



**Government of India  
Ministry of Finance**

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

**December 2004**

## 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 has submitted the Action Taken Report to the Parliament on 9.5.2003. First Progress Report was presented in the Lok Sabha/Rajya Sabha on 12.12.2003 and 16.12.2003 respectively. Second Progress Report was presented to the Parliament on 10.6.2004.

2. JPC had made 276 recommendations/ observations/conclusions. In the ATR presented to the Parliament during May 2003, final response of the Government in respect of 111 recommendations had been given. In the Progress Report presented during December, 2003, action was completed on 39 recommendations. In the Second Progress Report presented during June, 2004, action was completed on 36 recommendations. In the Third Progress Report action on further 18 recommendations has been completed which brings down the number of pending recommendations to 72.

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**THIRD PROGRESS REPORT (DECEMBER 2004) OF THE ACTION TAKEN PURSUANT TO THE  
RECOMMENDATIONS OF JOINT PARLIAMENTARY COMMITTEE ON STOCK MARKET SCAM  
AND MATTERS RELATING THERETO – 2002.**

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
1.	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.	<p><b>As reported in May, 2003</b></p> <p>SEBI had conducted investigations into the alleged market manipulations. Based on investigations, SEBI had taken actions as given below:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. SEBI has cancelled the certificate of registration granted to Triumph International Finance India Ltd to act as a stock broker.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ol>	<p><b>DSQ Software</b></p> <p><b>Action against promoters</b></p> <p>SEBI has issued the following directions vide two Orders dated 9.9.04 to (1) DSQ Software Ltd., and Shri Dinesh Dalmia (2) Other directors of the company with immediate effect.</p> <p>Shri Dinesh Dalmia is prohibited from buying, selling or otherwise dealing in securities in any manner, directly or indirectly, for a period of 10 years and is also prohibited from holding any office of responsibility in a company/entity or other institution associated with the securities market for a period of 10 years.</p> <p>DSQ Software Limited is prohibited from accessing the securities market and buying, selling or otherwise dealing in securities in any manner, directly or indirectly in securities for a period of 10 years.</p> <p>Shri Dinesh Dalmia and DSQ Software Ltd. shall deposit a sum of Rs.630 crore (being the value of 1.30 crore shares calculated by taking into account the average price of the scrip in the relevant settlement) within a period of 45 days in a separate escrow account to be maintained with a nationalized bank, till completion of investigation by various Police agencies including Calcutta Police and Central Bureau of Investigation.</p> <p>Shri Dinesh Dalmia shall buy 1.30 crore shares of DSQ Software Ltd, circulated into the secondary market within a period of 45 days and retain the same in a separate demat account to be opened for the purpose, till permission for reduction in capital is obtained by the company from the competent authority.</p> <p>The amounts deposited in the escrow account</p>

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			<p>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:</p> <ol style="list-style-type: none"> <li>1. Classic Credit Ltd</li> <li>2. Shri Kirtikumar N. Parekh</li> <li>3. Shri Ketan V Parekh</li> <li>4. Shri Kartik K Parekh</li> <li>5. Panther Fincap &amp; Mgt. Services Ltd.</li> <li>6. Shri Navinchandra Parekh</li> <li>7. Luminant Investment Private Ltd</li> <li>8. Shri Arun J Shah</li> <li>9. Chitrakut Computers Pvt. Ltd</li> <li>10. NH Securities Ltd.</li> <li>11. Shri V N Parekh</li> <li>12. Classic Shares &amp; Stock Broker Ltd</li> <li>13. Shri Kaushik C Shah</li> <li>14. Shri Mukesh Joshi</li> <li>15. Saimangal Investrade Ltd</li> <li>16. Classic Infin Ltd</li> <li>17. Panther Investrade Ltd</li> </ol> <p>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</p> <ul style="list-style-type: none"> <li>• Orders were issued under section 11B of SEBI Act against DSQ Software Ltd and Shri Dinesh Dalmia, which is as given below: <ul style="list-style-type: none"> <li>➤ DSQ to cancel this alleged acquisition of Fortuna Technologies being done on swap basis after following the procedure laid down under the Companies Act.</li> <li>➤ DSQ be prohibited from accessing capital market for a period of one year or completion of investigation and action thereupon whichever is later.</li> </ul> </li> </ul>	<p>and shares retained in the demat account shall not be withdrawn without prior permission in writing from SEBI.</p> <p>Mohammed Ghulam Ghouse, B.K. Pal, K.M. Venkateshwaran, and Brig(Retd.) V.M. Sundaram directors of DSQ Software during the material period are prohibited from buying, selling or dealing in securities, in any manner, directly or indirectly for a period of 5 years and also prohibited from holding any office of responsibility in a company/ entity or other institution associated with the securities market for a period of 5 years.</p> <p>Shri Dinesh Dalmia, DSQ Software Ltd. and other directors viz. Mohammed Ghulam Ghouse, B.K. Pal, K.M. Venkateshwaran and Brig. (Retd.) U.M. Sundram have filed appeal against the abovesaid two SEBI orders dated 9.9.2004 at Securities and Appellate Tribunal (SAT). The appeal has been admitted and the hearings will commence from 24.11.2004.</p> <p><b>Adjudication against the following entities are completed and penalty collected:</b></p> <table border="1"> <thead> <tr> <th>Name of entities</th> <th>Penalty levied</th> <th>Collection details</th> </tr> </thead> <tbody> <tr> <td>Dinesh Kumar Singhania</td> <td>Rs.25,000</td> <td>Collected in the month of August 2004</td> </tr> <tr> <td>Arihant Exim Scrip Pvt. Ltd.</td> <td>Rs.15,000</td> <td>Collected in the month of August 2004</td> </tr> </tbody> </table> <p>SEBI vide Order dated 4.10.04 prohibited the following entities/persons from accessing the securities market and dealing in securities for a period of 10 years with immediate effect:</p> <ol style="list-style-type: none"> <li>a) New Vision Investment, UK,</li> <li>b) Dinesh Dalmia Technology Trust,</li> <li>c) Softec Corporation Trust,</li> <li>d) New Vision Investment Private Ltd.,</li> </ol>	Name of entities	Penalty levied	Collection details	Dinesh Kumar Singhania	Rs.25,000	Collected in the month of August 2004	Arihant Exim Scrip Pvt. Ltd.	Rs.15,000	Collected in the month of August 2004
Name of entities	Penalty levied	Collection details											
Dinesh Kumar Singhania	Rs.25,000	Collected in the month of August 2004											
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SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress						
			<ul style="list-style-type: none"> <li>➤ 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.</li> <li>· 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</li> <li>· First Information Report (FIR) filed against DSQ Software, Directors of DSQ Software including Shri Dinesh Dalmia</li> </ul>	<ul style="list-style-type: none"> <li>e) DSQ Holdings Ltd.,</li> <li>f) Hulda Properties &amp; Trades Ltd.,</li> <li>g) Powerflow Holdings Pvt. Ltd,</li> <li>h) DSQ Industries Ltd. and</li> <li>i) Mrs. Radha Dalmia</li> </ul>						
			<ul style="list-style-type: none"> <li>· 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. <ul style="list-style-type: none"> <li>· Ramesh Gelli</li> <li>· Premkala Gelli</li> <li>· Jayant Madhav</li> <li>· Girrish Gelli</li> <li>· Niraj Gelli</li> <li>· Sridhar Subasri</li> <li>· Annapurna Sridhar</li> <li>· Anjanaya Traders Pvt. Ltd.</li> <li>· Chiranjeevi Traders Pvt. Ltd</li> <li>· Gajanan Financial Services Pvt. Ltd.</li> <li>· Gajmukh Investments Pvt Ltd.</li> <li>· Kadrish Finance &amp; Investments Pvt. Ltd.</li> <li>· Bombay Mahalakshmi Traders Pvt. Ltd.</li> </ul> </li> <li>· Actions against Aftak Infosys promoters Adjudication order dated July 31, 2002 passed against promoters of Aftak Infosys, levying penalty of Rs. 5.50 lakh <ul style="list-style-type: none"> <li>· Ranjit Dhuru</li> </ul> </li> </ul>	<p>Action against the following broker has been taken who had indulged in synchronized transactions in the shares of DSQ Software Ltd.</p> <table border="1"> <thead> <tr> <th>Name Broker</th> <th>SEBI Order Date &amp; w.e.f.</th> <th>Suspension period</th> </tr> </thead> <tbody> <tr> <td>Millennium Equities Ltd.</td> <td>13.09.04 w.e.f. 04.01.2004</td> <td>6 months</td> </tr> </tbody> </table> <p><b>DSQ Industries Ltd. Against promoters</b> Final Order is being issued.</p> <p><b>Other Entities</b> Final Orders against Arihant Exim Scrip Pvt. Ltd. and Doe Jones Investments and Consultants Pvt. Ltd. are being issued. Ketan Parekh entities have been banned for a period of 14 years for dealing in securities market for market manipulation in various scrips. Prosecution has been filed.</p> <p><b>Enquiry proceedings against the Brokers</b> Enquiry has been completed against 5 broking entities namely,</p> <ol style="list-style-type: none"> <li>1. Amrut Gopalji Thacker</li> <li>2. Titan Stock Broking</li> <li>3. Niraj Balasaria</li> <li>4. SMIFS Securities Ltd.</li> <li>5. Mehta &amp; Ajmera (Already suspended for one year on 4.3.04)</li> </ol> <p>Final Orders are being issued.</p> <p><b>Padmini Technologies Ltd. (PTL) Against PTL and its whole time directors</b> Adjudication proceedings (u/s 15A of SEBI Act) initiated for non compliance of summons have</p>	Name Broker	SEBI Order Date & w.e.f.	Suspension period	Millennium Equities Ltd.	13.09.04 w.e.f. 04.01.2004	6 months
Name Broker	SEBI Order Date & w.e.f.	Suspension period								
Millennium Equities Ltd.	13.09.04 w.e.f. 04.01.2004	6 months								



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			<ul style="list-style-type: none"> <li>· Nitin Shukla</li> <li>· Ashutosh Humnanbadkar</li> <li>· Mukul Dalal</li> <li>· Pramod Broota</li> <li>· Charuhas Khopkar</li> <li>· Sandip Save</li> <li>· Ravindranath Malekar</li> </ul>	<p>been completed and Adjudication Officer, vide his order dtd. August 16/17, 2004, has imposed a penalty of Rs.5 lacs and Rs. 3 lacs on PTL and Shri Vivek Nagpal respectively.</p> <p>Proceedings u/s11B of SEBI Act are under way; show cause notice has been issued to the company and its directors. Personal hearing which was scheduled for 11.11.04 was not availed. Another opportunity for personal hearing is scheduled for 30.11.2004.</p>
		<p>8. SEBI has taken note of JPC observations/recommendations.</p> <p><b>As reported in December 2003</b> No change in the status.</p> <p><b>As reported in June, 2004</b> SEBI has submitted the following progress:-</p> <p><b>DSQ Software</b> <b>Action against stock brokers:</b> The registration of following two brokers has been suspended for one year vide SEBI Order dated 04/03/2004</p> <ol style="list-style-type: none"> <li>1. Mehta &amp; Ajmera</li> <li>2. Himanshu Ajmera</li> </ol> <p>The registration of following two brokers has been cancelled vide SEBI Order dated March 8, 2004 for market manipulation which includes their dealings in DSQ Software Ltd.</p> <ol style="list-style-type: none"> <li>1. N.H. Securities Ltd.</li> <li>2. Classic Shares and Stock Broking Services Ltd.</li> </ol> <p><b>Actions against entities associated with/controlled by Ketan Parekh</b> The following nine entities which are associated with /controlled by Ketan Parekh have been prohibited from buying, selling or dealing in securities in any manner directly or indirectly and also debarred from associating with the securities market, for a period of fourteen years vide SEBI Order December 12, 2003:</p> <ol style="list-style-type: none"> <li>i. Shri Ketan V. Parekh</li> <li>ii. Kartik K. Parekh</li> <li>iii. Classic Credit Ltd</li> </ol>	<p><b>Against Ketan Parekh group Panther Fincap and Management Services Ltd., Classic Credit Ltd. and their Directors (including Ketan Parekh)</b> Adjudication proceedings have been completed and Adjudication Officer, vide his orders dated 23/24.08.04, has imposed a penalty of Rs.5 lac each on Panther Fincap and Management Services Ltd. and Classic Credit Ltd.</p> <p><b>Triumph International Finance Ltd.</b> Enquiry Officer vide his report dated 23.8.04 has recommended cancellation of registration. Show cause notice based on the Enquiry Officer's report was sent on 27.8.04. No reply has been received so far. An opportunity for personal hearing is proposed. It may be noted that the registration of Triumph International has already been cancelled vide an earlier order dated 16.5.2003.</p> <p><b>Against Statutory Auditors</b> The auditor was given opportunities of personal hearing on 24.08.04, 17.09.04 and 20.10.04 which were not availed. Final Order is being issued.</p> <p><b>Against Others</b> <b>Sanjay Kumar, Chartered Accountant</b> Adjudication proceedings (u/s 15A of SEBI Act) initiated for non compliance of summons have been completed and Adjudication Officer, vide his order dated 18.08.04, has imposed a penalty of Rs.2 lac on Shri Sanjay Kumar.</p>	

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			iv. Panther Fincap and Management Services Ltd. v. Luminant Investment Pvt Ltd. vi. Chitrakut Computers Pvt. Ltd. vii. Saimangal Investrade Ltd. viii. Classic Infin Ltd ix. Panther Investrade Ltd.	As regards the show cause notice issued on 26.12.03 as part of proceedings u/s11B of SEBI Act, another inspection of records was granted on 02.08.04. He has further requested for copies of various documents which have been provided. He was asked to submit his reply by 4.10.04. No reply has been received. Ex-parte order is being processed.
		Out of these 9, action against the following three entities was taken for market manipulation which includes their dealings in DSQ Software Ltd.: 1. Classic Credit Ltd 2. Panther Fincap and Management Services Ltd. 3. Luminant Investment Pvt Ltd.		<b>SBI Mutual Fund</b> Reference has been made to Trustees of SBI Mutual Fund on 18.12.03 requesting them to conduct a thorough investigation on the issues raised by SEBI and submit a report thereof. Reminder was issued to the Trustees on 28.5.04, who have replied vide letter dated 09.06.04 that a firm of reputed chartered accountants have been appointed to look into the matter. The auditors report has been received from the Trustees on 24.09.04 which is under examination. SEBI inspection of systems and procedures of SBIMF conducted on 29/30.01.04. Systemic deficiencies observed during inspection were communicated to AMC vide letter dated 07.05.04 for taking corrective action.
		<b>DSQ Industries Ltd.</b> <b>Against Promoters</b> A show cause notice dated February 20, 2004 was issued to the following entities under Regulation 11 and 11B of SEBI Act read with Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995	<ul style="list-style-type: none"> <li>. M/s. DSQ Holdings Ltd.</li> <li>. M/s. Hulda Properties and Trades Ltd.</li> <li>. Shri Dinesh Dalmia</li> <li>. M/s. Cooltex Commodities Ltd.</li> <li>. M/s. Greenfield Investments Pvt. Ltd.</li> <li>. M/s. Arun Polymers Pvt. Ltd.</li> <li>. M/s. Aspolite Barter Pvt. Ltd.</li> <li>. M/s. Naina Barter Pvt. Ltd.</li> <li>. Shri Ashok Sharma</li> </ul>	<b>A &amp; A Finvest P Ltd. (a sub-broker)</b> Enquiry proceedings under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 have been completed and Enquiry Officer vide his report dated 13.08.04, has recommended for suspension of registration for a period of one year. Show cause notice based on Enquiry Officer's report has been issued on 27.08.04, reply received on 13.09.04. An opportunity of personal hearing is being given before passing the order.
		Show Cause Notices could be served only to two promoter group entities, namely, DSQ Holdings Ltd. and Dinesh Dalmiya. Reply to the show cause notice is yet to be received. Exparte order will be passed after giving one more opportunity. Show Cause Notices sent by courier and subsequently by speed post to the remaining six entities, namely, Hulda Properties and Trades Ltd., Cooltex Commodities Ltd., Arun Polymers Ltd., Aspolite		<b>Shonkh Technologies Ltd.</b> <b>Against promoters</b> Show Cause Notices issued to the promoters and associated entities (15 entities) of Shonkh

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			<p>Barter Pvt. Ltd., Greenfield Investments Pvt. Ltd. and Ashok Sharma returned undelivered. Show Cause Notices could not be served to these entities. Exparte order will be passed after giving one more opportunity.</p> <p><b>Other Entities</b></p> <p>A show cause notice dated February 19, 2004 was issued to the following entities under Regulation 11 and 11B of SEBI Act read with Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995</p> <ul style="list-style-type: none"> <li>· M/s. Arihant Exim Scrip Pvt. Ltd.</li> <li>· M/s. Doe Jones Investments &amp; Consultants Pvt. Ltd.</li> </ul> <p>Reply to the Show Cause Notices has not yet been received. Letter has been received from the entity mentioning that they are not in a position to reply because police authorities have seized the documents. Exparte order will be passed.</p> <p>A show cause notice dated February 19, 2004 was issued for acquisition of shares/voting rights/control of DSQ Industries Ltd. (DSQ) by Classic Credit Ltd. and Panther Fincap &amp; Management Services Ltd. in violation of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (Regulations). Reply to the Show Cause Notice has not yet been received. Exparte final order will be passed after giving one more opportunity.</p> <p>Prosecution No.4538 has been filed on August 13, 2003 (Chief Metropolitan Magistrate's Court at Kolkata) against Doe Jones Investments Ltd., Arihant Exim Pvt. Ltd., M. Tibrewal &amp; Co., and promoter group entities and associates of DSQ Industries Ltd. namely DSQ Holdings Ltd., Hulda Properties and Trades Ltd., Cooltex Commodities Ltd., Greenfield Investments P Ltd., Arun Polymers P Ltd., Aspolite Barter, Naina Barter, Dinesh Dalmia and Ashok Sharma.</p> <p><i>Enquiry Proceedings have been Initiated against</i></p>	<p>Technologies International Limited. Personal hearings before Chairman initiated. Hearing on two different occasions had to be postponed on the request of the parties. Third date fixed on 2.12.04.</p> <p><b>Against Mr.Vivek Nagpal and promoters of Shonkh Technologies International Ltd.</b></p> <p>Adjudication orders levying a penalty of Rs.1 crore each against Shri Vivek Nagpal and Padmini Technologies Ltd. have been passed. Against the Adjudication Orders, Shri Vivek Nagpal and Padmini Technologies Ltd. have filed an appeal before SAT and as per the interim orders of SAT they have paid a penalty of Rs.1,50,000 each.</p> <p><b>Adjudication against associated entities of the company/promoters</b></p> <p>Against 16 entities penalty of Rs. 1 crore each was levied by the Adjudicating Officer. One entity (Shri Mukesh Malhotra) has appealed before SAT against the adjudication order. SAT directed Shri Mukesh Malhotra to deposit Rs.25,000/- with SEBI and co-operate with SEBI in the case. Payment is yet to be received. Legal action for recovery is being processed.</p> <p><b>Action against others</b></p> <p>Show cause notices issued against Money Growth Investment and Consultants Pvt. Ltd., dated 26.9.04 and Shamit Finvest Pvt. Ltd. dated 24.9.04. Replies are yet to be received.</p> <p><b>Order against broker Millenium Equities (India) Private Limited:</b></p> <p>Order passed suspending the certificate of registration of the broker for a period of six months.</p> <p><b>Ranbaxy Laboratories Ltd.</b></p> <p><b>Adjudication proceedings against the 12 promoter group entities.</b></p> <p>Orders exonerating the 12 promoter group entities have been passed by the Adjudicating Officer on 9.9.04.</p> <p><b>Other broking entities</b></p> <p>16 brokers - Final orders issued.</p>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p><i>following Brokers</i></p> <ol style="list-style-type: none"> <li>1. M/s. SMIFS Securities Ltd.</li> <li>2. M/s. Titan Stock Broking Pvt. Ltd.</li> <li>3. M/s. Indsec Securities Ltd.</li> <li>4. M/s. Amartlal Gopalji Thacker</li> <li>5. M/s. Mehta &amp; Ajmera</li> <li>6. M/s. Bissen Dayal Dayaram</li> <li>7. M/s. Ballabh Dass Daga</li> <li>8. M/s. Vishal J Shah</li> <li>9. M/s. Niraj Balasaria</li> </ol> <p>Out of the nine brokers, enquiries have been completed against 3 brokers and final show cause notices have been issued to them on April 29, 2004:</p> <ol style="list-style-type: none"> <li>1. Titan Stock Broking</li> <li>2. Amritlal Gopalji Thacker</li> <li>3. M/s Niraj Balsaria</li> </ol> <p><b>Padmini Technologies Ltd. (PTL)</b>  <b>Against PTL and its whole-time directors</b>  Prosecution launched u/s 113(2) of Companies Act 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. The criminal case came up before the court on 20.11.03. Last hearing took place in March 2004, when all the accused appeared. The case has been posted to 16.08.04.  Prosecution u/s 24 and 27 of SEBI Act r/w Regulation 3, 4 &amp; 6 of SEBI (Prohibition Of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Regulation 3(1)(c), 3(3), 7 of SEBI (Substantial Acquisitions of Shares and Takeovers) Regulations 1995 against PTL and its whole-time directors launched on 28.05.04.  Prosecution {u/s11C(6) of SEBI Act} against Shri Vivek Nagpal, CMD, PTL launched on 28.05.04.  Adjudication (u/s 15A of SEBI Act) for non compliance of summons initiated against Shri Vivek Nagpal and PTL on 12.12.03 and 13.02.04</p>	<p>24 broking entities – Ex-parte orders will be prepared by mid December 2004.  One broking entity – (Mukesh Babu Securities Ltd.- order suspending the broker for one year passed in the case of GTB. Separate enquiry proceedings initiated in this scrip and also in HFCL, Zee and GTL.)  <b>Global Trust Bank Ltd.</b>  <b>Against the brokers</b>  Enquiry and other proceedings against the brokers:</p> <ul style="list-style-type: none"> <li>* Order has been passed against ICICI Brokerage Services Ltd. discharging the broker from the irregularities on 9.9.04.</li> <li>* Order passed against M/s. Indec Securities and Finance Ltd., warning the broker to be more careful in future vide order dated 10.9.04.</li> <li>* Order passed against M/s. Mukesh Babu Securities Pvt. Ltd. suspending the registration for a period of one year vide order dated 14.10.04.</li> <li>* Order passed against M/s. Woodstock Securities Ltd., Woodstock Broking Pvt. Ltd. warning them to be more careful in future.</li> <li>* Order passed against CSFB Securities (I) Pvt. Ltd. on 10.9.04 suspending the broker for a period of three months.</li> <li>* Order passed against SS Corporate Securities on 21.9.04 suspending the broker for a period of 3 months.</li> </ul> <p>Final Orders have been passed against Visaria Securities Ltd. (suspension for 3 months) and SBM Investments (sub broker of Mukesh Babu Securities Pvt. Ltd.) (suspension for 4 months) also on 11.10.04 and 14.10.04 respectively.  <b>Aftek Infosys</b>  Adjudication proceedings were initiated against Classic Credit Ltd., Panther Investrade Ltd.,</p>

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			<p>respectively, show cause notices (SCNs) to Vivek Nagpal and PTL issued on 03.02.04 and 24.02.04 respectively, reply from Vivek Nagpal received vide letter dated 17.03.04.</p> <p>Proceedings u/s11B of SEBI Act are under way; show cause notice has been issued to the company and its directors on 20.02.04. PTL and Vivek Nagpal have raised issues like inspection of records, depositions, cross examination etc. vide their letters dated 28.02.04 and 25.03.04 respectively.</p> <p>Reference has been made to Department of Companies Affairs (DCA) on 09.01.04 for considering appropriate action under the relevant provisions of the Companies Act for irregularities committed in regard to preferential allotment.</p> <p><b>Against Ketan Parekh group</b>  <b>Panther Fincap and Management Services Ltd., Classic Credit Ltd. and their Directors (including Ketan Parekh)</b></p> <p>Adjudication proceedings u/s 15H of SEBI Act have been initiated on 13.02.04, SCNs were issued on 24.02.04, replies received on 18.03.04 are under consideration of the Adjudicating Officer. KP entities have been debarred from capital market vide order dated 12/12/2003 for fourteen years.</p> <p>Prosecution u/s 24 and 27 of SEBI Act r/w Regulation 3, 4 &amp; 6 of SEBI (Prohibition Of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 and Regulation 3(1)(C), 3(3), 7 of SEBI (Substantial Acquisitions Of Shares And Takeovers) Regulations 1995 and u/s 23(1)(b) of Securities Contract Regulation Act launched on 28.05.04.</p> <p><b>Triumph International Finance Ltd</b></p> <p>Enquiry proceedings under SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 have been initiated on 16.12.03, SCN issued on 10.03.04, reply received on 25.03.04 are under consideration of the Enquiry</p>	<p>Mividha Investments Pvt. Ltd., JDP Share &amp; Stock Brokers Ltd., for violation of SEBI (Substantial Acquisition of Shares &amp; Takeovers) Regulations, 1997. A penalty of Rs.5.00 lakh was imposed and paid.</p> <p>Enquiry proceedings were conducted against Triumph International India Ltd., Triumph Securities Ltd. and NH Securities Ltd and certificate of registration granted to these entities were cancelled vide order dated 31.3.04.</p> <p>Enquiry proceedings were also conducted against broking entities C J Dalal, Hem Securities, Milan Mahendra and Latin Manharlal. C J. Dalal was suspended for two years and Latin Manharlal Securities Ltd. was suspended for six months. Against other two brokers, hearings held, orders are being passed.</p> <p>Adjudication proceedings were initiated against Vidyut Investments Ltd. for violation of SEBI (Substantial Acquisition of Shares &amp; Takeovers) Regulations, 1997. Penalty of Rs. 3.00 lakh was imposed and paid.</p> <p>Ketan Parekh entities have been banned from dealing in securities market for a period of 14 years. Criminal complaints filed against nine entities including Ketan Parekh.</p> <p><b>Zee Telefilms</b></p> <p>Enquiry proceedings have separately been initiated against the following broking entities, who aided and abetted Ketan Parekh entities in market manipulation by entering into structured and synchronized dealings:</p> <table border="1" data-bbox="1529 1225 2074 1430"> <thead> <tr> <th data-bbox="1529 1233 1615 1257">Broker</th> <th data-bbox="1778 1233 2029 1257">Action already taken</th> </tr> </thead> <tbody> <tr> <td data-bbox="1529 1273 1715 1329">Woodstock Broking Pvt. Ltd.</td> <td data-bbox="1778 1273 2074 1361">Order dated 10.9.04 passed warning the broker in the case of GTB</td> </tr> <tr> <td data-bbox="1529 1369 1693 1425">Mukesh Babu Securities Ltd.</td> <td data-bbox="1778 1369 2074 1425">In the case of GTB, order dated 10.9.04 passed</td> </tr> </tbody> </table>	Broker	Action already taken	Woodstock Broking Pvt. Ltd.	Order dated 10.9.04 passed warning the broker in the case of GTB	Mukesh Babu Securities Ltd.	In the case of GTB, order dated 10.9.04 passed
Broker	Action already taken									
Woodstock Broking Pvt. Ltd.	Order dated 10.9.04 passed warning the broker in the case of GTB									
Mukesh Babu Securities Ltd.	In the case of GTB, order dated 10.9.04 passed									

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			Officer. <b>Against Statutory Auditors</b> Reference has also been made to Institute of Chartered Accountants of India on 23.12.03. Proceedings u/s 11B of SEBI Act have been initiated against the statutory auditor and show cause notice has been issued on 22.12.03. Prosecution u/s 24 of SEBI Act has been launched on 28.05.04. <b>Against Others</b> <b>Various preferential allottees and their associates</b> Proceedings u/s11B of SEBI Act are under way. <b>Sanjay Kumar, Chartered Accountant</b> Adjudication (u/s 15A of SEBI Act) for non compliance of summons initiated on 12.12.03. SCN issued on 03.02.04, reply received on 01.03.04 under consideration of the Enquiry officer. SCN issued on 26.12.03 as part of proceedings u/s11B of SEBI Act, inspection of records granted on 19.02.04. He has further requested for copies of various documents which is under consideration. Prosecution u/s 11C(6) and 24 of SEBI Act has been launched on 28.05.04. Reference has been made to The Institute of Chartered Accountants of India (ICAI) on 26.12.03. <b>SBI Mutual Fund</b> Reference has been made to Trustees of SBI Mutual Fund on 18.12.03 requesting them to look into the issues raised by SEBI. <b>A &amp; A Finvest P Ltd. (a sub-broker)</b> Enquiry proceedings have been initiated. SCN issued on 15.03.04, reply received vide letter dt. 28.04.04 under consideration of Enquiry Officer. <b>Shonkh Technologies Ltd</b> <b>Against Mr. Vivek Nagpal, promoters of M/s Shonkh Technologies International Limited</b> Adjudication orders levying a penalty of Rs.1 Crore each was passed on December 3, 2003 against Shri Vivek Nagpal and M/s Padmini Technologies.	Mangal Keshav Shares & Stock Brokers Ltd. Milan Mahendra Ltd. Visaria Securities Pvt. Ltd.  <b>Global Tele</b> Enquiry proceedings have separately been initiated against various following brokers, stock brokers for aiding and abetting Ketan Parekh entities in market manipulation by entering into structured and synchronized dealings :  <b>Broker</b> Vyomit Stock & Investment Pvt. Ltd. Omega Equities Pvt. Ltd. Mangal Keshav Shares & Stock Brokers Ltd. Chandravadan J Dalal  Hem Securities Ltd. Latin Manharlal Securities Pvt. Ltd.	suspending registration for 1 year Enquiry Proceedings under progress Hearing complete. Order being passed. In the case of GTB, order dated 11.10.04 passed suspending registration for 3 months  <b>Action already taken</b> Enquiry Proceedings under progress Enquiry Proceedings under progress Enquiry Proceedings under progress Order dated 24.2.04 passed suspending the broker for 2 years in the case of Lupin, Aftex, Ranbaxy, Shonkh and GTB Order under preparation In the case of GTB, Aftex and Shonkh, order dated 18.11.03 passed suspending registration for 6 months

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		On an appeal filed by the above entities in SAT, SAT directed them to deposit Rs.1.5 lakhs each with SEBI. Rs.1.5 lakhs each was deposited by the parties with SEBI on May 19, 2004.	Mukesh Babu Securities Ltd.	In the case of GTB, order dated 10.9.04 passed suspending registration for 1 year Order is being passed
		<b>Against Shonkh Technologies International Limited</b> Show cause notice is to be issued by May 31, 2004. Prosecution proceedings are under consideration.	Milan Mahendra Securities Pvt. Ltd. Visaria Securities Pvt. Ltd.	In the case of GTB, order dated 11.10.04 passed suspending registration for 3 months Enquiry Proceedings initiated Order dated 10.9.04 passed warning the broker in the case of GTB
		<b>Against Ketan Parekh Entities</b> Order against the KP entities prohibiting the KP entities from buying, selling or dealing in securities in any manner, directly or indirectly and debarring them from associating with the securities markets, for a period of 14 years was passed on December 12, 2003. The certificate of registration granted to broking entities associated with/controlled by Ketan Parekh viz, Classic Shares and Stock Broking Services (CSSB), Triumph Securities Limited (TSL), NH Securities Ltd. (NH Sec.), Triumph International Finance India Ltd., V N Parekh Securities Limited (VNP Sec) and KNP Securities Limited (KNP Sec) was cancelled on March 8, 2004.	Pravin V Shah Stock Broking Woodstock Securities Pvt. Ltd.	
		<b>Against M/s Iris Infrastructurals Private Limited</b> Penalty of Rs.1.5 lac was imposed on April 22, 2003 and Rs.1 crore on December 3, 2003. The penalty amount is yet to be received. Recovery proceedings initiated.		
		<b>Against Brokers</b> <b>Milan Mahendra Securities Ltd.</b> Show cause notice has been issued to the broker and reply has been received. Adjudication proceedings have been completed against the entity and penalty imposed. Enquiry has been initiated against the broker. Hearing in the case of M/s Milan Mahendra Securities Private Limited stands rescheduled for June 14, 2004.		
		<b>Extempore Securities &amp; Investments Ltd.(now called Pioneer Equity Trade (India) Pvt. Ltd.)</b>		<b>Adani Exports Ltd.</b> <b>Action against promoters</b> Adjudication proceedings are initiated on 15.9.04 against Ketan Parekh entities namely; Classic Credit Ltd., Classic Share & Stock Broking Ltd. Panther Fincap, Panther Investrade Ltd., Triumph International India Ltd. and Triumph Securities Ltd. for violation of regulation 7 of the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997. Show cause notice is being issued to Abhinav Investments for debarring them from dealing in securities for violation of regulation 4 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), Regulations, 1995. Enquiry proceedings have separately been initiated against following brokers, stock brokers for aiding and abetting Ketan Parekh entities in market manipulation by entering into structured and synchronized dealings :

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			Show cause notice has been issued and reply received from the entity. Adjudication proceedings have been completed and penalty imposed on the entity. The entity has paid the penalty. Enquiry proceedings have been completed and warning order was passed on February 4, 2004 against M/s Extempore Securities (name changed to M/s Pioneer Equity Trade (India) Pvt. Ltd. <b>Agroy Finance and Investments Limited</b> Enquiry proceedings have been initiated against the broker. <b>A. Nitin Capital Services Limited</b> Enquiry proceedings have been initiated against the broker. <b>Delhi Securities Limited</b> Enquiry proceedings have been initiated against the broker. Show cause notice under issue. Adjudication proceedings have been initiated against the entities. <b>M/s Money Growth Financials and Consultants Private Limited</b> Show cause notice are to be issued by June 10, 2004. <b>M/s A. Jain &amp; Co. – Member DSE</b> Enquiry Proceedings have been initiated against the broker. <b>Shamit Finvest Private Limited</b> Show cause notice are to be issued by June 10, 2004. <b>Investment by UTI in the shares of Shonkh</b> Investigation report received from UTI. UTI decided to initiate Departmental and criminal action as may be appropriate against those indicted in the report. <b>Ranbaxy Laboratories Ltd.</b> <b>Against promoter</b> Adjudication proceedings for alleged contravention of section 15A(a) of the SEBI Act read with	<b>Broker</b> Omega Equities Pvt. Ltd. Woodstock Broking Pvt. Ltd. Chandravadan J Dalal Hem Securities Ltd. Latin Manharlal Securities Pvt. Ltd. Milan Mahendra Securities Pvt. Ltd. Visaria Securities Pvt. Ltd. Pravin V Shah Stock Broking Keynote Capitals Ltd. Enquiry proceedings initiated against Prerak Capital, JBS Securities Ltd., Moneycare Securities & Financial Services Ltd., Madhuvan Securities Pvt. Ltd. and Investmart India Ltd., for violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market), Regulations, 1995, SEBI (Stock Brokers) Rules & Regulations, 1992. <b>Lupin Lab. Promoters</b> After completion of enquiry proceedings, certificate of registration granted to Triumph International India Ltd., Triumph Securities Ltd.	<b>Action already taken</b> Enquiry Proceedings under progress. Order dated 10.9.04 passed warning the broker in the case of GTB. Order dated 24.2.04 passed suspending the broker for 2 years in the case of Lupin, Aftak, Ranbaxy, Shonkh and GTB. Order under preparation. In the case of GTB, Aftak and Shonkh, order dated 18.11.03 passed suspending registration for 6 months. Order under preparation. In the case of GTB, Order dated 11.10.04 passed suspending registration for 3 months. Enquiry proceedings initiated. Enquiry proceedings initiated.



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			<p>Regulation 3(4) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 were initiated on 24.10.02 against the following 12 promoter group entities of Ranbaxy Laboratories Ltd.:</p> <ol style="list-style-type: none"> <li>1. Astral Investments &amp; Trading Company Pvt. Ltd.</li> <li>2. Divya Papers Pvt. Ltd.</li> <li>3. Shimal Investment &amp; Trading Company</li> <li>4. Oscar Holdings Pvt. Ltd.</li> <li>5. Delta Aromatics Pvt. Ltd.</li> <li>6. Modland Wears Pvt. Ltd.</li> <li>7. Jupiter Investments Pvt. Ltd.</li> <li>8. Malvinder Mohan Singh</li> <li>9. Oscar Pharmaceuticals Pvt. Ltd.</li> <li>10. Oscar Investments Ltd.</li> <li>11. Fortis Financial Services Ltd.</li> <li>12. Dr. Parvinder Singh (HUF)</li> </ol> <p>Show cease notices were issued on 10.11.2003.</p> <p><b>Against Stock Brokers</b></p> <p>Enquiry proceedings for alleged violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995, SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 and rules regulations and bye-laws of stock exchanges, were initiated on 24.10.02 against the following 41 stock brokers of different stock exchanges:</p> <ol style="list-style-type: none"> <li>1. Credit Suisse First Boston (India) Securities Pvt. Ltd.</li> <li>2. KNP Securities Pvt. Ltd.</li> <li>3. V.N. Parekh Securities Pvt. Ltd.</li> <li>4. Triumph Securities Ltd.</li> <li>5. Chandravadan J. Dalal</li> <li>6. Milan Mahendra Securities Pvt. Ltd.</li> <li>7. Mukesh Babu Securities Ltd.</li> <li>8. Bakliwal Securities Pvt. Ltd.</li> <li>9. M.P.Vora Shares &amp; Securities Pvt. Ltd.</li> <li>10. Active Finstock Pvt. Ltd.</li> <li>11. Triumph International Finance India Ltd.</li> </ol>	<p>and NH Securities Ltd. were cancelled vide order dated 8.12.03.</p> <p>Enquiry proceedings were also conducted against various broking entities namely; C J Dalal, Milan Mahendra, Hem Securities and Pravin V. Shah Stock Broking. C J. Dalal was suspended for two years vide order dated 23.02.04. Proceedings in case of other brokers are on. Criminal complaints filed against 14 entities in the Court of Addl. CMM, Mumbai (CC No. 630/W/03).</p> <p><b>Cyberspace Ltd.</b></p> <p>Enquiry was initiated against 28 brokers. With regard to other 26 entities, action is completed. Enquiries initiated against M/s Renaissance Securities Ltd. and M/s Mangala Capital Services Ltd. are in progress.</p> <p>Directions have been issued against Shri Rakesh Mehta prohibiting him from accessing the securities market and dealing in securities in any manner till investigation/inquiry is complete. The investigations into the dealings of Shri Rakesh Mehta are under progress.</p> <p>Directions have been issued to Shri Jugal Kishore Barasia on 17.08.2004, restraining him from accessing the securities market and prohibiting him from buying, selling and dealing in securities for a period of one year.</p> <p>44 show cause notices have been issued against the 19 associate/shell companies (and their directors) which were found to have aided and abetted the company in the manipulation of the scrip. Show cause notices have also been issued to the three promoters of M/s Cyberspace Ltd. and the Century Consultants Ltd. Hearings in the case of 13 entities/individuals held on 27.11.2004. 5 entities/individuals attended the hearing and 4 entities/individuals furnished written submissions. The process of service of show cause notices against the other directors/entities</p>

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			12. NH Securities Ltd.	out of the 19 associate/shell companies and their directors and the three promoters of Cyberspace Ltd. & Century Consultants Ltd. is under progress.
			13. Khandwala Integrated Financial Services Pvt. Ltd.	
			14. Prashant Jayantilal Patel	
			15. Wallfort Financial Services Ltd.	<b>Silverline Technologies Ltd.</b>
			16. Suresh Chand S Jain	Enquiry show cause notices issued to the five broking entities on 13.08.2004.
			17. The First Custodian Fund (India) Ltd.	Adjudication proceedings against M/s Silverline Holdings Corporation, M/s Subra Maruitius Limited and M/s Shreyas Holdings Ltd. under progress.
			18. Mahesh Kumar Damani	Adjudication proceedings u/s 15A were initiated against the company as well as its promoters for non-compliance of SEBI summons. The Adjudicating Officer vide his orders dated 10.10.03 and 24.10.03 has levied monetary penalties of Rs.19,00,000 and Rs.21,00,000 on the company and its promoters respectively for this default. Appeal was filed by the three promoter entities against the penalty imposed by SEBI which was heard by SAT on 9.7.04 and the penalty amount has been reduced from Rs.21 lakh to Rs.1.5 lakh. Payment not yet made. Recovery proceedings are being initiated.
			19. Salasar Stock Broking Ltd.	Prosecution was filed against M/s Silverline Technologies Ltd. for non payment of Adjudication penalty of Rs.19 lakh on 17.08.2004.
			20. Dinesh Kumar Singhanian & Co.	Adjudication proceedings against 04 brokers completed. Penalty levied of Rs.1 lakh on Milan Mahendra Securities Pvt. Ltd., Rs.2 lakh on Latin Manharlal Securities Pvt. Ltd. and Rs.1 lakh on Triumph International Finance India Ltd. vide orders dated 23.08.2004 and 24.08.2004.
			21. Agbros Securities Pvt. Ltd.	
			22. Ashok Kumar Poddar	
			23. Prema Poddar	
			24. Shyam Sundar Dalmia	
			25. Sanjay Khemani	
			26. Shankarlal Chokhany	
			27. Shruti Mohta	
			28. Kanodia Stock Broking (Pvt.) Ltd.	
			29. J.V.S. Securities Pvt. Ltd.	
			30. Kamal Kumar Dugar & Co.	
			31. Lalit & Co.	
			32. M/s Loknath Saraf	
			33. S.P. Rakhecha & Co.	
			34. Shree Harivansa Securities Pvt. Ltd.	
			35. BLB Share & Financial Services Ltd.	
			36. Dalmia Securities (P) Ltd.	
			37. Herald Equities Pvt. Ltd.	
			38. Naresh Chand Chandak	
			39. Rajendra Kumar Chokhany	
			40. Somani Stock Broking Pvt. Ltd.	
			41. Tackel Stock Broking Services Pvt. Ltd.	
			In the case of enquiry against Credit Suisse First Boston (India) Securities Pvt. Ltd., SEBI has passed an order dated March 05, 2004, under Regulation 13(4) of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, suspending the certificate of registration of the broking entity for a period of one month. The order came into effect after three weeks from the date of the order.	Enquiry show cause notices have been issued to the three entities on 06.08.2004. Adjudication proceedings completed. The Adjudication Officer has imposed a penalty of Rs.1 lakh on Milan Mahendra Securities Pvt. Ltd. and Rs. 1 lakh on Triumph International Finance India Ltd. vide orders dated 23.08.2004 and

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>In the cases of enquiry against Bakliwal Securities Pvt. Ltd., M.P.Vora Shares &amp; Securities Pvt. Ltd. and Active Finstock Pvt. Ltd. no action has been recommended in the enquiry report.</p> <p>Enquiry proceedings in the remaining cases are under progress.</p> <p><b>Against Ketan Parekh Entities</b></p> <p>Against the following 5 broking entities belonging to Ketan Parekh group, SEBI has passed orders dated 08.03.2004 canceling their certificate of registration:</p> <ol style="list-style-type: none"> <li>1. KNP Securities Pvt. Ltd.</li> <li>2. VN Parekh Securities Pvt. Ltd.</li> <li>3. Triumph Securities Ltd.</li> <li>4. Triumph International Finance India Ltd.</li> <li>5. NH Securities Ltd.</li> </ol> <p>Against the following 3 CSE brokers, their registration has already been cancelled by SEBI.</p> <ol style="list-style-type: none"> <li>1. Dinesh Kumar Singhania – vide order dated 12.10.2001</li> <li>2. Ashok Kumar Poddar – vide order dated 24.06.2002</li> <li>3. Prema Poddar - vide order dated 24.06.2002.</li> </ol> <p>In the case of another CSE broker, namely, Loknath Saraf, no enquiry could be proceeded as the broker had expired.</p> <p>Against 4 brokers, namely, Bakliwal Securities Pvt. Ltd., M.P.Vora Shares &amp; Securities Pvt. Ltd., Active Finstock Pvt. Ltd. and Khandwala Integrated Financial Services Pvt. Ltd., in the enquiry reports submitted by the Enquiry Officer, no action against the brokers have been recommended by the Enquiry Officer.</p> <p>Names of the entities against whom prosecution proceedings were under consideration are as follows:</p> <ol style="list-style-type: none"> <li>1. Shri Ketan Parekh</li> <li>2. KNP Securities Pvt. Ltd.</li> </ol>	<p>24.08.2004. Proof of payment of adjudication penalty not furnished by the entities. Recovery proceedings are in the process of being initiated. Prosecution proceedings u/s 23(1)(b) of the SCRA initiated against the promoters of SSI and three individuals. The process of issuing directions against the three promoters of SSI Ltd. and three individuals for violation of provisions of SCRA is under progress.</p> <p>Reference made to Chief Commissioner of Income Tax, Chennai on 31.5.04 to look into the aspect of evasion of tax (Capital Gains on sale of shares by promoters etc.) involved in the matter. Enquiry proceedings against 4 brokers initiated on 2.4.2004. It may be noted that the certificate of registration of 3 of these brokers, which were KP entities, have already been cancelled by SEBI.</p> <p><b>Himachal Futuristic Communications Ltd. (HFCL)</b></p> <p><b>Actions against HFCL and its promoters/ associate companies and their directors</b></p> <p>Show cause notices under Sections 11(4)(b) and 11B of SEBI Act 1992 read with Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 have been issued to HFCL/its directors and following mentioned promoters/ associate companies of HFCL and their directors on 30.8.04.</p> <ul style="list-style-type: none"> <li>• HFCL Infotel Ltd.</li> <li>• HFCL Trade Invest Ltd.</li> <li>• Burlington Finance Ltd.</li> <li>• Toplight Vinimay Pvt. Ltd.</li> <li>• Vinson Brothers Pvt. Ltd.</li> <li>• Vinson Trade &amp; Commerce Pvt. Ltd.</li> <li>• Amrit Sales Promotion Pvt. Ltd.</li> <li>• Classic Services (Partnership firm)</li> <li>• Sone Paper &amp; Industries Ltd.</li> <li>• Shankar Sales Promotion Pvt. Ltd.</li> </ul>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress																						
			3. V.N. Parekh Securities Pvt. Ltd. 4. Triumph Securities Ltd. 5. NH Securities Ltd. 6. Classic Credit Ltd. 7. Panther Fincap and Management Services Ltd. 8. Sai Mangal Investrade Ltd. 9. Luminant Investments Pvt. Ltd. 10. Panther Investrade Ltd. 11. Upfront Investments 12. Profile Investment 13. Options Investments 14. Ace Investment 15. Linear Investments 16. Online Investments 17. A B Corporation 18. Jayant N. Parekh	<ul style="list-style-type: none"> <li>• Yashodham Merchants Pvt. Ltd.</li> <li>• Kalyan Vyapaar Pvt. Ltd.</li> <li>• Sungrace Merchandise Pvt. Ltd.</li> <li>• Baldev Commercial Pvt. Ltd.</li> </ul>																						
			Out of the above entities, 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.	Enquiry proceedings have separately been initiated against various following stock brokers for aiding and abetting Ketan Parekh entities in market manipulation by entering into structured and synchronized dealings in HFCL :																						
			1. Shri Ketan Parekh 2. NH Securities Ltd. 3. Classic Credit Ltd. 4. Panther Fincap and Management Services Ltd. 5. Sai Mangal Investrade Ltd. 6. Luminant Investments Pvt. Ltd. 7. Panther Investrade Ltd.	<table border="1"> <thead> <tr> <th>Broker</th> <th>Actions already taken</th> </tr> </thead> <tbody> <tr> <td>Chandravadan J Dalal</td> <td>Order dated 24.2.04 passed suspending the broker for 2 years in the case of Lupin, Aftak, Ranbaxy, Shonkh and GTB.</td> </tr> <tr> <td>Hem Securities Ltd.</td> <td>Order under preparation.</td> </tr> <tr> <td>Indsec Securities &amp; Finance Ltd.</td> <td>In the case of GTB, vide order dated 10.9.04, warning has been issued.</td> </tr> <tr> <td>Keynote Capitals Ltd.</td> <td>Enquiry initiated</td> </tr> <tr> <td>Latin Manharlal Securities Pvt. Ltd.</td> <td>In the case of GTB, Aftak and Shonkh, order dated 18.11.03 passed suspending registration for 6 months</td> </tr> <tr> <td>Mangal Keshav Shares &amp; Stock Brokers Ltd.</td> <td>Enquiry Proceedings under progress.</td> </tr> <tr> <td>Milan Mahendra Securities Pvt. Ltd.</td> <td>Order under preparation.</td> </tr> <tr> <td>Millenium Equities (I) Pvt. Ltd.</td> <td>In the case of GTB, Order dated 13.9.04 passed suspending for 6 months</td> </tr> <tr> <td>Aldan Investment Pvt. Ltd.</td> <td>Enquiry Proceedings under progress</td> </tr> <tr> <td>Mukesh Babu Securities Ltd.</td> <td>In the case of GTB, Order dated 10.9.04 passed</td> </tr> </tbody> </table>	Broker	Actions already taken	Chandravadan J Dalal	Order dated 24.2.04 passed suspending the broker for 2 years in the case of Lupin, Aftak, Ranbaxy, Shonkh and GTB.	Hem Securities Ltd.	Order under preparation.	Indsec Securities & Finance Ltd.	In the case of GTB, vide order dated 10.9.04, warning has been issued.	Keynote Capitals Ltd.	Enquiry initiated	Latin Manharlal Securities Pvt. Ltd.	In the case of GTB, Aftak and Shonkh, order dated 18.11.03 passed suspending registration for 6 months	Mangal Keshav Shares & Stock Brokers Ltd.	Enquiry Proceedings under progress.	Milan Mahendra Securities Pvt. Ltd.	Order under preparation.	Millenium Equities (I) Pvt. Ltd.	In the case of GTB, Order dated 13.9.04 passed suspending for 6 months	Aldan Investment Pvt. Ltd.	Enquiry Proceedings under progress	Mukesh Babu Securities Ltd.	In the case of GTB, Order dated 10.9.04 passed
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			The dealings of Centurion Bank Ltd. in the scrip by way of arbitrage/trading transactions through the brokers connected/associated with the Ketan Parekh entities during this period which are in violation of RBI guidelines, have been referred to RBI for suitable action vide letter dated November 12, 2002.																							

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<b>Global Trust Bank Ltd.</b>	suspending registration for 1 year.
			A show cause notice dated October 21, 2003 was issued to the following entities under Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995 read with Section 11 and 11B of SEBI Act, 1992. Final order has been passed on 23.03.2004 debarring Sh. Ramesh Gelli, Ms. Premkala Gelli etc. from dealing in the scrip of GTB for 18 months.	Omega Equities Pvt. Ltd. Enquiry Proceedings under progress
			Enquiry against the following brokers has been completed and show cause notices issued on dates mentioned against them:	Pravin V Shah Stock Broking Enquiry Proceedings under progress
			1. SS Corporate Securities Ltd. – March 31, 2004	Subhkam Securities In the case of Silverline, warning has been issued.
			2. Visaria Securities (P) Ltd. – May 26, 2004	Vidyut Devendra Kumar Enquiry Proceedings under progress
			3. SBM Investments Ltd. – May 26, 2004	Visaria Securities Pvt. Ltd. In the case of GTB, Order dated 11.10.04 passed suspending registration for 3 months.
			4. Wood Stock Securities (P) Ltd. -March 31, 2004	Vyomit Stock & Investment Pvt. Ltd. Enquiry Proceedings under progress
			5. Wood Stock Broking (P) Ltd. – March 31, 2004	Woodstock Broking Pvt. Ltd. Order dated 10.9.04 passed warning the broker in the case of GTB
			6. Ind Sec Securities and Finance Ltd.-Feb.5, 2004	Woodstock Securities Pvt. Ltd. Order dated 10.9.04 passed warning the broker in the case of GTB
			7. ICICI Brokerage Services (P) Ltd.- Feb.5, 2004	
			8. CSFB Securities (P) Ltd. – February 5, 2004	
			9. Mukesh Babu Securities (P) Ltd.-Feb. 5, 2004	
			In the case of SS Corporate Securities Ltd., hearing is scheduled to take place on June 7, 2004.	
			Reply to the SCN has not yet been received from Visaria Securities (P) Ltd. and SBM Investments Ltd.	
			Reply to the SCN has not yet been received from Wood Stock Securities (P) Ltd. and Wood Stock Broking (P) Ltd. These brokers have sought more time to furnish the reply.	
			In the cases of Ind Sec Securities and Finance Ltd., ICICI Brokerage Services (P) Ltd. and Mukesh Babu Securities (P) Ltd., hearing took place before the Chairman, SEBI on March 12, 2004.	
			In the case of CSFB Securities (P) Ltd., hearing took place before the Chairman, SEBI on May 12, 2004.	

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p><b>Aftek Infosys</b>  <b>Actions against promoters</b>            Debarred from dealing in securities for 1 year vide Order dated 8/3/2004.</p> <p><b>Zee Telefilms</b>  <b>Actions against promoters</b>            For the breach of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, penalty of Rs. 60,000 was imposed on 19.08.02 and paid on 12.02.2003.</p> <p><b>Global Tele</b>  <b>Actions against promoters</b>            For the breach of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, penalty of Rs. 1,20,000 was imposed on 17.3.03 and paid.</p> <p><b>Pentamedia Graphics</b>  <b>Actions against promoters</b>            For the breach of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, penalty of Rs. 90,000 was imposed on 2.5.03 and paid.</p> <p><b>Adani Exports Ltd</b>  <b>Actions against promoters</b>            For the breach of the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, penalty of Rs. 60,000 was imposed on 7.4.03 and paid.</p> <p><b>Lupin Lab. Promoters</b>  <b>Actions against promoters</b>            The investigation in the case of violation of Securities Contracts Regulations by the Lupin Lab promoters is complete.            KP entities barred from capital market vide order dated 12/12/03 for 14 years. The registration certificates granted to these entities have been cancelled.            Criminal complaint filed against various entities indulged in market manipulation on 07/03/03.</p>	

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p><b>Action against other entities in the above six cases</b></p> <p><b>Entities associated with /controlled by Ketan Parekh</b></p> <p>Following persons/ entities have been prohibited from buying, selling or dealing in securities in any manner directly or indirectly and also debarred them from associating with the securities market, for a period of fourteen years.</p> <ol style="list-style-type: none"> <li>1. Shri Ketan V. Parekh</li> <li>2. Kartik K. Parekh</li> <li>3. Classic Credit Ltd</li> <li>4. Panther Fincap and Management Services Ltd.</li> <li>5. Luminant Investment Pvt Ltd.</li> <li>6. Chitrakut Computers Pvt. Ltd.</li> <li>7. Saimangal Investrade Ltd.</li> <li>8. Classic Infin Ltd</li> <li>9. Panther Investrade Ltd.</li> </ol> <p><b>Other brokers</b></p> <ol style="list-style-type: none"> <li>i. CSFB Securities-Suspended for two years</li> <li>ii. Chardravadan J. Dalal- Suspended for two years</li> <li>iii. Latin Manhalal Securities Ltd- Suspended for six months</li> <li>iv. Quasi-judicial proceedings against 18 brokers are in progress.</li> </ol> <p><b>Cyberspace Ltd.</b></p> <p>Investigations into trading in the scrip have been completed.</p> <ul style="list-style-type: none"> <li>· Adjudication proceedings against the said company and their promoters have been initiated on 16.4.2004 for their non compliance with the summons issued by SEBI.</li> <li>· Prosecution has also been launched against the company and its promoters in August 2003 for violation of SEBI (PFUTP) Regulations.</li> <li>· Directions have been issued to M/s Prabodh Arth Sanchay, a related entity of M/s</li> </ul>	

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			<p>Cyberspace Ltd. directing them to be careful in future while trading.</p> <ul style="list-style-type: none"> <li>· Enquiry proceedings against M/s. Century Consultants Ltd. (a BSE and NSE member) for violation of Code of Conduct laid down under Regulation 7 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 completed. The certificate of registration of the broker has already been cancelled by the BSE, NSE and SEBI.</li> <li>· Directions have been issued to Shri Shashikant G. Badani to restrain from associating with any corporate body in accessing the securities market and prohibited him from buying, selling or dealing in securities, directly or indirectly, for a period of one year.</li> <li>· The matter of issuing directions to Shri S. K. Barasia under the provisions of the SEBI Act and Rules and Regulations made thereunder is under process.</li> <li>· Action for issuing directions u/s 11 (4) of the SEBI Act against 19 associate/shell companies which were found to have aided and abetted the company in the manipulation of the scrip are in the process of being issued. Similar directions against M/s. Cyberspace Ltd., M/s. Century Consultants Ltd. and their promoters are also in the process of being issued.</li> </ul>	
			<p><b>Silverline Technologies Ltd.</b></p> <p>Investigations into the price movement in the scrip of Silverline Technologies Ltd. have been completed. In the course of investigations, adjudication proceedings u/s 15 A were initiated against the company as well as its promoters for non-compliance of SEBI summons. The Adjudicating Officer vide his Orders dated 10/10/2003 and 24/10/2003 has levied monetary penalties of Rs.19,00,000 and Rs.21,00,000 on the company and its promoters respectively for this default. As no penalty has been paid, recovery proceedings have been initiated. SAT vide its order dated</p>	



SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>January 20, 2004 has directed the parties to pay the penalty amount.</p> <p>Since the company is also listed on NYSE, SEBI has informed the NYSE as well as the SEC about the violations of Indian Securities Laws committed by the company.</p> <p>Enquiry proceedings against the following 5 brokers have been initiated on 11.3.2004:</p> <ol style="list-style-type: none"> <li>1. M/s Latin Manharlal Securities (P) Ltd</li> <li>2. M/s Milan Mahendra Securities (P) Ltd</li> <li>3. M/s Triumph International Finance Ltd</li> <li>4. M/s Classic Shares and Stock Brokers Ltd</li> <li>5. M/s Triumph Securities Ltd.</li> </ol> <p>Similarly, adjudication proceedings u/s 15 A read with Section 15 HB of the SEBI Act have been initiated against the following 3 out of the above 5 broking entities for their failure to comply with the summons issued by SEBI:</p> <ol style="list-style-type: none"> <li>1. M/s Latin Manharlal Securities (P) Ltd – 11/3/04</li> <li>2. M/s Milan Mahendra Securities (P) Ltd – 11/3/04</li> <li>3. M/s Subhkam Securities (P) Ltd - 15/3/04</li> </ol> <p>Three warning letters have been issued:</p> <ol style="list-style-type: none"> <li>(i) M/s Subhkam Securities (P) Ltd. – 17.5.04</li> <li>(ii) JP Morgan India (P) Ltd. – 16.3.04</li> <li>(iii) Kotak Securities – 16.3.04.</li> </ol> <p><b>SSI Ltd.</b></p> <p>Investigations into the trading in the scrip of SSI Ltd. have been completed. The promoters of SSI and 3 individuals are found to have violated the provisions of Sections 13, 16 read with Section 2(i) of the SCRA read with notification dated March 1, 2000. Prosecution proceedings u/s 23(1) (b) of the SCRA are being initiated against the concerned parties. Reference is also being made to CBDT to look into the aspect of evasion of tax (Capital Gains on sale of shares by promoters etc.) involved in the matter.</p>	

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>Investigations have also revealed that the following 4 broking entities (including those belonging to KP) had indulged in trades with a view to creating artificial volumes thereby violating the SEBI (PFUTP) Regulations:</p> <ol style="list-style-type: none"> <li>1. M/s Triumph Securities Limited</li> <li>2. M/s Triumph International Finance Ltd.</li> <li>3. M/s Classic Shares and Stock Brokers Ltd.</li> <li>4. M/s Milan Mahendra Securities (P) Ltd</li> </ol> <p>Enquiry proceedings were initiated on 2.4.2004. Adjudication proceedings u/s15A read with Section 15HB of the SEBI Act have been initiated on 2.4.2004 against M/s Milan Mahendra Securities (P) Ltd. and M/s Triumph International Finance Ltd. for their failure to comply with the summons issued by SEBI.</p> <p>Reference to prosecution has been made against six individuals:</p> <ol style="list-style-type: none"> <li>1. K.S. Aghoram</li> <li>2. K.S. Ganesh</li> <li>3. K.S. Suresh</li> <li>4. V. Kalaiselvi</li> <li>5. K.V. Prakash</li> <li>6. S. Venkatesh</li> </ol> <p>Out of 15 corporates referred in Chapter VII of JPC Report, corporates/promoter-brokers (KP entities) nexus has been established in 7 cases. SEBI has debarred/initiated proceedings against these companies/promoters from accessing the capital/dealing in securities and also filed prosecution. The certificates of registration granted to 6 of the broking entities associated with Ketan Parekh were cancelled by SEBI. Ketan Parekh and 8 entities related to him were also debarred from dealing in securities market in any manner for a period of 14 years and prosecution have also been filed against these entities. SEBI has also suspended the certificates of other Brokers who have aided and abetted Ketan Parekh entities in market manipulations.</p>	

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2.	2.17	<p>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 pendency. 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 (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.</p>	<p><b>As reported in May, 2003</b>  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 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</p>	<p>CBI has reported that one more case has been disposed off, totalling the number to 13.</p>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>263 officials and is pending in respect of 22 persons on account of pendency 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 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.</p> <p>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 24<sup>th</sup> 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.</p> <p>In regard to the number of recommendations in the present report which are analogous to the</p>	

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>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 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.</p>	
			<p><b>As reported in December 2003</b></p>	
			<p>RBI has reported that departmental action is still pending against 22 persons on account of pendency 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.</p>	
			<p><b>As reported in June, 2004</b></p>	
			<p>RBI has reported that departmental action is still pending against 22 persons on account of pendency of court cases/ stay given by the courts, etc. CBI has reported that there is no change with regard to registration, chargesheeting and disposal of securities scam cases pending in various courts.</p>	

Sl.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p>As regards disposal, out of 47 cases, 3 more cases have been disposed off after December 2003 totaling 12 cases. Out of 12, 08 cases ended in conviction while 03 cases ended in acquittal and 01 case was otherwise disposed off.</p> <p>Regarding appointment of 2 additional Judges in the Special Court, Mumbai, two more reminders were sent to Registrar General, Supreme Court of India from Secretary, on 23.03.2004 and 12.05.2004.</p>	
3.	2.20	<p>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 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</p>	<p><b>As reported in May, 2003</b> 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 demutualisation of stock exchanges.</p> <p><b>As reported in December 2003</b> 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</p>	<p>The Securities Laws (Amendment) Ordinance, 2004, inter-alia, amending the Securities Contracts (Regulation) Act, 1956, to strengthen the governance of stock exchanges through demutualisation and corporatisation of stock exchanges has been promulgated on October 12, 2004. <b>Action completed.</b></p>

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		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.	exchanges has been introduced in the Parliament on 18 <sup>th</sup> 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. <b>As reported in June, 2004</b> With the dissolution of 13 <sup>th</sup> Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.	
4.	3.11	Lack of urgency on the part of the Government has led to a stage where after more than 9 years, 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.	<b>As reported in May, 2003</b> Already covered in reply to para 2.17 <b>As reported in December 2003</b> The Registrar General, Supreme Court of India has again been reminded on 20.10.2003 to 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. <b>As reported in June, 2004</b> As reported against para 2.17, the Departmental action against 22 persons is pending on account of pendency of Court Cases/stay given by the Courts etc. Further, out of 47 cases with CBI, 12 have been disposed off. Regarding appointment of two Additional Judges in the Special Courts, Mumbai the reference is pending with the Supreme Court.	Reference is pending with the Supreme Court for appointment of two additional Judges in the Special Court, Mumbai.
5.	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.	<b>As reported in May, 2003</b> 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	Action initiated in respect of 216 firms concerning the 65 entities by ICAI. Pending with ICAI

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		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 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.	<p>other reports such as the Janakiraman Report. The status with regard to these 65 entities is as follows:-</p> <p>1. Filed on prima facie stage – 35</p> <p>2. Referred to Disciplinary Committee – 30</p> <p>Out of the above (2)</p> <p>(a) Number of entities where the Respondents are exonerated (at the Council level) – 13</p> <p>(b) Number of entities in which there is punishment (at the Council level) – 06</p> <p>(c) Pending with Disciplinary Committee – 02</p> <p>(d) Pending with Council for consideration of Disciplinary Committee Report – 09</p> <p>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: -</p> <p>1. Filed on prima facie stage – 03</p> <p>2. Referred to the Disciplinary Committee – 05</p> <p>Out of the above (2)</p> <p>(a) Number of entities where the Respondents are exonerated (at the Council level) – 01</p> <p>(b) Number of entities in which there is punishment (at the Council level) – 03</p> <p>(c) Pending with Disciplinary Committee – NIL</p> <p>(d) Pending with Council for consideration of Disciplinary Committee Report – 01</p> <p><b>As reported in December 2003</b></p> <p>No change in the status.</p> <p><b>As reported in June, 2004</b></p> <p>The cases are pending with the Council and in the Hon'ble Courts. These are ongoing judicial processes.</p>	
6.	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	<b>As reported in May, 2003</b> Duality of control over cooperative banks emanates from constitutional provisions. Cooperatives are a	Though comprehensive amendments to Banking Regulation Act for empowering the RBI to have greater regulatory control over the Urban



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		with financial penalty or such like punishment.	<p>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 Perakash Committee or by way of incorporating essential features of the Model Act in their respective Cooperative Societies Act by the 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.</p>	<p>Cooperative Banks is under consideration, an Ordinance was promulgated on 24.9.2004 empowering RBI greater regulatory control over UCBs. The RBI, now, can supersede the Board of Directors of multi-State cooperative banks and appoint an Administrator, if it is satisfied that it is necessary to do so in public interest or for preventing the affairs of a multi-State cooperative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State cooperative bank or for securing the proper management of the bank. Such action of the RBI shall not be liable to be called in question in any manner. Additionally, the deposit insurance cover has also been extended for deposits in the urban cooperative banks registered under the MSCS Act in the interests of small depositors.</p> <p>As for the comprehensive amendments to the Banking Regulation Act 1949, for ending duality of regulatory control over Cooperative Banking Institutions, while a Bill was introduced in the last Parliament, it could not be passed and has lapsed. The provisions of the proposed Bill are presently being reviewed by a Task Force under the Chairmanship of Prof. Vaidyanathan (Prof. Emeritus, Madras Institute of Development Studies) and RBI. The exercise is expected to be completed by March, 2005.</p>

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			<p>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 Parliament in this regard in the ensuing Monsoon Session.</p>	
			<p><b>As reported in December 2003</b> 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.</p>	
			<p><b>As reported in June, 2004</b> With the dissolution of 13<sup>th</sup> Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14<sup>th</sup> Lok Sabha is under consideration.</p>	

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7.	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.	<p><b>As reported in May, 2003</b> As against 2.17</p> <p><b>As reported in December 2003</b> As against para 2.17</p> <p><b>As reported in June 2004</b> The position regarding implementation of recommendations of JPC, 1992 is explained in reply to para 2.17. Action taken on the other recommendations of this JPC is explained against the respective paras.</p>	As against para 2.17.
8.	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 MNCB 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 MNCB crash occurred	<p><b>As reported in May, 2003</b> 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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. SEBI has cancelled the certificate of registration granted to Triumph International Finance India Ltd to act as a stock broker.</li> <li>3. Adjudication order dated July 31, 2002 passed</li> </ol>	<p>Necessary steps for recovery of outstanding dues of Ketan Parekh group have been taken. The Assessing Officer has also sent the statement of arrears to the tax recovery officer who has identified and attached the following assets:</p> <ul style="list-style-type: none"> <li>• 155 bank accounts, of which 45 have credit balance</li> <li>• Eight Stock Exchange membership rights</li> <li>• Demat account of eight assesseees</li> <li>• Eight immovable properties</li> <li>• 1,442 notices have been issued to the sundry debtors of this group.</li> </ul> <p>Further, the sale/transfer of stock-in-trade of nine assesseees valued at Rs.19,16,09,654 as on 30.6.2004 has been prohibited. The aforesaid stock in demat account and in physical form also stands attached by the Debt Recovery Tribunal in cases instituted by Bank of India, Centurion Bank and Global Trust Bank. During the period, there has been a further progressive reduction/collection of Rs.1578.63 lakhs towards tax demands of block assessments up to the end of October, 2004. The net outstanding demand as per block assessments is Rs. 1,36,920.47 lakhs as on 31.10.2004. It has been reported that the recovery of taxes in Ketan Parekh Group of cases, involved in securities scam, 2001, is difficult for the</p>

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	<p>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 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.</p>	<p>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.</p> <p>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/associated with Ketan Parekh:</p> <ol style="list-style-type: none"> <li>1. Classic Credit Ltd</li> <li>2. Shri Kirtikumar N. Parekh</li> <li>3. Shri Ketan V Parekh</li> <li>4. Shri Kartik K Parekh</li> <li>5. Panther Fincap &amp; Mgt. Services Ltd.</li> <li>6. Shri Navinchandra Parekh</li> <li>7. Luminant Investment Private Ltd</li> <li>8. Shri Arun J Shah</li> <li>9. Chitrakut Computers Pvt. Ltd</li> <li>10. NH Securities Ltd.</li> <li>11. Shri V N Parekh</li> <li>12. Classic Shares &amp; Stock Broker Ltd</li> <li>13. Shri Kaushik C Shah</li> <li>14. Shri Mukesh Joshi</li> <li>15. Saimangal Investrade Ltd</li> <li>16. Classic Infin Ltd</li> <li>17. Panther Investrade Ltd</li> </ol>	<p>following reasons:</p> <ul style="list-style-type: none"> <li>• Shri Ketan Parekh is a notified person under Section 3(1) of the Special Court Act, 1992. Recovery of taxes from him can only be through the Special Court.</li> <li>• Ketan Parekh and his eight concerns have been barred by SEBI from trading for 14 years. Besides, the SEBI has cancelled the registration of his main concerns.</li> <li>• The Debt Recovery Tribunal has initiated proceedings in respect of some of the individuals and 6 major concerns of the group. Recovery of taxes from such concerns is subject to proceedings before the Debt Recovery Tribunal.</li> <li>• The claim of the Department has been rejected by the DRT. On the recommendations of Ministry of Law &amp; Justice, the Department is considering filing Writ Petition against the order in the DRAT.</li> <li>• Shri Ketan Parekh &amp; Shri Navinchandra Parekh are both notified persons. Even though only these two persons have been notified under the Special Court (TORTS) Act, 1992, the Custodian, however, is objecting to recovery from other entities wherein Shri Ketan Parekh or Navinchandra Parekh have any interest or connection.</li> <li>• Some of the sundry debtors have been summoned and examined. As per the details filed before the Tax Recovery Officer (TRO), the accounts were settled long back. Therefore, there is no possibility of recovery from these sundry debtors. However, summons have been issued in some more cases for further examination.</li> <li>• An amount of Rs. 938.29 lakh is disputed before the CIT (A) and an amount of Rs. 75394.42 lakh is disputed before the ITAT.</li> </ul>
		<p>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</p>	

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				<p>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.</p> <p>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.</p> <p><b>As reported in December 2003</b></p> <p>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.</p> <p>Officers of the Income Tax Department are in touch with the CBI, which is investigating this matter.</p> <p>Regarding the Special Cell, the position has been explained in para 2.21.</p> <p><b>As reported in June 2004</b></p> <p>CBDT has informed that the total demand raised in Ketan Parekh Group of cases (block assessments) was Rs. 1365.37 crore. Further, interest u/s 220 (2) was levied amounting to Rs. 41 crore (approx.). Thus, the gross total demand comes to Rs. 1406.37 crore. Out of this, there has been collection/reduction in appeal to the tune of Rs. 21 crore (approx.). Hence the total outstanding demand in Ketan Parekh group of cases (block assessment) is Rs. 1385 crore (approx.) as on 28.5.2004.</p> <p>As Shri Ketan Parekh is a notified person u/s 3(1) of the Special Court Act, the demand can be collected by the Department only if the Special Court releases the funds towards the payment of tax.</p>	<p>Cash collection of Rs. 1447 lakh is on account of refund adjustment. The Hon'ble ITAT and CIT (A) have been requested to take up hearings of the pending appeals on priority basis.</p> <p>As on 31.10.2004, no block assessments of this group are pending before the CIT (Appeals). However, ten cases of regular assessments for the assessment year 2001-02 are pending before CIT (A).</p> <p>In view of aforesaid reasons, mentioned by the CBDT, the action on this para is treated as <b>complete</b>.</p>

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			<p>The Debt Recovery Tribunal has initiated proceedings in respect of some of the individuals and major concerns of the Group. Therefore, the recovery of taxes from such concerns is also subject to the proceedings before Debt Recovery Tribunal.</p>	
9.	4.44	<p>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 ascertain the facts regarding the Swiss bank account of Shri Ketan Parekh and to follow up the matter.</p>	<p><b>As reported in May, 2003</b> SEBI has indicated that the action taken by SEBI against Ketan Parekh entities for involvement in price manipulation of certain scrips, 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. <b>As reported in December 2003</b> Enforcement Directorate has issued Show Cause</p>	<p>The omissions and commissions which have been established are mainly relating to banking regulation and share market regulations. The tax implications of the transactions were examined during the block assessments and the regular assessments. After making investigations, block assessments have since been finalized. Assessments have been finalized on discrepancies found in the accounts wherein substantial additions of undisclosed income have been made after getting the accounts audited u/s 142 (2A). The Appellate Authority has also upheld substantial addition of undisclosed income computed by the Assessing Officer. In addition, other scrutiny assessments were also completed in September, 2003 after getting the accounts audited u/s 142 (2A). Further, some assessments were also completed in March 2004. First appeals for the cases completed in September, 2003 have been disposed off in March, 2004. The details of Swiss Bank Account of Sh. Ketan Parekh were called for from the CBI. The Additional Director, CBI, New Delhi informed Member (Inv.), CBDT, New Delhi vide his D.O. No.1420/4/39/2001-BSFC/LO dated 21.5.2003 as under: "Office of the District Public Prosecutor-IV of Canton Zurich vide letter dated 29.10.2002 through Embassy of India intimated that the High Court of Zurich had granted appeal against the</p>

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				<p>Notices for contraventions of the provisions of FERA/FEMA to the following OCB's designated by SEBI as KP entities: -</p> <ol style="list-style-type: none"> <li>1. Global Trust Bank, the custodian in all the cases.</li> <li>2. Brentfield Holdings Ltd (BHL)</li> <li>3. European Investments Ltd., (EIL)</li> <li>4. Wakefield Holdings Ltd. (WHL)</li> <li>5. Far East Investment Corp. Ltd (FIL)</li> <li>6. Kensington Investments Ltd. (KIL)</li> </ol> <p>In all these cases, the matter is now at the adjudication stage. The Adjudicating Authority has been advised to expedite the proceedings.</p> <p>In additions, 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 Mangement (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.</p> <p>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.</p> <p>As regards Madhavpura Mercantile Cooperative</p>	<p>order dated 24.4.2002 of District Public Prosecutor-IV of Zurich, in pursuance of which they could not transfer the details of the account of Firm Elista Ltd., Nassau, Bahamas to India. The office of the Public Prosecutor-IV of Canton Zurich was also directed by the High Court to intimate the Indian authorities that no money of MMCB derived from the illegal accounts of the ten firms in which Mr. K. Parekh has been holding shares has been transferred to the Accounts in question for which the Indian request for legal assistance dated 25.9.2001 was forwarded. It has also been intimated that from the documents examined by the High Court, it has been found that all transfers have been done as certificates before 4.7.2000. Therefore, they have concluded that documents of Elista cannot prove any over due credit gone to MMCB."</p> <p>In view of this position, the Income Tax Department is not in possession of any material relating to the Swiss account and no addition could be made on this account.</p> <p>Enforcement Directorate has informed that on completion of investigation a Show Cause Notice has been issued on 03.9.2004 to M/s Triumph International Finance (India) Ltd. and others.</p>

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			<p>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.</p> <p><b>As reported in June, 2004</b></p> <p>The chargesheet in the case relating to complaint of Bank of India has already been filed in the competent court. As regards Madhavpura Mercantile Cooperative Bank Ltd. case, investigation in India has been completed and Charge sheet in the case has been filed in the court of Chief Metropolitan Magistrate, Ahmedabad on 1.12.2003.</p> <p>Enforcement Directorate has informed that out of 6 Show Cause Notices (SCNs) issued to these companies, two SCNs have been adjudicated. As a result of Adjudication penalty has been imposed in one SCN. In the other case, charge was not established.</p> <p>As regards finalisation of proceedings by the Income Tax Department against Ketan Parekh, the position has been explained in reply to para No.4.42.</p>	
10.	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.	<p><b>As reported in May, 2003</b></p> <p>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</p>	<p>As per the information available with RBI, as on 31st October, 2004, the six commercial banks (viz., Bank of India, Global Trust Bank Ltd. (GTB), ICICI Bank Ltd., Centurion Bank Ltd., Bank of Punjab Ltd. and Ratnakar Bank Ltd.), which had exposure to Ketan Parekh entities, could recover in total Rs. 159.13 crore and the balance outstanding in respect of all these banks taken together stood at Rs. 265.74 crore).</p> <p>RBI is following up the recovery of the amounts on a continuous basis.</p>



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			<p>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.</p> <p><b>As reported in December 2003</b> Follow up action is in progress.</p> <p><b>As reported in June, 2004</b> RBI is following up the recovery of the amounts on a continuous basis.</p>							
11.	4.68	<p>The Committee note that the three broking groups belonging to Shri D.K. Singhanian, 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 Singhanian 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 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.</p>	<p><b>As reported in May, 2003</b> Pursuant to investigations against Singhanian Group, Poddar Group, Biyani Group and Khemani groups, SEBI has filed prosecutions as follows:</p>	<p>SEBI is following up with Chief Metropolitan Magistrate, Kolkata for early disposal of prosecution proceedings filed against the 21 persons of Singhanian Group, Poddar Group, Biyani Group and Khemani group of brokers. The registration of two brokers namely, Man Mohan Damani and Shree Harivansha Securities Pvt. Ltd. has been suspended for six months for their large scale off-market transaction with three defaulter brokers and with Khemani Group vide order dated July 2, 2004 and March 12, 2004 respectively.</p> <p>Action against the following broker has been taken by SEBI who had done large scale off-market transaction with three defaulter brokers and with Khemani Group:</p> <table border="1"> <thead> <tr> <th>Name of Broker</th> <th>SEBI Order Date</th> <th>Suspension period</th> </tr> </thead> <tbody> <tr> <td>Amitabh Sonthalia</td> <td>21.07.2004</td> <td>4 Months</td> </tr> </tbody> </table> <p>Kolkatta Police have informed that different officials of SEBI, Banks, ROC, Stock Exchanges, Auditors, officials of CMC Ltd. etc. are being examined with reference to the revelations of various facts, documents and reports. Further follow up actions are being made to complete the investigation at the earliest.</p> <p>The fund flow and its end use among the entities are being verified. A Red Corner Notice has been issued against Shri Dinesh Dalmia of DSQ Software Ltd. &amp; others who are still absconding.</p>	Name of Broker	SEBI Order Date	Suspension period	Amitabh Sonthalia	21.07.2004	4 Months
Name of Broker	SEBI Order Date	Suspension period								
Amitabh Sonthalia	21.07.2004	4 Months								

<b>No</b>	<b>Name of the Case</b>	<b>Filed against</b>	<b>Case No.</b>	<b>Filed at</b>	<b>Date of filing</b>
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 Singhanian, 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 Singhanian	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 Singhanian, Shri Sanjay Kr. Jain	4915/02	Chief Metropolitan Magistrate, Kolkata	November 30, 2002.
9.	SEBI vs. Shri Dinesh Kr. Singhanian	Shri Dinesh Kr. Singhanian	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 Singhanian & 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.
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 Alope 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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			<p><b>As reported in December 2003</b> Investigation of Kolkatta Police is in progress.</p> <p><b>As reported in June, 2004</b></p> <ul style="list-style-type: none"> <li>• Sanjay Khemani's certificate of registration has been suspended for a period of two years vide SEBI Order dated February 26, 2004.</li> <li>• N. Khemani's certificate of registration has been suspended for a period of fourteen months vide SEBI Order dated February 26, 2004.</li> <li>• Investigation of Kolkata Police are in progress.</li> </ul>	
12.	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.	<p><b>As reported in May, 2003</b> 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</p>	<p>The matter of deposit of ten lacs shares of DSQ Software Ltd. by Shri Harish Chandra Biyani and Biyani Securities Ltd. is under investigation by Kolkata Police. One of the FIR named accused in this case Dinesh Dalmia - promoter of DSQ Group of companies, a proclaimed offender and others who had played role into this matter are still absconding. Alok Biyani, Director of M/s Biyani Securities Pvt.</p>

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		The Committee expect that the matter be investigated and on the basis of outcome thereof, appropriate criminal proceedings will be initiated.	<p>from whom these shares were obtained did not act as client and was merely an entity of a friend 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. Kolkata Police have informed that investigation is in progress.</p> <p><b>As reported in December 2003</b> Investigation of Kolkata police is in progress.</p> <p><b>As reported in June, 2004</b> Investigations of Kolkata Police are in progress.</p>	<p>Ltd. and defaulter broker of the Calcutta Stock Exchange, who evaded police arrest since long, was arrested while he was about to leave the country through Netaji Subash Chandra Bose International Airport, Kolkatta. Investigation revealed that Alok Biyani had dishonestly and frequently deposited 10 lakhs shares of DSQ Software as security towards his pay-in dues in CSE on 21.3.2001 with some ulterior motive. These fake shares were shown have been allotted in the names of some bogus companies. He has been produced before the Chief Metropolitan Magistrate, Kolkatta on 1.9.2004 and remanded to police custody for fifteen days. Investigations on different aspects are being made.</p> <p>SEBI has informed that the registration of two brokers namely, Man Mohan Damani and Shree Harivansha Securities Pvt. Ltd. has been suspended for six months for their large scale off-market transaction with three defaulter brokers and with Khemani Group vide order dated July 2, 2004 and March 12, 2004 respectively. Action against the following broker has been taken by SEBI who had done large scale off-market transaction with three defaulter brokers and with Khemani Group:</p> <table border="1"> <thead> <tr> <th>Name of Broker</th> <th>SEBI Order Date</th> <th>Suspension period</th> </tr> </thead> <tbody> <tr> <td>Amitabh Sonthalia</td> <td>21.07.2004</td> <td>4 Months</td> </tr> </tbody> </table>	Name of Broker	SEBI Order Date	Suspension period	Amitabh Sonthalia	21.07.2004	4 Months
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13.	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	<p><b>As reported in May, 2003</b> 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</p>	<p>The enquiry conducted by Shri S. Doreswamy, former Chairman and Managing Director of Central Bank of India and former Member of Advisory Board for Banking and Commercial and Financial Frauds, has come to the conclusion that charges in respect of five officials were either not established or not conclusively established. Accordingly, the Competent Authority felt that</p>						

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		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.	<p>and Regulations made there under have been violated. Investigation is currently in progress.</p> <p><b>As reported in December 2003</b></p> <p>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:</p> <p>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</p> <p>Departmental enquiry proceedings have been initiated against the six persons. Charge-sheets were issued to the six officials who have submitted replies. The Board of Directors of SHCIL has approved appointment of an enquiry officer to conduct enquiry in these cases.</p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Domestic enquiry against all the six officials viz. Shri B.V. Goud, Dr. J.V. Murthy, Shri R.H. Mewawala, Shri L.Vishwanathan, Shri K.S. Murthy and Shri A.S. Bagchi has been completed by end-April, 2004. The Enquiry Officer is in the process of preparing the report on the proceedings of the enquiry.</p>	<p>charges levied against the five officials of SHCIL had not been established. Therefore, the matter was treated as closed. The Competent Authority has directed that the charge-sheeted officers should be advised in writing to be more careful and vigilant in the performance of their duties. The above order was passed by the Competent Authority in respect of the five chargesheeted employees on September 28, 2004.</p> <p>Regarding Shri B.V. Goud, IDBI have advised that the Board of SHCIL, as Competent Authority, unanimously resolved that in so far as SHCIL's fact finding enquiry was concerned, the matter be treated as closed. It was also resolved that in the event of Shri Goud being found guilty by a final order of the Kolkatta High Court pursuant to the investigation by the Kolkatta Police into the above transactions, SHCIL shall be at liberty to take such action as it may deem fit at that stage. Since Shri Goud was originally an Executive of IDBI, IDBI has been advised to place the whole matter in their board and then send their recommendations to the Government.</p>
14.	4.117	SEBI 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	<p><b>As reported in May, 2003</b></p> <p>SEBI have informed the following action taken by it.</p> <p><b>A. First Global Group</b></p> <p>Based on investigation findings in the case of First</p>	<p><b>A. First Global Group</b></p> <p><b>STATUS OF APPEAL NO. 90/2002 - FIRST GLOBAL STOCK BROKING PVT. LTD. Vs. SEBI - PENDING BEFORE HON'BLE</b></p>

Sl. No.	Para No.	Observation/Recommendation	of JPC	Reply of Government/Action Taken	Further Progress
		investigations in this regard.		<p>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.</p> <p>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. INP00000381) and VCIP (SEBI Reg. No. INS010647738/01-07221) as a Sub-broker.</p> <p>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.</p> <p>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.</p> <p><b>B. CSFB Securities:</b> 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 OCBs namely Wakefield, Brentfield, Kensington,</p>	<p><b>SECURITIES APPELLATE TRIBUNAL, MUMBAI.</b></p> <p>The order of SEBI dated 12.09.02 was challenged before the Hon'ble Securities Appellate Tribunal and the Hon'ble Tribunal vide its ad-interim order dated 29.10.02 stayed the operation of the said impugned order subject to the condition that the appellants shall not carry on any business as stock brokers, portfolio manager and sub broker and the same was extended till the final disposal of the appeal by the Tribunal vide its order dated 06.03.03. The appellant had filed a detailed compilation of documents on 31.08.04. The said appeal was taken up for hearing on 02.09.04 and the counsel for the respondent sought a short adjournment for the purpose of perusing the compilation of documents filed by the appellant, which was opposed by the counsel for the appellant. Finally, the Hon'ble Tribunal was pleased to grant a short adjournment and posted the matter on 09.09.04 for hearing. On 09.09.04, Shri Justice Kumar Rajaratnam, Presiding Officer and Shri B. Samal, Member were only present and the other member Shri N.L Lakhnupal was not present. In view of the above, the Hon'ble Tribunal observed that the matter be heard by the full bench. Accordingly, the matter was adjourned to 11.10.04 for hearing. The matter was heard on 11.10.04. During the hearing, the appellant had raised a preliminary issue viz. that the impugned order was not passed within the specified time limit. In view of this, SAT desired to hear and decide the preliminary issue and thereafter proceed to hear the matter on merits. On account of this, the matter was adjourned to 19.10.04, when the preliminary issues were argued and as it remained part heard then, the matter was fixed for further hearing on 21.10.04. The matter remained part heard on 21.10.04. The</p>

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			<p>FII sub-account-Kallar Kahar Investment Ltd., Mackertich Consultancy Services Pvt. Ltd. and also on its own account</p> <p>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</p> <p>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.</p> <p><b>C.DKB Securities:</b> 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</p>	<p>oral hearing on the preliminary issue of limitation was concluded on 11.11.2004 and the SAT asked both the parties to file written submissions, which was done by SEBI on 22.11.2004. SAT has reserved its orders in the case.</p> <p><b>STATUS OF W.P. (LODG) No.845 OF 2004 - SHANKAR SHARMA AND ANOTHER Vs. SEBI - PENDING BEFORE THE HON'BLE HIGH COURT OF BOMBAY.</b></p> <p>A Show Cause Notice dated 09.03.2004 u/s 11B of the SEBI Act, 1992 was issued to individuals Shri Shankar Sharma and Smt. Devina Mehra. A writ petition was filed challenging the said Show Cause Notice in the Hon'ble High Court of Bombay. The Hon'ble Court vide its order dated 27.04.2004 held that SEBI's -Counsel viz Shri Goolam Vhanavati's (the Learned Advocate General) statement that SEBI would not proceed further till the matter is decided by the court would continue till further orders and adjourned the matter to 23.08.2004. However, the matter came up before Hon'ble High Court on 31.08.2004 and the advocate appearing on behalf of the petitioners sought for an adjournment as their appeal before the Hon'ble Securities Appellate Tribunal is fixed for final hearing on 02.09.2004. The matter now stands adjourned to 26.11.2004.</p> <p><b>E. Khemani Group</b></p> <p>Action against the following brokers has been taken who had done large scale off-market transaction with three defaulter brokers and with Khemani Group</p>						
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				<p>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.</p> <p><b>E. Khemani Group</b></p> <p>The investigation of Khemani Group has revealed the violation of the following provisions by Sanjay Khemani and N Khemani:</p> <ul style="list-style-type: none"> <li>• Section 19 of Securities Contracts (Regulation) Act, 1956</li> <li>• Regulation 4 (b) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995</li> <li>• Rule 4 (b) of SEBI (Stock brokers and Sub-brokers) Rules, 1992,</li> <li>• Regulation 7 of SEBI (Stock brokers and Sub-brokers) Regulations, 1992</li> </ul> <p>For the above violations, SEBI vide its Order dated January 21, 2003 issued under Section 11 &amp; 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.</p> <p><b>H. Bang Group of Entities</b></p> <p>In the light of the findings of investigation and after considering the findings of the enquiry officer, in 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)</p>	



Sl. No.	Para No.	Observation/Recommendation	of JPC	Reply of Government/Action Taken	Further Progress
				<p>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.</p> <p><b>As reported in December 2003</b></p> <p>Pursuant to enquiry proceedings initiated against DKB Securities (DKB), an opportunity of hearing before Whole time Member of SEBI was granted to DKB Securities on 28th July, 2003. Final order is being issued.</p> <p>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.</p> <p>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 &amp; 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.</p> <p>SEBI investigation into the activities of the Shailesh Shah Group have been completed. Pursuant to the</p>	

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			<p>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) 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.</p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>The matter of issuing directions against the promoter-directors of FGSB and Vruddhi Confinvest India Pvt. Ltd, namely, Shri Shankar Sharma &amp; Smt. Devina Mehra under the provisions of the SEBI Act and the Rules and Regulations made there under has been approved by the Board and is under progress.</p> <p><b>C. DKB Securities:</b></p> <p>Show cause notice has been issued and hearing has been granted before Whole-Time Member, SEBI. Final Order is being issued.</p>	

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			<p><b>E. Khemani Group</b>            Enquiry against Sanjay Khemani and N. Khemani, members Calcutta Stock Exchange was completed. Based on the Enquiry Officer's recommendations, Chairman vide Order dated February 26, 2004, suspended the registration of Shri Sanjay Khemani for two years and N. Khemani, for 14 months.</p> <p>Action against the following 22 brokers has been taken who have done large scale off-market transaction with three defaulter brokers and with the Khemani group:</p>																																											
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			Name of the broker	Suspension period	SEBI Order Date	
			14. GAUTAM BAJORIA	One year	13/08/2003	
			15. SHIVAM STOCK BROKING P LTD	One year	13/08/2003	
			16. SKC SHARE &ST BR SER P LTD	One year	13/08/2003	
			17. KRISHNA KUMAR DAGA	3 months	12/08/2003	
			18. VIJAY KR PATNI	4 months	12/08/2003	
			19. PRAKASH CHAND BAID	4 months	29/07/2003	
			20. PRAMOD KR DROLIA & CO	4 months	04/07/2003	
			21. MATHRAN SECURITIES	4 months	29/05/2003	
			22. LOKNATH SARAF	Case closed as broker expired on 01/08/2003.		
			<b>Action against these 22 brokers is, therefore, completed.</b>			
15.	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.	<p><b>As reported in May, 2003</b> As against para 3.21</p> <p><b>As reported in December 2003</b> As against para 3.21.</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>			As against para 3.21.
16.	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,	<p><b>As reported in May, 2003</b> 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</p>			The hearing in the enquiry instituted against Shri SN Valera and Shri Manubhai A Panchal, Chartered Accountants, who were the Auditors of the Madhavpura Mercantile Co-operative Bank for the years 1999-2000 and 1998-1999 respectively has been concluded. Decision of the Council is awaited.

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discrepancy between credit to deposit were evident from the face of the records.	been referred to the Disciplinary Committee for enquiry.	<p><b>As reported in December 2003</b> No change in the status.</p> <p><b>As reported in June, 2004</b> The hearing in the enquiry instituted against Shri SN Valera and Shri Manubhai A Panchal, Chartered Accountants, who were the Auditors of the MNCB for the years 1999-2000 and 1998-1999 respectively was started on 25th and 26th March 2004 at Ahmedabad. The Counsel for the complainant requested for adjournment on certain grounds. The Disciplinary Committee acceded to the request for adjournment and the said matters were adjourned to be fixed in the beginning of May 2004. Due to unavoidable circumstances, the hearing could not be held in the Month of May 2004. The hearings are tentatively fixed for the month of July, 2004.</p>	
17. 5.64	<p>The Committee were informed that a criminal complaint was lodged by the RBI in the court of Chief Metropolitan Magistrate, Ahmedabad against the MNCB, 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 MNCB 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 ex-Chairman and Managing Director and other officials involved in the mismanagement of the Bank. In pursuance of</p>	<p><b>As reported in May, 2003</b> The criminal complaint lodged by the Administrator of MNCB 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&amp;FC, Mumbai in its RC.4(E)/2001-CBI-BS&amp;FC 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 exclusive special counsel to conduct the trial of this case and all efforts are being made by it with the court to expedite the trial.</p>	<p>In RC.4/E/2001-BSFC/MUM i.e. the MNCB case, the CBI has informed that the Assistant Director Interpol has reminded PRO (EXT), MEA, New Delhi on 5.10.2004 to ascertain the present position from concerned authorities of Mauritius. As regards the queries raised by the UK Serious Fraud Office vide their fax dated 16.4.2004 and 31.4.2004 regarding the Letter Rogatory sent to UK, the matter has been examined in CBI. As per the information available with the CBI, the defrauded amounts connected with this case have been received in the account of M/s Almel Investment Ltd., account being maintained with the Nat-West Bank, PLC, London. Interpol Wing of CBI was requested to inform the authorities at UK accordingly and to collect the documents and examine the witnesses as requested vide Letter Rogatory since the Hon'ble CMM, Ahmedabad has already given his authorization.</p>

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		<p>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.</p>	<p><b>As reported in December 2003</b> As against para 5.59</p> <p><b>As reported in June, 2004</b> In RC.4/E/2001-BSFC/MUM i.e. the MMCB case charge sheet has been filed in the court of CMM Ahemdabad on 1.12.2003. With the permission of the Govt. of India, LR's to Mauritius and UK issued by the Court have been forwarded to the Legal Cell MHA on 17.12.2003 for onwards transmission to Competent Authorities in these countries. 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.</p>	<p>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.</p>
18.	5.66	<p>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:</p> <p>i. The Committee is of the opinion that in the gross irregularities committed in the functioning of the MMCB, everyone was involved. The Committee 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.</p>	<p><b>As reported in May, 2003</b> As against para 3.22</p> <p><b>As reported in May, 2003</b> Ministry of Agriculture has informed that</p> <p>(a) Immediately after the problem of Madhavpura Mercantile Cooperative Bank surfaced, the Board 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.</p> <p>(b) A criminal complaint against the then Chairman of the Bank, Sh. Rameshchandra Nandlal</p>	<p>The Institute of Chartered Accountants of India (ICAI) have informed that hearings in the case of Madhavpura Mercantile Co-operative Bank (MMCB) Ltd. have been concluded on October 25, 2004. The Reports of the Disciplinary Committee will be shortly sent to the parties concerned and thereafter, the matter will be placed before the Council for consideration of the Reports of the Disciplinary Committee in the said matter. ICAI have further stated that they shall inform the position as soon as the matters are considered by the Council.</p> <p>Govt. of Gujarat have informed that an amount of Rs.195 crores was recovered out of recoverable advances of Rs.320 crores from the defaulters of the bank. The bank has admitted 992 Lawadi suits in the Board of Nominees and Arbitral Tribunal worth Rs.2030 crores and 79</p>

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				<p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>f) The Institute of Chartered Accountants of India has already been requested to take disciplinary action against the Chartered Accountants of the bank who failed to point out the serious irregularities committed by the bank.</p> <p><b>As reported in December 2003</b></p> <p>Government of Gujarat has reported that an amount of Rs. 173.96 crores has been recovered from the defaulters of the Bank. The Bank has 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 &amp; Co., Chartered</p>	<p>criminal cases are lodged against defaulters of the bank with the State Police authorities.</p>

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				<p>Accountants and M/s Manubhai A. Panchal &amp; 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.</p> <p>The Committee, after examining the records available in the RBI has observed that the bizarre misdeeds in the MNCB 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:</p> <p>(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.</p> <p>(ii) Supplemental sources of information like concurrent audit/internal inspection reports were conspicuous by absence.</p> <p>(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</p>	



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				<p>limits [much above the RBI stipulated exposure norms] soon after the RBI inspection.</p> <p>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.</p> <p>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.</p> <p>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</p>	

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		<p>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 MNCB, facilitating the perpetration of fraud by the bank's management.</p> <p><b>As reported in June, 2004</b> The hearing in the enquiry instituted against Shri SN Valera and Shri Manubhai A Panchal, Chartered Accountants, who were the Auditors of the MNCB for the years 1999-2000 and 1998-1999 respectively was started on 25th and 26th March 2004 at Ahmedabad. The Counsel for the complainant requested for adjournment on certain grounds. The Disciplinary Committee acceded to the request for adjournment and the said matters were adjourned to be fixed in the beginning of May 2004. Due to unavoidable circumstances, the hearing could not be held in the Month of May 2004.</p>	
ii.	<p>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-</p>	<p><b>As reported in May, 2003</b> As in para 3.21</p> <p><b>As reported in December 2003</b> As against para 3.21.</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	As against para 3.21.

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		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.		
		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 MNCB and conduct of its 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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December 2003</b> As against para 3.21</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December 2003</b> As against para 3.21.</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	As against para 3.21.
19.	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	<p><b>As reported in May, 2003</b> 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</p>	Govt. of Uttar Pradesh has informed that on the basis of enquiry report submitted by Shri V.K. Mittal, the then Member, Board of Revenue who was appointed as Investigation Officer to look into the laxity of Registrar of Cooperative Societies and his officers in discharging their duties

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	<p>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. 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</p>	<p>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 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.</p> <p>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).</p> <p>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.</p> <p>2. In the light of the findings of the scrutiny, RBI has taken the following measures:</p> <p>(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.</p>	<p>regarding inspection of a bank, adverse entries have been made against Chief Audit Officer, Cooperative Committees and Panchayats, 3 auditors and disciplinary proceedings have been started against two Dy. Chief Audit Officers and two District Audit Officers of City Co-op. Bank Ltd. for not carrying out their duties efficiently. No action can be taken against remaining auditors/officers as they have retired from the service and stipulated period of four years for action has already lapsed.</p> <p>Orders to get the investigation done by Economic Officers Wing (EOW) against the officials found guilty for dereliction of duty and periodical inspection have been issued on 23.7.2004. Progress report from EOW is awaited.</p> <p>Regarding constitution of Special Courts, Government of Uttar Pradesh have informed that CBI has filed a charge sheet in the Special Court designated for dealing CBI cases, there is no need of constituting Special Courts.</p>

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	<p>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 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.</p>	<p>(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 issued an order on April 09, 2001 superseding the Board and appointing the District Magistrate, Lucknow as the Administrator of the bank.</p> <p>(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.</p> <p>(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.</p> <p>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</p>	

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					<p>09, 2001 well before issue of licences for opening the branches at the allotted centres.</p> <p>4. A scheme of revival of the bank is under consideration of the Government of Uttar Pradesh.</p> <p>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 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</p>	

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				<p>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 consultation with the Central Vigilance Commission.</p>	
				<p>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.</p>	
				<p>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</p>	

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			<p>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.</p> <p><b>As reported in December 2003</b> Chargesheet in RC.19/2001-LKO has been filed by CBI in the Court on 30.8.2003.</p> <p>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.</p> <p>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 matter regarding constitution of Special Court for expeditious disposal of cases is still under consideration of Hon'ble Allahabad High Court.</p> <p><b>As reported in June, 2004</b> Reply from Govt. of Uttar Pradesh is awaited. The last reminder was sent on 1/6/2004.</p>	
20.	5.110	<p>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 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</p>	<p><b>As reported in May, 2003</b> As against para 5.109</p> <p><b>As reported in December, 2003</b> As against para 5.109</p> <p><b>As reported in June, 2004</b> Reply from Govt. of Uttar Pradesh is awaited. The last reminder was sent on 1/6/2004.</p>	<p>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.</p> <p>Govt. of Uttar Pradesh has informed that on the basis of enquiry report submitted by Shri V.K. Mittal, the then Member, Board of Revenue who was appointed as Investigation Officer to look into the laxity of Registrar of Cooperative Societies</p>



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		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.		and his officers in discharging their duties regarding inspection of a bank, adverse entries have been made against Chief Audit Officer, Cooperative Committees and Panchayats, three auditors and disciplinary proceedings have been started against two Dy. Chief Audit Officers and two District Audit Officers of City Co-op. Bank Ltd. for not carrying out their duties efficiently. No action can be taken against remaining auditors/officers as they have retired from the service and stipulated period of four years for action has already lapsed. Orders to get the investigation done by Economic Offences Wing (EOW) against the officials found guilty for dereliction of duty and periodical inspection have been issued on 23.7.2004. Progress report from EOW is awaited.
21.	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 not taken for rectifying the irregularities. This	<b>As reported in May, 2003</b> As against para 5.109 <b>As reported in December, 2003</b> As against para 5.109 <b>As reported in June, 2004</b> Reply from Govt. of Uttar Pradesh is awaited. The last reminder was sent on 1/6/2004.	As against 5.109.

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		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.		
22.	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.	<p><b>As reported in May, 2003</b> As against para 5.109</p> <p><b>As reported in December, 2003</b> As against para 5.109</p> <p><b>As reported in June, 2004</b> Reply from Govt. of Uttar Pradesh is awaited. The last reminder was sent on 1/6/2004.</p>	As against 5.109.
23.	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 exercising supervision on the working of the Bank even when the UP Cooperative Societies Act, 1965 empowers the Registrar to hold an enquiry into the working of the co-	<p><b>As reported in May, 2003</b> As against para 5.109</p> <p><b>As reported in December, 2003</b> As against para 5.109</p> <p><b>As reported in June, 2004</b> Reply from Govt. of Uttar Pradesh is awaited. The last reminder was sent on 1/6/2004.</p>	As against 5.109.

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		<p>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.</p>		
		(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.		
24.	5.158	<p>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.</p>	<p><b>As reported in May, 2003</b>  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</p>	<p>The recommendations of the Working Group were examined by RBI in the background of the steps already initiated by Reserve Bank in May 2002 to effectively address the issue of diversion/siphoning of funds. Considering the implications implicit in</p>

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				<p>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.</p> <p><b>As reported in December 2003</b> The Working Group has submitted its report and its recommendations are under examination of RBI.</p> <p><b>As reported in June, 2004</b> The matter is under examination of the RBI.</p>	<p>the legislative amendments, the recommendations were taken up for wider discussions with the Standing Technical Advisory Committee on Financial Regulation (STACFR), an advisory body comprising of bankers, legal experts and academicians. While entirely agreeing with the observations of the JPC on the need for strong action against willful defaulters, in a demonstrable way, STACFR observed that:</p> <p>The recommendations of the Pai Group for amendments to Indian Penal Code has an implicit element of presumptive guilt on the part of the borrower. Implementation of the recommendation is fraught with constraints particularly in view of the general banker-customer relationship and the aspect of natural justice.</p> <p>Banks can initiate criminal action against defaulting borrowers even in the present environment. Diversion of funds often takes place through new accounts opened in banks other than the lending banks. While it is difficult to prevent a customer from borrowing from any other bank in the present environment, banker should be prudent while financing a borrower of another bank.</p> <p>Banks are generally interested in recovering the monies lent by them and option for recall of a loan is exercised after exhausting all other methods of recovery. Initiating criminal action against the borrower is unlikely to help banks in recovering the money lent by them.</p> <p>After further examination of the views of the Advisory Committee and the legal position, RBI has noted that even the existing legal provisions in Cr. P.C. facilitate initiation of desired actions without legal amendments as was originally contemplated.</p> <p>In view of the above, banks/FIs have been advised on 23rd July 2004 to formulate a</p>

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				transparent policy with the approval of the Board in order to initiate criminal action against willful defaulters on a case by case by case basis , under the provisions of Sections 403 and 415 of the Indian Penal Code (IPC), 1860 depending upon the facts and circumstances of the case. <b>Action completed.</b>
25.	5.159	<p>In view of the foregoing the Committee recommend the following:-</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p><b>As reported in May, 2003</b></p> <p>(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.</p> <p>(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.</p> <p>(iii) The bank has been directed by RBI to take corrective action.</p> <p>(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.</p> <p>(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.</p> <p><b>As reported in December 2003</b> Follow up action is in progress.</p> <p><b>As reported in June, 2004</b> RBI is following up the recovery of the amounts on a continuous basis.</p>	<p><b>Bank of India</b> - Recovered Rs. 17.62 lakh during the period and the balance outstanding was Rs. 121.43 crore as on June 30, 2004. The bank is going ahead with compromise settlement in respect of Ketan Parekh group entities with the approval of the Government of India.</p> <p><b>Global Trust Bank Ltd.</b> - Classified the accounts as NPAs has made 100% provision for the total exposure and filed criminal cases as well as cases with DRTs against parties.</p> <p><b>ICICI Bank Ltd.</b> - Recalled the loan in one account and suit is being filed.</p> <p><b>Centurion Bank Ltd.</b> - Has fully written off the outstanding balance in accounts relating to Ketan Parekh entities and has also initiated legal proceedings in DRT-II.</p> <p><b>Bank of Punjab Ltd.</b> - Has filed recovery suits in DRT and issued notice under SARFAESI Act, 2002 for taking possession of property mortgaged.</p> <p><b>Ratnakar Bank Ltd.</b> - Loan against fixed deposit has since been fully adjusted.</p> <p>The above banks have been advised by RBI to take effective steps to recover the entire amount from the Ketan Parekh entities expeditiously.</p>

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26.	5.174	<p>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 :</p> <p>(a) delegated unlimited power to the Branch 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;</p> <p>(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;</p> <p>(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;</p> <p>(d) no regular audit of the branch took place after November, 1999;</p> <p>(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</p>	<p><b>As reported in May, 2003</b></p> <p>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 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:</p> <ul style="list-style-type: none"> <li>- Discounting of instruments issued by Co-operative Banks has been stopped.</li> <li>- 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.</li> <li>- Exposure limit on Indian Banks in Public Sector and Private Sector have been fixed.</li> <li>- Exposure Caps to the Capital Market has been fixed.</li> <li>- Delegation of powers pertaining to Stock Exchange Branch was revised. The lending powers of the various delegates have been curtailed.</li> <li>- 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.</li> <li>- 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.</li> </ul>	<p>Bank of India has informed that departmental enquiry against Shri U.H. Somaiya has concluded with imposition of a major penalty on him. Shri Ketan Parekh has not agreed for inclusion of the clause in the compromise agreement "without prejudice to criminal case against him and other accused persons". Bank's advocates have opined that legally it is not necessary to retain the clause in the consent terms as such proceedings are separately prosecuted by CBI authorities and will not have any bearing regarding bank's dues payable under the consent terms. The matter is under the consideration of Bank of India in consultation with the Government. The Bank of India has so far recovered aggregate sum of Rs.21.78 crores. The present book outstanding in the account is Rs.121.43 crores.</p>

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(f)	<p>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;</p> <p>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 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.</p>	<p>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.</p> <p>Consequent to November 1999 the Stock Exchange Branch was subject to various audits like Statutory Audit, RBI Audit, Concurrent Audit, Internal Audit, Revenue Audit, System Audit during the period from 31<sup>st</sup> March 2000 to 12.01.2001. Similar audits were also conducted for the subsequent period.</p> <p>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.</p> <p>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</p>	

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(g)	<p>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.</p>	<p>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 in February 2002 that it would not pursue the accountability of the controlling authority.</p> <p>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.</p> <p>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 MNCB is an individual deviation and restriction on discounting pay orders could affect the sanctity of such instruments.</p>	



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				<p>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 (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.</p> <p><b>As reported in December 2003</b></p> <p>Recovery suits filed in DRT, Mumbai against Ketan Parekh group of companies and Madhavpura Mercantile Co-operative Bank Ltd. are in progress.</p>	

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				<p>System of selection of officers in sensitive posts after obtaining prior vigilance clearance, is being followed by the bank.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Bank of India has informed as below:</p> <p>Regular hearing against Shri U.H. Somaiya concluded on 14.11.2003. Enquiry Report was received from CDI on 7.2.2004 by Disciplinary Authority. A copy of findings was furnished to Shri Somaiya seeking his representation on enquiry findings. Shri Somaiya has submitted his representation and the matter is under consideration of the Disciplinary Authority.</p> <p>CBI after enquiry regarding acquisition of wealth and mode of acquisition by Shri Somaiya did not reveal that Shri U.S. Somaiya has any assets which are disproportionate to his known sources of income and as he is already facing a departmental action for major penalty, the Competent Authority in CBI after due evaluation of evidence has approved closure of the case.</p>	

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			<p>The compromise proposal as approved by the Government was conveyed to the advocates of Shri Ketan Parekh by the Bank. Shri Ketan Parekh requested certain modification in the terms of approval. The Board in its meeting held on 25.9.2003 approved the modification in the terms of compromise proposal. Subsequently, Shri Ketan Parekh requested further modifications in the terms of approval. Accordingly, at the meeting of Bank's Board of Directors held on 9.3.2004, approval was accorded for modification in terms of compromise proposal.</p> <p>After filing suit in the accounts, Bank has so far recovered aggregate sum of Rs.21.60 crores, out of which amount of Rs.8.05 crores is appropriated towards ledger outstanding, and amount of Rs.13.55 crores is deposited with Prothonotary &amp; Senior Master, High Court, Mumbai as per Court Order. The present book outstanding in the account is Rs.121.61 crores.</p> <p>It has been informed by RBI that they have commenced implementation of a RTGS system in a phased manner. As a first stage, a demonstrable version of the RTGS system was implemented in June 2003, and hands-on practice was given to the officials of 104 banks. The RTGS system has gone live from 26<sup>th</sup> March, 2004.</p>	
27.	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	<p><b>As reported in May, 2003</b> As against para 5.174</p> <p><b>As reported in December 2003</b> As against para 5.174</p> <p><b>As reported in June, 2004</b> The position has been explained in detail in reply to para 5.174</p>	As against para 5.174.

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		<p>Indian Bankers' Association. The Committee, therefore, recommend the following action:--</p> <p>(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 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;</p> <p>(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;</p> <p>(c) Efforts for recovering the balance amount of Rs. 129.66 crore be speeded up.</p>		
28.	5.197	<p>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:</p> <p>(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 Bank.</p> <p>(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</p>	<p><b>As reported in May, 2003</b></p> <p>The Reserve Bank of India has taken the following action in the matter:</p> <p>(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.</p> <p>(b) The bank has applied to the Mumbai Stock Exchange for arbitration proceedings against the Broker Director for recovery of the loss to 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.</p>	<p>RBI has informed that the Pubjab National Bank, which has taken over the Nedungadi Bank Ltd. has been advised to recover from the brokers the sum of Rs. 8.72 crore due on account of interest for delayed payment of sale proceeds. The bank has included an amount of Rs. 7.54 crore, in the total amount of arbitration and filed a suit in Mumbai to recover the balance amount. The claim of the bank (as an applicant in the arbitration) was dismissed by the Stock Exchange, vide its Award dated 27.4.2004. Pursuant to the above, the bank has filed an appeal before the Mumbai Stock Exchange, Appeal Bench on May 11, 2004. The appeal was heard on June 22, 2004 and the order is yet to be given.</p>

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		G. Mantri, broker and Shri H. Ganesh, Senior Manager of the Investment Cell, pending final disposal of their case.	(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.	Final orders have been passed on 5.3.04 after the enquiry proceedings against the brokers viz. Shrikant G. Mantri, First Custodian Fund (India) Ltd. and Harvest Deal Securities Ltd., suspending their certificates or registration for 12 months w.e.f. 14.07.2003. The individual directors of these entities were personally heard and final orders have been passed on 24.6.2004 debarring them from dealing in securities for 12 months w.e.f. 14.07.03.
(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.	SEBI has informed that investigations have been completed and the following actions have been initiated:-	
(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.		

Entities	Actions initiated
Brokers M/s Shrikant G Mantri, First Custodian Fund (India) Ltd., Harvest Deal Securities Ltd.	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>3. Prosecution proceedings have been launched against the three broking entities and the directors under Section 24 of the SEBI Act. Case Nos. 136, 137 and 138/S/2003 in the Court of Additional Chief Metropolitan Magistrate, 8<sup>th</sup> Court, Esplanade, Mumbai on 31/03/2003.</li> </ol>

Sl. No.	Para No.	Observation/Recommendation	of JPC	Reply of Government/Action Taken	Further Progress
<b>As reported December 2003</b>					
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, 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					

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			<p>the court of Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on March 31, 2003.</p> <p><b>As reported in June, 2004</b></p> <p>In addition to what has been mentioned against para 5.174, show cause notices were issued by SEBI to the individual directors of the three broking entities. The individuals were personally heard and the final orders are in the process of being passed.</p>	
29.	6.94	<p>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,</p>	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>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.</p> <p>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</p>	<p>Investigations by Kolkata Police are in progress. SEBI is following up with Kolkata Police authorities for early disposal of FIR filed by CSE.</p>

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	<p>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.</p>	<p>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 compliance . Such action would include penalty, switching off terminals etc.</p> <p>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.</p> <p>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.</p>	



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			<p>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.</p> <p>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 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.</p> <p>It may also be mentioned that CSE has initiated criminal and civil proceedings (at the instance of SEBI) against the concerned brokers of Singhanian Group, Biyani Group and Poddar Group. Further, as advised by SEBI, CSE has also filed FIR against Singhanian 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.</p> <p>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.</p>	

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				<p>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 &amp; 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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	

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		<p>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.</p> <p><b>As reported in December 2003</b></p> <p>Regarding the FIR lodged with Kolkatta Police by CSE, the investigation is going on.</p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Investigation of Kolkatta Police is in progress.</p>	
30.	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 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.	<p><b>As reported in May, 2003</b></p> <p>As at Para 6.94.</p> <p><b>As reported in December 2003</b></p> <p>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 Kolkatta 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 Kolkatta Police.</p> <p><b>As reported in June, 2004</b></p> <p>SEBI is co-ordinating with Kolkatta Police.</p>	<p>Investigations by Kolkata Police are in progress. SEBI is following up with Kolkata Police authorities for early disposal of FIR filed by CSE.</p>

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
31.	6.98	<p>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</p>	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>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.</p> <p><b>As reported in December 2003</b></p> <p>CMC has confirmed that the deficiencies have been rectified. SEBI had also asked for confirmation from CSE of the rectification of the deficiencies.</p> <p>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.</p> <p>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.</p>	<p>SEBI had asked CMC to conduct an enquiry to ascertain whether there was any commission or omission on the part of CMC and if so to fix responsibility in respect of serious deficiencies found in the C-Star system of CSE. CMC vide their letter dated 24.9.04 has informed that a committee was constituted comprising officers of CMC. The scope of the enquiry was "Based on the deficiencies pointed out by M/s Ernst &amp; Young Pvt. Ltd. in the System Audit, whether there was commission or omission on the part of CMC, if so to fix the responsibility."</p> <p>After obtaining necessary inputs and after interrogating the concerned officers of CMC, the CMC was of the opinion that there were no commissions or omissions on part of C-Star Software team.</p> <p>SEBI had also asked CSE to take decision on fixing of responsibility for the lapses and deficiencies pointed out in the C-Star System by the System Auditor. CSE has reported that at the time of introduction of On-line Trading in 1997, CSE had hardly any internal technical resources or expertise. The Exchange depended heavily on the high technical reputation of CMC. On its side, CSE set up its own Information Technology Department headed by a General Manager, ITD, an IT specialist. The GM-ITD and his team were all working under the overall supervision of the then Executive Director of the Exchange. None of the original team of CMC's Engineers including the Project Manager are now associated with the system. The then General Manager-ITD of CSE who was associated with the initial planning, development and running of C-Star had left the Exchange in April 2000. The then Executive Director Shri Tapas Datta under whose over all supervision, the above development took place had also left the Exchange in August 2001.</p>

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32. 6.101	<p>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</p>	<p><b>As reported in June, 2004</b> CSE has confirmed rectification of most of the deficiencies in their computer system pointed out by the system audit report. CMC has been advised to conduct internal enquiry to fix accountability.</p> <p><b>As reported in May, 2003</b> 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 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.</p>	<p>Besides, all the deficiencies reported in System Audits have been rectified/corrected. The Administrator of CSE has stated that no meaningful purpose will be served by continuing with the exercise for fixation of responsibility as the people involved are no more there. In view of the above, SEBI has mentioned that no further action is possible.</p> <p><b>Action completed.</b></p> <p>The SEBI has introduced Rolling Settlement on T+2 basis, banned all deferrals products including carry forward and introduced VaR based Margining System. Further, the inspection procedure of SEBI has been strengthened as well as system for monitoring and follow up. System Audit of the major Stock Exchanges including CSE have been conducted. The system deficiencies noted in CSE have been rectified.</p> <p><b>Action completed.</b></p>

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				<p>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.</p> <p>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.</p> <p>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.</p>	

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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
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 Chairman'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

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				<b>Name of the Broker</b>	<b>Date of Chairman's Order</b>
				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
				<p>* Prosecution proceedings have been initiated by SEBI against above mentioned 10 defaulter brokers of CSE.</p> <p>* 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 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).</p> <p>* 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:</p>	
				<b>No Defaulter broker</b>	<b>Action initiated by CSE</b>
				1. Dinesh Kumar Singhania	C S no 266 of 2001 filed before the Hon'ble High Court at Kolkatta 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 Kolkatta
				3. Arihant Exim Scrips Pvt Ltd	C S no 266 of 2001 filed before the Hon'ble High Court at Kolkatta 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.



Sl. No.	Para No.	Observation/Recommendation	of JPC	Reply of Government/Action Taken	Further Progress
		<b>No</b>	<b>Defaulter</b>	<b>broker</b>	<b>Action initiated by CSE</b>
		4.	Doe Jones investments	& Const. P Ltd.	C S no 306 of 2001 filed before the Hon'ble High Court at Kolkatta 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 Kolkatta 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 Kolkatta
		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 Kolkatta 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 Metropolitan Magistrate Court.
		10.	Biyani Securities P Ltd.		C S no 265 of 2001 filed before the Hon'ble High Court at Kolkatta

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.

Sl. No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
			<p><b>As reported in December 2003</b> No change in the status.</p> <p><b>As reported in June, 2004</b> The matter is being investigated and Mr. Parakh has given his version of the case. This is being examined keeping in view the observations of the Departmental enquiry conducted by UTI. SEBI is in the process of going through the records of CSE in this regard.</p>	
33.	6.104	<p>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 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.</p>	<p><b>As reported in May, 2003</b> Matter is under consideration of SEBI.</p> <p><b>As reported in December 2003</b> 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.</p> <p><b>As reported in June, 2004</b> Explanations have been sought from the then ED and all concerned officials in SEBI who were involved in the task of inspection of CSE during 1999 and 2000. Replies received from them are being examined.</p> <p>As regards the then ED, Surveillance who was on deputation from CBDT, CBDT was requested to take further appropriate action. A reminder has been sent on May 21, 2004 to intimate progress in the matter.</p>	<p>The matter relating to the action against SEBI officials is in the final stage and action shall be completed shortly.</p> <p>As regards, action against the then Executive Director (Surveillance), SEBI is in touch with CBDT.</p>

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34.	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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December 2003</b> As against para 2.20.</p> <p><b>As reported in June, 2004</b> With the dissolution of 13<sup>th</sup> Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.</p>	The Securities Laws (Amendment) Ordinance, 2004, inter-alia, amending the Securities Contracts (Regulation) Act, 1956, to strengthen the governance of stock exchanges through demutualisation and corporatisation of stock exchanges has been promulgated on October 12, 2004. <b>Action completed.</b>
35.	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.	<p><b>As reported in May, 2003</b> As at Para 6.105.</p> <p><b>As reported in December 2003</b> As against para 2.20</p> <p><b>As reported in June, 2004</b> With the dissolution of 13<sup>th</sup> Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.</p>	As against para No.6.105. <b>Action completed.</b>

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36.	7.4	<p>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, 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 of 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</p>	<p><b>As reported in May, 2003</b>  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 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.</p> <p><b>As reported in December, 2003</b>  The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7<sup>th</sup> 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:</p> <p><b>a) against DSQ Software Ltd. and promoters :</b>  A personal hearing has been granted to the DSQ Software Ltd., and its promoter Shri Dinesh Dalmia on 22/11/2003 before Chairman, SEBI issues final order in the matter.</p> <p><b>b) against Padmini Technologies Ltd:</b>  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.</p> <p><b>c) against Zee Telefilms Ltd:</b> Found violated the provisions of SEBI (Substantial Acquisition of</p>	<p>Companies Bill was introduced. It was decided to take up comprehensive review and revamp of the law. Decision endorsed by the new Govt. on assumption of office after Lok Sabha Election 2004. Concept Paper was placed in Website on 04-08-2004. Time allowed for comments 3 months. Consultation with various organisations, Experts Professional bodies in progress.</p> <p>As regards action by SEBI, the position is given in reply to para No.2.15.</p>

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		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 contributed largely to the artificial inflation of share prices in specific scrips, particular 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.	<p>Shares and Takeover) Regulations, 1997. Penalty of Rs. 60,000 was imposed and paid.</p> <p><b>d) against Global Tele-Systems Ltd (GTL Ltd):</b> Found violated the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. Penalty of Rs.1,20,000 was imposed and paid.</p> <p><b>e) against Pentamedia Graphics Ltd:</b> Found violated the provisions of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997. Penalty of Rs. 90,000 was imposed and paid.</p> <p><b>f) against entities of Ranbaxy Laboratories Ltd:</b> 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.</p> <p><b>As reported in June, 2004</b> DCA had introduced Companies (Amendment) Bill 2003 in the Rajya Sabha on 07.05.2003. The previous Cabinet had directed the Department that instead of moving a number of official amendments to the Bill, DCA may bring a new legislation for consideration of the Cabinet. The new comprehensive Bill is under preparation. As regards action taken by SEBI, the position is given in reply to para No. 2.15.</p>	
37.	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	<p><b>As reported in May, 2003</b> 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</p>	Out of 23 companies, Show Cause Notice (SCN) to one more company i.e. M/s Lupin Ltd. (apart from 04 companies against whom SCNs have already been issued) has been issued on 2/9/2004 leaving 18 companies against whom

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		<p>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.</p>	<p>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:-</p> <ol style="list-style-type: none"> <li>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 Telesystems, e)Global Trust Bank, f)Silverline Technologies, g)SSI Ltd.</li> <li>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)Aftak Infosys, d)Satyam Computers e) Ranbaxy Ltd. f) Lupin Labs g) Pentamedia Graphics h) Shonkh Technologies.</li> </ol> <p>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) Koprana Group, g) Nirma Group, h) Cadilla group. Investigations by the Enforcement Directorate in respect of these 23 promoters/companies are in progress.</p> <p>Action taken by SEBI is covered in Para 2.15.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p>	<p>investigations are at a very advanced stage. Besides, part investigations have been completed against one more company viz. M/s Shonkh Tech. Ltd. and a show cause notice for non-realisation of export proceeds has been issued. However, further investigations in this case are also being carried out on the basis of documents received from the CBI.</p> <p>In another company of M/s Ketan Parekh, a show cause notice has been issued to M/s Classic Credit Ltd. and M/s Panther Fin Cap Ltd. (both Ketan Parekh entities in India) alongwith Shri Ketan Parekh. However, some more investigations are being carried out.</p> <p>Further, a show cause notice issued to M/s DSQ Software Ltd. has been adjudicated by imposing a penalty of Rs.2 crore on the company and Rs.2 crore on Shri Dinesh Dalmia.</p>

Sl. No.	Para No.	Observation/Recommendation	of JPC	Reply of Government/Action Taken	Further Progress
				<p>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 &amp; 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.</p> <p>Investigations in respect of the remaining 20 companies are at a very advanced stage.</p> <p><b>As reported in June, 2004</b></p> <p>Investigations by Enforcement Directorate are in progress.</p>	
38.	7.53	<p>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</p>		<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>Regarding preferential allotment, DCA will shortly be making rules on the basis of the recommendations of the Verma Committee.</p> <p>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.</p> <p>As regards the private placement of debt, the Secondary Market Advisory Committee of SEBI has inter-alia recommended that the same</p>	As against para 7.4.

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		<p>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.</p>	<p>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.</p> <p>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.</p> <p><b>As reported in December, 2003</b></p> <p>The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7<sup>th</sup> 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.</p> <p>In regard to recommendations of Prof. Verma Committee regarding preferential allotment, the Department is going to issue "Unlisted Public Companies (Preference Allotment) Rules".</p> <p>Circular on private placement of debt securities by listed companies has been issued by SEBI on September 30, 2003.</p> <p><b>As reported in June, 2004</b></p> <p>DCA had introduced Companies (Amendment) Bill 2003 in the Rajya Sabha on 7.5.2003. The previous Cabinet had directed the Department that instead of moving a number of official amendments to the Bill, DCA may bring a new legislation for</p>	



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			consideration of the Cabinet. The new comprehensive Bill is under preparation. In regard to recommendations of Prof. Verma Committee, DCA has notified the "Unlisted Public Companies (Preference Allotment) Rules" on 04.12.2003.	
39.	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.	<p><b>As reported in May, 2003</b> SEBI is looking into the matter.</p> <p><b>As reported in December, 2003</b> No change in the status.</p> <p><b>As reported in June, 2004</b> The position has been explained in reply to para No. 2.15.</p>	The position has been explained in reply to para No.2.15.
40.	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	<p><b>As reported in May, 2003</b> 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, Atek 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.</p>	Adjudication proceedings are in progress.

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		<p>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 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.</p>	<p><b>As reported in December, 2003</b> 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.</p> <p><b>As reported in June, 2004</b> Adjudication proceedings in relation to four SCNs under FERA and two complaints under FEMA comprising 10 charges against Custodian Bank and the OCB's are in progress.</p>	
41.	9.31	<p>The Committee recommend the following: -</p> <p>(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.</p> <p>(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.</p> <p>(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</p>	<p><b>As reported in May, 2003</b> 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.</p> <p>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.</p> <p><b>As reported in December, 2003</b> As against para 6.104.</p> <p><b>As reported in June, 2004</b> Explanations have been sought from the then ED and all concerned officials in SEBI who were involved in the task of inspection of CSE during 1999 and 2000. Replies received from them are being examined. As regards the then ED, Surveillance who was on deputation from CDBT, CDBT has been requested to take further</p>	As against para 6.104.

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		the system of nominee directors keeping in view the proposed demutualisation and corporatisation of stock exchanges.	appropriate action. A reminder has been sent on May 21, 2004 to intimate progress in the matter.	
42.	9.79	<p>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 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</p>	<p><b>As reported in May, 2003</b> 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.</p> <p>In order to ensure that benchmarking of parameters, prioritization of alerts, connectivity with databases 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 &amp; periodically report to SEBI, the details of investigations taken up by them.</p>	As against para 6.105. <b>Action completed.</b>

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		<p>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-laws 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.</p>	<p>The process of improving &amp; institutionalizing coordination between SEBI &amp; RBI has been initiated and measures have been taken for implementation of JPC recommendations. SEBI &amp; 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 &amp; RBI have been nominated in this group, that is required to meet periodically for exchanging alerts / information.</p> <p>SEBI Act has since been amended vide SEBI (Amendment) Act 2002 to provide for greater penalties for insider trading &amp; manipulation. Fraudulent &amp; 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 &amp; fraudulent trade practices relating to Securities Market) Regulations, 1995 are also being amended to have clearer &amp; detailed definition of market misconduct/violations.</p> <p>Rumour verification which involves verifying news reports / press reports from the companies, is done by the exchanges and information is disseminated 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.</p> <p>SEBI has examined the issue of regional stock exchanges. This was also considered by the</p>	

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					<p>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 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.</p> <p><b>As reported in December, 2003</b></p> <p>(c) A proposal for strengthening of the Enforcement Directorate and comprehensive computerization of the Enforcement Directorate is under examination.</p> <p>(d) SEBI in its recent meeting of the Board, approved the changes which have been sent for notification.</p> <p>(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.</p>	

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					<p>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.</p> <p>(g) As against para 2.20</p> <p><b>As reported in June, 2004</b></p> <p>9.79 (a,b, d to f, h)</p> <p>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.</p> <p>In order to put in place an integrated surveillance system, a study of surveillance requirements and dynamics of Indian Capital Market was commissioned by SEBI. This study was conducted by National Association of Securities Dealers (NASD) under the auspices of USAID under Financial Institution Reform &amp; Expansion-2 (FIRE 2) program. NASD submitted a report on the overall roadmap, high level architectures, time &amp; cost estimates in September 2003 and indicated that implementation would involve a time period of around 2 years. The proposed market surveillance system included State-of-the-Art technology coupled with the knowledge and experience of NASD to detect 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</p>	

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					<p>market alerts generation for further front line proactive surveillance.</p> <p>SEBI initiated the process for implementing the system by appointing a Technical Committee to 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. The Technical Committee finalized the Expression of Interest in January 2004, and an advertisement was placed in major national newspapers on Feb 13, 2004 inviting Expression of Interest for project implementation. The bids from Indian as well as global vendors can be submitted up to April 4, 2004 after which the process of vendor selection will commence.</p> <p>As the envisaged system for integrated automated surveillance is expected to take around two years for implementation, it was felt necessary to initiate immediately an interim on-going surveillance mechanism.</p> <p>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 preemptive 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. Surveillance actions are initiated on the basis of the weekly exchange of information and over the past several months, SEBI has taken a large number of preventive surveillance measures. Pro-active steps are being taken by SEBI pursuant to discussions in the surveillance</p>	

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			<p>meetings to enhance safety and integrity of markets.</p> <p>9.79(c) The Regional Economic Intelligence Councils (REICs) reconstituted vide Department of Revenue letter No.F.50/81/2003-Ad.I dated 1.10.2003, provide platform for sharing of information amongst the various enforcement and investigating agencies dealing with economic offences. ED is also a member of REICS.</p> <p>9.79(g) With the dissolution of 13th Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.</p>	
43.	9.125	<p>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 demutualisation and corporatisation of Stock Exchanges will be completed as soon as possible.</p>	<p><b>As reported in May, 2003</b></p> <p>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 Committee were 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.</p> <p>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.</p> <p>SEBI has already issued a circular pursuant to the recommendation of the Group on demutualization and corporatisation set up by SEBI under the</p>	As against para 6.105. <b>Action completed.</b>



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			<p>Chairmanship of Justice M H Kania giving an elaborate scheme and has asked the stock exchanges to submit the scheme of corporatisation and demutualisation.</p> <p><b>As reported in December, 2003</b> Same as in para 2.20</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.</p>	
44.	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 demutualisation obtaining in foreign countries so as to safeguard the interests of investors and bring in greater transparency and efficiency of the exchanges.	<p><b>As reported in May, 2003</b> Same as in para 9.125</p> <p><b>As reported in December, 2003</b> Same as in para 2.20</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	As against para 6.105. <b>Action completed.</b>
45.	9.127	The Committee are also of the view that corporatisation of an exchange leading to 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.	<p><b>As reported in May, 2003</b> As against para 6.105.</p> <p><b>As reported in December, 2003</b> Same as in para 2.20</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Securities Laws (Amendment) Bill, 2003 has lapsed. Its reintroduction in the Lok Sabha is under consideration.</p>	As against para 6.105. <b>Action completed.</b>

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46.	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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> 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.</p> <p><b>As reported in June, 2004</b> The Bills to amend the Chartered Accountants Act, 1949, The Cost &amp; Works Accountants Act 1959 and The Company Secretaries Act 1980 have been introduced in Rajya Sabha on 23.12.2003.</p>	The Bills to amend the Chartered Accountants Act, 1949; The Cost & Works Accountants Act, 1959 and The Company Secretaries Act, 1980 are under detailed scrutiny of the Standing Committee which has commenced discussions.
47.	10.31	The Committee regret that knowing fully well the ineffectiveness of the extant system in preventing the diversion of funds, RBI should 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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> The Working Group has submitted its report and its recommendations are under examination of the RBI.</p> <p><b>As reported in June, 2004</b> The matter is under examination of the RBI.</p>	As against para No.5.158. <b>Action completed.</b>

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48.	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.	<p><b>As reported in May, 2003</b> As against para 3.21</p> <p><b>As reported in December, 2003</b> As against para 3.21</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	As against para 3.21.
49.	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.	<p><b>As reported in May, 2003</b> As against para 3.21</p> <p><b>As reported in December, 2003</b> As against para 3.21</p> <p><b>As reported in June, 2004</b> With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the 14th Lok Sabha is under consideration.</p>	As against para 3.21.
50.	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. Similarly, it was not till after the present scam	<p><b>As reported in May, 2003</b> 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</p>	Though comprehensive amendments to Banking Regulation Act for empowering the RBI to have greater regulatory control over the Urban Cooperative Banks is under consideration, an Ordinance was promulgated on 24.9.2004 empowering RBI greater regulatory control over UCBs. The RBI, now, can supersede the Board of Directors of multi-State cooperative banks and appoint an Administrator, if it is satisfied that it is

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		<p>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.</p>	<p>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.</p> <p>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</p>	<p>necessary to do so in public interest or for preventing the affairs of a multi-State cooperative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State cooperative bank or for securing the proper management of the bank. Such action of the RBI shall not be liable to be called in question in any manner. Additionally, the deposit insurance cover has also been extended for deposits in the urban cooperative banks registered under the MSCS Act in the interests of small depositors. As for the comprehensive amendments to the Banking Regulation Act 1949, for ending duality of regulatory control over Cooperative Banking Institutions, while a Bill was introduced in the last Parliament, it could not be passed and has lapsed. The provisions of the proposed Bill are presently being reviewed by a Task Force under the Chairmanship of Prof. Vaidyanathan (Prof. Emeritus, Madras Institute of Development Studies) and RBI. The exercise is expected to be completed by March 2005. The comments received from Deptt. of Justice in respect of N.L. Mitra Committee report are under examination.</p>

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					<p>address the basic issue of duality of control on cooperative banks. The Reserve Bank 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.</p> <p>Accepted an Internal Working Group has been constituted in the RBI to identify the existing constraints in our laws for regulation and supervision.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p> <p>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. The comments from CBI and Department of Company Affairs have been received and from Ministry of Home Affairs are awaited.</p>	

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			<p><b>As reported in June, 2004</b></p> <p>With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in 14th Lok Sabha is under consideration.</p> <p>The N.L. Mitra Committee report is under consideration with the Ministry of Home Affairs and Department of Justice.</p>	
51.	10.77	<p>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 MNCB 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, 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</p>	<p><b>As reported in May, 2003</b></p> <p>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:</p> <p>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 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.</p> <p><b>As reported in December, 2003</b></p> <p>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:</p>	<p>The in-house Working Group set up to examine the then existing system of supervision on UCBs submitted its report in May 2003. The Group made a number of recommendations to further strengthen the supervision framework over UCBs, which have been accepted and implemented.</p> <p>In terms of circular UBD.No.BPD. 42/12.05.01/ 2003-04 dated 29<sup>th</sup> April 2004 Regional Offices (RO) inter alia have been advised that inspection reports of non scheduled Urban Cooperative Banks (UCBs) classified under Grade I/II should be scrutinized and action initiated at RO level. In charges of Regional Offices have been given full discretion to decide the composition of inspection team, editing of reports. Further, Regional Offices have been advised to conduct post-inspection meetings in respect of all the scheduled banks., irrespective of the size. The above measures would make Regional Offices more responsible and enable them to initiate prompt corrective action.</p> <p>A system of Off-site Surveillance (OSS) was introduced for all the Scheduled UCBs from the quarter ended March 2001. The Off-site Surveillance System has been extended to Non-Scheduled UCBs with a deposit base of over</p>

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		<p>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.</p>	<p>(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. (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.</p>	<p>Rs.100 crore from the quarter ended June 2004 vide circular UBD.No.OSS.PCB.Cir.47/18.00.00/2003-04 dated 26<sup>th</sup> May 2004.</p> <p>In pursuance to the direction of Board for Financial Supervision, the summaries of inspection reports on Scheduled UCBs are being placed before the BFS.</p> <p>All the Urban Cooperative Banks have been advised to follow best practices adopted by some of the well-managed Urban Cooperative Banks vide circular UBD.No.BPD.IP.24 / 12.05.01/2004-05 dated 20<sup>th</sup> October 2004. Illustrative list of best practices has been furnished to UCBs.</p> <p><b>Action Completed.</b></p>
			<p><b>As reported in June, 2004</b> The matter is under examination by RBI.</p>	

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52.	10.78	<p>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 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.</p>	<p><b>As reported in May, 2003</b></p> <p>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 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 mentioned 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.</p> <p><b>As reported in December, 2003</b></p> <p>Follow up action by RBI is in progress.</p> <p><b>As reported in June, 2004</b></p> <p>Follow up action by RBI is in progress.</p>	<p>The JPC recommendations on the disclosures to be made by banks were examined by the Reserve Bank in consultation with the Standing Technical Advisory Committee on Financial Regulation (STACFR) and the Board for Financial Supervision (BFS). The Reserve Bank also took into account the recommendations of Committee on Banking Sector Reforms (1998), Advisory Group on Transparency in Monetary and Financial Practices (2000) and Committee on Procedures and Performance Audit on Public Services (2004). It has been decided that disclosure of the details of the levy of penalty on a bank and strictures or directions based on Inspection reports or other adverse findings, in public domain will be in the interests of the investors and depositors. RBI will accordingly issue a press release on the penalty imposed with details and the penalty is required to be disclosed in the 'Notes on Accounts' to the balance sheet in the concerned bank's next Annual Report. Disclosure of strictures or directions by RBI would be through a press release which would be confined to disclosure of the stricture or direction only. Banks have accordingly been advised in matter vide circular DBOD.No.BP.BC.49/21.04.018/2004-2005 dated 19th October 2004.</p> <p><b>Action Completed.</b></p>



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53.	10.80	<p>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 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</p>	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>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.</p> <p><b>As reported in December 2003</b></p> <p>ICAI has furnished the latest status as under:</p> <p>a) Number of reports already included in the Agenda for the Council and are yet to be considered by the Council 01</p> <p>b) Number of hearing concluded by the Disciplinary Committee and its report is yet to be placed before the Council 01</p> <p>c) Number of cases pending with the High Court because of stay obtained by the other party 01</p> <p><b>As reported in June, 2004</b></p> <p>The Bill to amend the CA Act, 1949 has been introduced in Rajya Sabha on 23.12.2003. As regards action taken against auditors, the position has been explained in reply to para No.3.18. The cases are pending with the Council and in the Hon'ble Courts. These are ongoing judicial processes.</p>	<p>As regards action taken against auditors, the position has been explained in reply to para 3.18.</p>

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		<p>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.</p>		
54.	10.84	<p>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</p>	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> As against para 10.31.</p> <p><b>As reported in June, 2004</b> The matter is under examination of the RBI.</p>	<p>As against para No. 5.158. <b>Action completed.</b></p>

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	<p>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 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 FIs 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,</p>		

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		<p>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 certification, should attract criminal action against the borrower.</p>		
55.	10.85	<p>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</p>	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>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</p>	<p>The comments received from Deptt. of Justice in respect of N.L. Mitra Committee report are under examination.</p>

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	<p>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 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</p>	<p>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.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p> <p>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.</p>	

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		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.	<p><b>As reported in June, 2004</b></p> <p>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 the CVC has been accepted by the RBI and RBI has advised the Indian Commercial Banks vide circular dated 14.01.2004 to constitute a Special Committee for monitoring and following up cases of frauds involving amounts of Rs.1 crore and above exclusively, while Audit Committee of Board (ACB) may continue to monitor all the cases of frauds in general.</p> <p>The L.N. Mitra Committee report is under consideration of the Ministry of Home Affairs and Department of Justice.</p>	
56.	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 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	<p><b>As reported in May, 2003</b></p> <p>As against para 3.21</p> <p><b>As reported in December, 2003</b></p> <p>As against para 3.21</p> <p><b>As reported in June, 2004</b></p> <p>With the dissolution of 13th Lok Sabha, the Bill to amend the Banking Regulation Act, 1949 has lapsed. Its reintroduction in the in the 14th Lok Sabha is under consideration.</p>	As against para 3.21.

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	<p>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 2001 advised 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 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</p>		

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		<p>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.</p>		
57.	10.87	<p>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, where as per the Companies Act, the approval of the court is required before the amalgamation/</p>	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> Matter is under consideration of the Inter Departmental Group.</p> <p><b>As reported in June, 2004</b> The matter is under examination of the RBI.</p>	The matter is still under examination of the RBI.



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		<p>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.</p>		
58.	11.33	<p>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.</p>	<p><b>As reported in May, 2003</b> Proposals are under finalization; it is hoped that soon the amending Bill will be introduced in the Parliament.</p> <p><b>As reported in December , 2003</b> 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.</p> <p><b>As reported in June, 2004</b> DCA have introduced Companies (Amendment) Bill 2003 in the Rajya Sabha on 07.05.2003. The previous Cabinet has directed the Department that instead of moving a number of official amendments to the Bill, DCA may bring a new legislation for consideration of the Cabinet. The new Comprehensive Bill is under preparation.</p>	As against para 7.4.

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59.	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.	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p><b>As reported in December , 2003</b></p> <p>As against para 11.33</p> <p><b>As reported in June, 2004</b></p> <p>The position has been explained against para No.11.33.</p>	As against para 7.4
60.	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 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.	<p><b>As reported in May, 2003</b></p> <p>Proposals for relevant amendments in the Chartered Accountants' Act, 1949 (CA Act) have been formulated. These will soon be introduced in Parliament.</p> <p><b>As reported in December, 2003</b></p> <p>As against para 10.11</p> <p><b>As reported in June, 2004</b></p> <p>The Bills to amend the Chartered Accountants Act, 1949, The Cost &amp; Works Accountants Act 1959 and The Company Secretaries Act 1980 have been introduced in Rajya Sabha on 23.12.2003.</p>	As against para 10.11

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61.	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.	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p><b>As reported in December , 2003</b></p> <p>As against para 11.33.</p> <p><b>As reported in June, 2004</b></p> <p>Report of Naresh Chandra Committee is under examination of the Department of Company Affairs.</p>	As against para 7.4
62.	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 desire that definition of vanishing companies should be made comprehensive.	<p><b>As reported in May, 2003</b></p> <p>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 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</p>	<p>Prosecution filed in various courts against 111 vanishing companies filed under Sections 62/63, 68 &amp; 628 of the Companies Act, 1956 for misstatement in prospectus/fraudulently inducing persons to invest money/false statement made in the offer documents etc. 99 companies prosecuted for non-filing of statutory returns. 87 FIRs have been lodged for the offences punishable under Sections 420, 406,403,415,418 &amp; 424 of the Indian Penal Code. Out of this, 47 FIRs have been registered by the police authorities of respective States. Matter taken up with Chief Secretaries concerned.</p> <p><b>Arrest of directors made so far</b></p> <p>In respect of one company viz. M/s. Thirth Plastics Limited (Gujarat), charge sheet was filed on 08.02.2004 against one of the Directors Viz. Shri</p>

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		of the Companies Act. The definition of vanishing companies has also been clarified.		Dilip N Talsaniya and the accused was under judicial custody. The Gujarat Police authorities have also arrested three other Directors, Viz. Shri Vansh M. Doshi, Shri Madhusudan D. Rathod and Shri Mahendrabhai R. Patel.
		<b>As reported in December , 2003</b>		
		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.		<b>Refund of public issue money</b>
		<b>As reported in June, 2004</b>		In respect of one company, namely, M/s. Global Property Ltd. (Tamil Nadu), the public issue money has been refunded to the investors.
		The break-up of 229 companies identified as vanished is as under:		<b>Applications filed with the Company Law Board (CLB)</b>
		No. of vanishing companies identified earlier	- 229	SEBI had suggested the names of M/s. Nuline Glassware (India) Ltd. and AVI Industries Ltd. for filing the petition in the CLB for filling petition under Sections 397 and 398 of the Companies Act, invoking the provisions of Section 542 (u/s 406) to disgorge the properties/monies fraudulently obtained by promoters/Directors of these two vanishing companies.
		Less No. of companies traced out	- 107	Petitions have been filed by the Ministry of Company Affairs before the CLB in respect of M/s. Nuline Glassware (India) Ltd. and M/s. AVI Industries Ltd. Matter is under consideration of CLB.
		No. of companies untraced	- 122	
		Action against these 122 companies is as under:		
		No. of companies against whom FIRs filed by DCA	- 87	
		No. of companies against whom FIRs not filed by DCA as companies are in liquidation or filing statutory returns/documents.	- 35	
		No. of companies against whom prosecutions for failing to submit balance sheets/annual returns have been filed in the Court.	- 99	
		No. of companies against whom prosecutions u/s 62/63, 68 and 628 of the Companies Act, 1956 for mis-statement in prospectus/fraudulently inducing persons to invest money/false statement made in the offer documents etc. have been filed.	-107	
		It is submitted that the cases are pending with the Hon'ble Courts and necessary FIRs have been filed.		

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63.	11.43	<p>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.</p>	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p>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 disgorgement of illegally derived benefits, by way of amending the Companies Act, 1956 is also being examined.</p> <p>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 &amp; 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.</p> <p>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 Financial Companies Regulation Bill, 2000 (presently under consideration of the Parliamentary Standing Committee on Finance) empowering the</p>	<p>SEBI has informed that as per the decisions taken by CMC in its meeting held on 27.7.04, the following actions have been carried out by Ministry of Company Affairs (MCA) and SEBI: Chairman, SEBI and Secretary, MCA met the Chief Secretary, Govt of Maharashtra to expedite the process of registering the FIRs filed in the state of Maharashtra.</p> <p>A Monitoring Committee has been set up by MCA to closely monitor all cases of prosecutions launched and FIRs filed / registered against the vanishing companies and their Directors.</p> <p>In addition, SEBI has proposed that FIRs against the vanishing companies and their promoters/ directors shall be filed directly with the magistrate to expedite the process.</p> <p>The aforementioned proposal is being placed before Coordination and Monitoring Committee in its forthcoming meeting for deliberations.</p> <p>Second amendment to Companies Act, 1956 was enacted in 2002 to set up National Company Law Tribunal (NCLT). However, legal issues arose in Madras High Court. Ruling against such provision of Second Amendment has been challenged by SLP, which is pending in Supreme Court of India.</p>

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					<p>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.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p> <p>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</p>		

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					<p>governance, as decided by the Co-ordination and Monitoring Committee (CMC), the following actions are being taken by DCA and SEBI: -</p> <ul style="list-style-type: none"> <li>- Including authenticated photographs, passport numbers, PAN, bank account 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.</li> <li>- Ensuring monitoring of end use of funds.</li> <li>- Exploring means of freezing assets of promoters, directors of defaulting companies and disqualification of persons in default.</li> <li>- Besides the prosecution proceedings launched by DCA, SEBI has passed debarring orders under Sec.11B against 96 vanishing companies and 361 directors.</li> <li>- The Department of Company Affairs has introduced the Companies Amendment Bill, 2003 in the Rajya Sabha on 7<sup>th</sup> 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.</li> <li>- 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,</li> </ul>		

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					<p>and suggest appropriate action in terms of Companies Act or SEBI Act.</p> <p>- Besides, DCA in consultation with SEBI has also prepared a model FIR for filing complaints against the vanishing companies and their promoters, directors, etc. for the offences punishable under Section 420, 406, 403, 415, 418 &amp; 424 of the Indian Penal Code. The model FIR has been given to the Regional Directors on 09-05-2003.</p> <p><b>As reported in June, 2004</b></p> <p>DCA had introduced Companies (Amendment) Bill 2003 in the Rajya Sabha on 07.05.2003. The previous Cabinet had directed the Department that instead of moving a number of official amendments to the Bill, DCA may bring a new legislation for consideration of the Cabinet. The new comprehensive Bill is under preparation.</p> <p>The Task Forces have since been reorganized from seven to four 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. This is an ongoing process.</p> <p>As on date, 96 companies and 361 directors have been debarred by SEBI. SEBI has obtained a legal opinion stating that the existing legislation does not empower SEBI, the Central Government or any Authority constituted under the Companies Act, 1956 to attach the properties of shell companies or their directors/promoters or to distribute the proceeds thereof to investors therein.</p>	
64.	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			<p><b>As reported in May, 2003</b></p> <p>The CBI had registered 72 cases relating to irregularities in securities transactions out of which</p>	CBI has reported that one more case has been disposed off, taking the total to 13 cases.



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		<p>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.</p>	<p>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 cases pending before the Special Judges (Anti Corruption) in their respective jurisdiction.</p>	
			<p><b>As reported in December, 2003</b></p>	
			<p>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.</p>	
			<p><b>As reported in June, 2004</b></p>	
			<p>Out of 47 cases, 3 more cases have been disposed off after December 2003 totaling 12 cases. Out of 12, 08 cases ended in conviction while 03 cases ended in acquittal and 01 case was otherwise disposed off.</p>	
			<p>Regarding appointment of 2 additional Judges in the Special Court, Mumbai, two more reminders</p>	

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			were sent to Registrar General, Supreme Court of India from Secretary on 23.03.2004 and 12.05.2004.	
65.	12.76	<p>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, MNCB, Ahmedabad), Shri Davendera Pandya (MD, MNCB Ahmedabad), Shri J.B. Pandya (then Branch Manager, MNCB, 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, MNCB, Shri Devendera B. Pandya, MD, MNCB and Shri Jagdish Pandya, Branch Manager, MNCB Ahmedabad U/S 120-405,406,408,409,420 IPC &amp; 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 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 Merrill 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</p>	<p><b>As reported in May, 2003</b> CBI has informed that the case relating to MNCB 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 Merrill 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.</p> <p><b>As reported in December, 2003</b> In the case relating to MNCB, 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 Merrill 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.</p> <p><b>As reported in June, 2004</b> In the case relating to MNCB field investigations in India have been completed and charge sheet has been filed on 1.12.2003. Interpol reference dated 3.7.2001 had been sent to Interpol, Abu Dhabi for freezing the accounts of Ketan Parekh at Merrill Lynch Bank, Abu Dhabi but the CBI had not received any response in the matter from Interpol from Interpol, Abu Dhabi. The matter is being pursued with Interpol, Abu Dhabi further. For appointment of 2 additional Judges in the</p>	<p>In the case relating to MNCB field investigations in India has been completed and charge sheet has been filed on 1.12.2003. Interpol reference dt. 3.7.2001 had been sent to Interpol, Abu Dhabi for freezing the accounts of Ketan Parekh at Merrill Lynch Bank, Abu Dhabi. Reply from Interpol Abu Dhabi has been received vide ref. No. 2/22/IP/33-217/7946 dated 13.9.2004. The authorities concerned have informed that Sh. Ketan Parekh has not maintained any accounts or deposits with Merrill Lynch Bank nor have any investment in their country. Regarding Swiss Bank accounts of Ketan Parekh, the Swiss authorities have since intimated in December, 2002 that the Letter Rogatory sent in this matter cannot be executed because of the direction of the High Court at Zurich.</p>

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		<p>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 MNCB 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.</p>	<p>Special Court, Mumbai, two more reminders were sent to Registrar General, Supreme Court of India by Secretary on 23.03.2004 and 12.05.2004.</p>	
66.	12.78	<p>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</p>	<p><b>As reported in May, 2003</b> 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. <b>As reported in December, 2003</b> Charge sheet in RC.19(S)/ 2001-LKO has been filed in the Court on 30.8.2003.</p>	As against para 5.109.

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		<p>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 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.</p>	<p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Government of Uttar Pradesh has been reminded on 1.6.2004 to intimate the latest position in the case.</p>	

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67.	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.	<p><b>As reported in May, 2003</b> Enforcement Directorate has informed that investigation with regards to Zee Telefilms shall be completed by 31-5-2003</p> <p><b>As reported in December , 2003</b> The investigation is at a very advanced stage.</p> <p><b>As reported in June, 2004</b> Investigations by Enforcement Directorate are in progress.</p>	<p>The investigations against M/s. Zee Telefilms have been finalized and a Show Cause Notice under the following provisions of FEMA, 1999 has been issued on 23.07.2004 to M/s. Zee Telefilms Ltd. and 6 others.</p> <p>Section 6(3) of FEMA, 1999 read with Regulation 4 &amp; 5(1) &amp; Para 1,2 &amp; 3 of Schedule 1 under Regulation 5(1) of Foreign Exchange Management (Transfer or issue of Security by a person resident outside India) Regulation, 2000 r/w 49(5) &amp; 49(6) of FEMA, 1999 for unauthorisedly transferring 1,94,18,800 equity shares valued at US\$.470,589,000/- to the shareholders of M/s. ZMWL viz. Delgrada Ltd., Mauritius and Wakefield Holdings Ltd., Mauritius for acquiring 100% stake of M/s. ZMWL and also its 16127412 equity shares valued at US\$.148.255 millions and cash remittances of US\$.148.255 millions to the Star Group of companies for acquiring the 100% stake of M/s. Winterheath Company Ltd. BVI, without any proper valid permission from RBI.</p> <p>Section 3(d) of FEMA, 1999 r/w 49(5) &amp; 49(6) of FEMA, 1999 for unauthorisedly transferring its 1,94,18,800 equity shares valued at US\$.470,589,000/- to the shareholders of M/s. ZMWL viz. Delgrada Ltd., Mauritius and Wakefield Holdings Ltd., Mauritius in consideration of acquiring 100% stake of M/s. ZMWL and 16127412 equity shares (of ZTL) valued at US\$.148.255 millions and cash remittance of US\$.148.255 millions to the Star Group of companies in consideration of acquiring the 100% stake of M/s. Winterheath Company Ltd., BVI, without any valid permission from SIA/RBI.</p> <p>In the aforesaid SCN, it is also proposed to issue as provided under Section 13(2) r/w 49(5) &amp; 49(6) of FEMA, 1999 to M/s Zee Telefilms Ltd. to</p>

Sl.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
68.	12.199	<p>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 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.</p>	<p><b>As reported in May, 2003</b></p> <p>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 the said order of the Mumbai High Court is pending in Supreme Court.</p> <p>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</p>	<p>repartriate sale proceeds of the aforesaid shares as well as cash remittance of US\$ 148.255 millions as the same is liable to be confiscated to the Central Govt. A/c.</p> <p>The total priority demand as defined by the Hon'ble Supreme Court while interpreting the provisions of special court (TORTS) Act, 1992 is Rs. 2346.55 crore in the case of Harshad Mehta group and Dalal group. The remaining demand is a non-priority demand.</p> <p>Pursuant to the special court (TORTS) Act, 1992 all the assets of Harshad S. Mehta and other notified parties have been attached by the custodian. The recovery of income tax dues in respect of these notified parties is subject to the releae of funds by the special court/custodian. The special court in its order dated 22.2.1995, inter alia, held that the priority years for distribution of assets to the IT Department are in respect of assessment year 1992-93 and 1993-94 (part). The priority demand u/s 11 (2)(a) of the special court (TORTS) Act 1992 is available to the IT Department only for tax demands raised and would not include interest and penalty even in respect of assessment year 1992-93 and 1993-94 (part). Assessments for these assessment years have been completed in the cases of all the notified persons. So far as non-priority demands are concerned, it can be recovered out of the attached assets only u/s 11(2)(c) of the special court (TORTS) Act, 1992.</p> <p>There is a total prohibition on the Department to recover the taxes directly from the notified persons. All recovery matters are dependent on the special court adjudicating upon the rights and claims of various parties including the Income Tax</p>

Sl.No.	Para No.	Observation/Recommendation	of	JPC	Reply of Government/Action Taken	Further Progress
					<p>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.</p> <p>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.</p> <p><b>As reported in December, 2003</b></p> <p>With regard to matters relating to Securities Scam of 1992, as against 87 appeals pending on 1.1.03, 79 appeals have since been disposed off and only 8 are pending.</p> <p><b>As reported in June, 2004</b></p> <p>CBDT has informed that all scam related assessments have been finalized in respect of Harshad Mehta Group of Cases for the assessment year 1992-93 and 1993-94 (priority period/statutory period as held by the Supreme Court in its judgement dated 13<sup>th</sup> May, 1998). The total recovery made in this case so far comes to Rs. 1227.43 crore, on the basis of decision/order by the Hon'ble Supreme Court and Hon'ble Special Court.</p> <p>With regard to the latest position in the case of M/s Fairgrowth Financial Services, the outstanding demand as on 30<sup>th</sup> April, 2004 was Rs. 143.44 crore. While Rs. 24.64 crore of this demand relates to A.Y. 1993-94 and earlier, which constituted the notified period, the balance demand relates to post-notification period. During May 2004, a further collection of Rs. 12.5 crore by way of remittance from the office of the custodian was received as per order issued by the Hon'ble Special Court.</p>	<p>Department. The Department has been moving miscellaneous applications before the special court for release of funds towards the recovery of priority demand on interim basis because in the normal course, the recovery even of the priority income tax demand is directly linked with the distribution of assets lying attached with the custodian. Such assets can be distributed only when the special court finally determines the distribution. During the last eight years, the special court has been releasing funds against some of the outstanding demands to the Department. The release of funds involves a lot of efforts by the officers in the field formations. The total recovery made in Harshad Mehta group and Dalal group comes to Rs. 1396.30 crore. In respect of the last interim release of Rs. 421.59 crore pursuant to the order dated 3.10.2003 of the Hon'ble special court, the SBI has gone in an appeal before the Hon'ble Supreme Court. The SBI also approached the Committee on Disputes, Cabinet Secretariat. The Committee on Disputes has directed as follows:</p> <p>“(a) SBI and the Department of Revenue would move the Special Court as early as possible to initiate the process of final/part final distribution of the funds under Section 11(2) of the Special Courts (TORT) Act, 1992;</p> <p>(b) During the interim period, i.e., pending the finalization of claims, neither SBI nor Department of Revenue would make or press any application before the Special Court seeking interim payments out of the funds with the Custodian; and</p> <p>(c) SBI would take expeditious steps to seek permission of the Hon'ble Supreme Court of India to withdraw Civil Appeal No. 8228 of 2003.”</p> <p>It may kindly be seen from above, that the CoD</p>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress															
			<p>Hence the net outstanding demand as on 31.5.2004 is Rs. 130.94 crore.</p> <p>With the receipt of this final instalment of Rs. 12.5 crore, the entire amount released by the Hon'ble Special Court to the Income Tax Department vide Court's order dated 2.5.2002 has been fully received. Consequent to notification of M/s Fairgrowth Financial Services as a notified party under the Special Court (TORTS) Act, 1992 w.e.f. 2.7.1992, all assets of the assessee company passed into the custody of the custodian of Special Court. Since that time, the custodian has with this specific orders from the Special Court disposed of various assets of the company, the proceeds of which have been applied to discharge the liabilities of the assessee company as per the orders of the Hon'ble Special Court, Mumbai.</p> <p>Out of the eight appeals pending in the cases pertaining to the Securities Scam of 1992, three appeals relating to Shri A.D. Narottam could not be heard by the CIT (A), as the assessee is currently behind bars. As regards four appeals relating to Shri B.C. Dalal, two of these appeals have been disposed of. In the two appeals pending in this case, remand reports have been called for by the CIT (A) from the Assessing Officers. As regards the appeal in the case of Shri S. Ramaswamy, here again remand report has been called for by the CIT (A). Figure of collection/reduction of priority demand in these cases are mentioned below:</p>	<p>has directed that neither SBI, nor Department of Revenue would make or press any application before the special court, seeking interim payments out of the funds with the custodian and have directed the SBI and Department of Revenue to move the special court for speeding up initiation of the process of final distribution of funds u/s 11(2) of the special court (TORTS) Act, 1992. The Department has now to await the final distribution u/s 11(2) of the special court (TORTS) Act, 1992. That process may take a couple of years more. The appeal filed by the SBI before the Hon'ble Supreme Court was last heard on 6.8.2004 by the Hon'ble Chief Justice of India, Mr. Justice Lahoti and Mr. Justice Mathur. The Hon'ble Supreme Court did not entertain the appeals filed by the SBI in view of the directions given by the CoD in the matter. The learned ASG appearing on behalf of the Income Tax Department having submitted that the Revenue Department has made some representations in the matter before CoD which is awaiting consideration, the Hon'ble Supreme Court have recorded the following clarifications in the order:-</p> <p>"We make it clear that the disposal of these appeals would not preclude the consideration of any representation before the CoD and such decision thereon as the CoD may be inclined to take."</p> <p>In view of the decision of the Hon'ble Supreme Court and the CoD's directions, the process of final distribution u/s 11(2) of the special court (TORTS) Act, 1992 is going to take time. The custodian and the court first have to ascertain the total assets and liabilities of the notified parties. The process is in a nascent stage as of now and is likely to take quite a few years. As per the submissions made on behalf of the</p>															
			(Amount in crores)																
			<table border="1"> <thead> <tr> <th>S. No.</th> <th>Name of assessee</th> <th>Collection/ Reduction of Priority Demand</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Jitendra R. Shroff</td> <td>Nil</td> </tr> <tr> <td>2.</td> <td>A.D. Narottam</td> <td>0.22</td> </tr> <tr> <td>3</td> <td>Bhupen C. Dalal</td> <td>0.64</td> </tr> <tr> <td>4.</td> <td>Hiten P. Dalal</td> <td>28.51</td> </tr> </tbody> </table>	S. No.	Name of assessee	Collection/ Reduction of Priority Demand	1	Jitendra R. Shroff	Nil	2.	A.D. Narottam	0.22	3	Bhupen C. Dalal	0.64	4.	Hiten P. Dalal	28.51	
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SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
5.		S. Ramaswamy	0.05	<p>Income Tax Department before the Law Courts and also before the CoD, the SBI has no locus standi to dispute Income Tax Department's claim before the special court, particularly when it is the matter of ad hoc interim release of funds.</p> <p>In view of the above, necessary steps are being taken to get the CoD's directions modified so that after following the due process of law, Department may be in a position to make further collection/Recovery.</p> <p>There are five appeals pending before CIT (Appeals) pertaining to the priority period. Due to the substantial revenue involved in the Harshad Mehta group, Bhupen Dalal group and other connected cases involved in the securities scam of 1992, the Senior Vice-President, ITAT and the President, ITAT were requested to appoint a designated bench to deal with the cases related to the security scam. Pursuant to such request, the ITAT has assigned major high demand cases to a single bench. Moreover, after appreciating the urgency of the matter the ITAT has distributed the other cases relating to security scam to various benches. The Department has also undertaken a number of steps like appointing two standing counsels exclusively for scam related cases, as well as monitoring at the level of CCIT and CIT and utilization of the services of CIT (Appeals) for assisting the standing counsel. Also, personal participation of the Assessing Officer and the Addl. CIT in the hearings before the ITAT has enabled completion of hearing in 125 cases, out of which orders have been received in 48 cases.</p> <p>There are no penalties that are pending for disposal for the priority period in the case of notified persons.</p> <p><b>M/s Fairgrowth Financial Services Ltd.</b> The pending appeals in the case of M/s</p>
6.		J.P. Gandhi	Nil	
7.		T.B. Ruia	Nil	
8.		M/s Dhanraj Mills	Nil	

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				<p>Fairgrowth Financial Services Ltd. for assessment year 1991-92 to 1994-95 were disposed of by the ITAT vide its order dated 28.7.2004. All the appeals filed by the assessee have been dismissed by the Tribunal along with the cost of Rs. 4 lakh, @ Rs. 50,000 per appeal. At the same time, the appeals filed by the Revenue have been allowed by the Tribunal. An additional demand of Rs. 97.71 crore has been created after giving appeal effect to ITAT's order for assessment year 1993-94, which allowed the Department's appeal. Due to this additional demand, the net outstanding demand as on 31.10.2004 has increased to Rs. 226.22 crore. The Department has filed miscellaneous petitions before the Hon'ble Special Court praying for further release of money towards tax u/s 11(2)(a) of the Special Court (TORTS) Act 1992 and u/s 11(2)(c) of the Special Court (TORTS) Act, 1992 for release of money towards interest. The said petitions have been admitted as MA No. 79/2004. The matter is likely to be taken up by the Hon'ble Court in the second half of November, 2004.</p> <p>A copy of the bank account mentioned in the custodian's application has been obtained from the bank and action is being taken to withdraw the recognition granted to Fairgrowth Financial Services Ltd. Employees Provident Fund under the provisions of the IT Act.</p>
69.	13.23	<p>The Committee underline the necessity for early implementation of corporatisation/demutualisation of Stock Exchanges process.</p>	<p><b>As reported in May, 2003</b> As in para 6.105</p> <p><b>As reported in December, 2003</b> As against para 2.20</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.2.20</p>	<p>As against para No.6.105. <b>Action completed.</b></p>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
70.	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.	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p><b>As reported in December , 2003</b></p> <p>As against para 3.21.</p> <p><b>As reported in June, 2004</b></p> <p>The position has been explained against Para No.3.21.</p>	As against para 3.21.
71.	13.49	Regarding demutualisation and corporatisation of the stock exchanges, the SEBI constituted a Committee under the Chairmanship of Justice Kania to provide definite road map for the early completion of the process, which has since	<p><b>As reported in May, 2003</b></p> <p>As against Para 6.105</p> <p><b>As reported in December, 2003</b></p> <p>As against para 2.20</p> <p><b>As reported in June, 2004</b></p>	As against para No.6.105. <b>Action completed.</b>

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
		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.	The position has been explained against Para No.2.20	
72.	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 Ministry should expeditiously finalise the	<p><b>As reported in May, 2003</b> As against para 3.21</p> <p><b>As reported in December, 2003</b> As against para 3.21</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.3.21.</p>	As against para 3.21.

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
		proposed amendments in the Banking Regulation Act, 1949 and introduce the amended legislation in the Parliament at the earliest.		
73.	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.	<p><b>As reported in May, 2003</b> 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.</p> <p>It is expected that the Bill would soon be introduced in the Parliament thereafter.</p> <p><b>As reported in December, 2003</b> It is expected that the Government Securities Bill, 2003 would be introduced in the Winter Session of Parliament.</p> <p><b>As reported in June, 2004</b> The Draft Government Securities Bill, 2004 for replacing the Public Debt Act, 1944 is proposed to be introduced in the ensuing session of Parliament.</p>	<p>The Draft Government Securities Bill, 2004 for replacing the Public Debt Act, 1944 and repealing the Indian Securities Act, 1920 has since been approved by the Cabinet.</p> <p>The Bill is expected to be introduced in the Winter Session of Parliament.</p>
74.	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	<p><b>As reported in May, 2003</b> As against para 2.17</p> <p><b>As reported in December, 2003</b> As against para 2.17</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.2.17.</p>	As against para 2.17.

SI.No.	Para No.	Observation/Recommendation of JPC	Reply of Government/Action Taken	Further Progress
		and its consequent misuse by certain entities, as detailed in this Report.		
75.	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 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.	<p><b>As reported in May, 2003</b></p> <p>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 examined keeping into mind the need for greater coordination amongst concerned agencies.</p> <p><b>As reported in December, 2003</b></p> <p>No change in the status.</p> <p><b>As reported in June, 2004</b></p> <p>The matter is under examination.</p>	Matter is under consideration.
76.	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	<p><b>As reported in May, 2003</b></p> <p>The SEBI (Amendment) Act, 2002 has enhanced the existing level of penalties prescribed for violations of the Act. Moreover, penalty for new</p>	In response to our proposal for designated court, SEBI received a letter dated May 13, 2004 from Shri R.C.Chavan, Registrar General, Mumbai

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		<p>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.</p>	<p>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.</p> <p>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.</p> <p>To the Venkatachaliah Legal Advisory Committee issue on investor grievance redressal has also been referred.</p> <p><b>As reported in December, 2003</b></p> <p>The SEBI (Ombudsman) Regulations 2003 have been notified on 21<sup>st</sup> August 2003.</p> <p>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.</p> <p>Accordingly, the exchanges vide circular SEBI/SMD/SE/Cir- 19/2003/02/06 dated June 2, 2003</p>	<p>High Court, addressed to the Principal Secretary &amp; R.L.A., Government of Maharashtra, Mumbai and copy marked to them, vide which they have requested for sanctioning a post of Metropolitan Magistrate and a post of Judge, City Civil and Sessions Court, exclusively for SEBI cases. The matter is now under consideration before the Government of Maharashtra.</p> <p>A similar proposal/request has been given to the Hon'ble Chief Justice of Delhi High Court for setting up of a designated Court for dealing with SEBI cases. The response in this regard is awaited.</p> <p>For the purpose of appointing the Ombudsman SEBI has issued advertisement. The last date for submitting application was 08.03.04. The applications received have been scrutinized by HRD and 15 applicants have been shortlisted. The interviews for selection will be held shortly.</p>

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					<p>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.</p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Chairman, SEBI has written a letter dated 04 March, 2004 to the Chief Justice of the Bombay High Court for allocating all SEBI cases in Mumbai to a designated Court. This letter has been written based on the positive response received from the Registrar, BHC, Principal Secretary, Finance Department and Principal Secretary, Law and Judiciary of the Government of Maharashtra.</p>	
77.	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.			<p><b>As reported in May, 2003</b></p> <p>SEBI has informed that it has taken up the review of the policy on Investor Protection Fund to increase its effectiveness.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>SEBI has informed that the IPF/CPF along with the recommendations of the Secondary Market Advisory Committee (SMAC) was placed on the SEBI web site for public comments. The public comments on the draft guidelines have since been received. These draft guidelines along with a compilation of the public comments are to be deliberated in the forthcoming meeting of the SMAC.</p>	<p>The circular on Comprehensive Guidelines for Investor Protection Fund/Customer Protection Fund at the stock exchanges has been issued on October 28, 2004.</p> <p><b>Action Completed</b></p>



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78.	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.	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> 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.</p> <p><b>As reported in June, 2004</b> Over 15,000 transactions identified as ISTs besides 133 transactions routed through stock exchanges/brokers having the characteristics of ISTs have been examined. The investigation report is currently under preparation.</p>	An enquiry was carried out by the internal vigilance cell in pursuance of the recommendation of the JPC in Para 16.21 and 17.14 of their report. The Vigilance Report alongwith the Report of the JPC and Tarapore Committee Reports have been referred for the recommendation of the Board Level Committee on August 24, 2004 by SUUTI for recommending further course of action. The recommendations of the Board Level Committee are awaited by SUUTI.
79.	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 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	<p><b>As reported in May, 2003</b> 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 in reply to Para 15.9.</p> <p><b>As reported in December, 2003</b> Inquiry by the Internal Vigilance Cell is in progress.</p> <p><b>As reported in June, 2004</b> The vigilance enquiry has been completed in the case of M/s. Koprán Ltd. and departmental proceedings have been ordered by the</p>	Of the 20 cases identified under this category, vigilance enquiry has been completed in the case of M/s. Koprán Ltd. The Board of Directors of UTI AMC and Advisory Board of SUUTI, in their meetings held on March 26, 2004 approved the formation of a Board level committee which will study the vigilance reports, JPC report and Tarapore Committee report and all relevant material and recommend the further course of action. The findings of the investigation have, therefore, been referred for the recommendation of the Committee. In addition, seven cases, viz. Essar Steel, Jindal Vijaynagar Steel, DSQ Software, Elbee Services,

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		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.	Administrator. Besides, three cases, viz. Essar Steel Ltd., Jindal Vijaynagar Steel and DSQ Software were in the list of cases earlier referred to the Advisory Board on Banking, Commercial and Financial Frauds (ABBCFF) in line with the recommendations of the Tarapore Committee. These cases have now been referred to SEBI for enquiry. The outcome of these enquiries is awaited. The vigilance enquiry in respect of the remaining cases is in progress.	Dewan Housing Finance, Rama Phosphates and Jenson & Nicholson which also figure in the list of 89 companies identified by the Tarapore Committee, have been referred to SEBI for enquiry by the Government of India. The outcome of these enquiries by SEBI is awaited. In order to avoid duplication, further action will be pursued on the basis of SEBI's findings. The vigilance enquiry in respect of remaining cases is in progress.
80.	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.	<p><b>As reported in May, 2003</b></p> <p>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.</p> <p><b>As reported in December, 2003</b></p> <p>As recommended by JPC in para 16.37, cases of Secondary Market transactions of UTI in the shares of 89 companies identified by Tarapore 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.</p> <p><b>As reported in June, 2004</b></p> <p>The recommendations require a thorough examination of the investment/divestment decisions made by erstwhile UTI in 89 companies (88 cos., 1 name repeated) (identified by the Tarapore Committee) during the period 1992-1993 to 2000-2001, inter-alia, in light of the internal norms prevailing in the UTI at the time of investment / divestment (as required under the procedure of Tarapore Committee) and responsibility be fixed for any incidents of criminal nexus, viz., broker-UTI dealer nexus, front running, benchmarking etc. SEBI</p>	All the audit firms have commenced the audit work in respect of all 88 companies.

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				<p>had written to the GOI for appointing a team of Chartered Accountants for the purpose to which Government has conveyed their consent. Accordingly, SEBI has appointed a team of 17 Chartered Accountants to carry out the necessary examinations. The auditors have been chosen from the RBI panel based on certain specific criteria. A detailed guidance note has also been given to the auditors alongwith specific terms of reference and the reporting format. The auditors were advised to get in touch with the office of the Administrator, Specified Undertaking of the Unit Trust of India (SUUTI) and commence the assignment. Further, they were advised to maintain strict confidentiality in all respect of the assignment.</p>	
81.	16.31	<p>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 investments have recorded a decline, the decisions were prima facie wrong and possibly</p>		<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> 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 with held by the UTI Asset Management Company for their role in transactions</p>	<p>Out of 15 companies, vigilance inquiry in respect of 7 companies is completed. The Vigilance Report in respect of five companies, alongwith the Report of the JPC and Tarapore Committee Report have been referred for the recommendation of the Board Level Committee on August 24, 2004 by SUUTI. The recommendations of the Board Level Committee are awaited by SUUTI.</p> <p>In one case, viz. Geometric Software Solutions Ltd., no case sustainable from the vigilance angle could be made out. The vigilance report in respect of other company is under consideration of SUUTI. Besides, two companies (Marwar Hotels and Gujarat Adani Port) are being examined by the SEBI appointed auditors. Vigilance enquiry in respect of transactions relating to the remaining six companies is in progress.</p>

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		<p>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.</p>	<p>in Cyberspace Infosys. Formal complaints have been lodged by SUUTI with the Central Bureau of Investigation in respect of the transactions in Broadcast Worldwide, Padmini Polymers and Shonkh Technologies Ltd.</p> <p><b>As reported in June, 2004</b></p> <p>Out of 15 companies, vigilance inquiry in respect of 5 companies is completed. The companies are (a) Cyberspace Infosys, (b) Broadcast Worldwide, (c) Shonkh Technologies, (d) Padmini Polymer, and (e) Ambica Agarbattis &amp; Aroma Industries. The inquiry is in progress in respect of 2 more cases. 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 with the UTI-Asset Management Company, for their role in transactions in Cyberspace 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. FIR has been registered by CBI in respect of M/s. Padmini Polymers Ltd. and M/s. Shonkh Technologies Ltd. Departmental proceedings have been ordered against officials in all cases. The Board of Directors of the UTI AMC and Advisory Board of SUUTI in their meetings held on March 26,2004 approved the formation of a Board level committee which will study the vigilance reports, JPC reports and Tarapore Committee reports and all relevant material and recommend the course of action.</p>	

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82.	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 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.	<p><b>As reported in May, 2003</b> The matter is under consideration of the Government.</p> <p><b>As reported in December, 2003</b> Cases of Secondary Market transactions of UTI in the shares of 89 companies identified by Tarapore Committee have been referred to SEBI for enquiry.</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.16.29.</p>	The corrective action taken in respect of systems, procedures, delegations of powers, risk management etc. has been reported against para No.15.9 of the first ATR. As regards, accountability action, the position is given as against para No.16.29.
83.	16.47	The Committee deplore the imprudent manner in which stocks were purchased and retained,	<p><b>As reported in May, 2003</b> The matter is under consideration of the Government.</p>	As against para 16.29.

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		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.	<p><b>As reported in December, 2003</b> As in para 16.37</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.16.29.</p>	
84.	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) 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	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> 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 has also been forwarded to the CBI for their information and necessary action.</p> <p>Shri M.L. Pendse, former Justice, Bombay High Court &amp; retired Chief Justice, Karnataka High Court has been appointed as Enquiry Officer and the enquiry proceedings under the Staff Rules are in progress.</p>	<p>As against para No.16.31. The SUUTI has informed that the vigilance report alongwith Reports of the JPC and Tarapore Committee have been referred to the Board Level Committee on 24.8.2004 for recommending further course of action.</p>

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		<p>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.</p>	<p><b>As reported in June, 2004</b> Shri M L Pendse, former Justice, Bombay High Court &amp; retired Chief Justice, Karnataka High Court has been appointed as Enquiry Officer and the enquiry proceedings under the Staff Rules have also been completed. The Enquiry Officer's findings are under consideration of the Competent Authority for imposing penalty.</p>	
85.	16.53	<p>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 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</p>	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> 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 on July 24, 2003. Based on</p>	<p>SUUTI has informed that vigilance report alongwith the Report of the JPC and Tarapore Committee Reports have been referred to the Board Level Committee on August 24, 2004 for recommending further course of action.</p>

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		<p>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.</p>	<p>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.</p>	
			<p><b>As reported in June, 2004</b> The vigilance enquiry has been completed and further action is in progress.</p>	
86.	16.56	<p>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 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</p>	<p><b>As reported in May, 2003</b> 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. All members of the Executive Committee and Board during the period 1996-97 and 1997-98 have long</p>	<p>SUUTI has informed that in view of the response of the IDBI that 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, the matter will be put up to the Board of Advisors of SUUTI for direction in the matter.</p>



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		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.	<p>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.</p> <p><b>As reported in December, 2003</b></p> <p>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.</p> <p><b>As reported in June, 2004</b></p> <p>Further course of action is under consideration.</p>	
87.	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.	<p><b>As reported in May, 2003</b></p> <p>As against 16.21</p> <p><b>As reported in December, 2003</b></p> <p>As against para 16.21</p> <p><b>As reported in June, 2004</b></p> <p>The position has been explained against Para No. 16.21.</p>	As against 16.21.

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88.	18.19	<p>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 reports, depositions and evidence placed before them, observed a disturbing nexus which stands established by the following facts:-</p> <ol style="list-style-type: none"> <li>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.</li> <li>2 Shri B.G. Daga was the Executive Director of UTI as well as UTI's representative on the Board of Directors of SHCIL.</li> <li>3 Shri H.C. Biyani and his related entities were the brokers involved in both transactions.</li> <li>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.</li> <li>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.</li> </ol>	<p><b>As reported in May, 2003</b> 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.</p> <p><b>As reported in December, 2003</b> As against para 4.70</p> <p><b>As reported in June, 2004</b> The position has been explained against Para No.4.70.</p>	As against para 4.70.

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	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 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 IndusInd 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.		

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		13 The damage to the vital dealing room tapes recording UTI's transaction with CSE is suspicious.		
89.	18.20	<p>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:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(vi) SEBI, Enforcement Directorate and DCA have already instituted enquiries in case of the DSQ</p>	<p><b>As reported in May, 2003</b> (ii) The matter is under consideration of IDBI. <b>As reported in December, 2003</b> ii) As against para 4.70. <b>As reported in June, 2004</b> The position has been explained against Para No.4.70.</p> <p><b>As reported in May, 2003</b> (iii) The matter is under consideration of SEBI. <b>As reported in December, 2003</b> (iii) As against para 4.70. <b>As reported in June, 2004</b> The position has been explained against Para No.4.70.</p> <p><b>As reported in May, 2003</b> v) The matter is under consideration of SEBI <b>As reported in December, 2003</b> (v) The Officer concerned has filed his explanation. Investigation is under progress. <b>As reported in June, 2004</b> Investigation is under progress.</p> <p><b>As reported in December, 2003</b> vi) Enforcement Directorate's investigation into</p>	<p>As against para 4.70.</p> <p>As against para 4.70.</p> <p>The report is at the final stage of completion.</p> <p>One show cause notice issued to M/s. DSQ Software Ltd. has been adjudicated by imposing a</p>

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		group, which are at different stages. These should be expedited.	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.	penalty of Rs.2 crore on the company and Rs.2 crore on Shri Dinesh Dalmia. The adjudicating authority is being requested to finalise the pending adjudication.
		The Committee hope that swift action as detailed above will send the right signals to the stock markets and other financial institutions.	<b>As reported in June, 2004</b> The matter is under consideration of Enforcement Directorate.	
90.	21.9	The Committee would like to put on record the following observations and recommendations:		
	(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.	<b>As reported in May, 2003</b> 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. <b>As reported in December, 2003</b> Pending legal actions continue to be pursued. <b>As reported in June, 2004</b> Pending legal actions continue to be pursued by SUUTI.	Pending legal action continue to be pursued.
	(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	<b>As reported in May, 2003</b> The matter is under consideration of SUUTI and the Government. <b>As reported in December, 2003</b> No change in the status. <b>As reported in June, 2004</b> No change in status.	v) The Government of India have examined the matter and are of the view that the present CEO is professionally fully competent to run UTI MF. So long as SUUTI is in existence and has not been fully closed down, there will be an advantage to be gained from the synergy of having one

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		<p>manner, whether they are picked up from the public or private sector. If an official from the public sector is selected, 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.</p>		<p>person heading both SUUTI and UTI MF. Other executives of UTI MF also have sufficient professional background.</p> <p>The Trustees of the UTI MF have also considered the matter in their Board Meeting held on May 28, 2004 and felt that the UTI AMC satisfies the requirement of having professionally qualified and experienced key personnel, managers and compliance officer. <b>Action completed.</b></p>