of India had in place risk management measures comparable to other peer banks in the industry and that it did not have a counter-party bank exposure limit for discounting of pay orders, just as many other peer banks; (f) although the Mumbai Stock Exchange branch was handling large volumes of business, mostly sensitive in nature being related to capital market transactions, an officer (Shri U.H. Somaiya) with a tainted record was posted as AGM in this branch during November, 2000 who in turn	of Powers was being reviewed by the Bank from time to time and the full powers to Branch Officials to discount/ purchase pay orders of Scheduled Banks were retained as it had stood the test of time. However, in the light of Madavpura scam, the Bank has taken the following precautionary measures: - Discounting of instruments issued by Co-operative Banks has been stopped. - The full powers for discounting of pay orders of Scheduled Banks (other than Co-operative Banks) is now restricted to Senior Officials of the rank of Zonal Managers and above only. - Exposure limit on Indian Banks in Public Sector and Private Sector have been fixed. - Exposure Caps to the Capital Market has been fixed. - Delegation of powers pertaining to Stock Exchange Branch was revised. The lending powers of the various delegates have been curtailed. - Bank of India has put in place a system of reporting of transactions including reporting of bills/ cheques purchased on casual basis within delegated authority of the branch beyond a certain monetary level. - Bank of India has confirmed that they have restarted the concurrent audit system in the sensitive areas of its operations including its Mumbai Stock Exchange Branch. Bank has reported that due to acute shortage of officers created in Bombay South Zone, concurrent auditors were not posted in many branches including Stock Exchange Branch. Concurrent Auditor was posted in the Stock Exchange Branch in June 2001 and Audit Committee of Board of Directors has directed that any disruption in the concurrent audit of the branch is required to be reported to the Audit Committee of the Board and all Zonal Managers have been advised to ensure that no disruption of audit take place. Consequent to November 1999 the Stock	after obtaining prior vigilance clearance, is being followed by the bank. The compromise proposal as approved by the Government was conveyed to the advocates of Shri Ketan Parekh by the Bank. A meeting was arranged with the advocates of Ketan Parekh on 1.7.2003 when they have submitted certain changes in the terms conveyed by the Bank. The Board in its meeting held on 25.9.2003 approved the modifications. In compliance of JPC recommendation, PE.BAI.2003.A.0002 was registered with ACB/ CBI/Mumbai. Enquiries did not reveal that Shri U.H. Somaiya's assets are disproportionate to his known sources of income. Accordingly the PE has been closed. However, Sh. Somaiya is facing departmental action for major penalty in respect of serious irregularities committed in discounting pay orders issued by MMCBL, Mandvi Branch in favour of Ketan Parekh Group of Companies. Regular hearing against him has commenced from 16.7.03.

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		allowed large scale discounting of high value pay-orders issued particularly in favour of Ketan Parekh group of companies by MMCBL and ultimately this resulted in a big pecuniary loss to the Bank to the tune of Rs. 129.66 crore as on 25.7.2001. The fact that while discounting a large number of pay orders, he even did not think it prudent to heed the advice tendered by the Accountant of the branch and also ignored the reports appearing at the point of time, in different newspapers regarding the financial problems being faced by Shri Ketan Parekh, puts his role under suspicion. While observing this, it is recognised that the punishment given to Shri U.H. Somaiya for lapse committed by him earlier in the Bank was a minor one and that it did not bar him in being considered for the post of AGM of the Stock Exchange Branch as per internal rules of the Bank and the Bank had posted him as AGM of the Branch having regard to his exposure as Managing Director of Bank of India Shareholding Corporation. In this connection, it should be necessary to carry out further inquiry regarding financial benefits reaped by Shri U.H. Somaiya, his present wealth and the mode of acquisition. (g) The Committee is unhappy that the management did not care to hold all those responsible who were at the helm of affairs and were more responsible to ensure that the Bank functioned on prudent business principles and directions of the apex bank are followed stringently. No action, for instance, was taken against the Zonal Manager for his failure to alert the Head Office. Concurrent auditor was also not appointed for months together. For this lapse there is a case for proceeding against the Zonal Manager.	Exchange Branch was subject to various audits like Statutory Audit, RBI Audit, Concurrent Audit, Internal Audit, Revenue Audit, System Audit during the period from 31st March 2000 to 12.01.2001. Similar audits were also conducted for the subsequent period. Bank of India has reported that it has Credit Risk Management Department to look after credit risks and operation risks and market risks are taken care of by the Asset Liability Committee under the Treasury Department. Risk management systems are being periodically reviewed by the bank based on experience gained from time to time. The risk management measures as per guidelines issued by RBI have been put in place. Bank of India had filed a complaint with Central Bureau of Investigation, which filed a charge sheet against Ketan Parekh and others. Bank of India had suspended two officers viz. Shri U.H. Somaiya, Assistant General Manager, Mumbai Stock Exchange Branch and Shri A.D. Suvarna, the dealing Officer. Suspension of Shri Suvarna has since been lifted. Departmental enquiry proceedings against Shri Somaiya has commenced and preliminary hearing was completed in August 2002. Regular hearing is in progress. The bank also initiated legal action by filing recovery suit with the DRT, Mumbai against the account holder companies as also the Madhavpura Mercantile Co-op. Bank Ltd. (MMCBL). The bank has also put in place a system of selection of officers in sensitive post after obtaining prior vigilance clearance. The bank had also examined the role of the Zonal Manager in consultation with the Central Vigilance Commission. The aspect of reported failure to appoint concurrent auditors was due to shortage of officers in the Zone consequent to Voluntary Retirement Scheme was also reported to the Central Vigilance Commission. The Commission after considering all aspects has advised the bank	

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			in February 2002 that it would not pursue the accountability of the controlling authority. Bank of India has since been given 'No Objection' by the Government for going ahead with a compromise settlement in respect of Ketan Parekh Group of companies. The Government has directed the bank to include a clause in the compromise agreement mentioning that the agreement is without prejudice to the criminal case against Ketan Parekh. Accordingly, Ketan Parekh is being advised by the bank, the terms of compromise approved by its Board and necessary consent terms will be filed in the court as per the terms of approval. Reserve Bank of India (RBI) has reported that in regard to delegation of powers, banks' Boards have been provided with freedom to take a decision on the extent of the delegations given to its various functionaries. RBI does not interfere when the system of delegation of powers authorised by the Board is transparent and adequate internal control measures are in place to check the exercise of powers within delegated limits. Pay Orders are expected to be issued against value received and there is generally no restriction on discounting the pay orders of other banks after taking proper safeguards on assessment of counterparty risk. The dishonour of the payment in the case of MMCB is an individual deviation and restriction on discounting pay orders could affect the sanctity of such instruments. RBI has also reported that as far as technology up-gradation is concerned, the requirement relates to the setting up of adequate infrastructure at branches of banks. This would be achieved by means of computerization of the branches and connectivity of these branches to the controlling offices of banks, which would ensure flow of data as part of the Risk Management Systems of banks. In respect of computerization and connectivity of public sector banks, the status position is being monitored biannually. Electronic Funds Transfer	

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			(EFT) has already been introduced and covers 8500 branches of banks across 15 centres where the Reserve Bank manages the Clearing houses. Centralised Funds Management System (CSMS) and NDS have been made operational while Real Time Gross Settlement System (RTGS) is expected to be implemented by the third quarter of 2003. Reforms in the payment and settlement systems – which has been an area of high priority for the Reserve Bank is based on the objective of creation of an efficient, safe and secure national payment system. Further, as additional measures aimed at achieving this objective, a three pronged approach of Consolidation, Development and Integration is being followed by the Reserve Bank, viz., introduction of National EFT – to facilitate any branch of a bank to transmit EFT messages in a safe and secure manner, introduction of National Settlement System for clearing operation – in respect of settlements arrived at different clearing houses, and providing a comprehensive legal base of payment and settlement systems in the form of a Payment and Settlement Systems Act, including EFT Regulations.	
41.	5.175	The Committee note that though as subsequent corrective measures the Bank has now stopped discounting pay-orders of any cooperative bank and have fixed counter-party limits/prudential limits for different categories of persons in the case of demand drafts, the major problem of overcoming the settlement risk which is reported to be the main cause behind this huge loss still remains to be addressed to by Reserve Bank of India and the Indian Bankers' Association. The Committee, therefore, recommend the following action: (a) Technology be improved with a view to ensuring that counter party risk gets minimized through the introduction of real time gross settlement system, so that the whole payment	As against para 5.174	As against para 5.174

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		and settlement system gets integrated. With a view to ensuring that such failures do not take place in future this must be accorded top priority; (b) Disciplinary action be taken against all those who were supposed to exercise due diligence in the discharge of their duties and have failed to do so. Investigations be made to find out if Shri Somaiya or any other official of the Bank had colluded with Shri Ketan Parekh and in case it is proved, criminal proceedings be launched against all those who are responsible for causing wrongful loss to the Bank; (c) Efforts for recovering the balance amount of Rs. 129.66 crore be speeded up.		
42.	5.195	The Committee note that the management of the Nedungadi Bank embarked on a scheme of arbitration which envisaged purchase and sale of shares by taking advantage of price differential between NSE, BSE and other Exchanges through a set of three broking firms without adequate diligence on their part. All the three broking firms were closely connected with Shri R.K. Banthia which together held 22.19% of the paid up capital of the bank. This action of the management caused pecuniary loss to the Bank. According to the scheme, the shares were to be sold and purchased on the same day. This was not done with the result that at the end of March, 2000 it was found that about Rs 94.52 crore were outstanding from the brokers. After recovery, subsequently, an amount of Rs. 21.10 crore is still outstanding. This outstanding amount was surreptitiously shown under the head of 'other assets' in the balance sheet of the Bank and even the auditors failed to point out such a glaring discrepancy in the accounts. The Committee also note that contrary to all ethical practices, the brokers who had substantial stake in the Bank were instrumental in granting huge advances to their own kith and kin with the result that the Bank got saddled with huge non-performing assets.	Reserve Bank of India has reported that the conclusion of the Committee that "there was an attitude of total apathy on the part of the RBI with the result that funds were manipulated and misused by a few brokers who alone had a turn over of about Rs.1350 crore to their sole advantage during the relevant period" is not borne out of the facts contained in various documents/records related to the case as per RBI's internal review. However, in order to re-examine the whole issue once again, with reference to the documents available with the Bank, RBI has decided to consult an outside top dignitary/ expert for opinion and the process is under way.	RBI has also taken an external opinion in this matter (from the former Chief Justice of India, Justice Shri Y.V. Chandrachud). After the perusal of Reserve Bank's documents relating to this case, Justice Shri Chandrachud has confirmed that it was the Chairman of the Nedungadi Bank Ltd., who misled the Board and the nominee director. He examined the chronology of events, as they happened, clearly showing, *inter alia,* that there was no undue delay in initiating action on the part of RBI. He concluded thereafter that "the responsibility for inappropriate and fraudulent activities undertaken contrary to all prevailing banking norms and guidelines for equity investment was that of the Chairman and the Management of the Nedungadi Bank Ltd. and not that of the Reserve Bank of India which is the Central Bank of the country and which has no role to play in the day to day management of commercial bank." Indeed there is not only "no total apathy" but no apathy at all on the part of the RBI".

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43.	5.196	In this respect the Reserve Bank of India did not take timely notice of this irregularity. When RBI was informed that the scheme had been implemented on experimental basis, instead of stopping the scheme immediately, the RBI took their time and did not take prompt decision. Even when the Board was informed of the arbitrage transactions, the RBI's nominee Director did not raise the question of suspending arbitrage transactions. Besides, from the record placed before the Committee they find that the representative of the RBI while deposing before the Committee, did not place the correct facts before them. All along, it was stated by him that the RBI was not informed about the implementation of the scheme and the matter was not placed by the Bank before the Board, whereas the facts placed on record before the Committee speak otherwise. The Committee take a serious note of this. After having examined the witnesses and going through the evidence placed before the Committee, they conclude that there was an attitude of total apathy on the part of the RBI with the result that funds were manipulated and misused by a few brokers who alone had a turnover of about Rs.1350 crore to their sole advantage during the relevant period.	As against 5.195	As against para 5.195.
44.	5.197	The Committee note that though criminal proceedings have been filed against the ex-Chairman who has since been dismissed, but no such action has been taken either against the Directors or against the Senior Manager of the Investment Cell who is reported to be absconding. The Committee recommend: (a) Appropriate action should be initiated against Directors and senior manager of the Investment Cell for having committed a breach of trust and causing wrongful loss to	The Reserve Bank of India has taken the following action in the matter: (a) Criminal case of breach of trust and cheating have been filed at Kozhikode against the Ex-Chairman of Nedungadi Bank and the three broker firms engaged by the bank. The Court has since framed charges against the Ex-Chairman. (b) The bank has applied to the Mumbai Stock Exchange for arbitration proceedings against the Broker Director for recovery of the loss to	SEBI has initiated following actions: 1. Enquiry proceedings initiated against the brokers namely, M/s Shrikant G. Mantri, First Custodian Fund (India) Ltd. and Harvest Deal Securities Ltd. under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations and the same are under progress. 2. The Chairman, SEBI has passed Interim Orders under section 11(4) of the SEBI Act, 1992 on 14.07.2003 against the brokers,

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		the Bank. (b) Expeditious action be taken to recover the balance amount of loss to the tune of Rs. 21.10 crore caused to the Bank, from Shri R.K. Banthia, broker-Director, Shri Srikant G. Mantri, broker and Shri H. Ganesh, Senior Manager of the Investment Cell, pending final disposal of their case. (c) An amount of Rs. 8.72 crore as interest due on account of delayed payment of sale proceeds should also be recovered from the brokers Shri R.K. Banthia and Shri Srikant G. Mantri. (d) The SEBI should expeditiously complete their investigations in respect of the brokers Shri R.K. Banthia and Shri Srikant G. Mantri and take appropriate action.	the bank to the tune of Rs.21.10 crores. The Senior Manager of the bank responsible for the irregularities was dismissed from service after due disciplinary process. (c) Punjab National Bank, which has taken over the Nedungadi Bank has been advised to recover from the brokers the sum of Rs.8.72 crore due on account of delayed payment of sale proceeds. SEBI has informed that investigations have been completed and the following actions have been initiated:- **Entities** — **Actions initiated** Brokers M/s Shrikant G Mantri, First Custodian Fund (India) Ltd., Harvest Deal Securities Ltd. — 1. Enquiry proceedings initiated against the brokers for the above violations of SEBI Circulars, SEBI (Stock Brokers and Sub-broker) Regulations and SEBI (FUTP) Regulations. 2. Also, keeping in view of the serious nature of violations, show cause why action under Regulation 11 and 12 of SEBI FUTP (Prohibition of Fraudulent and Unfair Trade Practices in the Securities Market) Regulations read with Sec 11 B of SEBI Act for prohibiting them and their directors namely Shrikant G Mantri, Sushil Mantri and Rajendra Kumar Banthia in dealing in the Securities market directly or indirectly have been issued. 3. Prosecution proceedings have been launched against the three broking entities and the directors under Section 24 of the SEBI Act. Case Nos. 136,	Harvest Deal Securities Ltd., First Custodian Fund (India) Ltd. and M/s Shrikant G. Mantri and their directors, directing them not to deal in securities in any manner till further orders. Keeping in view the serious nature of violations and in the interests of the investors, pending completion of enquiry, show cause notices were issued against M/s Shrikant G. Mantri, First Custodian Fund (India) Ltd. and Harvest Deal Securities Ltd. under Regulation 11 and 12 of SEBI FUTP (Prohibition of Fraudulent and Unfair Trade Practices in the Securities Markets) Regulations read with Sec 11 B of SEBI Act prohibiting them and their directors from dealing in the securities market directly or indirectly. The parties were also personally heard. Orders have subsequently been passed. All these broking entities appealed against the SEBI Chairman's order before the Securities Appellate Tribunal (SAT) for interim relief; however, the same was dismissed by the SAT. 3. Prosecution proceedings have been launched against the three brokers and the directors under Section 24 of the SEBI Act vide case No. 136, 137 and 138/S/2003 in the court of Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on March 31, 2003.

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			Entities	**Actions initiated**	
				137 and 138/S/2003 in the Court of Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on 31.03.2003.	
45.	5.212	The Committee deeply regret that those holding executive positions in the stock exchanges were not only operating the bank accounts of the exchange but they were themselves major brokers operating the share market. The default that occurred in CSE is directly attributed to this nexus and the failure of the Indusind Bank to return the dishonoured cheques in time.	RBI had constituted a One Man Committee Shri B.M.Bhide, Ex DMD, SBI has looked into the position regarding IndusInd Bank Ltd. and has submitted a report on February 14, 2003. On the basis of the recommendation of this Committee, RBI has advised Indus Ind Bank as under : i) To take steps to upgrade the credit appraisal and follow-up system and lay more emphasis on market intelligence and ii) To review the policy of financing stock brokers and put additional safeguards in place and to take action against any official found guilty by Central Bureau of Investigation, when its investigations are completed. · So far as SEBI is concerned, it asked CSE Board to fix responsibility for the lapses. Accordingly, the contract of the Executive Director CSE was terminated by CSE for several lapses including his failure to take prompt action on dishonored cheques of the defaulter brokers of CSE. · From April 2001, CSE discontinued the practice of payment of margin by cheque and began direct debiting of brokers bank account so that the problem of dishonoring of cheques would not arise. · SEBI, in January 2002 issued another directive under section 8 of SC(R) A that no broker of the stock exchange shall be an office bearer of an exchange i.e. hold the position of President, Vice President, Treasurer, etc. Accordingly at present no		On the matter relating to examination of the system of discounting of post-dated cheques, RBI had appointed a one man enquiry committee under the chairmanship of Shri B.M.Bhide, Ex-DMD, State Bank of India, to examine the observations and the recommendations of JPC. The Committee in its Report has made recommendations, which are both institution specific and system related. RBI has taken the following action based on the Report. **(a) Institution specific recommendations - IndusInd Bank** The Committee has observed that : · The role of IndusInd Bank in financing defaulting brokers and triggering the payment crises on Kolkata Stock Exchange was insignificant. · There was a technical lapse on the part of IndusInd Bank for not returning the cheques for about Rs.16 crores. · The bank had large concentration on three groups, though exposure to capital market was within limit. · Despite higher volume of exposure to capital, no precautionary measures were taken to protect bank's interest. · The IndusInd Bank had neither funded Ketan Parekh nor any of his companies named in the JPC Report. Based on the above, RBI has advised IndusInd Bank: (i) To take steps to upgrade the credit appraisal

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			broker is holding the position of office bearer in any exchange including CSE. As a further follow-up measure to the circulars, SEBI has issued a circular dated March 4, 2003, advising all the stock exchanges to provide specifically in its rules, that no broker director shall be authorized to sign any cheques or operate any bank accounts on behalf of the stock exchange. · CSE has initiated criminal and civil proceedings (at the instance of SEBI) against the concerned brokers of Singhania Group, Biyani Group and Poddar Group. CSE also filed a case against IndusInd Bank before the National Forum of Consumer Protection for recovery of damage due to deficiency in service by IndusInd Bank. However, the Forum dismissed the application on the ground that the matter required examination of complex question of law evidence and cross evidence of documents of huge volume. The exchange has preferred an appeal being the Civil Appeal No 8435/2001 in Supreme Court.	and follow up system and to lay more emphasis on market intelligence. (ii) To review the policy of financing stock brokers and put additional safeguard in place and to take action against any official found guilty by Central Bureau of Investigation, when its investigation is completed. **(b) System Specific Issues** The Committee had observed that: · Discounting of post dated cheques was not generally practiced by the banks and hence there was no need to issue any guidelines in this regard to banks. · The appraisal standards/skills for exposure to capital market by banks need to be upgraded along with adequate risk control measures while undertaking financing of margin trading. RBI has accordingly taken the following action: (i) Guidelines have already been issued to banks on 22nd September, 2001 and 15th November, 2001 advising banks to put in place adequate risk control measures while undertaking financing of margin trading. (ii) In the context of JPC's observations on delayed intimation about dishonour of cheques by IndusInd Bank, RBI has issued a circular on 26th June, 2003 to all banks indicating the procedure to be followed by the banks generally for returning of dishonoured cheques expeditiously and within twenty four hours. (iii) Banks are advised to ensure that concurrent auditors of banks comment specifically in their half yearly reports to RBI, on compliance with regard to the safeguards adopted in the concerned banks to prevent any nexus between banks and brokers. (iv) Training will be imparted by RBI at the training

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				institutions on capital market related transactions for bank staff as well as RBI supervisory staff to strengthen and upgrade the skills of bank inspectors.
46.	5.213	The Committee note that delayed intimation regarding the dishonouring of four cheques amounting to Rs 15.30 crore by the Induslnd Bank to CSE resulted in making a pay-out by the CSE under the mistaken belief that the cheques had been duly credited and this in turn precipitated the payment crisis which took place in the Calcutta Stock Exchange. Though both the Calcutta Stock Exchange and the Induslnd Bank have tried to put the blame on each other, but the fact that the Bank in this case did not return the dishonoured cheques to the Margin Department of the Exchange, transgressed from the customary banking practice of, sending the cheques back to their client within 24 hours and instead sent their representative to the President of the Stock Exchange and then abided by the advice given by him to withhold the cheques, leads to suspicion towards the role played by the Bank as a professional banker. Likewise it can also not be accepted that the officials of the Calcutta Stock Exchange were totally ignorant, more particularly when in one of the letters, their Executive Director himself admitted the fact that the representative of the Bank had contacted their Vice-President who had in turn advised him to see the President and give the list of the members together with the amounts to be debited. This fact has further been corroborated by the member of the Executive Committee. On the basis of the entire evidence and record placed before the Committee, they are inclined to infer that there was collusion between the Bank and the broker.	Same as Para 5.212.	As against para 5.212

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47.	5.214	The payment crisis in CSE concerning Induslnd Bank leads the Committee to recommend that:-- (a) Specific guidelines need to be issued by RBI to all clearing banks regarding the procedure to be followed in respect of dishonoured cheques from Stock Exchanges. (b) Till Demutualisation is put in place for all the Stock Exchanges, Executive Director or the Secretary or Treasurer, as deemed suitable, may be vested with powers to operate the accounts. (c) There is sufficient evidence for the Committee to believe that there was a collusion between Induslnd Bank, CSE and brokers concerned. Any lapse in this regard must be dealt with.	In addition to what has been submitted in reply to Para 5.212, it is to be mentioned that RBI had already advised the banks to implement the recommendations of the Goipria Committee that the dishonored instruments are returned/ dispatched to the customers promptly without any further delay in any case within 24 hours. In view of the Committee's observation, additional instructions are proposed to be issued by RBI to the banks in the regard including in respect of dishonored cheques from Stock Exchanges. CSE has informed that a formal agreement with the Clearing Banks is under process. At present the signing power is vested only in the executive of the Exchange. CSE has filed a detailed FIR before the Kolkata Police who are investigating into the matter.	(a) Detailed instructions have been issed by RBI regarding dishonour of cheques/procedure thereof vide circular DBOD.BC. Leg. 113/ 09.12.001/2002-03 dated June 26, 2003. SEBI has informed that it has advised the stock exchanges to bring RBI guidelines on dishonouring of cheques to the notice of members. (b) SEBI issued a circular dated March 4, 2003, advising all the stock exchanges to provide specifically in its rules, that no broker director shall be authorized to sign any cheques or operate any bank accounts on behalf of the stock exchange. (c) CSE filed FIR against the brokers with Kolkata Police and filed a case against IndusInd Bank where an appeal is in Supreme Court.
48.	5.223	It appear to the Committee that Centurion Bank has been transgressing prudential norms of banking and have been taking large exposure to capital market, both by way of loans and direct equity investments. The Committee have noted following observations of SEBI: (a) Involvement of Centurion Bank, where the broker and the buyer are Ketan Parekh entities in every transaction. (b) The Bank seems to have participated in manipulative trades. (c) According to SEBI report, transactions suffer from the synchronized deals, cross deals, structured deals and circular deals. There are many transactions of buy & sell on the same day. RBI has clear regulations prohibiting banks from making a sale or purchase without giving or taking delivery. Centurion Bank appears to have violated this by buying and selling the shares on the same day.	Reserve Bank of India has enquired from Centurion Bank on receipt of a letter from SEBI advising that the Centurion Bank's transactions during the period January-October 1999 in the scrips of Ranbaxy Laboratories were mostly of arbitrage/trading in nature through brokers connected with Ketan Parekh group, in violation of RBI guidelines. The bank has clarified that the transactions were backed by adequate balance of securities in the D-mat account. The applicability of RBI guidelines of June 1992 on short sale of securities to the transactions undertaken by Centurion Bank Ltd. through the D-mat accounts is being examined from the policy angle.	The bank's clarification on the transactions undertaken in January-October 1999 was examined and it was noted that the deliveries on the sale of scrips of Ranbaxy Ltd. have been effected only after the receipt of credit on purchases to demat account. The Bank has also clarified that the transactions were backed by adequate balance of securities in demat account and, therefore, there were no frustrated transactions. The details of the transactions furnished by the bank were found to be in order. RBI has issued instructions to banks in May 2001 specifically prohibiting arbitrage transactions and also short sales of shares/bonds/debentures/ units etc. Centurion Bank has also been specifically advised to strictly comply with RBI instructions prohibiting arbitrage transactions and also short sales of securities by putting in place adequate safeguards with the approval of the Board.

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49.	6.94	The Committee find that the payment problem in CSE in March, 2001 was primarily due to high concentration in a few scrips by a few brokers and a general failure of the Exchange in terms of surveillance and risk management. These in turn owed their existence to the weaknesses in the system due to conflict of interest in the case of broker Directors. The total pay-in default of Rs.120 crore during the crisis was met by utilising the Settlement Guarantee Fund and from other resources of the Exchange. This is stated to have impacted the reserves of the Exchange to the tune of Rs.11 crore. Although SEBI has claimed that all investors got their due amount or securities on time and that there was no possibility of any adverse impact in real terms on other Stock Exchanges or the overall Stock Market, the Committee note that the payment crisis did affect market sentiment all over the country. As is evident from the succeeding paragraphs of this section, there has been obvious laxity in surveillance and gross violation of exposure controls and risk management measures. Payment crisis in CSE was not an isolated incident. It must be viewed from the overall manipulations of stock markets in India by various players of which Calcutta brokers became surrogates. These players included key brokers, corporate houses behind the brokers and broker directors of CSE. The payment crisis in CSE is due to wilful inaction of CSE and SEBI and involvement of banks.	SEBI has informed that it was the then policy of SEBI to follow up the compliance with the findings of the inspection and rectification through off site reporting requirement. The compliance of previous year's inspection was checked in the subsequent year's inspection of the stock exchange. This was the policy and practice then followed by SEBI in respect of all stock exchanges. The collection of margin compliance with exposure limit etc. was a normal surveillance function of any stock exchange, for which the stock exchanges were supposed to have set up an accurate system for surveillance function. During a special inspection of CSE conducted by SEBI in May 2001, the problem related to exposure limit and collection of margins were detected. This inspection was not the normal inspection to look into the routine aspects such as Rules, Regulations, Circulars etc. but also the surveillance system of CSE. This inspection, therefore, detected the deficiency in the exposure limit, the inaccuracy in the calculation of margin, the algorithm in the system of margin collection and exposure limit. In case of CSE, these systems of surveillance were provided by CMC Limited, then Public Sector Undertaking which had also supplied software to Bombay Stock Exchange and other stock exchanges. It was expected that the system would have the correct algorithm to calculate margin, exposure limit and other risk management requirements. These were the basic requirements which were to be ensured by the stock exchange while accepting the software. SEBI's annual inspection of stock exchanges looked at whether the margin provided/calculated by the system and the exposure limit were collected/maintained by the stock exchange and accordingly the actions are being taken by the stock exchanges for non	Regarding the FIR lodged with Kolkata Police by CSE, the investigation is going on. Regarding the appeal filed by CSE in the Supreme Court against the order of National Forum of Consumer Protection for recovery of damages from IndusInd Bank, there is no change in status.

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			compliance. Such action would include penalty, switching off terminals etc. CSE had indicated that they had collected margin of Rs. 594 crore to Rs. 656 crore during January / February 2001. Besides, CSE has also reported that between April 01, 2000 to March 31, 2001, on 3607 occasions terminals of the brokers were deactivated due to violation of intra day trading limits / exposure limit, non payments of margins and other violations. Similarly, CSE had in the said period also imposed fines on 618 occasions on the members for non payment of pay-in/margins on due dates. When SEBI had detected in its own special inspection report where cases of the terminals were not switched off, SEBI had taken action by calling explanation of Executive Director for non deactivation of the terminals of the members in case of instances of delay in collection of margin observed. It may also be mentioned that after considering the SEBI's special inspection report and the comments of the Executive Director on the lapses and deficiencies (including non-deactivation of trading terminals for non-payment of margins on time) pointed out in the report, the Board of CSE in its meeting held on August 11, 2001 decided to terminate the contract of the Executive Director of CSE with immediate effect. SEBI thereafter asked CSE to conduct system audit. Other stock exchanges such as BSE, NSE, DSE, UPSE and ASE have also been advised to conduct systems audit. CSE appointed Ernst and Young to conduct the audit of the systems of the exchange. The systems audit carried out by Ernst and Young pointed out several deficiencies in the trading system of the exchange. The findings of the system audit have been communicated by CSE to M/s. CMC Limited. Further M/s. CMC Limited has been advised by	

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			SEBI to conduct a formal enquiry in their organization and fix responsibility for serious lapses. CMC has also been advised to confirm rectification of deficiencies pointed out in the system audit report has been completed. It may also be mentioned that CSE has initiated criminal and civil proceedings (at the instance of SEBI) against the concerned brokers of Singhania Group, Biyani Group and Poddar Group. Further, as advised by SEBI, CSE has also filed FIR against Singhania Group, Biyani Group and Poddar Group of brokers with Kolkata Police Authorities (Case ref. Hare Street P.S/DD Case No. 476 dated 24.09.2002 U/s. 120B/420/409/467/468/471/477A IPC). The details have been given in reply to para no. 6.101. With regard to payment crisis and impacting the reserves of the exchange, SEBI have informed that the total turnover in CSE in settlement no. 148 was Rs. 8610 crore (daily average Rs.1700 crore). The total turnover for settlement nos. 149 and 150 was Rs. 4744 crore and Rs.1275 crore respectively. Thus the total business done by CSE in the three settlements was Rs.14629 crore against which the payment shortfall was Rs.96.59 crore only. Thus while in absolute amount the shortfall is sizable, it is only 0.66 % of the total business done on the CSE in the three settlements. Regarding the impact of the payment crisis in CSE on the stock market, SEBI have informed that the total turnover during the relevant 3 weeks period in the major stock exchanges viz. NSE, BSE and CSE was around Rs.119000 crore and the total payment shortfall in the settlement nos. 148,149 & 150 at CSE was Rs. 96.59 crore which is only 0.08% of the total business done in the major exchanges. Though the amount of shortfall of Rs. 96.59 crore is sizable in absolute terms, this amount of shortfall is only 0.08% of the total business done in the major 3 exchanges.	

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			CSE confirmed vide letter dated March 23, 2001 that the pay-out for settlement nos. 148, 149 and 150 was completed as per schedule by using SGF and General Reserves of the Exchange and other recoveries. The exchange also confirmed that no investor was affected. Completion of pay-out of settlement no. 148 was confirmed by the ED, CSE in the Emergency Board Meeting of CSE held on March 12, 2001. As all investors got their due amounts or securities on time, there is no possibility of any adverse impact in real terms on the other stock exchanges or the over all stock market. SEBI has not received any complaint from investors for non-receipt of pay out at CSE. The action taken against the various brokers and the Executive Director and the FIR lodged by CSE had been discussed in detail in reply to para no. 6.101. In addition, CSE had filed a case against IndusInd Bank before the National Forum of Consumer Protection for recovery of damage due to deficiency in service by IndusInd Bank. However, the Forum dismissed the application on the ground that the matter required examination of complex question of law evidence and cross evidence of documents of huge volume. The exchange preferred an appeal being the Civil Appeal No 8435/2001 in Supreme Court. Surveillance inspection of Calcutta Stock Exchange was conducted in March 2002, wherein the stock watch system, its benchmarks, alert generation, follow up of alerts and investigations taken up by the exchange were examined. Inspection findings were communicated to the exchange with detailed comments on the above areas. Compliance report have been received from the exchange and SEBI board has been apprised of the status on various aspects.	

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
50.	6.96	The Committee find that the CSE had been permitting its members to violate the exposure limits and avoid margin payment, thereby defeating the very purpose of the risk management systems. According to SEBI, CSE could have prevented the "payment crisis", had it strictly followed the SEBI directives on margins and exposure limits. The gross exposure limits were violated in two ways. By the first method, the CSE's computation of gross exposure used to exclude the long position crystalised at the end of the previous settlement in violation of SEBI's instruction of 2.7.1999. The case of non-inclusion of crystalised delivery to the tune of Rs.161 crore on 1.3.2001 in respect of one broker illustrates the extent to which the gross exposure by brokers exceeded the limit. By the second method, while computing gross exposure limits of the brokers, CSE was avoiding deduction of the additional capital which had been utilised against marginal liability. Consequently, violation of exposure limits by some brokers on this account ranged between Rs. 48 crore and Rs.109 crore prior to their pay-in default. Such wilful violation of risk management systems cannot be accepted from any quarter.	As at Para 6.94.	As against para 5.212
51.	6.97	The margin money collected by CSE on gross exposure of brokers was substantially lower than the required amount due to a software error. The programme module used to erroneously report zero in place of all values larger than Rs. 2.14 crore (approx.). The under statement of gross exposure margin varied from day to day and it was as much as Rs. 50.38 crore on 1.3.2001 out of which the under-statement pertaining to one defaulter broker alone was to the tune of over Rs.11 crore. The brokers including broker directors were aware of the software error and	As at Para 6.94.	With regard to the alleged criminal negligence on the part of the then Executive Director, CSE has been advised by SEBI to ensure that during investigation of the matter by Kolkata Police or otherwise, if any offence or criminal act on the part of the then Executive Director and/or any other functionaries of the Exchange is found out, the Exchange shall initiate immediate appropriate action-including filing another complaint with the Kolkata Police.

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		avoided reporting the matter to the Exchange. This reveals the collusion and connivance among all concerned. The Committee cannot accept the then Executive Director's plea that he had no knowledge of the error which had been prevalent since December, 1999. The Committee, therefore, recommend that this be thoroughly investigated and appropriate action taken.		
52.	6.98	The estimation of margins was made by the margin module of C Star software developed and maintained by CMC Ltd. Though the defect has been rectified by CMC on 16.04.2001, the Committee feel that the extent of the responsibility of CMC and others for the software error needs to be investigated.	SEBI has informed that problem mentioned above about the bug and other deficiencies in the software of CSE was found out in the special inspection of CSE conducted by SEBI in May 2001 which not only looked into the compliance aspect but also into the surveillance aspect of CSE. Separately SEBI has asked CSE to conduct a systems audit. In this regard CSE appointed Ernst and Young to conduct the audit of the systems of the exchange. The systems audit carried out by Ernst and Young pointed out several deficiencies in the trading system of the exchange. The findings of the system audit have been communicated by CSE to CMC. Further SEBI has advised CMC to conduct a formal enquiry in their organization and fix responsibility for serious lapses. CMC has also been advised to confirm that rectification of deficiencies pointed out in the system audit report has been completed.	CMC has confirmed that the deficiencies have been rectified. SEBI had also asked for confirmation from CSE of the rectification of the deficiencies. SEBI has also asked CMC to conduct an enquiry within CMC and fix up responsibility. CMC is yet to conclude the enquiry. SEBI has also asked CSE to fix up responsibility. CSE in their latest reply has informed that they had looked into the matter and that they feel that there was no pronounced laxity at the exchange. CSE has further stated that the deficiencies pointed out by the systems auditors were in existence for a number of years and at this stage therefore it was not possible to conduct a meaningful enquiry for fixation of responsibility. SEBI has superseded the Committee of the CSE Association Ltd. with effect from 4.12.2003 for a period of one year and has appointed Sh. Tushar Kanti Das, IAS (Retd.) as the Administrator of the Exchange to exercise and perform all the powers and duties of the Committee.
53.	6.99	Though the Exchange was supposed to deactivate the trading terminals of brokers who had not paid the margins on T+1 basis, CSE delayed the deactivation of their terminals. The delay ranged from 4 to 9 days in eight cases and had enabled the brokers to build up further positions to the extent of Rs.190 crore. The Committee agree with the then SEBI Chairman that this was a clear case of collusion. Though	SEBI has informed that in reply its suggestion of having connectivity with the clearing banks for a system of direct debit, CSE informed in their compliance report dated February 11, 1999 that they are trying to devise a system with all the three Clearing Banks wherein the margin amount will be directly debited to the members account. However, CSE further informed that such system can only be put in place when the Clearing banks are ready.	The Officer on Special Duty from State Government has been appointed w.e.f May 19, 2003 at Calcutta Stock Exchange. CSE, vide letter dated November 04, 2003 has mentioned that as already informed, automatic debit is raised on the clearing bank on T+1 day itself. In case of shortfall, the concerned Trade Work Station (TWS) is switched off immediately.

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
		SEBI has been emphasising in its annual inspection reports right from the year 1998 that CSE should have connectivity with the clearing banks for a system of direct debit, CSE is stated to have introduced the system of direct debit only after the 'payment crisis'.	The routine annual inspection of CSE was carried out during September 14-22, 2000. In view of the repetitive nature of findings the Executive Director and the President of the Exchange were called for discussion on January 18, 2001. When it was pointed out that the exchange does not deactivate the member's terminals immediately for non-payment of margins, the Executive Director and President informed that this has happened only in the month of April 2000 due to excess volatility and to enable them to square up their positions. SEBI officials from Eastern Regional Office (ERO) again visited CSE to verify whether there are more instances where the member's terminals are not deactivated immediately for non-payment of margins. It was observed that instances of not deactivating member's trading terminals for non-payment of margin were in other months also. The inspection report was forwarded to CSE on March 8, 2001 wherein the observations of the inspection team were pointed out to the Executive Director of CSE. The then ED, CSE was asked to explain as to why the margins were not collected from the members on T + 1 basis and the trading terminals of defaulting members were not deactivated promptly. The ED, CSE, vide letter dated May 04, 2001 submitted his explanation to SEBI which was not found satisfactory and the SEBI Nominee Director of CSE took up the matter with the Governing Board of CSE. In the meanwhile, in April 2001, the exchange introduced the system of direct debiting the members settlement account for the purpose of margin payment and the practice of payment of margin by cheque was done away with. SEBI thereafter took the following action : · The contract of the ED of CSE was terminated by the stock exchange on August 11, 2001.	

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			· The broker directors of CSE had resigned from the board on March 30, 2001. · Shri D.Basu, Ex- Chairman of State Bank of India and Public Representative on the board of CSE was elected Chairman of the board. The powers of the board were delegated to a management sub committee which was headed by Shri D. Basu. · SEBI issued order under Section 8 of the SCRA directing all the stock exchanges that no broker member of the stock exchange shall be an office bearer of an exchange i.e. hold the position of President, Vice President and Treasurer etc. Accordingly no broker member is holding office bearer position on the board of CSE. Besides, Officer on Special Duty (OSD) from state government is being appointed.	
54.	6.101	Another area in which CSE failed miserably is in enforcing its own rules concerning the trading and carry forward limits. Though the CSE had fixed trading and carry forward limits, these were violated with impunity. All the defaulting groups had violated trading limits set up by the Exchange around the period of the payment crisis. The number of violations was as high as 144 during 20 settlements, out of which one member alone accounted for 64 instances of violation. However, no disciplinary action worth the name had been taken against any of the violators under the rules of the Exchange.	The routine annual inspection of CSE was carried out by SEBI during September 14-22, 2000. In view of the repetitive nature of findings the Executive Director and the President of the Exchange were called for discussion on January 18, 2001. When it was pointed out that the exchange does not deactivate the member's terminals immediately for non-payment of margins, the Executive Director and President informed that this has happened only in the month of April 2000 due to excess volatility and to enable them to square up their positions. SEBI officials from Eastern Regional Office (ERO) again visited CSE to verify whether there are more instances where the member's terminals are not deactivated immediately for non-payment of margins. It was observed that instances of not deactivating member's trading terminals for non-payment of margin in other months also. The inspection report was forwarded to CSE on March 8, 2001 wherein the observations of the	No change in the status.

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inspection team were pointed out to the Executive Director of CSE. The then ED, CSE was asked to explain as to why the margins were not collected from the members on T + 1 basis and the trading terminals of defaulting members were not deactivated promptly.

The ED, CSE, vide letter dated May 04, 2001 submitted his explanation to SEBI which was not found satisfactory and the SEBI Nominee Director of CSE took up the matter with the Governing Board of CSE.

In the meanwhile, in April 2001, the exchange introduced the system of direct debiting the members settlement account for the purpose of margin payment and the practice of payment of margin by cheque was done away with.

CSE had also reported that between April 1, 2000 to March 31, 2001, on 3607 occasions terminals of the brokers were deactivated due to violation of intra day trading limits/exposure limits, for non-payment of margins and violations. Similarly, CSE had in the said period also imposed fines on 618 occasions on the members for non-payment of pay-in/margins on due dates.

Subsequent to payment crisis in March 2001 in CSE, following actions have been taken against the brokers who have defaulted:

· Registration of following defaulter brokers have been cancelled by SEBI:

	Name of the Broker	**Date of cancellation of registration**
1	Dinesh Kumar Singhania & CO.	October 12, 2001
2.	Doe Jones investments and consultans Pvt Ltd.	June 24, 2002
3	Arihant Exim Scrip Pvt Ltd.	June 24, 2002
4	Tripoli Consultancy services Pvt Ltd.	June 24, 2002

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	Name of the Broker	Date of cancellation of registration
5	Ashok Kumar Poddar	June 24, 2002
6	Prema Poddar	June 24, 2002
7	Rajkumar Poddar	June 24, 2002
8	Ratanlal Poddar	June 24, 2002
9	Harish Chandra Biyani	July 24, 2002
10	Biyani Securities Pvt Ltd.	July 24, 2002
11	Sanjay Khemani	January 21, 2003
12	N Khemani	January 21, 2003

· Following Brokers of CSE have been debarred by SEBI from associating with securities market activities and dealing with securities market till completion of investigation under sec. 11 & 11B of SEBI Act.

	Name of the Broker	Date of Chair-man's Order
1	Dinesh Kumar Singhania & CO.	October 18, 2002
2.	Doe Jones investments and consultans Pvt Ltd.	October 18, 2002
3	Arihant Exim Scrip Pvt Ltd.	October 18, 2002
4	Tripoli Consultancy services Pvt Ltd.	October 18, 2002
5	Ashok Kumar Poddar	October 18, 2002
6	Prema Poddar	October 18, 2002
7	Rajkumar Poddar	October 18, 2002
8	Ratanlal Poddar	October 18, 2002
9	Harish Chandra Biyani	October 18, 2002
10	Biyani Securities Pvt Ltd.	October 18, 2002

· Prosecution proceedings have been initiated by SEBI against above mentioned 10 defaulter brokers of CSE.

· CSE has also been advised to initiate recovery proceedings including civil and criminal proceedings against the concerned entities. The Detective Department of Kolkata Police is doing further investigation in this regard based

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on CSE's FIR (Case ref. - Hare Street P.S/DD Case No. 476 dated 24.09.2002 U/s. 120B/420/ 409/467/468/471/477A IPC).

· CSE has initiated recovery proceedings against 10 defaulter brokers including civil suit in Kolkata High Court and Criminal proceedings against the defaulters for dishonored cheques in the Metropolitan Magistrate Court in Kolkata under Negotiable Instruments Act as follows:

No.	Defaulter broker	Action initiated by CSE
1	Dinesh Kumar Singhania	C S no. 266 of 2001 filed before the Hon'ble High Court at Kolkata Criminal Case: C. No. 1844 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs.21.213 Crores in Metropolitan Magistrate Court.
2	Tripoli Consultancy Services (P) Ltd.	C S no. 333 of 2001 filed before the Hon'ble High Court at Kolkata.
3	Arihant Exim Scrips Pvt. Ltd.	C S no. 266 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No.1862 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs .16.01 Crores in Metropolitan Magistrate Court.
4	Doe Jones investments & Const. P. Ltd.	C S no. 306 of 2001 filed before the Hon'ble High Court at Kolkata.

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken		Further Progress
			No.	**Defaulter broker**	**Action initiated by CSE**
					Criminal Case: C. No. 1861 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs. 1.44 Crores in Metropolitan Magistrate Court.
			5	Ashok Kr Poddar	C S no. 264 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1842 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs.3.90 Crores in Metropolitan Magistrate Court.
			6	Ratanlal Poddar	C S no. 263 of 2001 filed before the Hon'ble High Court at Kolkata.
			7	Prema Poddar	T No. 454 of 2001 filed before the Hon'ble High Court of Kolkata.
			8	Raj Kumar Poddar	T No. 452 of 2001 filed before the Hon'ble High Court of Kolkata.
			9	Harish Chardra Biyani	C S no. 265 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1843 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs.9.22 Crores in

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			No Defaulter broker Action initiated by CSE Metropolitan Magistrate Court. 10 Biyani Securities P. Ltd. C S no. 265 of 2001 filed before the Hon'ble High Court at Kolkata. Besides the Board of CSE in its meeting held on August 11, 2001 decided to terminate the contract of Shri Tapas Dutta as Executive Director of CSE with immediate effect. CSE has further lodged an F.I.R (Case ref. - Hare Street P.S/DD Case No. 476 dated 24.09.2002 U/s. 120B/420/409/467/468/471/477A IPC) with Kolkata Police.	
55.	6.104	The Committee are concerned to learn that the deficiencies in the working of CSE were not of recent origin. SEBI's report a decade ago had found numerous deficiencies including absence of a mechanism for monitoring margins. On the basis of an enquiry into the affairs of CSE in April, 1994, it was recommended that the Board of the Exchange should be suspended. The problems of CSE as seen by this Committee appear to flow from the culture of non-compliance with rules, regulations and transparent practices. This appears to have developed over a period of time. In 1994 it was recommended that the Board of the Exchange should be suspended because of gross malpractices. After reviewing the position, however, the SEBI did not suspend the Exchange or take any severe measures as to shake up work culture of the exchange. The Committee's examination has, however, shown that nothing changed in CSE. Instead, things went from bad to worse. It is clear that despite knowing the track record of CSE, SEBI did not take timely corrective action. The Committee are of the view that SEBI should have played a more proactive role in the affairs of CSE and curbed malpractices well in	Matter is under consideration of SEBI.	Explanation has been sought from Executive Director (Secondary Market Department) and the officers concerned. They have submitted their explanation. These are under consideration. Executive Director (Surveillance) has been repatriated to parent Department and relevant material has been sent to Central Board of Direct Taxes (CBDT) for seeking explanation from the officer.

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		time. The SEBI failed to do so. Officials of Surveillance Department of SEBI dealing with CSE are also similarly responsible. SEBI's lapses should be investigated and accountability be fixed.		
56.	6.105	It was the responsibility of the Executive Director to run the day-to-day administration and to enforce the Articles, Bye-laws, Rules and Regulations of the Exchange as well as to give effect to the directives, guidelines and orders issued by SEBI. The Committee note that the Executive Director, however, did not have adequate powers to control the members and run the day-to-day affairs of the Exchange, and there had been interference by the elected board members in the day-to-day matters of the Exchange. The Committee feel that the remedy for the ailment of the Exchange is demutualisation. This would also enable strengthening of the regulatory and supervisory framework of the Exchange and would go a long way in the protection of investors. The Committee stress that urgent measures need to be taken in this direction.	To facilitate the process of corporatisation and demutualisation of stock exchanges, SEBI has constituted a six member Group under the Chairmanship of Justice M.H.Kania former Chief Justice of India. The Committee's recommendations have been approved by the SEBI Board. Steps are being taken by the Government to amend the Securities Contracts (Regulation) Act, 1956 to implement the scheme of demutualisation of stock exchanges.	As against para 2.20.
57.	6.106	The Committee, inter-alia, recommend the following:- (i) After determining the extent of their involvement, appropriate criminal penal action should be taken against the defaulting brokers, especially those who were broker-Directors of CSE, for exposing the investors and the Exchange to grave risks by their criminal negligence/deliberate failure to initiate steps for rectification of short collection of gross exposure margin by the Exchange, despite their personal knowledge about the fraud.	SEBI has informed that the following actions have been taken against the brokers who have defaulted at CSE: · Registration of following defaulter brokers have been cancelled by SEBI: **Name of the Broker** — **Date of cancellation of registration** 1 Dinesh Kumar Singhania & CO.** — October 12, 2001 2. Doe Jones investments and consultants Pvt Ltd. — June 24, 2002 3 Arihant Exim Scrip Pvt Ltd. — June 24, 2002	(ii) With regard to the alleged criminal negligence on the part of the then Executive Director, the exchange has been advised to ensure that during investigation of the matter by Kolkata Police or otherwise, if any offence or criminal act on the part of the then Executive Director and/or any other functionaries of the Exchange is found out, the Exchange shall initiate immediate appropriate action including filing another complaint with the Kolkata Police. (iii) SEBI has taken following actions /measures against illegal trading/illegal carry forward: -

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		(ii) A thorough investigation against the then Executive Director be instituted and completed within three months to determine his criminal negligence and dereliction of duty in the affairs of the Exchange that led to major failure of the CSE. On the basis of outcome of the enquiry, suitable action be taken forthwith. (iii) SEBI should remain vigilant to ensure that illegal financing does not restart in various Stock Exchanges.	**Name of the Broker** / **Date of cancellation of registration** 4 Tripoli Consultancy Services Pvt Ltd. June 24, 2002 5 Ashok Kumar Poddar June 24, 2002 6 Prema Poddar June 24, 2002 7 Rajkumar Poddar June 24, 2002 8 Ratanlal Poddar June 24, 2002 9 Harish Chandra Biyani July 24, 2002 10 Biyani Securities Pvt Ltd. July 24, 2002 ** Dinesh Kumar Singhania was the Elected Director at CSE. · Following Brokers of CSE have been debarred by SEBI from associating with securities market activities and dealing with securities market till completion of investigation under sec 11 & 11B of SEBI Act. **Name of the Broker** / **Date of Chairman's Order** 1 Dinesh Kumar Singhania & CO. October 18, 2002 2. Doe Jones investments and consultants Pvt Ltd. October 18, 2002 3 Arihant Exim Scrip Pvt Ltd. October 18, 2002 4 Tripoli Consultancy Services Pvt Ltd. October 18, 2002 5 Ashok Kumar Poddar October 18, 2002 6 Prema Poddar October 18, 2002 7 Rajkumar Poddar October 18, 2002 8 Ratanlal Poddar October 18, 2002 9 Harish Chandra Biyani October 18, 2002 10 Biyani Securities Pvt Ltd. October 18, 2002 11 Sanjay Khemani January 21, 2003 12 N. Khemani January 21, 2003 · Prosecution proceedings have been initiated by SEBI against above mentioned 10 defaulter brokers of CSE. · CSE has also been advised to initiate	1. SEBI has written to stock exchanges to curb alleged misuse of their trading terminals for the purpose of illegal trading by taking action against those found to be involved in such misuse. 2. SEBI has also written to RBI to examine whether there are funds flowing from the non-banking financial companies (NBFCs) to finance illegal trading. 3. A surprise inspection in August 2003 revealed that Shri Sunil Kayan, Member, Calcutta Stock Exchange was involved in illegal trading activities by using unauthorized NSE terminals provided by NSE sub-broker Sanjay Bansal and a NSE broker GCM Securities. An inspection has been carried out of NSE broker GCM Securities and both the entities have been debarred from the securities market till completion of post-inspection action. 4. A list of Kolkata based National Stock Exchange (NSE) members was reported to be allowing use of their terminals to some broker/ sub-broker not duly registered with SEBI by misuse of NSE's Computer Link (CTCL) facility. NSE was asked to look into the matter and send a report urgently. NSE has informed that 12 such cases were taken to their disciplinary action committee and 9 of them were found to have committed violations; fines have been levied ranging from Rs. 10, 000 to Rs. 40, 000. 5. Meetings were held with the Administrator of the Exchange to discuss measures to curb illegal trading on April 27, 2003, May 13, 2003, May 30, 2003 and October 29, 2003.

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recovery proceedings including civil and criminal proceedings against the concerned entities. The Detective Department of Kolkata Police is doing further investigation in this regard based on CSE's FIR (Case ref. - Hare Street P.S/DD Case No. 476 dated 24.09.2002 U/s. 120B/420/409/467/468/471/477A IPC).

Action taken by CSE:

CSE has initiated recovery proceedings against 10 defaulter brokers including civil suit in Kolkata High Court and Criminal proceedings against the defaulters for dishonored cheques in the Metropolitan Magistrate Court in Kolkata under Negotiable Instruments Act as follows:

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1	Dinesh Kumar Singhania	C S no. 266 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1844 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs.21.213 Crores in Metropolitan Magistrate Court.
2	Tripoli Consultancy Services (P) Ltd.	C S no. 333 of 2001 filed before the Hon'ble High Court at Kolkata.
3	Arihant ExiM Scrips Pvt Ltd	C S no. 266 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1862 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to

6. A surprise inspection of brokers of UPSE was recently carried out during which evidence for illegal carry forward activity in the form of unofficial diaries was seized.
7. Administrator of Ahmedabad Stock Exchange vide letter dated May 20, 2003 informed SEBI that counter party ID was getting revealed at the end of the broker for the last 10 to 20 minutes of the trading hours which, he suspected could be because of sabotage in the computer software. An inspection was carried out in May 2003 to make an on the spot assessment of the situation in respect of revealing of CPID. The inspection report pointed out certain systemic deficiencies like lack of prudent password policy, lack of audit trail mechanism, etc. The report also pointed out that some brokers were sharing a common folder called CPID on their computers, which contains a copy of the daily trades. Most of the suggestions of the report have already been implemented.
8. SEBI has written to Chief Ministers of various State Governments to take action against illegal trading as it lies outside SEBI's jurisdictional purview.

SEBI has also taken the following systemic measures to curb illegal carry forward trading:

a. Prohibiting revealing of counter party identity to members.
b. Abolition of post-close session at ASE and UPSE (at UPSE, however, a stay order from the Court was obtained by the members).
c. The Stock Exchanges have been advised to obtain an undertaking in the form of an

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No	Defaulter broker	Action initiated by CSE
		Rs.16.01 Crores in Metropolitan Magistrate Court.
4	Doe Jones Investments & Const. P. Ltd.	C S no. 306 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1861 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs 1.44 Crores in Metropolitan Magistrate Court.
5	Ashok Kr. Poddar	C S no. 264 of 2001 filed before the Hon'ble High Court at Kolkata Criminal Case: C. No. 1842 of 2001, u/s 138 of N I Act was instituted against the defendant for bouncing of cheque amounting to Rs 3.90 Crores in Metropolitan Magistrate Court.
6	Ratanlal Poddar	C S no. 263 of 2001 filed before the Hon'ble High Court at Kolkata.
7	Prema Poddar	T No. 454 of 2001 filed before the Hon'ble High Court of Kolkata.
8	Raj Kumar Poddar	T No. 452 of 2001 filed before the Hon'ble High Court of Kolkata.
9	Harish Chandra Biyani	C S no. 265 of 2001 filed before the Hon'ble High Court at Kolkata. Criminal Case: C. No. 1843 of 2001, u/s 138 of N I Act was

affidavit from the members of the Exchange to the effect that the members as well as their sub-brokers are using only authorized software.

d. The Stock Exchanges have been advised to make amendments to their byelaws, regulations, etc., to stipulate that all payments shall be received/ made by the brokers from/ to the clients strictly by account payee crossed cheques/demand drafts or by way of direct credit into the bank account through EFT or any other mode allowed by RBI. The stock exchanges have also been advised to stipulate that brokers shall accept cheques, except in exceptional circumstances, drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. In case of securities also, giving/ taking delivery of securities in demat mode is to be directly to/ from the beneficiary account of the clients except delivery of securities to a recognized entity under the approved scheme of the Stock Exchange and/or SEBI.

The Stock Exchanges have been directed to ensure the following:

a. Facility of placing orders on "pro-account" through trading terminals shall be extended only at one location of the members as specified / required by the members

b. Trading terminals located at places other than the above location shall have a facility to place orders only for and on behalf of a client by entering client code details as required/ specified by the Exchange / SEBI.

c. In case any member requires the facility of using "pro-account" through trading terminals from more than one location, such member shall be required to submit an undertaking

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No	Defaulter broker	Action initiated by CSE
		instituted against the defendant for bouncing of cheque amounting to Rs. 9.22 Crores in Metropolitan Magistrate Court.
10	Biyani Securities P Ltd.	C S no. 265 of 2001 filed before the Hon'ble High Court at Kolkata.

II. As regard to the recommendation No.(ii) :

SEBI conducted a special inspection in May 2001 to look into the payment crisis in Calcutta Stock Exchange in settlement no. 148, 149 and 150. The inspection report brought out several lapses and violations including system and risk management failure in CSE.

The report was sent to CSE and the Board of CSE was advised to take necessary corrective measures and immediate action for the lapses. After considering the SEBI's special inspection report and the comments of the Executive Director on the lapses and deficiencies pointed out in the report, the Board of CSE in its meeting held on August 11, 2001 decided to terminate the contract of Shri Tapas Dutta as Executive Director of CSE with immediate effect.

CSE has also lodged an F.I.R (Case ref. - Hare Street P.S/DD Case No. 476 dated 24.09.2002 U/s. 120B/420/409/467/468/471/477A IPC) with Kolkata Police.

SEBI has taken following actions /measures:

· Illegal trading has been declared as a cognizable offence under section 19 of SC(R) Act within the meaning of Code of Criminal

to the stock exchange stating the reason for using the "pro-account" at multiple locations and the stock exchange may, on case to case basis, after due diligence, consider extending the facility of allowing use of "pro-account" from more than one location.

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			Procedures which does not fall into the regulatory competence of SEBI. Therefore SEBI has recently written letters to Chief Ministers of all States including West Bengal apprising them of such activities and requesting them to put the police on a continuous alert and to take suitable action against any person/entity violating the provisions of SC(R)A. Central Government was also requested to write to the State Chief Ministers in this regard. · The Governing Board of the Uttar Pradesh Stock Exchange was superseded on July 12, 2002 for various lapses which included their failure to curb unofficial market. · The Governing Board of Ahmedabad Stock Exchange was superseded on March 25, 2003 for its failure to prevent the open outcry system/ unofficial market carried out by its member at the basement of the exchange. · Based on the findings of the investigations/ inspections of CSE brokers carried out by SEBI inquiry proceedings have been initiated against 25 brokers of CSE for their indulgement in the large scale off the floor transactions outside the exchange. · A list of Kolkata based National Stock Exchange (NSE) member were reported to be allowing use of their terminals to some broker/sub-broker not duly registered with SEBI by misuse of NSE's Computer Link (CTCL) facility. NSE was asked to look into the matter and send a report urgently. NSE has informed that 12 such cases were taken	

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			to their disciplinary action committee and on 9 of them found to have committed violations; fines have been levied ranging from Rs.10,000 to Rs. 40, 000. In the light of the media reports on the Kerb Trading gaining momentum across the country mainly in Kanpur, Kolkata, Mathura, Ahmedabad, Rajkot and Mumbai involving members of Stock exchanges in these cities, letters have been sent to all stock exchanges whose names appeared in the media report as well as those exchanges where there is some trading activity to bring the said media report to their attention and to keep tab on such media reports.	
58.	6.149	The Surveillance Committee of BSE although constituted on 25.5.2000, did not hold any sitting for over 7 months. The Committee find that it was during this period that the market manipulations and irregularities were taking place. It is inexplicable why having constituted a Surveillance Committee, the BSE did not make it functional for a long time. Review of surveillance functions by an Exchange is an important area in the context of investors protection. The Committee feel that the institutional mechanism in the Stock Exchanges to undertake review of surveillance functions should be made purposeful and effective by holding periodical meetings and reviews. The Committee are also of the view that report on functioning of Surveillance Committee should be submitted by Stock Exchanges to SEBI every six months.	SEBI has informed that as recommended, stock exchanges have been directed to make surveillance more purposeful and effective by holding periodical meetings and reviews and to submit a report every six months, on · the surveillance functioning of the exchange, · review of surveillance functioning conducted by the exchange Governing Board/Committee entrusted with such review, and follow-up/ compliance by the exchange as a result of such review.	Major exchanges have stated that six monthly review of surveillance functioning by stock exchanges is being done. SEBI has been holding weekly meetings with the exchanges (BSE and NSE, which have more than 95% of trading volumes) to discuss surveillance functioning and related issues in order to make surveillance functioning more effective.

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59.	6.150	The Committee are of the view that obtaining trade related information from the Surveillance Department by a broker director holding official position in a Stock Exchange is in violation of norms. It is evident that the trade related information obtained from the Surveillance Department by the then President of the Stock Exchange, Mumbai (BSE) on 2/3/2001 was price sensitive. It is clear that he had in the past too sought to obtain similar information from the Surveillance Director. Such acts are in violation and have the effect of eroding the confidence of investors in the working of Securities Market. This episode underlines the urgent need for demutualisation of Stock Exchanges. The Committee note that as a first step in this direction, SEBI has recently issued a directive prohibiting broker-directors from holding the position of President, Vice-President or Treasurer of a Stock Exchange. The Committee urge that as discussed elsewhere in this report demutualisation exercise should be completed early.	As at Para 6.105.	As against para 2.20
60.	6.151	The Executive Director of the Stock Exchange is vested with the responsibility for the proper and independent functioning of the Surveillance Department. It is shocking to note that the then Executive Director of BSE did not consider the instances of the then President seeking information from the Surveillance Department objectionable. The Executive Director admitted that the information obtained from the Surveillance Department by the then President on 2.3.2001 was "sensitive". The fact that he had not thought it fit to place this fact before the governing body of the Exchange shows that either this was common practice or there was collusion between the then President and the Executive	BSE has informed that it had sought an explanation from Shri A.N. Joshi, then ED on the observations made in the JPC report. SEBI is looking into the explanation received from Shri Joshi.	SEBI, vide letter dated September 24, 2003, has written to BSE advising them to inform SEBI on the specific views of the Board and the steps and actions taken by BSE against Shri. A N Joshi, the then Executive Director of the Exchange. Further, they have also been advised to state clearly whether all the necessary steps have been taken to take the case to its logical conclusion, including looking into the civil and criminal aspects of the said case. The Governing Board of the BSE considered the matter pertaining to Shri A N Joshi in its meeting held on 21st October, 2003, and has expressed the view that the Exchange had no reason to doubt the integrity of Shri A. N. Joshi

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		Director. All these cast doubt-on the integrity and effectiveness of the Executive Director and call for strict action		and since Shri Joshi had retired from the services of the Exchange on the 6th August, 2002 in the normal course after completing his term as the Executive Director of the Exchange, the Governing Board felt that the Exchange cannot take any action in the matter against Shri Joshi. The Board was, therefore, of the view that all the actions and steps which the Exchange could possibly initiate/take in the matter had been taken and the matter should be deemed to have been brought to its logical conclusion.
61.	6.153	That the governing body of BSE passed a resolution expressing complete confidence in the integrity of the then President even while his wrongful activities were brought to public knowledge is something disquieting. Such a resolution amounted to pre-empting an enquiry against the latter and handing him over a clean chit. It is a matter of concern that the SEBI Nominee Director too was a party to that resolution though he retracted his stand four months after passing that resolution. The role and functions of SEBI nominee Director in a Stock Exchange ought to be clearly laid down.	SEBI has been authorised to nominate one or more persons not exceeding three in numbers, as member or members of the Governing Body of every recognized stock exchange. As per the normal practice, SEBI had nominated three persons as SEBI Nominee Directors on the Governing Boards of all the stock exchanges. One of these nominee director used to be the SEBI Official. However it was felt that the nominee of the regulator should not be on the Governing Board of the stock exchanges to avoid conflict of interest. Accordingly, SEBI has withdrawn its officers as nominee representative from the Boards of the stock exchanges since January 10, 2002. SEBI is also in the process of issuing guidelines to its nominee directors.	The Code of Conduct for Public Representatives and SEBI Nominee Directors has been finalized and the Stock Exchanges have been advised. SEBI has set up the process of calling for a quarterly attendance record of all Public Representatives (PRs) and Nominee Directors (NDs); the Exchanges also send the records of attendance in the Monthly Development Reports of the Exchanges. In case the attendance of any representative falls below 75% in a quarter, SEBI would write to the concerned PR or ND. SEBI has also sent letters to all PRs and NDs emphasising the need to attend meetings of the Stock Exchanges regularly and to inform SEBI in case they are unwilling or are unable to attend meetings regularly. SEBI has also written in this context to the Secretary, Department of Company Affairs requesting him that all Registrars of Companies (ROCs) attend Board meetings of Stock Exchanges regularly. Similar letters have also been written to the State Governments. A circular has been issued in this regard to the Stock Exchanges to amend their rules / articles. SEBI takes note of attendance record of PRs and NDs before re-nominating them and in several cases PRs with poor attendance record have not been re-nominated on the Governing Boards of the Exchanges.

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				SEBI has issued Guidelines for Fair Practices/ Code of Conduct for Public Representatives and SEBI Nominee Directors in order to ensure that the affairs of the Stock Exchanges are conducted on healthy lines with the highest standards of professional conduct, business ethics and morality to inspire and sustain the confidence of the investing public.
62.	7.3	When the Committee enquired about the work of the Special Cell since December, 1994, the Committee realized that no progress worth its name had been made. The Special Cell was almost defunct as dealt with in paragraph 3.12 Chapter III. The Committee note with disappointment the laggard manner in which the recommendations of the previous Committee were treated. Not only this, the Committee consider such an approach as symptomatic of the non-serious attitude of various regulators who hesitate to take action when required, and do so only when prodded. Regulatory authorities must shed their lackadaisical and negative mindset, especially in the context of regulating the stock market, the rise and fall of which not only determines the fortunes of many but the health of which should symbolize the health of the state of the economy. One of the root causes of the scam is this mindset.	As against 2.21.	As against para 2.21
63.	7.4	The failure in investigating into the role of promoters and corporate entities while share prices of particular scrips were being artificially manipulated has been attributed by SEBI to the absence of authority to investigate into their role under the Securities and Exchange Board of India Act, 1992. Under Section 11(2)(i), SEBI is charged with responsibility of calling for information, undertaking inspections, conducting enquiries and audit of the stock exchanges,	Department of company Affairs have informed that some corporate houses misused the liberalisation introduced by insertion of section 372A to transfer large sums of money to the KP group. It is proposed to tighten the loopholes by carrying out several changes in section 372A. As a result of the lessons drawn from the stock market scams and as a consequence of the recommendations of the JPC, it is proposed to amend Section 372A to close the loopholes noticed and to prescribe a more severe	The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7th May, 2003. The Cabinet has now advised the Department that instead of moving a number of official amendments to the Bill, DCA should bring a new legislation for consideration of the Cabinet. SEBI has taken following further action: a) **against DSQ Software Ltd. and promoters:** A personal hearing has been granted to the DSQ

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		mutual funds, other persons associated with the stock market, intermediaries and self-regulatory organizations in the stock market. Though it may be possible to contend that SEBI did not enjoy the authority to directly investigate corporate entities, which might have, through various channels, provided funding in the stock market. That the promoters and corporate entities were, at the relevant time, playing a significant role cannot be denied. The Department Company Affairs, one of the entities having regulatory authority could have, had it informed itself of this or been alerted to the role of promoters and corporate entities, taken timely action in the matter. Diversion of funds allocated to specific projects for use in the stock market for the purchase of specific scrips, investment companies operating in the stock market through brokers, nexus between brokers and corporate entities in the context of the interests of brokers in specific corporate entities, which facts have now come to light, establish the nexus between brokers and corporate entities. The proximity of promoters and brokers is also established by the frequency with which both acted in collusion by the use of circular trading in respect of shares of certain companies, with the sole objective of creating an impression that the scrip in which circular trading is effected was heavily traded; consequently enticing innocent participants in the stock market to purchase the scrip of that company. These and other factors contribute largely to the artificial inflation of share prices in specific scrips, particularly known as the "K-10 stocks" which, in turn, contributed in large measure to a sentiment being created in the market which enthused others to invest solely in these specific scrips and the stock market in general.	punishment for its violation. Proposals have been formulated as part of the amendments to the Companies Act under consideration. Action taken by SEBI is reflected in reply to Para 2.15.	Software Ltd., and its promoter Shri Dinesh Dalmia on 22/11/2003 before Chairman, SEBI issues final order in the matter. b) **against Padmini Technologies Ltd**: Prosecutions lodged against the company and its whole-time directors in the Court of Addl. Chief Metropolitan Magistrate, Tis Hazari, Delhi vide case no. 252 of 2003 on March 26, 2003. c) **against Zee Telefilms Ltd**: Found violated the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. Penalty of Rs. 60,000 was imposed and paid. d) **against Global Tele-Systems Ltd (GTL Ltd)**: Found violated the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. Penalty of Rs. 1,20,000 was imposed and paid. e) **against Pentamedia Graphics Ltd**: Found violated the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. Penalty of Rs. 90,000 was imposed and paid. f) **againt entities of Ranbaxy Laboratories Ltd. :** Adjudication proceedings for alleged contravention of section 15A(a) of the SEBI Act read with Regulation 3(4) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 have been initiated against 12 promoter group entities of Ranbaxy Laboratories Ltd. The adjudication proceedings are in progress.

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64.	7.51	SEBI furnished four sets of interim reports inclusive of its investigation regarding scrips of certain corporate bodies. The Committee's insistence for SEBI's final findings regarding the role of promoters/corporate bodies in the price manipulation of the scrips yielded yet another set of reports most of which were again of interim nature and were received as late as in November 2002. Due to non-availability of Final Report from SEBI, the Committee could not have the opportunity to take oral evidence of these corporate bodies. The Committee urge SEBI, the Department of Company Affairs and other investigative agencies to expedite and complete their investigations into involvement of promoters/ corporate houses in manipulation of prices of scrips which were found to have undergone unusual volatility. The Government should take appropriate action under the provisions of the relevant laws on the basis of outcome of their findings. Expeditious action should be taken against those involved wherever the involvement of promoter/corporate house is established.	Enforcement Directorate has informed that JPC has commented on the suspect roles of 15 promoters and Corporate entities. Files in respect of 15 promoters / companies stated to be close to Ketan Parekh were opened by them to determine the nexus with brokers through OCB's and FII's and to trace violation of RBI/SIA norms while transferring equity to OCB's and FII's. The promoter companies can be divided into two parts 1. Out of the 15 companies mentioned in the JPC report, there are companies, where certain enquiries which might have a FEMA angle were still pending. These comprise the a) DSQ group, b) Zee Telefilms Ltd., c) HFCL, d)Global Telesytems, e)Global Trust Bank, f) Silverline Technologies, g) SSI Ltd. 2. With regard to the second group, the Enforcement Directorate's inquiries have been directed against these promoter companies where certain details have been called for. This group comprises -- a) Adani Exports, -- b) Padmini Technologies -- c) Aftek Infosys, -- d) Satyam Computers -- e) Ranbaxy Ltd. -- f) Lupin Labs -- g) Pentamedia Graphics -- h) Shonkh Technologies. In addition to the 15 promoters and corporate entities mentioned in JPC report, on the basis of SEBI report suggesting the specific involvement in market manipulation and their proximity to Ketan Parekh, the Enforcement Directorate has initiated investigation in respect of the following companies: a)Maars Technologies, b) Mascon Global, c) Mukta Arts, d) Tips Industries, e) Balaji Telefilms , f) Kopran Group, g) Nirma Group, h) Cadilla Group. Investigations by the Enforcement Directorate in respect of these 23 promoters/companies are in progress. Action taken by SEBI is covered in Para 2.15.	The Enforcement Directorate had also initiated investigation in respect of 8 more companies. Thus, the total number of companies, which were under investigation by Enforcement Directorate, was 23. Out of these 23 companies, in respect of one company i.e. DSQ Group, the investigation has been completed and Show Cause Notices have been issued under both FERA & FEMA. In respect of M/s Maars Technologies and Silverline Technologies Ltd., investigation on one aspect i.e. non-realisation of export proceeds have since been completed and Show Cause Notices have been issued under FEMA on 11.6.2003 and 8.10.2003 respectively. Investigations in respect of the remaining 20 companies are at a very advanced stage.

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65.	7.53	Having learnt about the ingenious ways of transferring funds by certain companies to manipulate the market, SEBI has now made certain suggestions to prevent proliferation of shell companies. In order that the scope of registering shell companies with fictitious details about their initial subscribers/promoters, their addresses etc., appropriate revisions in the rules as well as in the forms prescribed under the respective rules also need be effected by Registrar of Companies and other statutory authorities in the existing ones and introduce adequate verification of the details furnished in applications for registration of companies, without delay. The SEBI suggestions include yearly declaration by companies about floating of subsidiary/associate companies, etc., disclosure on quarterly basis about change in investments by the subsidiaries/associate companies, restriction on floating investment companies by a parent company and verification of the antecedents of the persons behind the investment companies. SEBI has also suggested regulation of reverse merger where an unlisted company merges with a listed company on non-transparent manner. The Committee are of the view that these suggestions merit urgent examination and follow up action by the Government. The Committee also feel that the issues concerning preferential allotment and private placement also need to be looked into afresh by DCA and SEBI in the light of the SEBI's findings in this regard with a view to take suitable corrective measures.	DCA has informed that regarding multiple investment companies, a proposal has been formulated as part of the amendments to the Companies Act presently under consideration of the Department. Regarding preferential allotment, DCA will shortly be making rules on the basis of the recommendations of the Verma Committee. SEBI has informed that regarding preferential allotment of shares, SEBI has already amended SEBI (Substantial Acquisition of shares and Takeover) Regulations 1997 thereby withdrawing the automatic exemption (from open offer requirements) available to shares acquired on preferential basis beyond the specified limits. This amendment will prevent misuse of preferential allotment to acquire control or substantial stake in a listed company. As regards the private placement of debt, the Secondary Market Advisory Committee of SEBI has inter-alia recommended that the same standards of disclosures as are applicable for public issue of debt, should be made applicable to private placement of debt instruments , which are proposed to be listed. The matter is being pursued. In addition, SEBI has also laid down certain guidelines for preferential issues to be made by listed companies .The compliance with SEBI (preferential offer guidelines) is a pre condition for listing of the shares allotted on preferential basis, by listed companies. The guidelines inter-alia deal with disclosures to be given in the notice for shareholders meeting, minimum price to be based on average market prices and other requirements. Listed companies are required to comply with the guidelines. Additionally Stock Exchanges are required to ensure compliance of the guidelines before listing these shares.	The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7th May, 2003. The Cabinet has now advised the Department that instead of moving a number of official amendments to the Bill, DCA should bring a new legislation for consideration of the Cabinet. In regard to recommendations of Prof. Verma Committee regarding preferential allotment, the Department is going to issue "Unlisted Public Companies (Preference Allotment) Rules". Circular on private placement of debt securities by listed companies has been issued by SEBI on September 30, 2003.

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66.	7.54	This Committee hold that even as there are valid reasons to believe that the corporate house-broker-bank-FIIs nexus played havoc in the Indian capital market quite sometime now through fraudulent manipulations of prices at the cost of the small investors, this Committee were severely handicapped in the matter of making any purposeful recommendations because of non-availability of required support from concerned regulatory and other bodies with necessary material. The issue acquires added importance in view of the recommendations of the 1992 JPC regarding the urgent need to go into this unhealthy nexus of corporate entities-brokers-banks and others.	SEBI is looking into the matter.	No change in the status.
67.	8.76	SEBI's investigations have brought out several instances of violations by OCBs such as non-delivery of shares, purchase of shares on adjustment basis, booking purchase orders without sufficient balances in their accounts, exceeding the prescribed ceiling of 5 per cent for individual OCBs and violations of 10 per cent aggregate ceiling, etc. Certain OCBs and sub-accounts of FIIs also violated the SEBI (Substantial Acquisition of Shares and Take Over) Regulations. SEBI has mentioned five OCBs and two sub-accounts of FIIs which have aided, assisted and abetted in creation of artificial market and volumes, circular trading and building up concentrated positions in a few scrips. SEBI is reportedly taking action against four OCBs and one sub-account for violation of its regulations regarding substantial acquisition of shares. As regards market manipulations by OCBs, SEBI is stated to be examining the matter legally. The Committee urge that SEBI's remaining investigations as well as its legal examination should be completed expeditiously and	SEBI has informed that Adjudication orders were passed by it against OCBs, viz. Kensington Investments Ltd, Brentfield Holdings Ltd, European Investments Ltd and Far East Investments Ltd and sub-account viz. Kallar Kahar Investments Ltd for their dealings in the scrips viz. Mascon Global Ltd, Shonkh Technologies Ltd, DSQ Biotech Ltd, Aftek Infosys and Global Trust Bank (GTB). Enforcement Directorate has informed that adjudication proceedings in relation to four Show Cause Notices under FERA and two under FEMA comprising ten charges against custodian Bank and OCB have already been and are being expedited.	The adjudication proceedings in relation to four SCNs under FERA and two complaints under FEMA comprising 10 charges against Custodian Bank and the OCB's have already begun. The Adjudicating Authority has been advised to expedite the proceedings.

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		appropriate action taken against offenders. The Committee note that the Directorate of Enforcement has also since issued show cause notices to the custodian bank and certain OCBs for FERA violations. The Committee hope that final action in this regard would be completed early.		
68.	8.77	SEBI has observed that there had been more outflow than inflow of funds which defeated the very purpose of OCBs' portfolio investments, viz., bringing foreign exchange into the country. According to SEBI, the net outward remittances by 13 OCBs during April 1999 to March 2001 were over Rs 3850 crore. The Committee, however find that this observation of SEBI is based on incomplete analysis which does not include inflows under non-PIS transactions such as sale of underlying shares acquired through the ADR/GDR or FCCB route, shares acquired overseas from other NRI/OCBs or through swaps/ purchases. The Enforcement Directorate has pointed out that since the inflow figures of corresponding non-PIS transactions of select OCBs are not ascertainable, no definite inference could be drawn as regards inflow-outflow of foreign exchange. Nevertheless, RBI data indicate that net investments during the past 10 years by NRI/OCBs under PIS alone were over 197 million US Dollars. The Committee would, like RBI to undertake a comprehensive analysis of foreign exchange inflows-outflows by OCBs over a period covering both their PIS and non-PIS transactions and come to a conclusion whether this route is profitable or harmful to our economy. The decision about the ban on OCBs should be based on the outcome of this study.	It has been impressed upon the RBI that the Government desired the Group constituted by RBI looking into the inflow/outflow data of OCB's while examining the data may ascertain whether the flow/ outflow data collected from 15 Authorised dealers includes non-PIS outflows i.e. outflows under the following four categories: * ADRs/GDRs purchased by an OCB outside India from its foreign exchange resources and then these ADRs/GDRs later converted into underlying shares and sold in the Indian market and proceeds repatriated in terms of general permission available. * Foreign Currency Convertible Bonds (FCCBs) issued by Indian companies purchased by an OCB outside India and then these FCCBs later converted into shares and sold in the stock exchange in terms of general permission available. * Shares purchased by an OCB outside India under general permission available to NRIs/ OCBs for transfer of shares to one another outside India and later sold these shares on the stock exchange in terms of general permission available. * In certain cases, FIPB and the Special Committee on Overseas Investment grant permission to Indian companies to acquire overseas company by way of SWAP and purchasing shares of Indian company in such cases. The overseas acquirer who may	On the basis of the recommendations of the JPC, an Internal Committee was set up by the RBI to review the role of OCBs and carry out the analysis. In the light of the regulatory concerns as revealed by the study undertaken by RBI, it has been decided in consultation with the Government to derecognise with immediate effect OCBs in India as an eligible 'class of investor' under various routes / schemes available under extant Foreign Exchange Regulations. Accordingly, the ban imposed on OCBs under the Portfolio Investment Scheme in November 2001 shall continue. Further, it has been decided by RBI in consultation with GOI that with effect from September 16, 2003, OCBs shall not be permitted to make fresh investments in India under various routes / schemes available under extant Foreign Exchange Management Regulations. The facility of opening fresh NRE and FCNR(B) and NRO accounts has also been withdrawn. Action has been initiated to carry out consequential amendments to the relevant notifications under FEMA.

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			be an OCB may later sell these shares on the stock exchange in terms of general permission available. * These non-PIS sources of acquisition of shares (other than purchases under PIS) have to be factored in while arriving at the final view regarding ban on OCBs under PIS. In terms of recommendation of the Committee, Government of India had asked RBI to have fresh look at OCB's operations after an in-depth study of inflows and outflows on a holistic basis covering their PIS and non-PIS transactions. At the meeting convened by JS (FT & I) on 31.1.2002 in connection with implementation of the recommendations of the Joint Parliamentary Committee on Stock Market Scam and matters relating thereto. RBI informed that out of approximately 70 banks, 27 banks are involved in Portfolio Investment Scheme, out of which 15 banks, which cover more than 84% of the Portfolio Investment Scheme, have already furnished the details. RBI officials advised that their examination of OCB transaction based on the data collected would be processed by last week of February, 2003. RBI has now informed that an internal study has been carried out by them and the position is being examined in the light of the findings of the study. Their report in this regard is awaited.	
69.	8.78	The Committee do not agree that RBI should leave it entirely to the custodian Banks to monitor compliance of its guidelines regarding OCBs. There is no system of periodical inspection of OCB accounts of Banks by RBI. RBI claimed that its role was limited to monitoring OCB's company-wise investment ceiling of 10 per cent. The Committee note that RBI's monitoring failed to detect violations of even this limited aspect. It is only after SEBI's investigation that violations regarding ceiling norm came to light.	RBI has informed that it has a system in place to monitor the aggregate limit by fixing a trigger point of 2% below the applicable limit. Based on the data reported by the designated banks, RBI places the company under a Caution List when the trigger point is reached. RBI has been strictly following this procedure. As on 15th March, 2003 RBI had taken required action against 4 companies.	As on 31st March, 2003, RBI had taken required action against 14 companies. The system of putting the companies in Caution/ Ban List is an on-going process intrinsic to the system.

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70.	8.79	It transpired during Committee's examination that there has been no regulatory framework to keep an eye on the activities of OCBs. OCBs were neither registered nor regulated by SEBI. The former SEBI Chairman has gone on record saying that OCBs were not SEBI's responsibility. On the other hand, RBI contended that OCBs were not under its regulatory framework. RBI, however, held that if policy framework is laid down by the Government, RBI would be in a position to monitor OCBs. The Committee's persistent query as to which authority is responsible for OCBs has not yielded any specific reply. The Committee note with concern that the Ministry of Finance did not adequately address itself to issues relating to the Mauritius route notwithstanding the growing impact of this Mauritius route on our Capital Market over several years. The Ministry of Finance needs to lay clear policy guidelines about the responsibility to monitor OCBs.	Schedule 3 of Foreign Exchange Management Act (FEMA) regulations lays down that a NRI or an OCB may purchase/sell shares and/or convertible debentures of an Indian company, through a registered broker on a recognised Stock Exchange, subject to the following conditions:- i. the NRI/OCB designates a branch of an authorised dealer for routing his/its transaction relating to purchase and sale of shares/convertible debentures under this Scheme and routes all such transactions only through the branch so designated. ii. The NRI or OCB investor takes delivery of the shares purchased and gives delivery of shares sold. iii. The link office of the designate branch of an authorised dealer shall furnish to the RBI a report on daily basis giving the following details: a. Name of the NRI or OCB b. Company-wise number of shares and/ or debentures and paid-up value thereof purchased and/or sold by each NRI/OCB. iv. The net sale/maturity proceeds (after payment of taxes) of shares and/or debentures of an Indian company purchased by NRI or OCB under this scheme, may be allowed by the designated branch of an authorised dealer. a. to be credited to Non-Resident Special Rupee (NRSR) account of the NRI or OCB investor where the payment for purchase of shares and/or debentures sold was made out of funds held in NRSR account or b. at the NRI or OCB investor's option, to be credited to his/its Non-Resident Ordinary (NRO) or NRSR account, where the shares and/or debentures were purchased on non-repatriation basis or	The steps taken since August 2001 in monitoring the portfolio investment flows in respect of NRI/ OCBs and FIIs as under: · The data from banks in respect of sale/ purchase statistics in respect of NRIs / OCBs is being received by e-mail. (only sales are reflected in case of OCBs). · The data in respect of Foreign Institutional Investors is at present being received through floppies and will shortly be received through the e-mail module. The process of monitoring is expected to be improved further once the Integrated Foreign Exchange Management System (IFMS) facilitated web based reporting is operationalised.

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c. at the NRI or OCB investor's option, to be remitted abroad or credited to his/its Non-Resident External (NRE)/Foreign Currency Non-Resident (FCNR)/Non-Resident Ordinary (NRO)/ Non-Resident Special Rupee (NRSR) account, where shares and/or debentures were purchased on repatriation basis.

2. Para 2 of Schedule 3 of FEMA regulations provides that the link office of the designated branch of an authorised dealer shall furnish to the Chief General Manager, Reserve Bank of India (Exchange Control Division (ECD)), Central Office, Mumbai, a report on daily basis giving the following details:

(a) name of the Non-Resident Indian or OCB.

(b) company-wise number of shares and/or debentures and paid-up value thereof, purchased and/or sold by each NRI/OCB.

3. The need for effective monitoring on foreign investment flows and compilation of data has been pursued by the Government (DEA) with RBI and other agencies through a series of meetings since August 1999. Even FEMA provisions as stated in para 2 and 3 above enjoins upon the RBI to monitor the purchase and sale of shares by NRIs/OCBs on a day-to-day basis. In this connection, RBI was advised in November 1999 emphasising upon effective monitoring mechanism to be evolved to collect and collate FDI data (inflows and outflows) sector-wise by linkages with authorised dealers. RBI was again reminded in December, 1999 about the need to monitor the inflow and outflow of FDI data. GOI had also desired that RBI intimate the progress achieved in implementing the system to the Ministry of Finance on a periodic basis. Further, the then Secretary, Department of Economic Affairs had written to Governor, RBI in June 2000 that the pace for putting in place the project to implement a data system for maintaining FDI inflows and outflows by RBI continued to be somewhat slow.

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			4. Subsequently RBI informed GOI in August 2001 that in addition to efforts made by RBI for monitoring of inflows/outflows on account of Overseas Investment in India, concerted efforts were being made to improve data collection in respect of foreign investment and the following steps had been initiated: i. Floppy based system for collection of sale/ purchase statistics to monitor overall 24% limit for FIIs had been introduced since 1.4.2001. ii. A project to introduce a floppy based system for collection of sale/purchase statistics for NRIs/OCBs from banks, was underway. However, this task was more complicated than one for FIIs as data had to be collected from 76 link offices who had to inturn collect data from branches spread all over the country. CGM, RBI had also informed vide her letter dated 7th August, 2001 that a time-bound action plan for on-line collection of foreign investment data covering all required parameters was also being drawn up. She had assured that the monitoring issues relating to foreign investment had received their highest priority and they would be keeping government informed of their progress in this matter.	
71.	8.80	In the Committee's view, there is a need to have a fresh look at OCBs' operations after an in-depth study of inflows and outflows on a holistic basis covering their PIS and non-PIS transactions. The exercise should also include identification and plugging of loop holes and possible establishment of a proper regulatory set up with stringent penal provisions for violations. The regulatory provisions should inter-alia enable detection of cases where same set of individuals have formed more than	As in para 8.77	As against para 8.77

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		one OCB and have their investment spread across the OCBs to escape provisions of SEBI's Take Over Code. The Committee feel that the suggestions made by RBI for stipulation of a minimum paid up capital for OCBs and adoption of same registration procedure as applicable to FIIs deserve careful consideration by the Government. The Committee would like the Government to review the ban imposed on OCBs in the light of the above and clearly lay down the responsibility to a particular agency to oversee the OCB operations.		
72.	8.81	SEBI has expressed suspicion that some of the Indian promoters have purchased shares of their own companies through Participatory Notes issued by sub-accounts of FIIs. This mechanism enables the holders to hide their identities and enables them to transact in Indian Capital Market. The Committee note that SEBI has since directed FIIs to report about details of the Participatory Notes as and when issued by them. The Committee suggest that failure on the part of FIIs to report about issue of PNs should be viewed seriously and should entail stringent punitive action. It should also be ensured that this instrument is not misused in any way to manipulate the Indian Securities Market.	During the investigation into the last stock market manipulation SEBI had come across certain cases of Participatory Notes issued by FIIs and OCBs . In order to increase the transparency, SEBI had immediately issued Circular No. FITTC/CUST/14/ 2001 dated October 31, 2001 to all FIIs and their Custodians advising the FIIs to report as and when any derivative instruments with Indian underlying securities are issued/renewed/redeemed by them either on their own account or on behalf of Sub-Accounts registered under them. Accordingly, FIIs are sending reports from time to time whenever they are issuing PNs. SEBI is considering steps to include disclosure of information about the terms, nature and contracting parties to the PNs issued by FIIs.	Provision has been made for disclosure of offshore derivative instruments based on underlying Indian securities in the SEBI(FII) Regulations, 1995. SEBI, vide circular IMD/ CUST/8/2003 dated August 8, 2003, has introduced fortnightly reporting of offshore derivative instruments against underlying securities from August 2003. All FIIs are also required to submit the following undertaking : "We undertake that we/associates/clients have not issued/subscribed / purchased any of the offshore derivative instruments directly or indirectly to/from Indian residents/NRIs/PIOs/ OCBs during the Statement Period ". Out of total 508 FIIs registered with SEBI as on August 14, 2003, till October 9, 2003, PN Reports from 467 FIIs have been received in terms of the aforesaid circular. It may be noted that only 12 FIIs have submitted the PN Reports containing information on PNs issued by them, the rest 455 FIIs have submitted 'Nil Reports'. Letter dated September 30, 2003 seeking explanation for the non- submission of PN Reports has been sent to the FIIs who had not submitted the said report.

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73.	9.27	Despite the elaborate procedure set out by SEBI for inspection of Stock Exchanges and for taking follow-up action thereon, it had not been able to ensure compliance of its recommendations within a time frame. As a result, the numerous violations/ deficiencies brought out in the inspection report of the year 1998 found repeated mention in the inspection reports of 1999 and 2000 and still remained unrectified. Ultimately, these very factors are found to have contributed to the payment crisis of CSE. The Committee fail to understand why SEBI had not thought it necessary to take punitive action in the event of non compliance of its inspection recommendations within a time frame. The Committee desire that SEBI must evolve an effective system of compliance with inspection findings.	SEBI has informed that it had in the past following a policy of offsite monitoring of the status of compliance of findings of the inspection reports of the Stock Exchanges. This offsite monitoring was done through periodical compliance reports obtained from the exchanges after approval by the boards of the stock exchanges. As the compliance reports were submitted by the stock exchanges with the approval of the respective Boards, these were relied upon. SEBI has now strengthened its policy of inspection of Stock exchanges. For this purpose, it has set up a separate division within SEBI for inspection of exchanges and taking follow up actions on the status of compliance of recommendation of previous inspection report as well those in the current report. It has also been decided to conduct inspection of stock exchanges, both for routine operation of stock exchanges, compliance with various rules, regulations byelaws as well as for surveillance and monitoring. An action plan for follow-up of inspection findings has also been put in place. As per the action plan, in line with the decision of the Board of SEBI, letters of displeasure were issued to exchanges, inspections in respect of which were conducted during the year 2002 and had failed to comply with the suggestions for improvement and to rectify deficiencies pointed out in SEBI's previous inspection reports. Meetings were held with the Executive Directors/ Managing Directors and other operational heads of the stock exchanges to discuss the findings and status of implementation of the inspection reports. The exchanges have been advised to submit to SEBI a time-bound action plan for implementation. Continuous follow-up is being done for achieving implementation by the aforesaid date. There is also a quarterly reporting to Board of SEBI.	As a result of continuous follow-up through issue of stern letters and frequent meetings with heads of Stock Exchanges, the compliance levels reported by Stock Exchanges have significantly improved. The Stock Exchanges wherein compliance levels were not satisfactory, are Pune Stock Exchange (PSE), Calcutta Stock Exchange (CSE) and OTCEI. In case of PSE, Governing Board has been superceded recently and an Administrator has been appointed. In case of CSE, a person nominated by West Bengal State Government has been appointed as Officer on Special Duty (OSD). Administrator of PSE as well as OSD, CSE have been advised to ensure expeditious implementation of pending suggestions. OTCEI has been issued a warning for failure to submit compliance report for a long period. Continuous follow up is being done to ensure that all the actions as recommended in the inspection report are completed in a time bound manner. Non-implementation of the recommendations of SEBI's inspection report by the subsidiaries will attract similar penalties as in the case of any broker, as these subsidiaries are registered as brokers. SEBI will maintain a constant and close watch on the functioning of the subsidiaries.

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			In respect of subsidiaries, discussion of findings has been done with the Executive Directors of the parent exchanges as well as the heads of the subsidiaries. Letters of displeasure have been issued. The exchanges were advised to ensure implementation of the reports relating to their subsidiaries.	
74.	9.28	The Committee note that SEBI's quality of inspection of October, 1999 and September, 2000 was so poor that it could not detect CSE's non inclusion of crystallised long positions in the outstanding position of brokers although this was clearly violative of SEBI's instruction of July, 1999. The Committee feel that this shortcoming in SEBI's inspection is all the more serious if viewed in the light of SEBI's categorical assertion that had CSE implemented SEBI's instruction, the payment problem would have certainly been avoided.	SEBI has informed that the CSE's non inclusion of crystallized long position was brought out in the report of the special inspection conducted by SEBI in May 2001. The earlier inspection could not bring out the fact, as those inspections were annual inspection of the operations and compliance of stock exchange with its own rules, byelaws and regulations as mentioned in the reply to para no. 3.29. As a part of the then existing policy of SEBI such annual inspections did not cover the surveillance and monitoring system of the stock exchange or the computation of various risk containment measures viz., margins, exposure norms, etc. SEBI has since strengthened its inspection system both for improving the quality of inspection and also to improve the effectiveness of follow up. SEBI has set up a separate inspection division for inspection of exchanges and taking follow up action and the status of compliance of recommendation of previous inspection report as well those in the current report. The inspections are being conducted by CA's along with the SEBI's own staff. A separate manual has been drawn up, which is being updated regularly. Efforts are being made to enhance the skill sets of the manpower of the inspection division.	Inspections of 6 Stock Exchanges during 2003-2004 have been carried out by in-house team of officers. Further, special inspections have been carried out by in-house teams for Bombay Stock Exchange, National Stock Exchange, Calcutta Stock Exchange and Uttar Pradesh Stock Exchange. Similar inspection for ASE is to be shortly carried out. Due to inadequate manpower, some inspections would need to be carried out through auditors. However, one or two SEBI officers would be associated with each such inspection to guide the auditors. The inspection manual is being regularly updated and improved. Efforts are also being made to enhance the skill sets of the manpower in the Division of Market Supervision (formerly Inspection Division).
75.	9.29	The Committee learn that due to inadequacy of staff, the number of inspection of brokers carried out by SEBI has been gradually coming down from 157 in the year 1997-98 to 103 in 1998-99 and to 80 in 1999-2000. This is not a satisfactory	SEBI has informed that in the inspection of stock brokers and sub brokers generally the objective of these inspections is to verify the following: (a) Whether the books of accounts, records and other documents are being maintained by	In the first phase of the program, inspection of 259 brokers and sub brokers across different Stock Exchanges and 14 subsidiaries formed by regional Stock Exchanges has been ordered. These inspections are at different stages of

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		situation and reflects poorly on SEBI. Checking irregularities and malpractices of stockbrokers is one of the primary functions of SEBI which could be achieved through the solid instrument of inspection. The Committee urge that SEBI should augment its staff strength, if need be, and progressively increase its coverage of inspection of brokers.	such stock brokers in the manner specified by the Securities Contracts (Regulation) Rules, 1957 and the Securities and Exchange Board of India (Stock Brokers and Sub Brokers) Regulations, 1992; and (b) Whether the provisions of the SEBI Act and the Rules and Regulations made thereunder and the provisions of the Securities Contracts (Regulation) Act, 1956 and the Rules made thereunder are being complied with by these stock brokers. (c) Whether adequate steps for redressal of grievances of the investors are being taken and the conditions of registration as a stock broker are complied with. In compliance with the recommendation of Hon'ble JPC to increase the inspection of the broker and sub brokers, SEBI has increased the number of brokers and sub brokers to be inspected. As compared to 80 inspections carried out during 1999-00, the number was increased to 115 during 2000-01. Further during 2002-03 inspection of 204 brokers and sub brokers affiliated to different active stock exchanges was taken up. SEBI has also chalked out a plan to inspect around 500 brokers in two phases during 2003-04 in addition to inspections of 200 brokers to verify the financial aspect e.g. turnover vis-à-vis brokerage charged to investors. The proposed inspections would include top brokers of BSE and NSE based on turnover and top brokers of other exchanges acting through subsidiaries formed by these exchanges. SEBI is taking steps to augment its staff strength for inspections of brokers and sub brokers. However in the meanwhile services of professional CA firms are being utilised for carrying out these inspections. The substantial increase in number of inspections as ordered by SEBI as also post inspection action (including cancellation, suspension and warnings) is intended to bring about greater discipline in the market.	completion. Apart from the above, SEBI has also ordered inspection of 220 brokers of BSE and NSE to verify the financial aspect e.g. mainly the brokerage charged by these brokers from investors vis-a- vis their turnover on different segments of the Exchange (Equity, Derivatives, Debts etc.). These inspections are underway. The exercise is an on-going one.

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76.	9.30	The performance of SEBI's nominee Directors in discharge of their role is anything but desirable. The attendance record of some of SEBI's nominee Directors in the governing board meetings has also been very poor in as much as one nominee Director in CSE did not attend even a single sitting out of 53 sittings during his tenure from October 1991 to April 1993 and another did not attend any sitting out of 26 sittings during his tenure from November 1996 to June 1998. The Committee note that SEBI has since discontinued the practice of nominating SEBI officials on the governing board of exchanges. The Committee urge upon SEBI to henceforth strengthen its in-house systems and infrastructure and make optimum use of-modern technology for carrying out focused inspection of all aspects of functioning of stock exchanges and follow up vigorously redressal of shortcomings and deficiencies found out in the inspection reports.	SEBI has informed that although it has withdrawn its official nominee from the Board of Stock exchanges, there are other directors who are on the boards of the stock exchanges as nominee of SEBI. SEBI would be issuing a code of conduct for its nominee directors. As regards the attendance of directors, SEBI is monitoring the attendance of public representatives and nominee directors and have taken up the matter for discontinuance of any director, who is found to be wanting in regular attendance. SEBI has already strengthened its internal capability of inspection and monitoring the stock exchanges. For this purpose a separate division with exclusive responsibility of inspection with separate staff has already been set up. SEBI is taking steps to further modernize its follow-up system making effective use of technology.	As against para 6.153.
77.	9.31	The Committee recommend the following: - (i) The role of Executive Directors in charge of the Secondary Market Division and the Surveillance Division in SEBI during 1999 and 2000 needs to be critically looked into for not ensuring compliance with various actions recommended in the inspection reports of 1999 and 2000. (ii) Explanation be called for immediately from all concerned officials in SEBI who were involved in the task of inspection of CSE during 1999 and 2000 regarding their failure to detect non-inclusion of crystallised long position in the outstanding position of the brokers and action be taken for dereliction of duty.	SEBI has informed that explanation has been already sought from Executive Director (Secondary Market Department) and other officers concerned in this matter. SEBI is also obtaining the explanation of the then Executive Director in charge of Surveillance Division in 1999-2000 through his parent department. Besides, it is envisaged that upon demutualisation and corporatisation of the exchanges, there will be a majority of independent directors on the boards of each of the stock exchange.	As against para 6.104.

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		(iii) The poor attendance of SEBI nominee directors in the Board meetings of Stock Exchanges in the past puts a question mark on the efficacy of the system of nominee directors. Although SEBI has since discontinued the system, the Committee desire that the Ministry of Finance should undertake a fresh review of the system of nominee directors keeping in view the proposed demutualisation and corporatisation of stock exchanges.		
78.	9.44	In order to improve the surveillance mechanism, the BSE has suggested to the Committee that there should be a centralized surveillance mechanism across all the major Exchanges to oversee the operations of the market participants on a holistic basis. The Committee observe in this connection that although an Inter Exchange Market Surveillance Group set up by SEBI already exists for co-ordination on surveillance related issues it is evident to the Committee that the surveillance system in stock exchanges are heterogeneous or in majority of cases do not exist in any modern form. Surveillance mechanisms both in stock exchanges and in SEBI need to be strengthened in order to prevent a crisis. In most capital markets of the world, there are very strong surveillance mechanisms, first at the stock exchange level and then at the Regulators level. SEBI needs to impart a great deal of urgency in this area.	SEBI has informed that it keeps a proactive oversight on surveillance activities of stock exchanges, which were entrusted with the primary responsibility monitoring of market activity. Based on their monitoring, stock exchanges send reports to SEBI including periodic, event driven and exceptional reports. SEBI also interacts with the stock exchanges through the inter-exchange market surveillance group, wherein feedback is obtained from stock exchanges and policy decisions on surveillance matters are discussed & taken. Through the above mechanism, SEBI was able to take several proactive measures as described in reply to Point # 9.66, during the period of market rise & fall. The issue of co-ordination and sharing of information is taken up in all meetings of the inter exchange surveillance group. On an on-going basis, further for sharing between exchanges is added and the system of sharing of information between different exchanges has been formalized. Exchange share periodically, information on the surveillance actions such as circuit filter reductions, scrip suspensions, imposition of special margins etc., information on rumour verification done by the exchanges, securities identified for further investigations, list of investigation cases taken up and various other matters as warranted.	Considering the need for an adequate surveillance system commensurate with the dimension and complexity of Indian Market and also having due regard to the JPC recommendations, it was decided to put in place a world –class Integrated Surveillance System across Stock Exchanges and across cash and derivative markets. The envisaged regulatory platform would provide automated data reporting capable of capturing market transactions, reference data research, regulatory analysis and market alerts generation for further front line proactive surveillance. In order to put in place an integrated surveillance system, SEBI sought the assistance of NASD under the auspices of USAID under FIRE 2 program. NASD team conducted a 2 week study of the dynamics of the Indian Capital markets and has submitted a report on the overall roadmap, high level architectures, time & cost estimates in September, 2003. It was also indicated that implementation would involve a time period of around 2 years. The market surveillance system proposed by NASD in their report pursuant to the study proposed State-of-the-Art technology coupled with the knowledge and experience of NASD to detect

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			As regards centralised surveillance mechanism across all the major exchanges to oversee the operations of the market participants on a holistic basis and viewing independently consolidation information of trades across all exchanges and generation of alerts, SEBI is reviewing the system of surveillance presently in existence wherein, the primary level of surveillance is conducted by stock exchanges. This is being reviewed with a view to have an integrated system of surveillance across stock exchanges and across cash & derivative markets. However, it may be appreciated that developing such a system requires crystallizing the system requirements including domain analysis, production of requirement specification, issuing request for proposals and finalization of project deliverables is a time taking process. Further, as the requirement is for an integrated system across stock exchanges and across markets, preliminary studies have suggested that there is no readymade system available or in use in other regulatory bodies. As such, the solution is to be worked out by adding additional functionalities to existing systems to make them suitable to our requirements. For this purpose, SEBI is consulting USAID / IBM consultants, under the FIRE II project for implementing a suitable system.	potential insider trading manipulations/ violations across financial instruments and markets. The envisaged regulatory platform would be able to provide automated data reporting capable of capturing market transactions, reference data research, regulatory analysis and market alerts generation for further front line proactive surveillance. SEBI has initiated the process for implementing the system by appointing a Technical Committee which will study the technical matrix of SEBI's requirements and frame a set of parameters which will form the basis for subsequent structuring of tenders, evaluation of bids, recommending terms of contract etc. As the envisaged system for an integrated offline automated surveillance is expected to take around two years for implementation, it was felt necessary to initiate immediately an interim on-going surveillance mechanism. A regular System of Weekly Surveillance Meetings with major Stock Exchanges viz. BSE, NSE; and Depositories viz. NSDL, CDSL; has been put in place to provide a confidential platform for exchange of views on areas of emerging concerns, specific abnormalities, and to consider pre-emptive actions and discuss general surveillance issues. In the weekly meetings, inputs from SEBI, Exchanges and Depositories are pooled for better co-ordination, sharing of information and pro-active, coordinated actions. Several surveillance actions have been taken by SEBI in the recent months based on the Weekly Surveillance Meetings.
79.	9.73	The Committee note that BSE had forwarded its investigation report to SEBI on the scrips of two corporate bodies in the month of December, 1999 and February, 2000. SEBI's interim report after the market crash has found that prices of the	SEBI has informed that investigative reports forwarded by exchanges are examined and a decision is taken, in a timely manner, on whether further investigation needs to be taken up by SEBI. If investigation is warranted, the same is taken up	SEBI received a complaint in December 1999 alleging price rigging in the shares of Adani Exports Ltd. during November /December 1999. SEBI advised the BSE to look into the case and submit a report on the same within 10 days. The

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		scrips of those corporate bodies had been manipulated. The price manipulations of these scrips could have been detected and subsequent crisis prevented had SEBI taken timely action.	immediately. Stress is also being laid on speedy completion of investigations and enforcement actions. Minimum criteria have been laid down for taking up cases for investigation and the procedure for the same has been streamlined to ensure transparency in the matter. Some of the factors which are considered for taking up preliminary investigations include impact of potential violation on trading pattern of scrip, seriousness of violation, trading concentration and quality of preliminary evidence/ linkages available. A committee of officials reviews these factors before taking up cases for investigation. SEBI has been requested to indicate action taken in the specific instances mentioned in the report.	BSE, vide its letter dated February 4, 2000, informed SEBI of having conducted an inquiry into the trades of Adani during the period November 1, 1999 to December 30, 1999. The BSE also informed as under: * The major buyer was Credit Suisse First Boston who purchased 75,100 shares for their client – Commonwealth Equity Fund, an FII. * Half Yearly results of the company for 1999-2000 showed a rise in net profit and EPS as compared to the previous year. * RBI clearance was given to Adani on November 30,1999 for hedging of commodities on offshore Exchanges. The BSE did not indicate any price rigging/ market manipulation in trading of the shares of the company during that period. Further, no incidences of structured deals or cross deals were mentioned by the BSE. Thus the BSE report indirectly suggested that there was no price manipulation or irregularity in the price rise and there was general buying interest in the scrip on account of favorable half yearly results and RBI clearance to Adani for hedging of commodities on offshore Exchanges. However, later during the investigations conducted by SEBI into the price manipulation in the scrip of Adani Exports, it was observed that Ketan Parekh broking entities put buy orders at successively higher prices on their proprietary account and on behalf of clients belonging to Ketan Parekh entities. These transactions resulted in the price of shares going up sharply. These acts of Ketan Parekh entities were in violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995.

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				Further, *SEBI received a complaint alleging price manipulation in the scrip. It was also observed that price moved from Rs. 325 to Rs. 956 within a short period. The spurt in price rise continued with rising volumes. In December 1999, SEBI advised the Stock Exchanges of Mumbai, Pune and Ahmedabad to send details of investigations /inquiry and follow up action in the scrip. SEBI also asked the BSE that if it has not conducted any investigations in the scrip, it should look into the trading pattern and send a report to SEBI.* Upon being advised by SEBI, the BSE gave a report on Aftek in December 1999. The report gave details of purchases and sales in the shares of the company for the period 11/10/99 – 3/12/99, made by brokers and clients. However, significantly, the report did not bring out any price manipulation in the shares. It was also seen that the report, in fact, tried to give some justification for possible rise in price such as purchases by the Common Wealth Equity Fund (Mutual Fund) which could have attracted further buying interest in the scrip, investor fancy for computer stock and purchases by promoters from IDBI etc. which meant that price rise was justified in the context of the above mentioned events and there was nothing wrong in this price rise. In other words, Exchange report conveyed indirectly that there were no price manipulations or irregularity in price rise and this could have justifiably risen for the above mentioned reasons. In view of above inadequate analysis by the BSE, in December 1999 itself, BSE was asked to look into trading pattern and send a supplementary report.

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				Vide letter dated 13/4/2000, the BSE submitted supplementary report on the trading during the period October to December 3, 1999. This report also did not present any meaningful findings and nothing with regard to market manipulation. No report was submitted by the BSE after the above 2 reports. Meanwhile, investigations were already commenced by SEBI into the price rise in the scrip of Aftek. The BSE was advised to submit the Trade / Order log for the period of investigation. As advised by SEBI for the purpose of investigation, the BSE also provided in October 2000, transactions data of clients of brokers who had traded in the scrip. Comprehensive analysis and examination of these logs and other details by SEBI brought out incidences of price manipulation and /or concentration, and /or price establishment by Ketan Parekh broker and Ketan Parekh entities acting as clients. Investigations further revealed that there was violation of SEBI(Substantial acquisition of shares and Takeover) Regulations, 1997 by promoters of the company as well as by Ketan Parekh entities. Following action has been taken against the concerned parties for the violation of Takeover Regulations. 1. Promoters of the company – Adjudication proceedings have been completed for violation of SEBI(Substantial acquisition of shares and Takeover) Regulations, 1997. Penalty of Rs. 5,50,000 has been levied and the penalty has since been paid. 2. Vidyut Investments Ltd.– Adjudication proceedings have been completed for violation

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				of SEBI(Substantial acquisition of shares and Takeover) Regulations, 1997. Penalty of Rs. 3,00,000 has been levied and the penalty has since been paid. 3. Classic Credit Ltd., Panther Investrade Ltd., JDP Shares and Mividha Investments acting in concert– Adjudication proceedings have been completed for violation of SEBI(Substantial acquisition of shares and Takeover) Regulations, 1997. Penalty of Rs. 5,00,000 has been levied and the penalty has since been paid.
80.	9.75	The Committee feel that the Inter Exchange Market Surveillance Group needs to be strengthened and there should be a formal system of exchange of information among exchanges. SEBI should also view independently consolidated information of trades across all exchanges and generate its own alerts.	Same as in Para 9.44.	Same as in Para 9.44.
81.	9.76	The Committee disapprove SEBI's attempt to abdicate its surveillance responsibility and put the entire blame on stock exchanges for failure to detect market manipulations. Ensuring safety and integrity of the market is a pre-requisite for protection of the interests of investors in securities which is the foremost duty of the SEBI. Market surveillance plays a key role in ensuring safety and integrity of the markets and SEBI ought to undertake market surveillance on its own besides overseeing the surveillance activities of the exchanges. This is all the more necessary given the jurisdictional limitations of stock exchanges	Same as in Para 9.44.	Same as in Para 9.44.

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		in their surveillance and investigations. Therefore, the Committee are of the view that there should be a very strong surveillance mechanism, both at the stock exchange level and at the regulator's level. The Committee recommend that surveillance system both in stock exchanges and SEBI should be examined in a holistic manner with a futuristic outlook. To put a system in place that will be effective in early detection of financial misconduct is an inescapable necessity.		
82.	9.77	The Committee feel that SEBI needs to be professionalised with adequate in-house manpower having a sense of belonging and commitment to the organization. There should be adequate manpower assessed on scientific basis to man various positions in SEBI.	SEBI has informed that the manpower requirements of SEBI are being assessed on an ongoing basis, based on the estimated requirements in different functional areas, and keeping in view any future expansion of work in specific areas. Steps are also initiated to give a sense of belonging and commitment to the SEBI employees by involving them in the decision making process, considering suggestions from employees for improvements in work areas, instituting a reward scheme for most beneficial suggestions, improving communication within the organization, and providing a platform for sharing of ideas. These measures are expected to significantly enhance the sense of belongingness and commitment shown by employees towards the organization. Besides, the SEBI Board has been expanded through the SEBI (Amendment) Act, 2002. Government is in the process of selecting suitable persons for the vacant posts. All other recruitment is done by SEBI in accordance with their Employee Service Regulations.	Already one batch of officers has been recruited. Further, this is an ongoing exercise.

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83.	9.78	As the economy gets more and more liberalized, the Regulatory authorities will have to become more and more efficient and effective. The key to effective regulation is real time surveillance so that in the first instance and as the first signs emerge there is immediate focus on the misconduct or violation in the securities market like price rigging, creation of artificial market, insider trading and public issue related irregularities. The Committee found total absence of timely alert when the sensex was rising and the volatility in the market had become unusual. Frequently, the Committee got the impression that even when considerable indicators were available the regulators failed to step in firmly.	Same as in Para 9.44.	Same as in Para 9.44.
84.	9.79	Any improvement in arrangement for market surveillance should take into account past failure and learn from it. But at the same time the surveillance set up must be futuristic. Far too often, concerned authorities try to plug the gaps that have surfaced in the past without looking at the possible future dangers and requirements. These are : (a) Large number of stock exchanges make the job of surveillance difficult. With the modern reach of IT, the number of functional stock exchanges are coming down everyday. The rule that a company has to be listed on a regional stock exchange should be done away with. (b) All stock exchanges should put a standard stock watch system in place. SEBI should show urgency in this regard. The software should be constantly refined and improved	SEBI has informed that it had already issued a circular to the stock exchanges to include for unique client code in the system. SEBI has also commissioned NSDL to work on Central Registry which provides unique numbers to investors, issuers and all the market participants. The report of the committee on uniform bye-law has been received by SEBI. These are being put up for public comments Based on the comments, the final bye laws would be prepared and exchanges will be advised to incorporate those bye laws. Demutualisation report has been accepted by the SEBI Board and SEBI has issued the necessary circular to the stock exchanges. Besides Government and SEBI are taking steps to bring about the necessary legal changes. In order to ensure that benchmarking of parameters, prioritization of alerts, connectivity with databases	(c) A proposal for strengthening of the Enforcement Directorate and comprehensive computerization of the Enforcement Directorate is under examination. (d) SEBI in its recent meeting of the Board, approved the changes which have been sent for notification. (f) The model rules for Stock Exchanges have already been advised to all Stock Exchanges. Some of the Stock Exchanges have already implemented the rules; others have taken steps to implement the rules and have submitted the amended rules to SEBI for vetting and approval. This is being pursued. The model bye-laws have also been approved by the SEBI's Board and a circular in this regard is likely to be issued shortly. (g) As againt para 2.20.

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		so that the alerts are generated to show abnormal market behaviour and these alerts are available and recorded at the level of stock exchanges and SEBI. (c) The regulators-SEBI, RBI, Enforcement Directorate, IT Department, Department of Company Affairs, at present, keep vital information to themselves and shy away from sharing it with each other. Any of these may be privy to a financial misconduct and their input would be valuable to the other agency. Method for sharing information must be formalized. (d) Misconduct or violation in the market like price rigging, circular trading, creation of artificial market, insider trading and public issue related misconduct should be clearly defined in detail so that exact indicators are well understood and transparent. And these offences should be listed in SEBI regulations with matching punishment. (e) Introduce unique broker and client ID on the lines of PAN in IT Department. Introduce a method of tracking multiple membership across the stock exchanges. (f) Introduce uniform bye-lavys for all exchanges. (g) Expedite corporatisation and demutualisation. (h) Surveillance must absorb news and views from all quarters, only then will it get early alert. These sources could be press reports, investors complaints, securities industries sources, stock exchanges and banks. Early alerts and quick action, therefore, is not only the function of formal reports and complaints. Therefore, much will depend not only on stock watch system etc. but the persons who are manning these systems, those who are incharge of surveillance wing.	etc. is done by the exchanges for proper functioning of the stock watch system, SEBI conducted inspection of the major exchanges. Inspection findings were communicated to the exchanges with detailed comments on the above areas. Compliance reports have been received from the exchanges on monthly basis and SEBI board has been apprised of the detailed status on various aspects. Main exchanges have a formalized mechanism for sharing of information on the securities identified for examination based on their stock watch systems. Exchanges, as a result of their surveillance activity, regularly & periodically report to SEBI, the details of investigations taken up by them. The process of improving & institutionalizing coordination between SEBI & RBI has been initiated and measures have been taken for implementation of JPC recommendations. SEBI & RBI have formed a group for exchanging information on alerts related to the areas regulated by the respective bodies, with the objective of reviewing alerts generated by the 2 bodies in an integrated manner. Two officers each from SEBI & RBI have been nominated in this group, that is required to meet periodically for exchanging alerts / information. SEBI Act has since been amended vide SEBI (Amendment) Act 2002 to provide for greater penalties for insider trading & manipulation. Fraudulent & unfair trade practices which were earlier not prohibited under the SEBI Act, has now been prohibited under the SEBI act. The SEBI (Prohibition of Unfair & fraudulent trade practices relating to Securities Market) Regulations, 1995 are also being amended to have clearer & detailed definition of market misconduct/violations. Rumour verification which involves verifying news reports / press reports from the companies, is done by the exchanges and information is disseminated	

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			to the markets upon confirmation by companies. For this purpose, companies are required to appoint compliance officers. Price sensitive information disclosed by companies to stock exchanges as part of compliance with the listing agreement is also used to monitor trading pattern to identify potential market abuse. SEBI has constantly emphasized with exchanges to enhance staff strength for surveillance and provide adequate training. Staff strength has been enhanced by around 50% in main exchanges over couple of years. SEBI has examined the issue of regional stock exchanges. This was also considered by the Delisting Committee constituted by SEBI. The Committee has recommended that there shall not be any compulsion for the existing company to remain listed on any stock exchange merely because it is a regional stock exchange. Pursuant to these recommendations, SEBI has issued guidelines to this effect. Besides, the Government of India have recently withdrawn the Circular No. F.No.14(2)/SE/85 dated September 23, 1985 issued by Ministry of Finance, providing for compulsory listing at regional stock exchanges. SEBI has set up a committee to frame Model Rules and Byelaws for the Stock Exchanges. The Report on model Rules along with the Model Rules was received earlier. SEBI has been issued directions to Stock Exchanges to amend their Rules based on the Model Rules. The implementation of the Model Rules is at the various stages. Recently, the Committee has submitted its report on model Byelaws along with the Model Byelaws. The report along with the Model Byelaws have been put on SEBI web site for public comments. After considering the comments, the steps for implementation would be taken.	

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85.	9.125	The events that led to the payment crisis in CSE and the episode of Anand Rathi in BSE underline the urgent need for demutualisation of Stock Exchanges. The Committee note that SEBI's Model Rules are in the process of implementation by Stock Exchanges. SEBI has also recently prohibited broker-members from holding any position of office bearer in Stock Exchanges. A group set up by SEBI under the Chairmanship of Justice (Retd.) Shri Kania to examine demutualisation issue has given its report recently. Though the process has started, the Committee hope that SEBI will implement the recommendations of Kania Group expeditiously and as announced by the Finance Minister in his budget speech on 28.2.2002; the process of demutulisation and corporatisation of Stock Exchanges will be completed as soon as possible.	To facilitate the process of corporatisation and demutualisation of stock exchanges, SEBI has constituted a six member Group under the Chairmanship of Justice M.H.Kania former Chief Justice of India. The Committee has submitted its report to SEBI on 28th August, 2002. The recommendations of the report of the Committeewere examined by SEBI Board and SEBI has sent proposals for amendments in the Securities Contracts (Regulations) Act, 1956 and some other laws, These proposals are being examined by the Government. Besides, in order to avoid conflict of interest, SEBI had already advised stock exchanges that no member broker would hold the position of President, Vice-president or treasurer etc. in the stock exchanges. This has already been implemented in all the stock exchanges and no broker member is an office bearer in any stock exchange. SEBI has already issued a circular pursuant to the recommendation of the Group on demutualization and corporatisation set up by SEBI under the Chairmanship of Justice M H Kania giving an elaborate scheme and has asked the stock exchanges to submit the scheme of corporatisation and demutualisation.	Same as in para 2.20
86.	9.126	The Committee are of the opinion that the proposed form of demutualisation should contain a judicious blend of the best elements of NSE pattern and those of other models of demutulisation obtaining in foreign countries so as to safeguard the interests of investors and bring in greater transparency and efficiency of the exchanges.	Same as in 9.125	Same as in para 2.20
87.	9.127	The Committee are also of the view that corporatisation of an exchange leading to	As against para 6.105.	Same as in para 2.20

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		unbundling of various functions such as surveillance, risk management, clearing and settlement, etc., into a separate subsidiary as proposed by the BSE should not in any way dilute the regulatory functions of SEBI vis-a-vis the subsidiaries. The Committee emphasise that the SEBI should extend its proactive supervision on the functioning of these subsidiaries and keep constant vigil in the form of periodic inspections of the activities of subsidiaries.		
88.	9.138	Despite the fact that rolling settlement is beneficial to investors in terms of reduction in risk, cost and settlement time and that its adoption was recommended by 'The Group of 30 countries' as early as in March 1989, the Committee regret to note that SEBI has taken over a decade to develop the infrastructures required for introduction of rolling settlement and for its actual commencement. The Committee note that the settlement cycle has now moved to T+3 system. The Committee feel that with electronic fund transfer facility available in most of the commercial banks the implementation of the Real Time Gross Settlement System (RTGSS) is expected to be completed by March 2003. It should be possible to further reduce the settlement cycle to T+1 system to all scrips. However, this step should only be taken very carefully after RTGSS becomes fully functional even in remote corners of the country and payments timing can match the settlement cycle.	SEBI has informed that the recommendation of JPC had been kept under consideration while designing the plan for implementing T+1 rolling settlement system. At present, SEBI has already implemented T+2 rolling settlement from April 01, 2003 in consultation with the RBI, stock exchanges, clearing corporation, depositories, custodians, FIIs, Mutual Funds, banks and brokers. . To facilitate a vibrant and economical funds transfer facility, RBI proposed to implement a new EFT system called Special Electronic Fund Transfer (SEFT) on April 01, 2003 to coincide with the launch of T+2 rolling settlement on the same date. SEFT would function through electronically network branches of various banks and there are 2500 branches of 24 banks in 496 centers that are networked and linked to SEFT with atleast at each of these centers. SEFT would enable transfer of funds inter-bank from one branch of a bank in one location to another branch of the same /another bank in the same / another location in a maximum period of two hours. It was also indicated that charges for the facility would be competitive and comparable with the existing bank charges for fund transfer. It is proposed to move progressively to T+1 rolling settlement by April 1, 2004 only after RTGSS is fully functional and widely available and also after	T+1 rolling settlement would be implemented only after proper examination of the situation. RBI, in its mid-term review of the monetary and credit policy for the year 2003- 04, has indicated that the RTGS is being introduced in a phased manner and that a fully functional RTGS system is expected to be made operational by June, 2004.

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			various other facilities such as stock lending, margin trading are in place.	
89.	9.158	The Committee regret to find that SEBI has not been able to arrive at any definite policy on measures concerning short sales. It had rejected initially the recommendation of its Committee on short sales in December 1996 for imposition of margins to restrict short sales. Later, reversing its own stand SEBI started prescribing margins on net outstanding sale positions from June 1998. The question of introduction of the rule of prohibition of short sales on down-tick has been under the consideration of SEBI's Committee on Short Sales since June 1998 without any final recommendation in sight even after four years. The Committee urge that SEBI must look into these issues seriously and expeditiously formulate a clear policy taking all aspects into account.	SEBI is in the process of reviewing regulations on short sales. A note on regulation of short sales has been prepared and placed before the SEBI Secondary Market Advisory Committee for its consideration. The note specifically seeks the views of the Committee, if, in the changed market infrastructure, (a) there is a need for regulation for short selling, (b) the recommendations of the B. D. Shah Committee are adequate or need to be reconsidered, (c) the USA model of regulation is suitable and implementable, (d) the institutional investors can be allowed to undertake short sales and their transactions be subjected to normal exposure and margining requirements, among others. As soon as, the Committee considers the note and finalises its recommendations, the recommendations will be put on the SEBI web site inviting comments from public and market participants on the same. The recommendations of the Committee alongwith the comments received on them will be placed before SEBI Board for a final decision.	SEBI has informed that the issue of regulation of short sales has been deliberated by the Secondary Market Advisory Committee(SMAC). The recommendations of the SMAC has been placed in the SEBI web site and public comments sought. The same would be taken upto the SEBI Board for approval, before implementation of the SMAC recommendations.
90.	9.159	There is RBI restriction on bank loans against the security of shares to Rs.20 lakh per borrower. However, it appears that no such restriction has been imposed by SEBI on stock lending by approved institutions (such as SHCIL) against the security of money deposited with them. Such anomalies seem to favour one section of brokers (Short Seller) and create asymmetry in the financial system. The Committee suggest SEBI to look into this issue and take appropriate corrective steps urgently.	Securities Lending Scheme was introduced in 1997 to increase liquidity in the market and to facilitate timely delivery of securities and correct temporary imbalances between demand and supply. At that time the scheme did not impose any specific limit on the amount of lending by the approved Intermediaries as in case of RBI restriction on Bank loans against security of shares. It was felt that the availability of a security with the lender of security, the demand of the securities and availability of floating stock would act as check on the amount of security that could be lent or borrowed.	Same as in para 9.158.

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			The Securities Lending Scheme, 1997 provides broad guidelines for collecting collateral by the Approved Intermediary from the borrowers in the form of Cash, Bank Guarantee, Government Securities or Certificate of Deposits or other securities as may be agreed upon with the Approved Intermediary. The Approved Intermediaries used to set their own individual limits for lending to the borrowers. The limits are set in accordance with the net worth of the borrower, scrip-wise limit and the collateral in the form of cash and securities given by the borrower which are marked up more than the value of securities lent. SEBI is reviewing the existing scheme, taking into account the concerns expressed by the Committee. A detailed consultative paper on Margin Trading and Securities Lending has been put on the SEBI website for comments. Also, the paper has been taken up for discussion in Secondary Market Advisory Committee. Appropriate safeguards will be in place before a new scheme will be introduced.	
91.	9.160	The Committee feel that in future in relation to Stock Lending Schemes, SEBI must ensure that there is proper segregation of cash and derivatives sectors.	SEBI has informed that the Cash and the Derivative markets are segregated; the derivative markets have a strong risk management system. Currently, derivatives are cash settled. Before introducing physical settlement of derivatives, it will be ensured that the necessary safeguards are in place in accordance with the recommendations of the Hon'ble JPC	SEBI has informed that the issue of securities lending and borrowing has been discussed by the Secondary Market Advisory Committee of SEBI and the Committee has made the following recommendations:- a) The model of securities lending for handling settlement shortages by Clearing House/ Clearing Corporation may be considered for introduction. b) The return of the borrowed securities by the Clearing Corporation / House should be independent of the normal settlement. c) The existing scheme may be allowed to continue for a period of six months and the feedback thereon may be obtained from the participants before revisiting the scheme.

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				The report of the SMAC has been placed on the SEBI web site for public comments. The recommendations of the SMAC and the public comments received will be taken up with the SEBI Board before finalizing a policy in this regard. Regarding derivatives market, presently, there are no physical settlements of derivatives contracts. However, before introduction of physical settlement for derivative instruments, necessary safeguards would be provided in the system.
92.	10.11	The Committee regret that the said proposals were kept pending by the Central Government despite repeated attempts at all levels to get this considered. Ultimately, in October 2001 Government asked the Institute to have a re-look at the proposals. The Institute has since reviewed the recommendations afresh and would submit the same to the Government. The Committee stress that the amendments if carried out, will not only reduce the time taken in disciplinary proceedings considerably but would also ensure effective and expeditious disposal.	Department of Company Affairs have informed that proposals for relevant amendments in the Chartered Accountants' Act, 1949 (CA Act) have been formulated. These will soon be introduced in Parliament after Government approval.	The Department of Company Affairs have informed that the Bills to amend the Chartered Accountants Act, 1949; the Cost Works Accountants Act, 1959 and the Company Secretaries Act, 1980 are getting ready to be introduced in Parliament.
93.	10.31	The Committee regret that knowing fully well the ineffectiveness of the extant system in preventing the diversion of funds, RBI should not have taken before the scam broke the steps they have so assiduously put in motion after the scam. The Committee stress that a good Regulator would have anticipated the possibility of diversion of funds and taken pre-emptive action to forestall it. It is not good regulation to wait for a loophole to be exploited before closing it.	In the light of the JPC recommendation, RBI on 11th January 2003 has again reiterated its guidelines relating to willful defaulters issued in May 2002. RBI has also advised Banks to take action against borrower companies where falsification of accounts and/or negligence/deficiency in auditing is observed. Further, a Working Group under the Chairmanship of Shri D.T. Pai, Banking Ombudsman, Uttar Pradesh, has been set up by RBI to suggest penal measures and criminal action against the borrowers who divert the funds with malafide intention.	The Working Group has submitted its report and its recommendations are under examination of RBI.

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94.	10.72	The committee, however, deplore the tardiness exhibited in rectifying the shortcomings. Amendments to the existing legislation, submitted by RBI to Ministry of Finance on 30.10.2001, months after the scam broke, should have been proposed much earlier in the wake of the Action Taken Reports to strengthen the regulatory system. That these amendments had to wait for a second major scam to break reveal the petering out, within months of the ATRs, of the will of the Government to implement the required systemic changes.	As against 3.21	As against para 3.21
95.	10.74	The Committee note with concern that although foreign institutional finance which started in 1992 and emerged after the mid-90s as the single largest source of funds flowing into the stock market, and thus singally contributed to the exponential increase in daily stock market turnover, neither the Regulators nor the Ministry of Finance took steps to carefully monitor and effectively regulate the flow of foreign funds into the market. Nor was this done with regard to domestic fund flows into the market.	RBI has informed that the monitoring of all inflows and outflows of funds by Reserve Bank of India on a daily or weekly basis is not possible as relevant data are not available. However, the monitoring of the flow of funds to the stock market is possible in case of a few categories of investors for which data are readily available. Thus, the Reserve Bank of India has instituted a mechanism to monitor the flow of funds to the stock market in respect of a few categories, viz i) banks, ii) mutual funds, iii) foreign institutional investors and iv) non-resident Indians/overseas corporate bodies, on a weekly basis. While the data on the flow of funds could provide useful signals for any unusual trend or pattern, it is important to keep in view the following limitations of the exercise. Firstly, the categories of investors being monitored constitute a small size of the market as information on other categories of investors, especially brokers and individuals, is not available. Secondly, data on bank financing of capital market activities are available with a considerable time lag. Finally, an appropriate assessment of the flow of funds data would require the introduction/application of sophisticated statistical tools. A simulation exercise was also carried out to find out whether it would have been	As per the recommendations of the Inter Departmental Group of RBI, data relating to investment in equities by select banks in respect of FIIs, Mutual Funds and NRIs/ OCBs, is being collected by RBI for monitoring.

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			possible to detect any unusual patterns or trends from the flow of funds data instituted for the monitoring mechanism during the period of irregularities during March 2001. The analysis did not reveal any unusual patterns even though some sharp variations were observed on several occasions, especially in case of NRIs which also included data in respect of OCBs. Most of these variations could be explained by domestic political or economic or external developments.An Inter Departmental Group of RBI has been set up under the Chairmanship of Dr.Rakesh Mohan, Deputy Governor, to examine the issue of flow of funds. Further action to be taken will be decided in the light of Dr. Mohan's recommendations.	
96.	10.75	Though the Committee appreciate the steps taken by RBI from time to time, they are of the considered view that unless the regulator is ever-vigilant, rules/regulations/guidelines cannot by themselves end aberrations in financial system. As with liberty, eternal vigilance should be the watchword of the regulator. Most importantly, the legal framework must be such as to provide for strict laws which are enforced expeditiously so that a sense of fear is created in the minds of wrong-doers. Sadly, existing laws do not inculcate such a deterrent sense of fear among perpetrators of crime.	As against 3.21	As against para 3.21
97.	10.76	Governor, RBI conceded that at present our system is "non-functional". Yet, RBI has been rather tardy in suggesting amendments to the existing legislative provisions to make them stronger and more punitive. For instance, amendments to the Public Debt Act, 1944 in response to the 1992 recommendations of the previous JPC have been under process for seven years since 1994 and are yet to be effected.	The recommendations of the Joint Parliamentary Committee which looked into irregularities in securities transactions relating to amendment in the Public Debt. Act 1944 for making bouncing of SGL transfer forms as a penal offence was considered and it was decided to replace the Public Debt Act 1944 with a new legislation called Government Securities Act. A provision has been included in the draft bill by which dishonour of SGL	A Bill to amend the Banking Regulation Act, 1949 has been introduced in the Lok Sabha on 13.8.03. The Bill has been referred to the Standing Committee on Finance. Regarding the N.L. Mitra Committee Report, Ministry of Law, which was consulted by the Ministry of Finance, has desired for the views of Department of Company Affairs, Ministry of Home Affairs and Central Bureau of Investigation.

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		Similarly, it was not till after the present scam involving UCBs came to light that amendments were proposed to the Banking Regulation Act, 1949 to bring some of the provisions regarding cooperative banks at par with those of commercial banks. Moreover, the enhancement of the penal provisions of the Banking Regulation Act, 1949 are yet to be mooted by the RBI. Legislative amendments based on the recommendations of the Dr. L.N. Mitra Committee (2001) have also not seen the light of day so far. The Committee deplore the half hearted and casual manner in which these critical matters have been dealt with and desire that proposals already forwarded by the RBI to the Ministry of Finance be cleared expeditiously. Particularly in the present environment, when financial markets are getting integrated, it is essential that a thorough review be made of all existing laws relating to the regulatory responsibilities of RBI.	transfer form for insufficient balance will be a legal offence and the seller will be liable for punishment. Prior consent of the State Governments is required as the Act applies to the market borrowings by RBI for both the Union and State Governments. The proposed legislation was delayed for want of concurrence of the State Governments. As regards amendment to the Banking Regulation Act, 1949 the RBI had appointed a High Powered Committee on Urban Cooperative Banks under the Chairmanship of Shri K. Madhav Rao in May 1999 and a Task Force under Shri Jagdish Capoor, the then Deputy Governor RBI which have inter-alia looked into the question of duality of control over cooperative banks. The Committee has recommended removal of duality of control over Cooperative Banks by way of either replacing the existing State Cooperative Societies Act recommended by Choudhary Braham Prakash Committee or by way of incorporating essential features of the model Act in their respective Cooperative Societies Act by the State Governments. The Ministry of Finance was also of the view that removal of duality of control is essential for proper regulation and management of cooperative banks. Therefore the above legislative changes have been made a pre condition for taking up revitalisation of cooperative banks as announced in the Union Budget for the year 2002-03 and a scheme is expected to encourage State Governments to undertake the above legislation exercise for availing revitalisation assistance by the cooperative banks is under consideration of Government. The proposals of the Reserve Bank of India relating to setting up of an apex supervisory body did not find favour with the Government as it did not address the basic issue of the issue of duality of control on cooperative banks. The Reserve Bank	The comments from CBI and Department of Company Affairs have been received and from Ministry of Home Affairs are awaited.

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			of India had submitted certain proposals in May 2001 to the Ministry of Finance which were also not found to be adequate in tightening the supervisory control of Reserve Bank of India over the cooperative banks. The proposals have been further discussed with RBI/NABARD and amendments to the Banking Regulation Act are now been finalised which will give Reserve Bank of India adequate powers to effectively supervise cooperative banks. These proposals are in the final stage and soon a bill is likely to be introduced in the Parliament. Recommendations made by Dr. L.N. Mitra Committee have been referred to the High Powered Committee set up by the Central Vigilance Commission to look into speedy action in respect of large value bank frauds. The recommendations of the Committee are being examined in consultation with Central Vigilance Commission and Ministry of Law. Accepted an Internal Working Group has been constituted in the RBI to identify the existing constraints in our laws for regulation and supervision.	
98.	10.77	The Committee find that the system of annual financial inspection has been overhauled and a system of on-site as well as off-site monitoring exists as a part of the new supervisory strategy. At present, all commercial banks are inspected at an interval of one year and in the case of Co-operative banks also the periodicity of inspections has been reduced from two years to one year. However, failure of the scale of MMCB poses a serious question on the efficacy of the supervision which is currently in place particularly in the urban co-operative banking sector. Moreover, scrutiny of inspection reports of various banks shows that while at the higher echelons of RBI, there is a paradigm shift of attention to qualitative factors,	On account of the large number of UCBs functioning in the country (2104 as of now), on-site inspection of the banks is conducted by RBI as per the following schedule: Scheduled UCBs : Once in a year Weak non-scheduled UCBs: once in a year. Well managed non-scheduled UCBs: once in three years, and Other non-scheduled UCBs: once in two years. These on-site inspections are transaction based. The RBI has recognized the need for moving over to more bank – specific supervision. With this end in view, RBI has set in place an off-site surveillance system which will monitor bank's affairs at more frequent intervals through off-site returns and	The in-house Working Group set-up to examine the existing system of supervision on UCBs has submitted its report on May 3, 2003. The Group has made a number of recommendations to further strengthen the supervision framework over UCBs. (A) Following recommendations have already been implemented: (i) All UCBs should be inspected at least once in 2 years. (ii) Problem banks i.e. those banks, which are likely to cause supervisory concerns, are to be inspected once in 18 months. (iii) UCBs categorized in Grade III/IV are to be subjected to inspection annually.

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		ground- level inspecting officials are still transaction based in their approach. What is required is not a proforma approach to inspections, but an approach designed to flag errors and deficiencies so as to enable qualitative appraisal to be effected at the level of each bank. Given the complexities of changes in the banking industry, the Committee feel that without a mindset change in the field level, the inspection reports would continue to be inadequate. The utility of off-site inspection reports will also not throw up significant indicators, if the whole process remains mechanical. The Committee, are therefore, of the view that there is imperative need to further improve both on the on-site as well as off-site supervision so that these become more bank-specific. RBI must also identify best practices found across banks and establish uniform standards to be followed by all banks.	initiate appropriate corrective actions. The RBI has also set up an in-house Working Group to examine the existing system of supervision over UCBs and suggest improvements. The RBI is awaiting the recommendations of the Working Group.	(iv) Follow-up of inspection reports and framework of supervisory review of UCBs by Regional Directors have since been strengthened. (v) A system of focused supervisory action based on supervisory rating of UCBs, has been introduced. (vi) A concerted action plan has been set in motion for up-grading the skills of officers of the department. (vii) Periodical visit to UCBs by Regional Heads of the Department has been further structured based on financial parameters. (viii) Holding of post-inspection discussion with UCBs having assets less than Rs. 500 crore by the Regional Directors, instead of holding such discussions at Central Office as at present. (B) The following recommendations have been accepted and are being implemented: (i) The present system of forwarding a copy of inspection report to Central Office by Regional Offices is being reviewed in the light of the need to make the ROs more responsible for initiating corrective action promptly. (ii) Best practices followed by well-managed UCBs are being compiled for circulation to other banks for adoption. (iii) All banks with deposits above Rs.100 crore to be brought under the system of Off-Site Surveillance.
99.	10.78	The Committee were also informed by the RBI that it normally takes two to three months time to conduct inspections after which the inspection reports are discussed with the top functionaries of the banks as well as in the Board of Financial Supervision. Thereafter, according to RBI, action	While accepting that deficiencies pointed out once should not be allowed to be repeated, Reserve Bank of India has informed that certain inspection findings/ observations tend to get repeated in successive inspection reports because the inspecting officers draw general conclusions on the	Follow up action by RBI is in progress.

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		points are vigorously followed up for compliance. However, it has been noticed by the Committee that often the same type of mistakes/ shortcomings get repeated year after year. This reflects adversely on the prevailing system. The Committee, therefore, feel that there is need to evolve an effective mechanism under which it must be ensured that discrepancies once pointed out are removed forthwith by the banks concerned. In case of non-compliance, individual accountability must be fixed on those who are responsible. The Committee further suggest that comments made by RBI should be published in the Annual Reports of the banks along with the financial results, to ensure greater transparency so that shareholders get a better idea about the operations of the bank. This might also induce the banks to be more compliant. There is a feeling in RBI that sudden firm and timely action against the management of the banks may lead to a run on the banks. However, the Committee are of the view that firm and timely action might forestall the possible surfacing of major failures and in some cases run on the banks.	basis of a few instances. While discrepancies in respect of these instances may be rectified, the same general observations may be pointed out in the next inspection also on the basis of a different set of instances. In order to avoid repetition of general observations/ findings, it is necessary that the Inspecting Offices confine themselves to pointing out the discrepancies and not make general conclusions. RBI will issue necessary instructions to the Regional Offices in this regard. RBI is in agreement with the recommendation of the JPC for disclosing the comments made by RBI in the Inspection Reports in the Annual Reports of banks along with the financial results, to ensure greater transparency so that shareholders get a better idea about the operations of the bank. RBI would be issuing a framework of disclosures for banks in respect of the RBI's inspection findings in a structured manner. In doing so while the above mentined requirements will be kept in mind certain other constraints such as apprehension about the possible adverse reaction such disclosure may make in the minds of the depositors, the possible run on banks the consequent systematic instability etc. will also be taken into account.	
100.	10.79	The Committee also take note that on many occasions guidelines/instructions issued by RBI which have an important bearing on the operations of the banks, are not followed scrupulously by individual banks but in most cases RBI condones such transgressions. For instance, though there is an RBI circular of 25.7.1994, Audit Committees were not constituted by the MMCB and City Co-operative Bank. In the case of MMCB, there were violations of credit exposure to single as well as group borrowers, including the group belonging to the Chairman, in violation of RBI directives on credit	As against 3.22	As against para 3.21.

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		exposure, yet corrective actions were not effectively pursued by RBI. At the same time it has also been found that some of the guidelines issued by RBI lack clarity. This was what happened in the case of instructions issued for financing of IPOs and arbitrage. It is, therefore, essential that not only should the guidelines be unambiguous but the banks also should be mandated to follow these guidelines. The Audit Committee of the Boards should also look into the implementation of the guidelines. In case of non-compliance with the instructions, individual accountability needs to be fixed, otherwise the very purpose of issuing guidelines gets defeated.		
101.	10.80	Audit is the backbone of the banking system. Whereas auditors of commercial banks are appointed by RBI, for cooperative banks, the auditors are appointed by the Registrar of Cooperative Societies. It has however, been noticed that the auditors in the case of the Madhavpura Mercantile Co-operative Bank and the City Co-operative Bank have failed to discharge their responsibilities diligently resulting in a situation where there was a run on the banks and the depositors were duped. In most cases these auditors are not qualified chartered accountants, and so they fall outside the ambit of the Institute of the Chartered Accountants and no disciplinary action can be taken against them. Therefore, the RBI has now proposed to amend section 30 of the Banking Regulation Act, 1949 so that in future they are authorized to appoint the Chartered Accountants even in the case of the Co-operative banks. The Committee are, however, shocked to find that the Institute had failed to impose punishment even against a single auditor of the 17 auditors whose names had figured in the Janakiraman Committee, during the	Recommendation in this regard has also been received from the Naresh Chandra Committee; it is proposed to amend the CA Act, 1949. With regard to action against 17 entities, reply to para No 3.18 refers. With regard to comments on the quality of the audit carried out by the auditors and comment on the handling of the issues by the Board of Directors, RBI has issued suitable instructions on 25th January 2003 to the inspectors of its Regional Offices to comment on the quality of the audit in respect of urban co-operative banks.	ICAI has furnished the latest status as under: a) Number of reports already included in the Agenda for the Council and are yet to be considered by the Council 01 b) Number of hearing concluded by the Disciplinary Committee and its report is yet to be placed before the Council 01 c) Number of cases pending with the High Court because of stay obtained by the other party 01

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		investigations of 1992 scam. It is all the more disconcerting to find that so far no concrete action has been taken to amend the Institute of Chartered Accountants of India Act, 1949 with a view to making it an effective instrument of deterrence and punishment, although a proposal in this regard is reported to have been forwarded by the Institute to the Government way back in 1994. The Committee take a serious view of such an apathetic attitude. They therefore recommend that an independent Board should be constituted under a separate statute, which should be responsible for ensuring quality in audits and also be empowered to take speedy disciplinary action against the defaulting auditors. The members of the Board should also comment on the manner in which transactions are handled, adherence to prescribed systems and procedures and whether all the risk is getting recorded and reported to the Board. Besides, RBI in their inspection reports, needs to comment on the quality of the audit carried out by the auditors and comment on the handling of the issues by the Board of Directors. In order to create a sense of responsibility amongst auditors and also to deter those who either casually/negligently or in connivance with the management hide vital information, the penal provisions in the statute should be strengthened.		
102.	10.81	The Committee are given to understand that so far as the existing mechanism of vigilance in the public sector banks is concerned, the Chief Vigilance Officers are appointed from other banks/RBI etc. The Chief Vigilance Officer functions independently and reports directly to the Chief Executive of the bank under the overall control of the CVC. There is also a system of	The recommendation that Chief Vigilance Officers in public sector banks be made accountable not to the Chief Executives but to the Committee on Audit of the Banks and through this Audit Committee to the entire Board of Directors in order to discharge their functions effectively and independently is being considered in consultation with the Central Vigilance Commission and a decision in the matter	The Central Vigilance Commission (CVC) is of the view that the present system in which the CVOs report directly to the Chief Executive Officer of the Bank has worked very well and the Commission has not come across any incidence of note where the CVO has not been able to function objectively and independently in the vigilance area because of administrative

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		preparing a list of officials of doubtful integrity and keeping surveillance on them with a view to preventing frauds. In the case of private sector banks, including foreign banks, there is a system of vigilance which is generally with the Audit and Inspection Department. The Committee are of the considered view that any system in which the head of the vigilance cell is made to work under the control of the Chief Executive can hardly deliver the goods, more particularly when, apparently, quite a few of the irregularities committed are not only in the notice of the Chief Executive but are done at his instance. The 1992 JPC report had also underlined the importance of vigilance and strongly recommended the need to strengthen the vigilance machinery in the banks. The RBI in their action taken reply had mentioned that the Government had accepted the recommendations of the Ghosh Committee (1991) and accordingly instructions had been issued to the banks. Vigilance cover of the Chief Vigilance Offcers had been extended over the subsidiaries also. The Committee are of the view that these measures alone are not sufficient and in order to enable the Chief Vigilance Officers to discharge their functions effectively and independently, it is also necessary that they be made accountable not to the Chief Executives but to the Committee on Audit of the Banks and through this Audit Committee to the entire Board of Directors.	will be taken after the advice of the Commission is received.	control of the Chief Executive. The Commission is very particular that the vigilance function in banks is seen and performed as an internal management function like any other management function under the control of Chief Executive Officers as this would ensure the commitment of the entire management including the Chief Executive Officer to vigilance administration. Any move to separate the vigilance function from the purview of the Chief Executive Officer will not be in the interest of efficient and effective vigilance administration. As in banks, the CVOs of other non banking public sector undertakings, autonomous organizations and as well as Government Departments report directly to the Chief Executive Officer and the proposal that CVOs in banks should work independently of the Chief Executive Officers would, if implemented in banks, have wider ramifications. On balance of consideration, CVC feels that the present instructions, which have helped the CVOs to perform vigilance functions independently, need not be changed. The Special Chapter on vigilance management in public sector banks provides that all complaints against Presidential appointees in banks i.e. Whole Time Directors like Chairman & Managing Director, Executive Director etc. are required to be forwarded to the Chief Vigilance Officer of the Banking Division, Ministry of Finance for further necessary action thereon. The Board of Directors of banks are also required to review periodically the reports of the Chief Vigilance Officers and these reviews have been seen to be quite detailed and effective.
103.	10.82	With the gradual liberalization of the Indian financial system and the growing integration of domestic markets with external markets, the risks	Reserve Bank of India has advised the banks vide circular dated 29.01.2003 to ensure that appropriate risk management systems are put in	The implementation of the Risk Based Supervision (RBS) approach is being taken up this year in phases. Detailed risk profile template

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		associated with banks' operations have become complex and large, requiring strategic management. Events that affect one area of risk can have ramifications for a range of other areas. The Committee were given to understand that RBI issued comprehensive guidelines on 'Risk Management Systems in Banks' in October, 1999 which, coupled with guidelines on Asset-Liability Management Systems, issued in February, 1999, were intended to serve as a benchmark to the banks. Since the irregularities can be minimized if proper risk management are in place, the Committee are of the view that banks, therefore, must attach considerable importance to improving their ability to identify, measure, monitor and control all level of the various types of risks undertaken. Risks attached with assets and liabilities need to be suitably commented upon in inspection reports. The Committee regret that although the risk based approach to supervision, which is said to be an improvement over the current CAMELS approach was announced in the Monitory and Credit Policy (April 2000) two and a half years later, it still remains to be implemented. The Committee ,therefore recommend that RBI must ensure that same is implemented expeditiously so that the commercial banks have comprehensive risk management systems in place, including the risk-based audit system. RBI must also ensure uniform accounting practices and risk management systems in the banks. At the same time, with a view to ensuring that liquidity in the market does not get eroded, RBI must ensure that its latest guidelines issued on 11 May, 2001 are implemented. Inter-alia, these guidelines have asked banks to ensure that that their exposure to stockbrokers is well diversified and that the	place to identify, measure, monitor and control the various risks to which they are exposed. They have also been advised to apprise their Boards with regard to the robustness of their risk management systems and their compliance with the guidelines issued by RBI. RBI has also instructed its Inspecting Officers to comment on the effectiveness of risk management systems in the RBI inspection reports on banks vide circular dated 29.01.2003. RBI has also proposed to introduce risk based supervision in April-June 2003, initially on a pilot basis and on the basis of experience gained, the process will be fine tuned and extended to all commercial banks in phases. RBI has also accepted the recommendation of the Committee to ensure uniform accounting practices and risk management systems in the banks. As regards the exposure of banks to stock brokers, RBI has reiterated on 29.01.2003 its guidelines/ advice to banks contained in circular dated 11.05.2001 stressing the need for adoption of the prescribed system and risk control procedures for expansion in capital market exposures within the limits prescribed by RBI.	has been designed for compiling risk profiles of banks. Training programmes on risk management and risk-based supervisions have been conducted in RBI training institutions since June 2002. Banks have been advised to put in place an institutional mechanism to monitor the progress in preparedness for RBS, which is being reviewed by Reserve Bank. Eight banks representing a mix of banks in the public sector, private sector and foreign banks have been identified for implementation of RBS on a pilot basis. The compilation of risk profiles of the selected banks has commenced. The pilot RBS inspections of the selected banks is being taken up independently after the Annual Financial Inspections of these banks have been completed under the present CAMELS/CALCS approach. On the basis of the experience gained in the pilot exercise, approach of RBS will be further fine-tuned. RBI has therefore taken the required action to implement Risk Based Supervision, which will be a continuous process.

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		track record of stockbrokers is taken into account before sanctioning advances.		
104.	10.84	The Committee in the course of their examination came across a number of cases where funds taken from the banks/Financial Institutions were not used for the purposes for which the funds were lent and had been diverted to the share market. The amount of funds which were sanctioned to different groups of companies and the details thereof have already been mentioned in detail elsewhere in the report. The Committee find that the activity of diversion of funds is not culpable either under the Banking Regulation Act or under the Indian Penal Code. The Governor RBI candidly admitted that the system as it exists today is not effective in preventing diversion of funds. The Committee were further informed that in pursuance of the recommendations of the Standing Committee on Finance, a Working Group under the Chairmanship of the IBA Chairman, Shri Kohli was constituted to look into this issue. The Group submitted its Report in November, 2001. It considered the issue and made a number of recommendations which included the definition of 'wilful default'. It also recommended punitive action for such wilful defaulters. It has also been recommended that the defaulters be debarred from institutional finance from Public Sector Commercial banks, DFIs, Government owned NBFCs, investment institutions etc. initially for a period of five years. Amongst other recommendations, the Group has also suggested that statutory amendments be initiated to empower banks and FIs to attach the assets charged to them as security directly without the intervention of the Courts of Law. With regard to filing of criminal cases against the defaulters, the Group opined that since the prime	Reserve Bank of India has set up a Working Group on 28.1.2003 under the Chairmanship of Shri D.T. Pai, Banking Ombudsman, State of Uttar Pradesh to suggest appropriate measures and deterrent penalties and criminal action against borrowers who divert funds with malafide intention, under Banking Regulation Act, 1949/Indian Penal Code.	As against para 10.31.

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		concern of the lenders was recovery of dues and filing of criminal cases against the defaulters would not necessarily lead to such recovery, for which a separate 'money suit' would also need to be filed simultaneously, causing thereby an unavoidable burden on the lending institutions, the criminal proceedings against the wilful defaulters should be initiated selectively. The Committee find that based on the recommendations of the Group RBI has already issued a circular on 30.5.2002 and the Government has also introduced a bill on 'The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest' under which the Banks and Fls have now been authorized to attach the assets charged to them without the intervention of the Court or Tribunal. The Committee are, however, constrained to note that even this circular is silent with respect to fixing criminal liability against those who siphon of funds deliberately, resort to mis-representation, falsification of accounts and indulge in fraudulent transactions. In view of the fact that as regards judicial interpretation of Sections 405 and 415 no offence of breach of trust or cheating is construed to have been committed in the case of loans, it is essential that such offences are clearly defined under the existing statutes governing the banks, providing for criminal action in all such cases where the borrowers divert the funds with malafide intention. Though the Committee agree that such penal provisions should be used sparingly and after due diligence and caution, at the same time it is also essential that banks closely monitor the end use of the funds and obtain certificates from the borrowers certifying that the funds have been used for the purpose for which these were obtained. Wrong		

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		certification, should attract criminal action against the borrower.		
105.	10.85	Another related problem is the issue of 'financial frauds'. During the year 2000-01, RBI in its report on Trend and Progress of Banking in India (2000-01) reported 50 cases of large value frauds (Rs 1 crore and above) involving Rs. 506.34 crore. The major factors facilitating the perpetration of frauds include non-observance of laid-down systems and procedures by bank functionaries, nexus or collusion of bank staff with the borrowers/depositors, negligence on the part of the dealing officials/branch managers, failure of internal control systems, inadequate appraisal of credit proposals and ineffective supervision. During the course of the present examination, similar irregularities were noticed in the case of private as well as co-operative banks. Moreover, there is no separate Act under which scamsters can be booked and even in cases where criminal proceedings are launched cases drag on for years together in Courts, with the result that the perpetrators of frauds are seldom punished. The Committee were informed that in 1991, the Ghosh Committee was set up to enquire into various aspects relating to frauds and malpractices in banks. The Committee had made about 125 recommendations, most of which were accepted by RBI and implemented. However, with a view to examining certain legal aspects including attempting a definition of Financial Fraud and laying down procedural guidelines to deal with financial frauds, recently another Committee under the Chairmanship of Dr. L.N. Mitra was set up. The recommendations of the Mitra Committee are in two parts - Part I deals with recommendations which can be implemented without any legislative changes and are	The major recommendations of the Ghosh Committee have already been implemented by the Banks. RBI has put in place a proper monitoring mechanism by calling for quarterly reports from Banks regarding the status of implementation. The compliance of the implementation of Ghosh Committee recommendations is also looked into by the Auditors as well as RBI Inspecting Officers during Audits/Inspections. Regarding Committee on Legal Aspects of Bank frauds in September 2000 under the Chairmanship of Dr. L.N. Mitra, recommendations in Part I were examined by an in-house group in RBI and banks were advised to implement the recommendations of the Committee contained in Part I of Mitra Committee Report. The Mitra Committee had recommended in part II of its report proposing draft legislation on Financial Frauds (Investigation, Prosecution, Recovery and Restoration of Property) Bill and also suggested amendments to the Indian Penal Code 1860, Indian Evidence Act 1872, Criminal Procedure Code 1973 etc. The Reserve Bank of India have forwarded the report of the Mitra Committee along with draft legislation to the Central Vigilance Commission for examination by the High Level Group set up by it to look into frauds in the banking sector. The Reserve Bank of India has also forwarded these recommendations to the Government for taking further action so that the problem of financial frauds could be dealt with effectively. These recommendations are now under examination in consultation with Central Vigilance Commission and Ministry of Law.	RBI has informed that they have received suggestions from the Central Vigilance Commissioner (CVC) that a well defined role in monitoring frauds should be assigned to the Board of the bank so that its accountability should be fixed; a Sub-Committee may be constituted to monitor fraud cases exclusively. The suggestion made by CVC has been accepted by the RBI and the matter regarding issue of guidelines to banks is under examination. Regarding Dr. L.N. Mitra Committee Report, Ministry of Law, which was consulted by the Ministry of Finance, has desired for the views of Department of Company Affairs, Ministry of Home Affairs and Central Bureau of Investigation. The comments from CBI and Department of Company Affairs have been received and from Ministry of Home Affairs are awaited.

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		preventive in nature and Part II requires legislative changes for implementation. Some of the important recommendations contained in Part II include a separate Act to deal with financial fraud, making financial fraud a criminal offence, placing special responsibility on the regulator, setting of a separate institution for investigation, special courts for trying cross-border financial frauds as well as all offences under the proposed Financial Fraud Act. Though as reported by the RBI, all the recommendations under Part I have been accepted and instructions issued on 3/5/2002, the recommendations under Part II are yet to be implemented. The Committee desire that since these recommendations have an important bearing on the sound functioning of our financial system, the same should be implemented expeditiously. The Committee express regret at the tardy manner in which the issue of financial fraud has been addressed by the RBI although the Ghosh Committee (1991) and the L.N. Mitra Committee (2001) have highlighted this issue. Despite the recommendations of the L.N. Mitra Committee in September 2001, no effective mechanism has been put in place including the enactment of proposed Financial Fraud Act to deal with this problem.		
106.	10.86	At present, the regulatory/supervisory framework for the Urban Co-operative Banks is the responsibility of RBI, State Governments and the Central Government (in the case of banks having multi-State presence). This results in overlapping jurisdictions and also at times in cross directives, which adversely hamper the functioning of these co-operative banks. Besides, it has also been noticed that State Registrars do not always act expeditiously on directions received from RBI, with the result that the managements of these	As against 3.21	As against para 3.21

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		banks are enabled to take advantage of existing loop holes to commit irregularities leading eventually to pecuniary loss to the small depositors. In the past, this issue has been considered by a number of committees, of which the Jagdish Capoor Committee and the Madhav Rao Committee are recent examples. These committees have also recommended that there is need to clearly demarcate the banking-related functions and other functions of cooperatives with a view to entrusting the regulatory responsibility separately to RBI and the Registrar of Co-operative Societies. The Madhav Rao Committee had also recommended that the only effective way of addressing the problem of dual control is to carry out amendments to the State Co-operative Societies Acts, the Multi-State Co-operative Societies Act, 1984 and the Banking Regulation Act, 1949. They have suggested different sections under the B.R.Act, 1949 which are required to be amended, including amendments to section 30 and 36AC under which RBI will have the power to appoint chartered accountants to audit the accounts and also be authorised to remove managerial and other persons from office or appoint additional directors. The Committee were informed that the issue relating to the amendments to the State Co-operative Societies Acts was recommended by RBI to the Government of India in the year 2000 with the request that the matter be taken up with the State Governments. However, the Ministry in 2001advised RBI that it may be possible to bring co-operative banks under the discipline of RBI by making suitable amendments to the B.R.Act, 1949. Accordingly, RBI in May 2001 submitted proposed amendments to the Ministry of Finance but these proposals are still pending consideration. In the meantime, the RBI		

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		has mooted another proposal of setting up a separate apex body for regulating and supervising the co-operative banks, stressing that since a large number of co-operative banks are widely dispersed all over, RBI is not well-equipped to supervise them. According to RBI, this apex body should have representatives of the State Government, Central Government, RBI and other professionals. It should be an independent expert body to be able to discharge its supervisory role more effectively. The Committee appreciate the problems which emanate from duality/ multiplicity of control in the case of the Urban Co-operative Banks but caution that the Government while considering the proposal of a separate apex body, should give due consideration to the problem of coordination and ensure that there is no dilution of responsibility. The proposed amendments to the relevant Acts should be carried out expeditiously so that an effective regulatory/ supervisory mechanism is established without further delay.		
107.	10.87	The Committee find that bank mergers is a recent phenomenon in our country and before the merger, sanction of the Reserve Bank of India is required as stipulated under section 44A of the Banking Regulation Act, 1949 and the role of the RBI is limited. No merger is allowed unless the scheme of amalgamation draft has been placed before the shareholders of the banking company and approved by a resolution passed by the majority representing two-third value of the shareholders. As such RBI does not have any role to play regarding the swap ratio arrived at and in case of any dissenting shareholder, the RBI has to determine the value of the share price which is final. This practice is at variance from that of the merger in the case of the companies,	Reserve Bank of India has constituted an Inter departmental Group to prepare pilot policy statement on take over/merger, transfer of shares of bank's as a priority area. It is examining formulation of a framework for voluntary and other merger of banks in the light of past experience. The framework would also cover the observations of the Committe and requisite legal amendments would also be proposed.	Matter is under consideration of the Inter Departmental Group.

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		where as per the Companies Act, the approval of the court is required before the amalgamation/ merger between the two companies, which also ensures fair price. The Committee therefore, recommend that RBI should discharge proactive role in laying down the guidelines to process a merger proposal in terms of the abilities of investment bankers, the key parameters that form a basis for determining swap ratios, disclosures, the stages at which Boards will get involved in order to have meaningful Board level deliberations, norms for promoter buying or selling shares directly/indirectly, during, before/ after discussion period etc. Without this, many mergers will become a subject of public debate, which may not all the time necessarily be constructive.		
108.	11.33	The Committee note that 45 out of 58 prosecutions for major offenses launched/ordered by the Department of Company Affairs (DCA) against Companies involved in the present scam relate to diversion of funds. The major reason for huge transfers of money from companies to Shri Ketan Parekh is stated to be removal of restriction on inter-corporate deposits two years ago. In order to check violations in this regard, certain suggestions are under consideration by the DCA viz., putting a cap on the number of investment companies that any individual can float, prohibiting a person from being a director in more than the prescribed number of investment companies, prescribing a limit on lending/ borrowing by companies, etc. The Committee hope that DCA will arrive at expeditious decisions on these suggestions and bring forth suitable amendments in the Companies Act.	Proposals are under finalization; it is hoped that soon the amending Bill will be introduced in the Parliament.	The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7th May 2003. The Cabinet has now advised the Department that instead of moving a number of official amendments to the Bill, DCA should bring a new legislation for consideration of the Cabinet.

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109.	11.35	In regard to transfer of funds by six corporate groups to Ketan Parekh, DCA has informed that six out of ten corporate groups which transferred huge amounts to entities associated with Ketan Parekh, have not violated the provisions of the Companies Act. The Committee feel that more investigation is needed on this aspect.	The Department of Company Affairs has decided to approach CLB for approving investigation of 16 companies of Ketan Parekh group under section 237 of the Companies Act, 1956 (CA, 56). If approved by CLB, this should help to unravel the entire flow of funds to and fro Ketan Parekh.	DCA have filed petitions u/s 237 of the Companies Act, 1956 before the Company Law Board in the month of May/June 2003 in respect of all 16 companies belonging to Ketan Parekh Group seeking orders for investigation.
110.	11.36	The Committee feel that the Regional Directors and Registrar of Companies should benefit from their presence in the Governing Board of Stock Exchanges and initiate investigation when abnormal fluctuations in the price of a scrip is noticed.	Regional Directors have been advised by the Department of company Affairs to participate more actively in Stock Exchange meetings. Besides in respect of BSE, the Department has already replaced its representative with a view to ensuring qualitatively better participation. SEBI has recently conducted a meeting of the Public Representative and SEBI nominee Director of all stock exchanges for the first time. The role and responsibilities of these directors as well as the regularity of their attendance were discussed in the meeting. Based on these discussions, SEBI would be issuing a code of conduct for the Public Representative and SEBI Nominee Directors.	As against para 6.153
111.	11.37	The Committee note that penalties prescribed in the Companies Act are nominal and the offenses are easily compoundable. For instance, violation of restriction on purchase of its own shares by a company under Section 77 of the Act attracts a maximum fine of Rs.10,000 even if funds involved are in crores of rupees. The penalties, therefore, need to be rationalised and prescribed as a percentage or multiple of the money involved in the offence. The Committee hope that the Shardul Shroff Committee which has been set up to look into the question of rationalising the penalties will give its recommendations soon and early action will be taken thereon.	The recommendations of the Shroff Committee with regard to rationalisation of penalties is still awaited. The Department of Company Affairs hopes to introduce amendments to CA, 1956 soon in the Parliament	As against para 11.33

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112.	11.38	The regulatory powers within the Companies Act need to be strengthened to enable effective action on instances where corporate wrong doings come to light. At present, DCA has no powers even to undertake investigation. Such lacunae render the functioning of DCA ineffective and inhibit speedy action. Certain amendments listed out in para 11.16 have been proposed to enable the Department to take speedy and effective actions on violations. The proposals include vesting DCA with the power of investigation and compounding of offences, rationalisation of penalties and opening of a "Serious Fraud Office" to investigate corporate misdemeanor. The Committee urge that decision on these proposals be taken expeditiously and an amendment Bill be introduced in Parliament at the earliest. The Committee also feel that there should be a surveillance mechanism to enable suo motu action on erring companies.	By virtue of the Companies (Second Amendment) Act, 2002, the Government has approved the setting up of a Serious Frauds Investigation Office (SFIO) which will be made functional immediately upon creation of posts and approval of budget.	Certain powers have been conferred on the DCA by virtue of the Companies (Amendment) Act, 2002. The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7th May 2003. The Cabinet has now advised the Department that instead of moving a number of official amendments to the Bill, DCA to bring a new legislation for consideration of the Cabinet. The Government has set up a Serious Fraud Investigation Office in the Department of Company Affairs and a resolution to this effect has been published in the Government of India Gazette dated 02nd July 2003 to investigate corporate frauds having Inter Departmental and Multi Disciplinary examinations. The SFIO will only take up investigations of frauds characterized by: (a) complexity, and having inter-departmental and multi-disciplinary ramifications; (b) substantial involvement of public interest to be judged by size, either in terms of monetary misappropriation, or in terms of the persons affected; and (c) the possibility of investigations leading to, or contributing towards, a clear improvement in systems, laws or procedures.
113.	11.39	The Committee are unhappy to note that no decision was taken by the DCA on the amendments on disciplinary matters proposed by the Institute of Chartered Accountants of India (ICAI) two decades ago except for seeking a fresh set of proposals from ICAI in 1994 and again in 2001. Given this background, the Committee are not convinced of the DCA explanation attributing the lengthy disciplinary procedure followed by ICAI as the reason for the delay in taking disciplinary action against auditing entities named by the previous JPC. The Committee note that a	Proposals for relevant amendments in the Chartered Accountants' Act, 1949 (CA Act) have been formulated. These will soon be introduced in Parliament.	As against para 10.11

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		Working Group for amending the Chartered Accountants Act, 1949 has recently given its recommendations which include various suggestions on disciplinary matters, particularly, the question of fixing a time frame for proceedings in disciplinary cases. The Committee stress that as proposed by DCA, amendments to the Chartered Accountants Act should be brought before Parliament in the ensuing Session.		
114.	11.40	Admittedly, the quality of inspection by the DCA leaves much to be desired. It is a matter of serious concern that the DCA Inspectors are untrained and unable to cope with the quality of inspection. The Committee hope that the weaknesses in the system of inspection will be looked into with dispatch and appropriate remedial action taken without delay in order to have an effective inspection mechanism.	In order to improve the quality of inspections, the Department of Company Affairs has organized training programme for newly recruited batch of officers. It is also proposed to train all the Officers of Inspection Wing during the Financial Year 2003-04. It is proposed to hold a training programme once in each quarter. In the first quarter, the training programme for about 20 officers has been finalised at the National Academy of Direct Taxes at Nagpur. Other comprehensive training programme would be held at UTI Institute of Capital, Mumbai; Institute of Chartered Accountant of India and National Law School, Bangalore. The training will focus on upgrading the skills level and knowledge in the area of investigation of frauds, examination of books of accounts and latest techniques of investigation. To investigate really serious matters, the Department's proposal to set up a Serious Frauds Investigation Office has been approved by the Government.This will be made operational in the near future. The Department of Company Affairs has also made necessary arrangement for filling up the vacant posts of the officers in different grades. A committee has been constituted for the Cadre Review of Officers of Indian Company Law Service to give its recommendations on creation of new posts and for increase in the promotional avenues of the officers.	Department of Company Affairs has conducted following training programmes of ICLS officers. a) A training programme has been conducted at National Academy of Direct Taxes, Nagpur from 16-20 June 2003 for a batch of 25 officers. b) A training programme with Government Examiner of Questioned Documents (GEQD), Hyderabad from 4-6 August 2003 for another batch of 25 ICLS officers. c) Another training programme for a batch of ICLS officers from 3rd to 7th Novembner 2003 on 'Inspection and Investigation of Books of Accounts and Accounting Fraud' at Kolkatta through Institute of Chartered Accountants of India. The Department is in the process of finalizing another one week training programme on 'Tools and Techniques in Forensic Documentation Examination' from 15th – 19th December 2003 at Delhi for a batch of 25 ICLS officers through National Institute of Criminology and Forensic Science. All the ICLS officers from the Inspection Wing are expected to be trained during the financial year 2003-04. The Department has filled up 4 posts of JAG (Legal) in September 2003 by promotion. Department of Company Affairs had recently

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				convened a meeting of the Departmental Promotion Committee (DPC) and has filled up 8 posts in Senior Time Scale (Accounts & Legal Branch) by promotion. Similarly 2 Junior Administrative Grade (Accounts) level posts have also been filled up by promotion on the recommendation of Union Public Service Commission (UPSC).
115.	11.41	The Committee feel that the issue of auditor-management relationship needs to be addressed with a view to ensuring a healthy professional relationship between them. This could be achieved through rotation of auditors, restriction on non-audit fee, etc. The DCA has since appointed Naresh Chandra Committee to examine the entire gamut of issues pertaining to auditor-company relationship. The Committee urge that the Naresh Chandra Committee should complete its work within a time frame and enable expeditious action by the Government on its recommendations. The Committee feel that the desirability of having an arrangement in DCA for scrutiny of auditors' reports of all companies on regular basis needs to be examined with a view to taking suitable action on the qualifications made by auditors in their reports.	The Naresh Chandra Committee has since submitted its report covering inter alia issues such as rotation of audit partners, restriction on non-audit work and random scrutiny of audited accounts. These recommendations have been under examination in the Department of Company Affairs Proposals have been formulated as part of the amendments to the Companies Act under consideration.	As against para 11.33
116.	11.42	The Committee note that the action by SEBI and DCA has enabled the tracing of 160 out of 229 companies which were earlier treated as vanished. There are still 69 companies which remain untraced. The Committee urge that the 'model' FIR which is at drafting stage should be finalised soon and the Central Coordination and Monitoring Committee should ensure that FIR against all the vanishing companies are registered without further loss of time and further ensure that whereabouts of the vanishing companies are ascertained. The Committee also	The Central Coordination Monitoring Committee (CMC) constituted in the context of vanishing companies has been meeting from time to time mainly to monitor the progress made by various Task Forces in the matter of taking penal action against directors of vanishing companies. The CMC is co-chaired by Secretary, Department of Company Affairs and Chairman, SEBI. Prosecutions have been launched against 117 such companies for non-filing of statutory documents. Police complaints have also been filed in 42 cases. Further, prosecutions have been	The model FIR was finalised and given to the 4 Regional Directors of the Department of Company Affairs. FIRs have been filed in respect of 95 vanishing companies. It is a continuous process.

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		desire that definition of vanishing companies should be made comprehensive.	launched against 149 companies for mis-statement in prospectus/fraudulently inducing persons to invest money/false statement made in the offer documents, etc. under Sections 62/63/68 and 628 of the Companies Act,. The definition of vanishing companies has also been clarified.	
117.	11.43	Apart from SEBI's action of debarring 87 companies and 336 Directors from accessing the capital market, the DCA has launched 79 prosecutions against these companies for non-compoundable offences carrying the punishment of imprisonment. What the Committee are seriously concerned is about how the investors may get their money back from the vanishing companies. The Committee urge that SEBI, DCA, Company Law Board and RBI should work seriously towards achieving this objective and take all necessary steps, including attachment of properties of directors of vanishing companies.	As regards vanishing companies, the Co-ordination and Monitoring Committee (CMC) comprising Secretary DCA and Chairman SEBI is the policy making body. Seven Regional task forces comprising officials of DCA, SEBI and stock exchanges have been constituted to make verification of compliance at operational level. The Co-ordination and Monitoring Committee is examining and exploring various courses of action like monitoring the end use of funds, freezing assets of promoters / directors of defaulting companies and disqualification of persons in default. Feasibility of introducing the concept of disorgement of illegally derived benefits, by way of amending the Companies Act, 1956 is also being examined. Reserve Bank initiates the following action against the companies which are not traceable at their given address or not responding to the Bank's correspondence after efforts to locate the company have failed. The Bank rejects the company's application for Certificate of Registration or cancels the Certificate of Registration if already granted and issues public notices in the newspapers in both – English & local languages, having wide circulation in the location of its registered office. In case the company had public deposits, the Bank also considers filing of winding up petitions, launching of criminal proceedings and lodging of FIR with the police. So far as RBI is concerned, while RBI Act does not contain any provisions regarding attachment of properties of directors of vanishing companies, a provision [clause 24(14)] has been made in the	As regards feasibility of freezing assets of promoters / directors of defaulting companies, SEBI has obtained the opinion of Mr. Justice S.P Bharucha, former Chief Justice of India. Mr. Justice S.P Bharucha has not found any provisions in the Companies Act which empowers SEBI or the Central Government or Authority constituted under that Act to attach the properties of shell companies or their directors/promoters or to distribute the proceeds thereof to investors therein. The same has been sent to DCA for placing before CMC in its forthcoming meeting. As regards disqualification of "persons in default", Section 274(1g) of the Companies Act provides for disqualification of a person being appointed as a director of a company. SEBI has written to Government to include appropriate changes in Companies Act Amendment Bill , which should be acted upon. The Co-ordination and Monitoring Committee (CMC) (a joint mechanism of SEBI and DCA jointly chaired by Secretary DCA and Chairman SEBI), constituted in 1999, is the policy making body for vanishing companies. The CMC has held four meetings since April 2002. Further, in order to ensure that companies do not vanish after raising money from public as well as a measure of good governance, as decided by the Co-ordination and Monitoring Committee (CMC), the following actions are being taken by DCA and SEBI:– – Including authenticated photographs, passport numbers, PAN, bank account

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			Financial Companies Regulation Bill, 2000 (presently under consideration of the Parliamentary Standing Committee on Finance) empowering the Company Law Board (CLB) to issue orders of conditional attachment of the whole or any portion of the property or assets of the NBFC, as specified by the aggrieved depositor. The CLB shall also have powers to appoint a receiver for recovery of the amount of unpaid deposit from the defaulting NBFC. In case of its disobedience, the CLB may order the properties and assets of the person guilty of such disobedience to be attached besides ordering such person to be detained in the civil prison.	number, driving license number etc. of the promoters/directors at the time of incorporation and in the prospectus while coming out with public/rights issues SEBI has vide circular dated 14.8.2003 amended SEBI (DIP) Guidelines to provide for disclosures pertaining to photographs/ passport numbers/PAN etc. of promoters in the prospectus while coming out with public issue. This will help in tracking the identity of promoters and also reduce the possibility of fly by night operators accessing capital markets. – Ensuing monitaring of end use of funds. – Exploring means of freezing assets of promoters/directors of defaulting companies and disqualification of persons in default. – Besides the prosecution proceedings launched by DCA, SEBI has passed debarring orders under Sec.11B against 96 vanishing companies and 361 directors. – The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7th May 2003. The Cabinet has now advised the Department that instead of moving a number of official amendments to the Bill, DCA should bring a new legislation for consideration of the Cabinet. – The Task Forces have since been reorganized from 7 to 4 corresponding to the Regions falling under the jurisdiction of four Regional Directors of DCA with directions to identify the companies which have disappeared, or misutilised funds mobilized from the investors, and suggest appropriate action in terms of Companies Act or SEBI Act. – Besides, DCA in consultation with SEBI has also prepared a model FIR for filing

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				complaints against the vanishing companies and their promoters, directors, etc. for the offences punishable under Section 420, 406, 403, 415, 418 & 424 of the Indian Penal Code. The model FIR has been given to the Regional Directors on 09-05-2003.
118.	11.44	The Committee feel that the role of companies to the extent that they impact on the Capital Market must be regulated within the Department of Company Affairs effectively and transparently. In this regard, a process of consultation must commence under the nodal Ministry.	Certain arrangements for consultations between DCA and SEBI are already in place. Secretary, DCA is Member of SEBI Board, SEBI representatives are included in several DCA Committees including in particular the Central Monitoring Committee for vanishing companies, Investor Protection and Education Fund Committee, and Company Law Advisory Committee. In addition consultations are held from time to time on specific issues. Discussions are also being held by Secretary, DCA with Chairman, SEBI on improving the demarcation/coordination in respect of areas of overlap. Further action is being considered in this respect.	No change in the status.
119.	12.74	The Committee note that out of the 72 cases registered by CBI in relation to the 1992 Security Scam, 42 cases were charge sheeted, out of which only 6 cases could be disposed of and the rest are pending trial. One of the reasons contributing to this delay is that initially only one Special Court was set up and subsequently, although four more Courts were set up, but only two courts were really functional. It is really shocking that the situation remains the same even as on date. The Committee desire that this aspect needs to be taken up and resolved with a sense of urgency so as to ensure that the laws are ultimately implemented effectively and the guilty punished in an expeditious manner.	The CBI had registered 72 cases relating to irregularities in securities transactions out of which in 47 cases charge sheets have been filed in courts and in the remaining 25 cases the CBI after investigation had recommended departmental action against concerned officials or closure of cases or cases were otherwise disposed off. Out of the 47 cases where charge sheets were filed in the court judgments were delivered in respect of 9 cases. 27 cases are at pre charge stage and 11 are at evidence stage. In order to expedite disposal of cases pending before the Special Court (Trial of Offences Relating to Transactions in Securities) Act 1992 the Chief Justice of India has once again been requested to consider appointment of 2 more additional Judges in the Special Court, Mumbai for which staff has already been provided for. The Chief Justice of India has also been requested to take up with the respective High Courts for expediting	CBI has reported that there is no change with regard to registration, chargesheeting and disposal of securities scam cases pending in various courts. Regarding appointment of 2 more additional Judges in the Special Court, Mumbai, the Registrar General, Supreme Court of India has again been reminded on 20.10.2003 to intimate the action taken in the matter. The matter is being pursued.

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			CBI cases pending before the Special Judges (Anti Corruption) in their respective jurisdiction.	
120.	12.75	In regard to 27 lakh missing shares of Harshad Mehta pertaining to 90 companies, the Committee are concerned to note that this was brought to light in the year 2000 by the custodian although all the properties, movable or immovable had been notified by the Custodian way back in the year 1992 itself. The Committee find that it is not clear as to whether the missing shares were discovered by the Custodian while taking stock of all the notified properties of Shri Harshad Mehta or it was Shri Harshad Mehta who informed the custodian about these missing shares. The Committee find that this aspect is also being investigated by the CBI. They desire that the enquiry in this regard be completed at the earliest.	Regarding the missing shares, Harshad Mehta himself had approached the custodian and informed the custodian that the shares were missing. The matter is being investigated in case RC 5 (E)/2001-BS&FC/ Mumbai relating to the missing shares of Harshad Mehta.	Regarding the missing shares, Sh. Harshad S. Mehta himself had approached the custodian and informed that the shares were missing. The matter was investigated in case RC 5(E)/2001-BS&FC/ Mumbai relating to the missing shares of Harshad Mehta. The investigation has been completed and the case charge sheeted on 13.11.2003 before the Spl. Court (TORTS), Mumbai.
121.	12.76	The Committee find that in case No. RC.3(E)/ 2001, which pertains to causing a wrongful loss to the tune of Rs. 137 crore to the Bank of India, CBI has filed a charge sheet in the Court of Special Judge, Mumbai on 1.6.2001 against Shri Ketan Parekh, Shri Kartik Parekh, Shri Kirti Parekh, Shri Ramesh Parekh (the then Chairman, MMCB, Ahmedabad), Shri Davendera Pandya (MD, MMCB Ahmedabad), Shri J.B. Pandya (then Branch Manager, MMCB, Mumbai). Another case No. RC 4(E)/2001 has also been registered on the orders (dated 2.5.2001), of the Hon'ble High Court of Gujarat by CBI against Shri Ramesh Parekh, Ex-Chairman, MMCB, Shri Devendera B. Pandya, MD, MMCB and Shri Jagdish Pandya, Branch Manager, MMCB Ahmedabad U/S 120-405,406,408,409,420 IPC & U/S 35(A) of the Banking Regulation Act, 1949 for conspiring together and making illegal advances to the tune of Rs. 1030.04 crores against the overall limit of Rs. 475 crores by committing breach of law and	CBI has informed that the case relating to MMCB is at an advance stage of investigation and likely to be completed shortly. Though an Interpol reference dt. 3.7.2001 had been sent to Interpol, Abu Dhabi for freezing the accounts of Ketan Parekh at Merill Lynch Bank, Abu Dhabi but the CBI had not received any response in the matter from Interpol, Abu Dhabi. The matter is being pursued with Interpol, Abu Dhabi further. Position regarding Special Courts has been explained in reply to Para 12.74.	In the case relating to MMCB, field investigations in India have been completed, order of Head Office of CBI on the investigation report since been communicated to the Branch. Charge sheet would be filed shortly in the case. Though an Interpol reference dt. 3.7.2001 had been sent to Interpol, Abu Dhabi, for freezing the accounts of Ketan Parekh at Merill Lynch Bank, Abu Dhabi, but the CBI had not received any response in the matter from Interpol, Abu Dhabi. The matter is being pursued with Interpol, Abu Dhabi, further.

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		various circulars/directives/rules and regulations of RBI. The charge sheet in this case has not been filed so far. The Committee have also been informed that the Interpol reference has also been sent to Abu Dhabi for freezing the accounts of Shri Ketan Parekh maintained at Merill Lynch Bank and his alleged Swiss account is also being investigated. It has also been established that Shri Ketan Parekh had opened several accounts with the Fort Branch of GTB and carried out huge transactions with some of the OCBs having a meagre paid up capital of US $550 to US $5000, for pumping substantial amount of money into the stock market. The exact amount of money which has been used in India after having repatriated some amount to the OCBs accounts maintained outside India, particularly at Mauritius, is still being ascertained. Detailed investigation to connect funds of MMCB to the tune of Rs. 1030 crores alleged to have been defrauded is also reported to be in progress. The Committee desire that the investigations in this regard should be completed expeditiously. Since the judicial process is a long drawn process, the Committee desire that the cases which have already been filed or likely to be filed in the Courts by the CBI, should be tried by the Special Courts, so that the guilty are brought to book expeditiously. The Committee hope that the issue of setting up adequate number of Special Courts will be taken with due seriousness and with a sense of urgency by the Government, and will not meet the old fate at least this time.		
122.	12.77	Economic offences wing of CBI had registered a case against Cyberspace Infosys Ltd., its Director Shri Arvind Johari, some senior officers of UTI namely Ex-Chairman Shri P.S. Subramanyam, Shri M.M. Kapur & Shri S.K. Basu, Executive Directors, and Smt. Prema Madhu Prasad, GM	CBI have informed that investigations into the Cyber Space Infosys Ltd. case are at final stages and the case would be finalised shortly.	Field investigations into the Cyber Space Infosys Ltd. case are complete. The FRs in the case are under scrutiny in the Head Office of CBI.

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		and some private persons and other officials of UTI on 18.7.2001, for causing wrongful loss of approximately Rs. 32.08 crores to UTI, by way of subscribing to 34,5000 shares of Cyberspace Infosys Ltd. at an exorbitant rate of Rs. 930 per share on private placement basis against the advice of their own Equity Research Cell. The Committee take serious note of the fact that although, as per the status report submitted by the CBI on 17.9.2002 the case is still under investigation and the charge sheet has yet to be filed, even when a period of more than a year has already elapsed. The Committee urge that the CBI must make an earnest effort to complete the investigation without further loss of time.		
123.	12.78	In the case of City Co-operative Bank Ltd., Lucknow, CBI had registered two cases i.e. RC.19(S)/2001 and RC. 20(S)/2001. In the former case it has been alleged that Shri Anand Krishna Johari, Director, City Co-operative Bank Ltd., Lucknow entered into criminal conspiracy with Shri Gorakh Nath Srivastava, the then Secretary of the City Co-operative Bank along with Shri Arvind Mohan Johari and in pursuance thereof defrauded the Bank to the tune of approximately Rs. 29 crores by fraudulently transferring this amount to the account of the Century Consultants Ltd., in which both Shri Anand Kumar Johari and Shri Arvind Mohan Johari happened to be Directors by showing fictitious investments and bogus loans in their records and thus benefited themselves. It has also been alleged that bogus loans amounting to Rs. 817.07 crore in the name of 25 parties/persons associated with Shri A.K. Johari were sanctioned and disbursed at the City Co-operative Bank without giving any security and observing any prescribed norms. The entire	CBI have informed that investigations into the case RC 19(S)/2001-LKO are at the final stages and would be finalised shortly. Government of Uttar Pradesh has vide orders dated 24.02.2003 set up a high level enquiry by Member, Board of Revenue to look into the laxity of Registrar of Cooperative Societies and his officers in discharging their duties regarding inspection of a bank. Law Department of Uttar Pradesh has sent a request to the Hon'ble Allahabad High Court for constitution of special court for expeditious disposal of these cases. The matter is under consideration of Hon'ble High Court.	Charge sheet in RC.19(S)/ 2001-LKO has been filed in the Court on 30.8.2003. Government of Uttar Pradesh has reported that the enquiry report has since been received and action against concerned officers has already been initiated by obtaining their explanations. The matter regarding constitution of special court for expeditious disposal of cases is still under consideration of Hon'ble Allahabad High Court.

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		amount was transferred ultimately in favour of Century Consultants Ltd. The investigation in this case is reported to be still in progress. In the second case viz. RC 20(S)/2001 the allegations are that Shri Gorakh Nath Srivastava, the then Secretary, City Co-operative Bank Ltd., Lucknow by misusing his position purchased nine cheques amounting to Rs. 1,71,35,000 during Feb-March, 2001 issued by the group companies of Shri Anand Krishna Johari in favour of his other group companies. He did not send these cheques for clearing even after disbursement of the proceeds. When these were sent for clearing the same were returned unpaid for want of balance in the respected accounts. Investigations in this case by CBI revealed that the entire proceed of Rs. 1,71,35,000 was utilised by Shri A.K. Johari and Shri A.M. Johari for furthering their business interest. The charge sheet against Shri Gorakh Nath Srivastava, Shri Anand Krishna Johari, Shri Arvind Mohan Johari and Shri S.N. Mishra has since been filed on 13.11.2001 in the Court U/S 120-B, 420, 467 and 471 IPC. Besides, regular departmental action for major penalty has been recommended against Shri Srivastava Rao, Officer, State Bank of Hyderabad, Lucknow for his departmental misconduct. Taking into account the seriousness of the allegations, the Committee desire that investigations in case No. RC19(S)/ 2001 be completed as early as possible so that prosecution proceedings could be launched against the accused for having defrauded the Bank and the public at large in a dubious manner.		
124.	12.80	The Committee find that human resource constraint has been almost a perennial problem in the CBI, as during the course of the enquiry of the earlier JPC also, the same problem was spelt out. The Committee are however, concerned to	To investigate really serious matters, a proposal to set up a Serious Frauds Investigation Office has been approved by the Government; this will be made operational in the financial year 2003–2004. This body will have a multi disciplinary approach	The Serious Fraud Investigation Office has become functional and would function within the existing Legal framework. It will forward the reports to the concerned Departments after making investigations for necessary action under

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		note that the situation has not improved even after a lapse of almost a decade, since even at present about 50% vacancies exist in the CBI, including its Economic Offences Wing, which is a crucial arm of the investigative agency. Though it is imperative that a premier investigative agency like the CBI should not be allowed to remain incapacitated for want of both men and material, but at the same time the Committee find that basically CBI is a police organization and is not fully equipped with competent and qualified personnel for investigating into intricate financial matters. This handicap has also been expressed quite explicitly by the representatives of the CBI before the Committee. Taking into account, the new technological innovations where electronic modes are likely to be adopted for undertaking various types of financial transactions, it is imperative that persons investigating the economic offences are fully qualified and trained to handle the complex and diverse nature of transactions with a sense of competence and necessary acumen. The Committee find that the expert Committee on Legal Aspects on Bank Frauds set up under the Chairmanship of Dr. N.L.Mitra in their report submitted on 31.8.2001 to RBI have also, after having delved deep into the matter, observed that on account of involvement of CBI in multifarious activities, it would be prudent to have a separate multi-faculty investigative institution to deal with financial frauds. The Committee are given to understand that the Government is also seriously pondering over the issue and setting up a separate Serious Fraud Office on similar lines as in the United Kingdom (U.K.). The Committee are inclined to agree with this current thinking and recommend that a separate body be set up to investigate into all incidents of serious frauds and necessary	so that fraudsters can be tracked down and effectively punished.	the respective Act/Law.

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		legislation in this regard be enacted. Besides, the jurisdictional powers of such an organization should not be limited to conducting investigation against the employees of the Central Government/Public Sector Undertakings of the Government of India but should be comprehensive, covering offences committed even by the employees of the State Governments/ organizations as well as those who are in the private sector.		
125.	12.118	The Committee note that the investigations conducted by the Enforcement Directorate with regard to the violations of foreign exchange committed by OCBs/FIIs under the relevant provisions of FERA/FEMA, did not make much headway till the irregularities were pointed out by SEBI in their report and the report of the snap inspection was made available by the RBI. This leaves the Committee with an impression that there is no effective surveillance system existing in the Directorate under which the violations could be detected soon after the crime is committed and an immediate check imposed. The case of DSQ Software is an instant example where even when the shares were sold to a foreign company way back in May, 2000, without the express permission of the RBI, the investigations were started only in August, 2001. In fact the Directorate geared itself up only at the instance of the JPC and ultimately launched prosecution against the Company on 30th May, 2002 i.e. the penultimate day when the sunset clause of FERA, 1973 was to come to an end.	Enforcement Directotrate has informed that with regards to the violations of exchange control committed by OCBs/FIIs, there is no institutional mechanism with the Enforcement Directorate to detect such violations soon after these are committed. In the investigations referred to in the Committee's recommendations, the Enforcement Directorate, on the basis of non-specific information, had called for details of suspect transactions from other agencies including SEBI and Stock Exchange. On receipt of information from RBI/SEBI regarding suspected transactions, further investigations were made. As regards DSQ Software, it is on account of Search by ED that information relating to the FERA violations of DSQ Software relating to its transactions with Foreign Company was uncovered and the multifarious violations of DSQ Biotech (Now called Origin Agrostar Ltd.) were brought under investigation.	Enforcement Directorate has informed that the transactions of DSQ Software with foreign company were uncovered during search by Enforcement Directorate. Show cause notice has been issued to the DSQ Software & prosecution has been filed against the company under FERA, 1973. In addition, under FEMA, 1999, a Show Cause Notice has also been issued to DSQ Software on 30.04.2003.
126.	12.119	The Committee note that the investigations taken up by the Directorate are confined mostly to such cases where either the complaints are received or where the irregularities get pointed out by some	Enforcement Directorate has informed that a proposal for strengthening and comprehensive computerization and modernization of the Directorate is being examined.	The Enforcement Directorate has taken up the matter with the Income-tax authorities in relation to Transfer Pricing cases. As regards imparting suitable training to the staff

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		organizations. The Committee are however of the considered view that in a highly liberalized and free market economy of today, where e-commerce, mergers and joint ventures are taking place at a pace which had not been witnessed before, it is essential that the Directorate also revamps itself in consonance with the emerging demands by imparting suitable training to the staff not only in corporate laws but also in cyberspace and computerization. Besides, it needs also to strengthen its intelligence/surveillance department so that it becomes a vibrant and effective instrument.	Mumbai Zonal Office has put certain officers on duty specifically to collect intelligence from the Securities market including NSE/BSE. As regards other areas in the new economy, such as e-commerce, transfer pricing in new economy products efforts to gather intelligence in this connection are being taken up. Intelligence gathering is being strengthened in Transnational Joint Ventures, Merger and acquisitions, Equity Swaps as well as the Newly emergent Derivative products in the Securities, Debt as well as FOREX markets. A comprehensive programme for training officers and upgrading of skills in these areas in Mumbai Zonal Office is being drawn out.	of the Enforcement Directorate, a comprehensive programme for training of officers has been finalized. The Directorate has approached the UTI Institute of Capital Markets for organizing training programmes in the areas of Corporate Laws and Structures, Transnational Joint Ventures, Mergers and Acquisitions, Equity Swaps, Derivative Products in the Security etc. A 5-day training programme module in this regard is being evolved. In addition, for training in areas such as Transfer Pricing, Cyber Financial Crimes & Internet Security and Forensic Accounting, suitable agencies are being identified.
127.	12.121	The Committee note that the investigations against ZEE Telefilms have been inconclusive so far, as the Directorate has not yet found any FERA/FEMA violations by the company. The Committee desire that the investigations should be pursued further with a view to ascertaining if at all any violations were committed.	Enforcement Directorate has informed that investigation with regards to Zee Telefilms shall be completed by 31-5-2003	The investigation is at a very advanced stage.
128.	12.199	CBDT's role is mainly confined to follow up actions after a scam. If those actions are swift the right message will go to the Stock Market. The Committee note that even after an expiry of almost a decade, the culprits of the 1992 Scam, have not been punished and the cases are still pending adjudication in the Special Courts. The only penalty so far imposed is the monetary one which is reported to be to the tune of Rs.700 crore, and that too has been imposed only on a single Group. Not a single case of Harshad Mehta Group has been finalized and although the assessments in the case of the other group viz. Bhupen Dalal Group have been finalized, no criminal proceedings have been launched against the Group. It is equally serious that against the	The Central Board of Direct Taxes (CBDT) have reviewed the pending cases of assessment of notified persons in a meeting taken by Member (Inv.), CBDT on 4.2.2003 and have decided that all pending cases would be disposed off by the end of May 2003. In the case of Bupen Dalal Group, the Department has indicated that prosecution has been duly launched. However, the assessee has filed criminal revision petition before the Hon'ble High Court of Mumbai. The Court accepted the assessee's prayer of quashing the criminal proceedings untill the assessee's appeal cases are decided by the Income Tax Appellate Tribunal with the observation that if the Income Tax Appellate Tribunal dismisses the assessee's appeal the criminal prosecution shall proceed. An SLP against	With regard to matters relating to Securities Scam of 1992, as against 87 appeals pending on 1.1.2003, 79 appeals have since been disposed off and only 8 are pending.

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		total outstanding demand of Rs. 11,323 crore, an amount of only Rs. 2203.70 crore, including Rs. 165.70 crore in the case of Fair Growth Financial Services Ltd, has been confirmed, since a large number of cases are reported to be still pending with CIT (Appeals). Only a paltry sum of Rs. 292 crore has so far been recovered. The property worth Rs. 3106.80 crore which stands attached and which includes mostly shares has also not been disposed of despite the fact that a scheme in this respect stands approved by the Special Court as far back as in September, 2000 and a Disposal Committee headed by the custodian for its proper implementation, was also constituted.	the said order of the Mumbai High Court is pending in Supreme Court. The Income Tax Department has made a demand for the tax dues of notified parties for the statutory period (01.04.1991 to 06.06.1992) of Rs.3307.43 crores. So far a sum of Rs.925.84 crores has been released or is in the process of being released to Income Tax Department by the Custodian in accordance with the orders of the Special Court. The value of the property attached is variable depending upon the value of shares which keep fluctuating according to the market trends. After making payment to the Income Tax Department the value of the attached properties get reduced to that extent. Accordingly, the position assessed as on 31.12.2002 the value of attached assets is Rs.2735.32 crores. The progress of disposal of shares was slow on account of backlog and the procedures involved in the certification, registration and dematting of shares etc. and the process has now more or less been streamlined. As on date, an aggregate quantity of 2,59,45,779 shares have been sold or cleared for sale and the value of the same is Rs.464,25,53,333.74. The Chief Justice of India has been requested to consider nominating 2 additional Judges to the Special Court for expediting the cases pending before the Special Court.	
129.	12.201	The Committee note that the JPC investigating the security scam of 1992 had recommended that a Special Cell may be constituted to investigate the role of big industrial houses and to expose the nexus between banks, brokers and promoters in engineering the 1991-92 securities scam. The Cell which was constituted thereafter in June, 1994, headed by DGIT (Inv.), Bombay virtually stopped functioning after having five meetings, the last being in May, 1995.	As against 2.21	As against para 2.21

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		The Committee are concerned to find that the Cell went into hybernation in the last six years and what is more intriguing is that it met only on 31.7.2001, when the matter came up before the present Joint Parliamentary Committee. The Committee express their displeasure at the way the Special Cell functioned. They recommend that responsibility for this laxity should be probed.		
130.	12.205	The Committee find that though the exact amount of revenue loss due to the 'residency clause' of the treaty cannot be quantified, but taking into account the huge inflows/outflows, it could be assumed to be substantial. They therefore recommend that Companies investing in India through Mauritius, should be required to file details of ownership with RBI and declare that all the Directors and effective management is in Mauritius. The Committee suggest that all the contentious issues should be resolved by the Government with the Government of Mauritius urgently through dialogue.	RBI is examining the matter.	CBDT have informed that RBI has advised against imposition of a condition that companies investing in India through Mauritius should file details of ownership with RBI and declare that all directors and effective management are in Mauritius. They have indicated that such a condition does not apply to Foreign Direct Investment (FDI) from any other country including Europeon countries and USA. Further, such a condition about the director's residence does not apply to investment by Indian companies aboard. Ministry of Finance, Deptt. of Revenue has on 10.2.03, issued a circular No.1/2003 wherein it is clarified that if a company or an entity is resident of both India & Mauritius, but has its place of effective management in India, then notwithstanding its being incorporated in Mauritius, it would be taxed under the Indo-Mauritian Double Taxation Avoidance Convention (DTAC) in India. Also, wherever necessary to check the misuse of the residency clause, the Income Tax Department will carry out required investigations with the help of Mauritius Authorities.
131.	13.23	The Committee underline the necessity for early implementation of corporatisation/ demutualisation of Stock Exchanges process.	As in para 6.105	As against para 2.20

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132.	13.31	A number of legislative proposals have been initiated by RBI and have been discussed in detail under the chapter "Reserve Bank of India" of this report. The Committee are constrained to observe that there have been serious delays at both the regulators' end and in the Ministry of Finance and other Ministries concerned in processing legislative proposals for strengthening the regulators and endowing them with more punitive powers. The Committee deplore the delays in Government in processing the legislative changes proposed by the RBI with the dispatch that they deserve.	Amendments to various Acts are an on-going process and suggestions/proposals received from RBI are dealt with in the Ministry of Finance with due care and alacrity. Thus, since its enactment in 1949, the Banking Regulation Act has been amended 33 times. Amendments have also been carried out to the RBI Act, NABARD Act, Small Industries Development Bank of India Act and many other Acts administered by the Ministry of Finance. RBI proposal regarding setting up an apex supervisory body for supervising urban cooperative banks did not find favour with the Government since it did not address the basic issue of duality of control on the cooperatives. Even the proposals submitted by RBI in May 2001 to the Ministry of Finance were not found to be adequate in tightening the supervisory control of RBI over the cooperative banks. These proposals have been further discussed with RBI and NABARD and amendments to Banking Regulation Act are now being finalized which would give RBI adequate powers to effectively supervise cooperative banks. These proposals are in the final stages and Government expects to introduce a Bill in the Parliament in this regard in the ensuing Monsoon Session.	As against para 3.21
133.	13.38	A perusal of the working of the HLCC indicates that this Committee concerned itself with the co-ordination aspects only. The Committee did not go into the general situation of the economy or the stock market and did not make any recommendations excepting those that related to actions to coordinate activities of various regulators like RBI, SEBI, DCA etc.	As at para 13.20	As against para 2.8
134.	13.49	Regarding demutualisation and corporatisation of the stock exchanges, the SEBI constituted a Committee under the Chairmanship of Justice	As against Para 6.105	As against para 2.20

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		Kania to provide definite road map for the early completion of the process, which has since submitted its Report. The Committee recommend that the Government must ensure expeditious implementation of the demutualisation and corporatisation process so as to improve management of the exchanges and enabling smooth conduct of business in a fair and non-partisan manner.		
135.	13.52	The Committee note that while the Banking Division monitors the overall functioning of public sector banks and rural cooperative banking system in the country besides reviewing circulars/ instructions issued by RBI, it is not concerned with individual operations of the banks as the same are carried out in accordance with the guidelines of the RBI. As per the provisions of the RBI Act, the general superintendence and direction of the affairs of the Banks has been entrusted to the Central Board of Directors of RBI on which the Government has a nominee (generally Finance Secretary). Further, before taking a decision in a matter of larger public interest, RBI consults the Government. However, the Banking Division is responsible for legislative framework relating to the Banking Sector which includes RBI Act, 1934, Banking Regulation Act, 1949, SBI Act, 1955, Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, Regional Rural Banks Act, 1976, Public Debt Act, 1944 etc. The Committee however note that a large number of legislative proposals with respect to the Commercial and urban co-operative banks mooted by the RBI are pending consideration in the Ministry. The details of the proposals have already been mentioned in the Chapter on the Reserve Bank of India of this report. The Committee recommend that the	As against para 3.21	As against para 3.21

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		Ministry should expeditiously finalise the proposed amendments in the Banking Regulation Act, 1949 and introduce the amended legislation in the Parliament at the earliest.		
136.	13.53	The Committee express their concern at the inordinate delay of almost 8 years by the Government in implementing the recommendations of the earlier JPC of 1992 on Securities Scam regarding the framing of statutory provisions with regard to making the bouncing of SGL transfer forms as penal offence as in the case of cheques. Although the said recommendation was accepted by the Government way back in 1994, but so far the Government Securities Bill, in which the statutory provision is proposed to be incorporated is yet to be enacted and the Bill is expected to be introduced in Parliament only during the Winter Session of 2002. As the matter has already been inordinately delayed, the Committee recommend that the Government should expeditiously repeal the Public Debt Act, 1944 and enact the new legislation without further loss of time.	The Department of Legal Affairs have concurred in the draft Bill/draft Cabinet Note on Government Securities Bill and referred the file to Legislative Department for concurrence on 8.11.2002. The legislative Department have suggested few modifications in the draft Bill and draft Cabinet Note and forwarded the same to Department of Economic Affairs (Budget Division) for necessary action. The matter is being attended to in consultation with RBI. After the needful is done, the draft Government Securities Bill/draft Cabinet Note will be referred back to Legislative Department for concurrence. It is expected that the Bill would soon be introduced in the Parliament thereafter.	It is expected that the Government Securities Bill, 2003 would be introduced in the Winter Session of Parliament.
137.	13.55	According to the Banking Division, based on the recommendations of the earlier JPC on Securities Scam, a number of measures have been taken by the Government and the RBI to address systematic deficiencies which contributed to the irregularities. However, the steps taken thus far have not forestalled irregularities which have led to large amounts of money being pumped into the stock market and its consequent misuse by certain entities, as detailed in this Report.	As against para 2.17	As against para 2.17
138.	14.53	The Committee are also given to understand that the prospectus is not vetted by SEBI, with the	SEBI has informed that with abolition of 'Controller of Capital Issues (CCI)' and repeal of CCI Act, in	SEBI will take action under Section 11A as and when such cases come to notice.

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		result that promoters are able to bring public issues at highly manipulative prices. It is therefore imperative that SEBI should formulate suitable guidelines for evaluating the prospectus and in case of dubious or fraudulent promoters, it must stop the public issue. As regards IPOs (Initial Public Offering), two vital issues-pricing and tracking the end use of funds have been totally neglected by SEBI. While determining pricing is a difficult task, there can be differences of opinion about the price genuinely, but to leave this entirely to the discretion of management based on the recommendations of the merchant bankers, does not serve the interests of small investors. The very fact that during the mid-nineties, in many cases, dishonest management of the companies cheated the poor investors of thousands of crores by bringing out highly overpriced issues and SEBI did not react, on the plea that in the free market regulator need not interfere, is not acceptable to the Committee. Totally free market pricing in a market which is highly imperfect and has a long history of fraud and manipulation is not a workable solution. Fair pricing through the book building rules has also failed to achieve the desired results. It is, therefore, suggested that SEBI should either use industry benchmarks or evolve other suitable criteria for this purpose. SEBI and DCA have been quibbling for the past many years, each one saying that to determine the end use of the funds raised through IPO was not its responsibility, with the result that manipulative promoters have had full liberty in diverting the funds. The Committee are of the view that this responsibility must be discharged by SEBI and the management of defaulting companies should be suitably punished.	1992, SEBI has been allowing the issuer companies to price their issue freely with appropriate disclosure for justification of price, on the basis that the market is the best judge. The rationale being that if the issue is fairly priced then the market will subscribe to it and if it is overpriced then the market will reject it. SEBI has also been strengthening the disclosure requirements to improve the quality of disclosure in the offer document by making suitable amendments to SEBI (Disclosure and Investor Protection Guidelines) (DIP Guidelines) 2000 from time to time. The Disclosure standards are now comparable to international standards. SEBI (DIP) Guidelines, 2000 provide for extensive disclosures of accounting ratios for justification of issue price viz earning per share pre issue, P/E pre-issue, average return on networth, net asset value per share etc. In order to further strengthen the disclosures for justification of price, in line with the recommendation of JPC for using industry benchmarks, SEBI Board has approved the amendments to SEBI DIP Guidelines to provide for additional comparison of accounting ratios of the issuer company with the peer groups (in the same industry). A circular amending the DIP Guidelines accordingly, has been issued. As regards stopping the public issue of dubious/ fraudulent promoters, SEBI has recently been empowered, vide the amendment dated 29/10/ 2002 to section 11 A of SEBI Act 1992, to inter-alia prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities. Further action under this section would be taken in appropriate cases.	

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139.	14.55	An Investors Association has made a plea for banning preferential allotment of shares, except for foreign collaboration, on the ground of being inherently anti-investor and being a powerful tool to manipulate market prices of shares. The Committee note that SEBI has since decided to bring preferential allotment of shares under the take-over code and will subject it to stringent discipline. This step should not eliminate preferential allotment of shares to legitimate purposes like giving equity stake to a technical collaborator but should be strictly watched to prevent misuse. The Committee hope that the Department of Company Affairs, as proposed, would expeditiously frame rules governing preferential allotment of shares under Section 81 of the Companies Act in consultation with SEBI.	Department of Company Affairs has informed that a Committee headed by Prof. J.R. Verma has been constituted to work out the modalities for framing and notifying rules concerning preferential allotment of shares. The report is under finalization and upon receipt of the report necessary rules will be notified. SEBI has informed that as regards the concerns of possible misuse of preferential allotment, SEBI has amended SEBI (Substantial Acquisition of shares and Takeover) regulations 1997 thereby withdrawing the automatic exemption(from open offer requirements) available to shares acquired on preferential basis beyond the specified limits. This amendment will prevent misuse of preferential allotment to acquire control or substantial stake in a listed company.	Based on the recommendations of Prof. Verma Committee on preferential allotment, the Department of Company Affairs is going to issue "Unlisted Public Companies (Preference Allotment) Rules".
140.	14.58	Investor education plays a vital role in enabling investors to take informed decisions and to ensure that their interests are protected. It appears that not much has been done in this area by SEBI except issuing some advertisements, circulation of a booklet and funding of seminars by Investor Associations. At present SEBI, DCA and RBI have their parallel independent investor awareness campaigns. The Committee feel that coordinated and organized efforts are needed to educate investors about their rights and responsibilities and to impart awareness about common pitfalls and mistakes that lead to investor losses and SEBI should be vested with this responsibility. Further, the Committee feel that to enable SEBI to undertake this task effectively, the Investor Education and Protection Fund established under Section 205 (c) of the Companies Act and Investors Education Resources of RBI should be shifted to SEBI and a joint campaign under the leadership of SEBI	For promoting investor awareness and education in securities market, SEBI has launched nation wide Securities Market Awareness Campaign which was inaugurated by the Hon'ble Prime Minister of India. The Campaign is held in various parts of the country. SEBI has set up an Apex Committee for this purpose which has wide representation of all securities market participants and regulators viz. RBI, DCA and MOF, as also of the Investors' Associations. The policy for the campaign is formulated by this Apex Committee. Recommendation related to shifting of investor protection fund established under Section 205 (c) of the Companies Act and investor education resources of RBI to SEBI the matter will be eximained keeping into mind the need for greater coordination amongst concerned agencies.	No change in the status.

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		be undertaken. The Committee also recommend that unclaimed/undistributed funds such as dividend, principal amount, interest, debenture amount and fixed deposits of any nature and instrument with limited companies, cooperative banks, banks mutual funds and insurance companies should be transferred to this Investor Education and Protection Fund.		
141.	14.59	The other important issue, which has been neglected by SEBI, pertains to resolution of investor complaints, whether against companies or other stock market intermediaries. Though the cumulative redressal rate of investor grievances against companies presented in SEBI's annual report has been above 90% during the last four years, the feed back received by SEBI from the investors indicates a redressal rate of just 41 to 43 percent in the years 1999-2000 and 2000-01. Liquidity is the essence of capital market and delay in redressal of the investor complaints militates against the liquidity. The Committee suggest that SEBI should examine the reasons for sluggishness in resolving investor complaints and must ensure that all investor complaints against the companies are resolved within 30 days. Failure in this regard requires to be punished with heavy financial penalties which both the Stock Exchanges and SEBI must be empowered to impose. Further, along with the public disclosure of quarterly financial results, companies must be directed to publish the number of investor complaints received, disposed off and lying unresolved at the end of each quarter. Such public disclosure will go a long way in pressurizing the companies to act with speed.	SEBI has informed that the cumulative rate of redressal of investor grievances referred to in the above recommendation has been over 90% during the last four years. To ascertain the redressal status of balance less than 10% of grievances, SEBI had sent reply paid post cards to investors. Based on the feedback under this exercise, it was noted that about 41 to 43% grievances of these investors (i.e. of the balance less than 10%) had in fact been redressed. Thus, the overall redressal rate is around 94% and the redressal has not been done by companies in about 6% cases. On the recommendation about empowering SEBI to impose financial penalties on companies which fail to redress investors' grievances, vide SEBI (Amendment) Act 2002, SEBI has been empowered u/s 15 C to do so. SEBI has already initiated action under section 15 C against 6 companies for their failure to redress investor grievances. However, this is an ongoing exercise. Accordingly, SEBI would continuously monitor and identify companies on the basis of an appropriate criteria to ensure action against them for their failure to redress grievances of investors. Regarding disclosure on details of investors grievances, there is already a provision for annual disclosure in the annual report of listed companies as a part of Corporate Governance requirement under clause 49 of listing agreement of the Stock Exchanges. Further, SEBI is shortly amending	SEBI has initiated action under section 15C against 12 more companies for their failure to redress investors' grievances. SEBI has issued directions to all the Stock Exchanges to amend Clause 41 vide circular no. SEBI/SMD/Policy/List/Cir-14/2003 dated April 17, 2003. Clause 41 provides as under: "Companies shall be required to publish along with quarterly unaudited/audited financial results, the number of investor complaints pending at the beginning of the quarter, received and disposed off during the quarter and lying unresolved at the end of the quarter with effect from the quarter ending on or after 30th June, 2003." Stock Exchanges have amended their listing agreement.

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			clause 41 of the listing agreement to include requirement of disclosure of 'the number of investor complaints received, disposed off and lying unresolved' on quarterly basis by companies.	
142.	14.60	There also appears to be a need to have an independent look at resolution of investor complaints against companies and market intermediaries. The Committee recommend that the concept of Ombudsman, which is already being used in the banking sector, should also be extended to the capital market. The issue of power, duties and responsibilities of the Ombudsman should be suitably worked out. As regards investor complaints against Brokers and other market intermediaries, arbitration councils at exchange level can be used for resolution of investor complaints. Such bodies would be independent of market intermediaries, particularly the brokers. The Committee are of the opinion that ultimately Special Courts dealing exclusively with the investor complaints of the financial sector would be a real solution to the expeditious disposal of complaints. Such courts could have jurisdiction for all kinds of financial irregularities, frauds in the case of the capital market, chit funds, NBFCs, plantation companies. Etc.	The SEBI (Amendment) Act, 2002 has enhanced the existing level of penalties prescribed for violations of the Act. Moreover, penalty for new violations has been included with a view to strengthen the existing mechanism to act as an effective deterrent to violations of the Act. SEBI has a mechanism to redress investor grievances. Courts can take cognizance of the offences under the Act only on a complaint of the Board. In addition to the efforts of SEBI, an Investor Redressal Cell is functional in the Department of Economic Affairs. Moreover, the Department of Company Affairs and all the Stock exchanges address investor grievances. Individual investors can be compensated upto the limits prescribed from the Investor Protection Fund set up under the bye-laws of the Stock exchanges. As regards concept of Ombudsman SEBI, has already prepared a draft concept paper on Ombudsman. The whole issue of powers, duties and responsibilities of Ombudsman is also being discussed in the Legal Advisory Committee set up by SEBI which is headed by a Supreme Court Justice Mr. Hon'ble Venkatachaliah. To the Venkatachaliah Legal Advisory Committee issue on investor grievance redressal has also been referred.	The SEBI (Ombudsman) Regulations 2003 have been notified on 21st August 2003. Regarding the arbitration councils, it was decided that the provision of the rules or articles of association, as the case may be, and bye-laws of the stock exchanges shall provide that in respect of dispute between members and non-members, the arbitration committees/arbitration councils / arbitration panels shall consist of persons other than members of the stock exchange who shall be nominated with prior approval of the Board. Accordingly, the exchanges vide circular SEBI/ SMD/SE/Cir- 19/2003/02/06 dated June 2, 2003 were directed to make necessary amendments to the rules or Article of Association / byelaws for the implementation of the above decision within two months from the date of circular. The exchanges were also directed to reconstitute the arbitration committees/ arbitration councils/ arbitration panels for the resolution of disputes between members and non-members, in the manner specified above, within a period of three months from the date of the circular.
143.	14.61	The Committee also recommend that a Committee consisting of representatives of SEBI, DCA, RBI (NBFC and Banking Division), Stock Exchanges, Investors Associations should be set up to develop an effective investor grievances redressal system.	The matter is under consideration.	The SEBI (Amendment) Act, 2002 has enhanced the existing level of penalties prescribed for violation of the Act. Moreover, penalty for new violations has been included with a view to strengthen the existing mechanism to act as an effective deterrent to violation of the Act.

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				SEBI has mechanism to redress investor grievances. Courts can take cognizance of the offences under the Act only on a complaint of the Board. In addition to the efforts of SEBI, an Investor Redressal Cell is functioning in the Department of Economic Affairs. Moreover, the Department of Company Affairs and all the Stock Exchanges address investor grievances. Individual investors can be compensated upto the limits prescribed from the Investor Protection Fund set up under the bye-laws of the Stock Exchanges. Further, SEBI Board has representation from RBI and the Government and is, therefore, independent enough to provide redressal of investors' complaints.
144.	14.62	SEBI need to act as the nodal agency to receive complaints of investors, transmit them to agencies concerned and follow them up for speedy action. An independent audit on redressal of investors' complaints by the regulators should be conducted periodically.	The matter is under consideration.	As per para 14.61
145.	14.63	The Committee learn that compensation payable from the Stock Exchange Investors' Protection Fund on account of defaults of brokers involve several months or even years to resolve although it is required to be resolved within 90 days. The Committee feel that the operation of the Investors' Protection Fund in Stock Exchanges needs to be streamlined.	SEBI has informed that it has taken up the review of the policy on Investor Protection Fund to increase its effectiveness.	Comprehensive Guidelines for Investor Protection Fund at the Stock Exchanges have been prepared and the same has been placed on the SEBI web site for public comments.
146.	14.64	The Committee note that at present insurance coverage from the Deposit Insurance and Credit Guarantee Corporation (DICGC) is available to depositors in Co-operative Banks. The Committee suggest that the feasibility of extending a similar scheme to depositors in NBFCs may be	Reserve Bank of India has constituted a Working Group consisting of members drawn from GIC, DIGCG, United India Insurance, ICICI Prudential, IRDA, MOF, Investors Grievances Forum and DNBS to examine the feasibility and desirability of extending deposit insurance scheme for deposits	RBI has informed that an Internal Working Group (IWG) was formed under the chairmanship of Shri N. Sadasivan, ED of Reserve Bank of India, to look into the feasibility of extending the DICGC insurance coverage scheme to the depositors of NBFCs. The IWG analysed all the facets of

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		examined. The amount of insurance coverage which stands at Rs. 1 lakh at present also needs to be raised at least to the level of Rs. 2 lakh.	with NBFCs. Government propose to introduce a new Bill on Bank Deposit Insurance in which raising insurance coverage from present limit of Rs.1 lakh will also be taken up.	the issue, with reference to risk profile of NBFC sector, level of regulatory compliance, problem of moral hazards and market discipline, need for regulatory parity vis-à-vis banks, international practices. The IWG recommended not to provide insurance cover to the deposits of NBFCs. A second Working Group (WG-II) with external members was constituted to examine and offer its views on the recommendation of IWG. The WG-II was headed by Shri R. Beri, Chairman-cum-Managing Director, New India Assurance Company Ltd. and there were senior level representatives from RBI, DICGC, Government of India, IRDA, United India Insurance Company Ltd., ICICI Lombard General Insurance Company Ltd. and Investors' Grievances Forum. The Group deliberated on the issues involved and agreed that there is no case for providing insurance cover to the deposits of NBFCs as recommended by the IWG. The WG-II concluded that the report of the IWG, which is well documented, has taken all the relevant issues into due consideration before arriving at the conclusion and its recommendations are acceptable. As such, the WG-II endorsed the report of IWG. However, certain dissenting remarks were recorded by the member, Shri Shailesh Ghedia, General Secretary, Investors' Grievances Forum, who maintained that insurance cover for NBFC deposits could be provided, either through DICGC or Insurance Companies, or by establishing a separate Insurance Corpus Fund financed by NBFCs / Government / RBI. Touching upon some of the aspects of protection of depositors' interest, the WG-II has recommended as under: "In all advertisements, prospectus and deposit application forms relating to deposits in NBFCs,

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				the fact that the deposits are not insured against defaults in the payment of interest / repayment of principal should be brought out clearly so that the depositors are aware of the absence of insurance cover and take an informed decision on this basis. RBI may look into the matter and ensure that wherever applicable, only the latest rating awarded by the rating agency, together with the date of rating, and the validity period is shown in the prospectus and the advertisements issued by NBFCs so that the depositors would be aware whether or not a given rating is still in force." Reserve Bank of India is in agreement with the recommendations of WG-II.
147.	14.65	A scrutiny of complaints handled by the Stock Exchanges viz., BSE and NSE reveals that the number of complaints against companies has been very much higher than against members of the exchanges. For instance, in the year 2000-01, complaints received by BSE against companies stood at 37,461 and those against members at 779. In NSE, the corresponding figures were 1,095 and 263. The same is true of the previous years. The Committee suggest that companies including "Z" category companies of BSE, which are deficient in their services to investors should be identified and strict action taken against them. Companies that deliberately ignore investor complaints need to be severely punished. The Committee recommend that legislative lacunae, if any, in implementing these suggestions should be removed.	SEBI has informed that vide SEBI (Amendment) Act, 2002 SEBI has been empowered u/s 15 C to impose financial penalty on companies for non redressal of investors grievances. Accordingly, SEBI has already started taking action against companies which have low rate of redressal of grievances. SEBI has initiated action under section 15C against 6 companies for their failure to redress investor's grievances. This is an ongoing process. Accordingly, SEBI would continuously monitor and identify companies on the basis of appropriate criteria to ensure action against them for their failure to redress grievances of investors. Further, SEBI has identified companies against which 1000 or more investor grievances are pending and companies against which 500 or more investor grievances are pending & the redressal rate is below 40%. Legal process for prosecution has been initiated for 18 such cases.	SEBI has initiated action under section 15C against 12 more companies for their failure to redress investors' grievances.
148.	16.5	The Committee are astonished to find that statutory auditiors are not required to comment on the quality of investment decisions and that	Under the provisions of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, the erstwhile Unit Trust of India has been bifurcated,	A scheme u/s 20 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 has been framed and copies have been sent to Lok Sabha/

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		these decisions are also not subject to any subsequent scrutiny. The Committee urge that this be done forthwith.	with effect from 1st February, 2003 into (a) the "specified undertaking" *viz.,* UTI-I, comprising of schemes mentioned in Schedule-I of the above Act and managed by Government appointed Administrator, and (b) the "specified company" *viz.,* UTI-II, comprising of NAV based schemes mentioned in Schedule – II of the above Act. The schemes with the UTI-1 shall be managed as per a Scheme to be framed under section 20 of the above Act which shall be laid before each House of the Parliament. Investment decisions of the UTI-I will be subject to the concurrent audit. UTI-II has been set up as per the SEBI regulations and the schemes of UTI-II shall be managed as per the SEBI Regulations."	Rajya Sabha Secretariats in the monsoon session for laying on the Table of both the Houses.
149.	16.21	The Committee note that the UTI management sanctioned inter-scheme transfers to boost the income and liquidity of some schemes, that these decisions were not taken by individual fund managers but by the Chairman and Executive Directors and that brokerage was paid on these transfers in violation of UTI's own guidelines. The Committee find Sh. Subramanyam's explanations regarding these transactions unacceptable and since these decisions were taken and ratified by him, he must be dealt with in accordance with law. The Committee also recommend that UTI take action against other officials who were party to sanctioning inter-scheme transfers in violation of the policy guidelines regarding inter-scheme transfers laid down by the Board of Trustees.	The Administrator of the Specified Undertaking of UTI has referred the matter to the internal Vigilance Cell for examining the role of officials who were party to sanctioning the Inter Scheme Transfers (IST) in violation of UTI's laid down policy guidelines on IST. Inquiry is in progress.	The internal Vigilance Cell of Specified Undertaking of Unit Trust of India is examining the transactions for the purpose of determining accountability of individual officials and frame charges as may be applicable. Considering the large number and complex nature of transactions involved that have to be scrutinized, Specified Undertaking of Unit Trust of India is expected to take some more time to complete the enquiry.
150.	16.28	The Committee recommend that UTI should conduct a review of instances of investments going into default within a short period of their sanction indicating possible deficiencies in the investment decision-making process, Investments and Fresh Exposures in companies	Administrator, UTI-I has informed that the matter has already been referred to the internal Vigilance Cell for reviewing the said instances of investments as reported by Tarapore Committee. Regarding formalizing a comprehensive investment-policy, the position has been clarified	Inquiry by the Internal Vigilance Cell is in progress.

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		classified as NPAs, Investments made in one company of the group while there was already a default in another company of the same group, payment of brokerage on inter-scheme transactions and applications for acquisition of shares at rates higher than the prevailing market rate as identified by the Tarapore Committee. As a part of this review, it should isolate instances where there has been a violation of administrative procedures or due diligence and conduct time bound departmental enquiries in such cases. The Committee also recommend that UTI formalize a comprehensive investment policy.	in relpy to Para 15.9	
151.	16.29	Based on their examination of written and oral evidence of the off market investment in the shares of DSQ Software and Numero Uno International, the Committee agree that both decisions were detrimental to the interests of UTI and its investors.	These cases were referred to the Advisory Board on Banking, Commercial and Financial Frauds (ABBCFF) in line with the recommendations of the Tarapore Committee. Further action is under consideration of the Government.	As recommended by JPC in para 16.37, cases of Secondary Market transactions of UTI in the shares of 89 companies identified by Tarpore Committee have been referred to SEBI for inquiry. DSQ Software and Numero Uno International are included in the list of 89 companies. Position regarding Numero Uno International has also been explained in reply to para 16.53.
152.	16.31	Though the ERC was set up in 1997, it is only during Shri Subramanyam's tenure from September 1998 that onwards the ERC's comments were overlooked. This is further compounded by the fact that in all these cases UTI's investment portfolio depreciated after the investment. In the specific case of Cyberspace Infosys, the ERC's comments were first accepted and subsequently reversed to clear the investment. Worse, there are cases (one of which, Numero Uno International, has been examined by Tarapore Committee in detail) in which the ERC's recommendations were not taken at all. In the light of this, the explanation of Sh. Subramanyam is not convincing. All this clearly indicates that the decisions to bypass the ERC's recommendations were not in the interest of UTI. Given the fact that in all these cases, UTI's	The Administrator of the Specified Undertaking of UTI has referred the matter to the internal Vigilance Cell for examining the role of officials who were party to sanctioning the inter scheme transfers in violation of UTI's laid down policy guidelines on IST. Inquiry is in progress.	Out of 15 companies identified under this category, vigilance inquiry in respect of 4 companies is completed. The companies are (a) Cyberspace Infosys, (b) Broadcast Worldwide, (c) Shonkh Technologies and (d) Padmini Polymer. On the basis of the vigilance findings, Departmental proceedings have been initiated against two of the officials involved viz. (Shri S.K. Basu, Executive Director [under suspension] and Smt. Prema Madhu Prasad, General Manager) and an ex-official [Shri S.K. Saha, Chief General Manager], a part of whose terminal benefits are withheld by the UTI Asset Management Company for their role in transactions in Cyber Space Infosys. Formal complaints have been lodged by the SUUTI with the Central Bureau of Investigation in respect of the transactions in Broadcast Worldwide, Padmini Polymers and Shonkh Technologies Ltd.

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		investments have recorded a decline, the decisions were prima facie wrong and possibly malafide. The Committee recommend that UTI conduct a departmental vigilance enquiry regarding the decisions where the ERC's views have not been taken or the ERC's views have been overruled to ascertain whether the decisions were taken after following proper procedures or were arbitrarily made without due diligence. The Committee recommend suitable action against officials who are found to be involved in arbitrary decision making. The Committee also recommend that the delegation of authority to make investment decisions in UTI should be decentralised and a comprehensive investment policy should be formalised.		
153.	16.37	The lack of a proper risk management system in secondary market operations, the absence of any laid down guidelines for dealer authority and stop-loss limits to liquidate loss making positions, the absence of any documentation of the rationale for secondary market transactions in particular shares, the concentration of power for both fund management as well as dealing room operations in one person and the lack of any security system to preserve the confidentiality of the dealing room's voice recording mechanism lead the Committee to conclude that the absence of laid down procedures for secondary market transactions allowed the UTI management to purchase and sell any quantity of any share in the secondary market without any accountability. The Committee recommend a thorough enquiry of the secondary market transactions in the shares of the 89 companies identified by the Tarapore Committee. This enquiry may be conducted by SEBI for the period 1992-1993 to 2000-2001 by looking at these transactions at the	The matter is under consideration of the Government.	Cases of Secondary Market transactions of UTI in the shares of 89 companies identified by Tarapore Committee have been referred to SEBI for enquiry.

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		level of UTI's dealing room and at the level of individual brokers and responsibility be fixed for any incidents of broker-UTI dealer nexus, front running) benchmarking, etc. As the lack of any documentation of secondary market transactions will make an audit trail difficult, the Committee desire that SEBI devise suitable mechanisms for identifying wrongdoing. Steps may be taken thereafter by SEBI and UTI to take action against the wrongdoers including referring appropriate matters to an independent investigative agency.		
154.	16.47	The Committee deplore the imprudent manner in which stocks were purchased and retained, leading to a host of malpractices which require comprehensive audit and pre-investigation by a suitably empowered body before proceeding to the investigative level. The Committee are satisfied with the process adopted by UTI in respect of the investment decisions in the case of 19 companies. The Advisory Board on Bank, Commercial and Financial Frauds should expeditiously take a final decision on these. The Committee recommend that the procedure suggested by the Tarapore Committee also be adopted in the case of investment decisions in the remaining 70 cases, as this meets the ends of natural justice. The Committee desire that the entire process should be completed within six months of the presentation of this report to Parliament. There is no cause for further delay in this matter.	The matter is underconsideration of the Government.	As in para 16.37
155.	16.50	The Committee put on record, their disapproval of the decision making process, rather the lack of it, in this private placement. The Committee conclude that UTI's investment in sanctioning Rs 32.08 crore towards the purchase of 3,45,000 shares of Cyberspace (of a face value of Rs. 10)	The Administrator of UTI-I has informed that the matter has already been referred to the internal Vigilance Cell for a time bound departmental vigilance enquiry in the instant case as recommended by JPC. The Vigilance enquiry is in progress.	The Vigilance enquiry has since been completed and based on the findings, the Administrator of the Specified Undertaking of the UTI has ordered departmental action against Shri S.K. Basu, Executive Director (under suspension) and other officials. A copy of the internal vigilance report

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		at a price of Rs.930 per share was irregular and violated norms of prudential decision making and notwithstanding Shri Subramanyam's denials, possibly influenced by extraneous considerations. The Committee are aware that criminal proceedings in this matter are pending, but see no reason why departmental proceedings should not be initiated simultaneously in case of the officials concerned. In this regard RBI's recent circular dated 3/5/2002 addressed to all commercial banks regarding bank frauds, specifically states, "...departmental action against officials involved in bank frauds should invariably be initiated simultaneously with criminal action with a view to ensuring that internal fraudsters are immediately punished even if criminal cases against them drag on. At present, there is a tendency among banks to wait for the outcome of criminal action against officials involved for taking departmental action. In view of the salutary effect of this principle, we advise that you initiate departmental action against officials involved in fraud cases simultaneously with criminal action." The Committee are of the opinion that UTI should also follow this principle, and initiate a time bound departmental vigilance enquiry in this matter. As recommended earlier this should also be done in all cases where ERC's recommendations were not sought or its recommendations were overruled.		has also been forwarded to the CBI for their information and necessary action. Shri M.L. Pendse, former Justice, Bombay High Court & retired Chief Justice, Karnataka High Court has been appointed as Enquiry Officer and the enquiry proceedings under the Staff Rules are in progress.
156.	16.53	The Committee highlight this transaction as another serious violation of norms in UTI and accordingly recommend investigation into the entire transaction, including possible extraneous considerations which might have actuated it. Moreover, the Committee deplore the failure of UTI to pursue recovery proceedings against a corporate, which sought investment from UTI on	Legal notice has been issued to M/s. Numero Uno by UTIMF for recovery. As regards civil proceedings against the ex-Chairman and officials of the Trust, UTI is seeking legal opinion of an external legal specialist and further action would be considered based on their advice.	UTI AMC (Pvt.) Ltd. and the Administrator, Specified Undertaking of the Unit Trust of India (SUUTI) have filed petition before the Debt Recovery Tribunal, Mumbai against Numero Uno international and others for recovery of amount. Similarly, civil suit has been filed in the High Court of Mumbai against the ex-Chairman Shri P.S. Subramanyam. Both the matters have been filed

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		the basis of an undertaking that it would compensate UTI for any loss in the transaction. The Committee recommend that UTI should vigorously pursue all civil and criminal avenues to recoup its investment in Numero Uno International in a time bound manner. UTI should review the role of both Numero Uno International as well as the company that arranged the transaction and take action against them in case there is evidence that they misrepresented the true affairs of the company while seeking investment from UTI. The Committee also recommend that UTI should take immediate steps to hold the concerned officials who processed this transaction accountable and take action against such officials. Besides other actions, law permitting, UTI should initiate civil proceedings of damages against its concerned officials including the then Chairman to recover the losses sustained by its unit holders for a decision which they took without due diligence and in violation of UTI's norms and procedures.		on July 24, 2003. Based on the initial findings of the vigilance enquiry, further civil action for damages has been approved by the Administrator against other officials viz. ex-official Shri Basudeb Sen, Executive Director, Shri S.K. Basu, Executive Director (under suspension) and ex-official Shri S.K. Saha, Chief General Manager who share responsibility for putting through the transaction.
157.	16.56	The Committee are of the view that UTI cannot escape its responsibility to investors in its guaranteed assured return schemes. Those responsible for launching these assured return schemes must be held accountable for their actions and proceeded against. Moreover, the Committee does not find the position taken by IDBI as guarantor of UTI to be in consonance with the canons of sound corporate governance. The Executive Committee of the Board of UTI which sanctioned these schemes in 1996-97 and 1997-98 in violation of SEBI guidelines comprised Chairman, UTI appointed with the concurrence of IDBI; CMD, IDBI as its nominee; Executive Trustee appointed by IDBI; and another trustee functioning as the IDBI nominee. It is therefore	The Administrator of the Specified Undertaking of the Unit Trust of India has informed that UTI fully acknowledges its responsibility towards investors of its guaranteed return schemes and will fully pursue all available options to satisfy claims of investors as they accrue. The shortfall in these schemes arose on account of various factors such as (i) decline in equity values due to a general decline in the stock market. (ii) interest rate also declined during this period (iii) economic slowdown, income distribution tax and increase in NPAs also affected the NAVs of these schemes. As part of the restructuring package announced by the Government, the shortfall, if any, on maturity in assured return schemes would be met by the Government.	The recommendation of JPC has been brought to the attention of IDBI. Also, the list of all Assured Return Schemes launched by the erstwhile UTI along with the names of Trustees who participated in the Board/Executive Committee meetings where the schemes were approved, have been furnished to IDBI on April 04,2003. IDBI has stated that the UTI Act did not confer any powers on IDBI to take action against the Trustees appointed by IDBI for their acts of commission or omission.

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		clear that all functionaries who participated in this decision represented IDBI. Therefore the Committee cannot accept IDBI's claim that UTI did not frame its assured return schemes within the knowledge of IDBI as guarantor. IDBI should hold its appointees responsible for not framing UTI's assured return schemes in compliance with SEBI guidelines.	All members of the Executive Committee and Board during the period 1996-97 and 1997-98 have long since relinquished their office. None of them are receiving any continuing monetary benefits from UTI. UTI had taken up with IDBI regarding action on the JPC recommendations. IDBI, in its reply, has mentioned that it had no role in the transactions of business of UTI. IDBI has also advised UTI to ascertain whether the Trustees could claim protection under provisions of Section 37 of the UTI Act. Further action in this regard will be taken after obtaining appropriate legal opinion.	
158.	17.14	The Committee concur with the observation of the Tarapore Committee that the quantum jump in the inter scheme transfers from/to US-64 in the last three years raises concerns about the bonafides of such transactions and whether they were for window dressing the results of different schemes.	As against 16.21	As against para 16.21
159.	17.17	It is however, inexplicable, how UTI allowed the equity component of the scheme to actually increase in the light of this recommendation. For the debt equity ratio to change so significantly from June 1998 onwards in favour of equity, thereby exposing the scheme to market fluctuations must rank as one of the very disastrous decisions of the UTI Chairman, Executive Committee and the Board of Trustees.	The matter is under consideration of the Specified Undertaking of Unit Trust of India and the Government.	No change in the status.
160.	18.18	Having gone through the various enquiry reports and depositions, the Committee are of the view that: (i) The unit holders of UTI have been subjected to a loss of Rs. 21.40 crore as on 28.6.2002 on an investment of Rs. 25.13 crore made by UTI based on a decision which violated norms of prudent decision making.	Specified Undertaking of the Unit Trust of India is pursuing the matter with Central Bureau of Investigation. Regarding Shri B.G. Daga, the matter was discussed by the Board of Directors of CDSL in its meeting held on 4.9.2002 and the board was of the view that either Shri Daga steps down as MD of CDSL or in case of his reluctance or refusal to do so, the CDSL board in terms of his	Shri. B.G. Daga has been removed from the post of MD by CDSL shareholders in the extra ordinary general meeting held on 13.6.2003. CBI has reported that the telephone records of Shri P.S. Subramanyam, Shri M.M. Kapur and Shri B.G. Daga, the concerned officials of UTI have been examined. Call details and subscriber particulars of Delhi and Kolkata numbers, which

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		(ii) Shri P.S. Subramanyam, the then Chairman and late Shri M.M. Kapur, Executive Director approved the transaction which any prudent person could have foreseen would lead to a loss to UTI. The Committee recommend that UTI and the Ministry of Finance follow up and expedite all the proceedings mentioned in para 18.17, which were initiated as a result of their enquiry into UTI's off market transaction with CSE. In this connection, the Committee suggest that the investigative agencies examine the telephone records of Shri P.S. Subramanyam and others concerned to ascertain who was in touch with whom on 9.3.2001.	employment/engagement serve upon him a notice or terminating his services. Thereafter, CDSL sought the opinion of Shri Y.V. Chandrachud, former Chief Justice of India who opined that the Board of CDSL has no jurisdiction in initiating action against its MD as proposed by CDSL and that such decision will have to be taken by the shareholders in the General Meeting. Government has requested the Administrator of the Specified Undertaking of the UTI to take up the matter with the shareholders of CDSL for convening an extra ordinary meeting for taking a decision in the matter. Since BSE, which is a principal shareholder with 45% equity in the CDSL is not taking active interest in the matter, the Government has requested Chairman, SEBI to intervene in the matter. CBI has informed that the complaint received from UTI regarding purchase of 13.30 lac shares of DSQ Software from CSE is under scrutiny.	were in touch with these numbers on 9.3.2001 were requisitioned. Most of these details have been collected. Call details and subscriber particulars of Delhi telephone Nos. 4105084 and 6497902 are yet to be received from MTNL, Delhi. The details of remaining telephones of Kolkata are yet to be received. The matter is being followed up through SP, CBI, EOW, Delhi and SP, CBI, EOW, Kolkata.
161.	18.19	The Committee have had occasion to examine the CSE, Stock Holding Corporation of India (SHCIL), SEBI, UTI and their officials in different sittings while looking at the crisis on CSE. The share transaction funding schemes of SHCIL were extensively used by one of the defaulting CSE brokers, Shri Harish Chandra Biyani to fund transactions in the shares of DSQ group. As there was prima facie evidence before the Committee that SHCIL had violated prudential norms and internal procedures to facilitate these transactions, SEBI was asked by the Committee in June 2002 to prepare an inspection report focusing on SHCIL's funding transactions as its earlier report of May 2001 was silent on these aspects. The findings of SEBI's report have been discussed in detail in Chapter IV of Part I of the report. The Committee have in sifting through the	SEBI has ordered investigation to ascertain as to whether there was any nexus among SHCIL officials, Dinesh Dalmia, promoter of DSQ Industries, Biyani Group in relation to the transactions done by Biyani Group through SHCIL and more particularly to ascertain whether any provisions of the SEBI Act, 1992 and various Rules and Regulations made thereunder have been violated. Investigation is currently in progress.	As against para 4.70

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		reports, depositions and evidence placed before them, observed a disturbing nexus which stands established by the following facts: 1 Shri P.S. Subramanyam was Chairman of UTI as well as SHCIL at the time of the transaction. UTI is one of the promoters of SHCIL. 2 Shri B.G. Daga was the Executive Director of UTI as well as UTI's representative on the Board of Directors of SHCIL. 3 Shri H.C. Biyani and his related entities were the brokers involved in both transactions. 4 As per the report of SHCIL's Vigilance Advisor and later confirmed in SEBI's inspection report, Shri H.C. Biyani is the broker of Shri Dinesh Dalmia who is the main promoter of the DSQ group. 5 As per the report of SHCIL's Vigilance Advisor, oral evidence tendered to the Committee and later confirmed by SEBI in its inspection report, Shri Dinesh Dalmia lobbied with SHCIL to fund the transaction involving the scrip of DSQ Industries. 6 The transactions of both SHCIL and UTI involved the shares of DSQ group. 7 These transactions took place on CSE in the first and second week of March 2001. 8 UTI had the choice of buying either the scrip of DSQ Software or HFCL but went ahead and bought the former even though there was a specific recommendation by its Equity Research Cell that it should sell its existing holdings of the share. 9 Shri H.C. Biyani and related entities entered into circular transactions on CSE in the scrip of DSQ Industries. They obtained funding from SHCIL through its sell and cash scheme by misrepresenting these transactions as being		

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		at arms length. The transactions were later annulled by CSE as on enquiry they found that they were between entities belonging to the same group of persons and appeared to be accommodation transactions. 10 Another large transaction in the scrip of DSQ Industries undertaken by H.C. Biyani and his related company was funded by SHCIL through its cash on payout scheme. SHCIL violated its procedures to facilitate this transaction as well as Shri H.C. Biyani's subsequent discounting of SHCIL's postdated cheque by issuing letters of comfort to Induslnd Bank, which had never been done in any other transaction. 11 According to the SEBI inspection report, companies linked to the promoter of DSQ group provided the shares of DSQ group to Sh. Biyani through off market deals, which he then traded on the CSE. 12 Both UTI and SHCIL's decisions were found to be imprudent, in violation of laid down procedures and have extracted a heavy price in terms of financial loss and loss of reputation and customer confidence. 13 The damage to the vital dealing room tapes recording UTI's transaction with CSE is suspicious.		
162.	18.20	The Committee see that all these events point to a close nexus between the corporate promoter, defaulting brokers acting on behalf of the promoter, broker directors on CSE and public officials in SHCIL and UTI. The Committee recommend that the following consequential steps may be taken: (i) CBI should expedite its enquiries and subsequent action on the complaint filed by UTI in the matter.	(i) CBI has informed that the complaint received from UTI regarding purchase of 13.30 lac shares of DSQ Software from CSE is under	(i) CBI has reported that the telephone records of Shri P.S. Subramanyam, Shri M.M. Kapur and Shri B.G. Daga, the concerned officials of UTI

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				scrutiny. CBI has also received interim report of inspection of M/S Stock Holding Corporation of India Ltd. conducted by SEBI which is also under scrutiny.	have been examined. Call details and subscriber particulars of Delhi and Kolkata numbers, which were in touch with these numbers on 9.3.2001 were requisitioned. Most of these details have been collected. Call details and subscriber particulars of Delhi telephone Nos. 4105084 and 6497902 are yet to be received from MTNL, Delhi. The details of remaining telephones of Kolkata are yet to be received. The matter is being followed up through SP, CBI, EOW, Delhi and SP, CBI, EOW, Kolkata.
		(ii) The Committee have been informed by the IDBI, one of the promoters of SHCIL, that its nominee is currently the Chairman of SHCIL and that it has decided to carry out a special investigation of SHCIL's role, fix accountability and punish the guilty. The Report has now been received and the Committee desire that it should be followed up expeditiously.	(ii)	The matter is under consideration of IDBI.	As against para 4.70.
		(iii) SEBI's inspection report on SHCIL has pointed out a number of irregularities. The Committee desire that investigation be concluded without delay and suitable action taken against the concerned persons.	(iii)	The matter is under consideration of SEBI.	(iii) As against para 4.70.
		(iv) The Committee desire that RBI should institute an enquiry regarding the discounting of post dated cheques issued by SHCIL to Biyani group by Induslnd Bank. It should direct Induslnd Bank to take appropriate administrative measures if it finds any procedural or regulatory violations. RBI's enquiry should also look at the role of Induslnd Bank in financing all the brokers responsible for the payment crisis on CSE. RBI should also institute changes in the procedure for discounting post-dated cheques if it detects any legal or procedural ambiguities. Indeed this action should have commenced.	(iv)	One Man Committee Shri B.M.Bhide, Ex DMD, SBI has looked into the position regarding IndusInd Bank Ltd. and has submitted a report on February 14, 2003. The report is under examination in RBI.	Regarding the report of One Man Enquiry Committee under the chairmanship of Shri B.M.Bhide, the position has been elaborated in reply to para 5.212. 2. IDBI has on the basis of its investigation, removed the then MD of Stock Holding Corporation of India Ltd. (SHCIL) and appointed new MD/CEO. Enforcement Directorate's investigation into DSQ group have been completed. Letter Rogatory has been issued by court in relation to FERA complaint. Investigations in relation to FEMA period transactions, have been completed with the issuance of a SCN to the company, Shri

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				Dinesh Dalmiya and others. Investigations in relation to DSQ Biotech have been completed and two SCNs have been issued.
		(v) Chairman, SEBI should institute an independent enquiry regarding whether there was any improper conduct by any SEBI official deputed by it to handle the payment crisis at CSE, specifically the antecedents of the deputed official, whether he was sent in the normal course of the responsibilities assigned to him, and if he had any role in facilitating UTI's off market purchase from CSE. Chairman, SEBI should take appropriate administrative action on the basis of the report.	v) The matter is under consideration of SEBI	(v) The Officer concerned has filed his explanation. Investigation is under progress.
		(vi) SEBI, Enforcement Directorate and DCA have already instituted enquiries in case of the DSQ group, which are at different stages. These should be expedited.		(vi) Enforcement Directorate's investigation into DSQ group have been completed. Letter Rogatory has been issued by court in relation to FERA complaint. Investigations in relation to FEMA period transactions, have been completed with the issuance of a SCN to the company, Shri Dinesh Dalmiya and others. Investigations in relation to DSQ Biotech have been completed and two SCNs have been issued.
		The Committee hope that swift action as detailed above will send the right signals to the stock markets and other financial institutions.		
163.	19.5	The Committee agree that the Board of Trustees must accept constructive responsibility for going along with the UTI management's suggestions for unrealistic dividend rates in these years. The Committee however also recognize the milieu of corporate governance in UTI, the concentration of powers in the hands of the UTI executive, the fact that it was the UTI management which proposed these dividend rates and the compulsions not to lower dividends to avoid large redemptions in the US-64 scheme in this period. Keeping these in view, the Committee are particularly exercised over the role of the Board of	The matter is under consideration of Specified Undertaking of Unit Trust of India and the Government.	No change in the status.

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		Trustees which decided the dividend for the year 1995-96, because the UTI management had specifically proposed a dividend of 15% and a bonus of 1:8 for the US-64 scheme in this year (which according to their calculations gave the unit holders an overall benefit of over 26% for the year and a yield of around 20%) and had also pointed out that anything higher than this would be detrimental to the liquidity and the NAV of the scheme. As the minutes are totally silent about why the suggestion of the UTI management was not accepted and why a much higher dividend of 20% and a bonus of 1:10 was approved, the Committee can only conclude that this may have been done so that the dividend was not too unfavourable when compared to the previous years' dividend of 26%. This still does not explain what prompted the Board of Trustees to overturn the recommended dividend and declare a much higher one when the management of UTI had already taken all factors into account and when in all other years the Board of Trustees had accepted the recommendations made to them. This activism on the part of the trustees was disastrous for the scheme as the dividends were distributed from the reserves. The roots of the problems of US-64 lie in these imprudent decisions of the Board of Trustees for which they must bear responsibility.		
164.	19.13	Whatever may have been the intention of the government in withdrawing its nominee from the Board of Trustees, the stated purpose of letting the institution function autonomously and having a hands off policy did not, in retrospect, bring about any improvement in the functioning of UTI, as subsequent events like the distribution of dividends from reserves and the disastrous investment decisions show. The Committee note that in two of the years when dividend was	The matter is under consideration of SUUTI and the Government.	No change in the status.

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		distributed in excess of the income for the year, i.e. 1994-95 and 1995-96, there was a government nominee on the Board. It therefore seems to the Committee that the presence or absence of a government nominee on the Board of UTI did not result in improvement or deterioration of the functioning of UTI.		
165.	21.9	The Committee would like to put on record the following observations and recommendations:		
		(i) The financial institutions that have been chosen to sponsor UTI-II have in the past sponsored their own mutual funds. Also, both LIC and SBI previously had their nominees on the Board of Trustees of UTI and the Committee have elsewhere commented on the conflict of interest and the need for these institutions to separate themselves from UTI. The Committee therefore recommend that the institutions chosen to sponsor UTI should be those that have not sponsored their own mutual funds. In case this is not found feasible, the Government must spell out in detail both through legislation and through policy guidelines as to how it proposes to insulate UTI-II from the inherent conflict of interest as regards these institutions.	Draft guidelines to avoid conflict of interest between the sponsors and UTI-I and UTI_II are under consideration of SEBI and the Government.	Guidelines for avoiding the conflict of interest between UTIMF and the sponsors of UTI MF have been issued by SEBI on 2.6.2003.
		(ii) There are a number of civil, criminal, departmental and vigilance proceedings pending in UTI with regard to the irregularities in its investment decisions. The Committee have also recommended certain actions to enforce accountability for previous misdemeanors. The Committee recommend that legislation regarding UTI as well as Government policy should take these proceedings into account so that they are concluded expeditiously and are not hampered by the fact that the UTI Act of 1963 has been repealed.	Section 21(c) of the Unit Trust of India (Transfer of Undertaking & Repeal) Act, 2002 provides that notwithstanding repeal of UTI Act, 1963 any action done or purported to have been done under the repealed Act shall, in so far, it is not inconsistent with the provisions of the Act, be deemed to have been done or taken under the corresponding provisions of this Act . This section takes care of the civil, criminal, departmental and vigilance proceedings pending in the erstwhile UTI with regard to irregularities in its investment decisions.	Pending legal actions continue to be pursued.

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		(iii) The Government has stated that a Government appointed administrator and a team of advisors nominated by the Government will manage UTI-I. It needs to be pointed out that even in the case of the assured return schemes and US-64 which are under the purview of UTI-I, day to day decisions have to be taken regarding buying, holding and selling of stocks. This is not an activity which can be conducted by Government officials because the procedures and processes in Government do not allow quick commercial decisions. The Committee therefore recommend that the schemes in UTI-I should also be managed by independent fund managers preferably from UTI-II through a fee based relationship. The management fee can be worked out keeping in mind that the Government has already provided a huge bail out to UTI.	The schemes of UTI-I are to be managed by a Government appointed Administrator and a team of Advisors in accordance with a Scheme to be framed under section –20 of the Unit Trust of India (Transfer of Undertaking and Repeal), Act, 2002. The scheme will be laid on the table of each of the house of Parliament.	As against para 16.5
		(iv) UTI can derive optimum value for equity holdings across schemes that constitute significant portion of the controlling stake of a company by selling them through strategic or private placement. The Committee recommend that a suitable system be devised so that such equity holdings of UTI-I and UTI-II are divested together so that maximum benefit can accrue to the investors in these funds.	The matter is under consideration of SUUTI and the Government.	No change in the status.
		(v) Government has stated that a professional Chairman and Board of Trustees will manage UTI-II and that advertisements for appointment of professional managers will be issued. The Committee recommend that it should be ensured that the selection of the Chairman and professional managers of UTI-II should be done in a transparent manner, whether they are picked up from the public or private sector. If an official from the public sector is selected,	The matter is under consideration of SUUTI and the Government.	No change in the status.

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		in no case should deputation from the parent organisation be allowed and the person chosen should be asked to sever all connections with the previous employer. This is imperative because under no circumstance should there be a public perception that the mutual fund schemes of UTI-II are subject to guarantee by the Government and will be bailed out in case of losses.		