

Minutes of the 20th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies held on 23.4.2007 at 11:00 A.M. in the Chamber of Secretary, Ministry of Company Affairs, Shastri Bhawan, New Delhi.

The 20th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies was held on 23.4.2007 at 11.00 A.M. under the Chairmanship of Chairman, SEBI in the Chamber of Secretary, Ministry of Company Affairs, Shastri Bhawan, New Delhi as Shri Anurag Goel, Secretary, MCA was on leave on that day for unforeseen reasons. The list of officers who attended the meeting is given at **Annexure I**.

Chairman, SEBI welcomed the participants to the meeting of the CMC. Agenda items were taken up for discussion and following decisions were taken:

20.1 Confirmation of the minutes of the 19th Meeting held on 27.11.2006:

Minutes of the 19th meeting of Co-ordination and Monitoring Committee (CMC) on Vanishing Companies held on 27.11.2006 at 3.00 P.M. were confirmed.

20.2 Review of action taken on the decisions taken in the 19th meeting:

The Committee reviewed the follow-up action on the decisions taken in the 19th Meeting. In the matter of the case of M/s. Sparkle Foods Limited, RD (WR) was asked to follow up with the Branch Secretariat, Department of Legal Affairs at Mumbai for filing of application before the High Court of Mumbai to bring to their notice, the

non-compliance of the directions issued by the Hon'ble Court vide Order dated May 3, 2005 in this case. He was advised to send a comprehensive report after taking the views of Police department as the Criminal proceedings had been initiated by them in the FIR filed by the RoC against the company and their directors. This would help in taking up this matter with the Law Ministry seeking their opinion for filing application for contempt and also for making RoC as a Party to the proceedings before the Hon'ble Court. As regards other matters, it was noted that the same would be covered in the subsequent agendas mainly during the presentations to be made by the groups.

20.3 Review of the Criteria for identifying a Vanishing Company:

The Standing Committee on Finance had expressed concern on various issues relating to action taken by the Government against Vanishing Companies, which were taken up by the Committee for discussion in detail. It was noted that as regards dealing with vanishing companies is concerned, the present coordination between MCA and SEBI through CMC and Task Forces is quite satisfactory. However cooperation of RBI may be required for dealing in certain operational aspects of "vanishing companies" and therefore it was decided that RBI may be requested to nominate a senior officer for representing on CMC (preferably one looking after the NBFC related work). This will facilitate the setting up of regular coordination mechanism at operational level. JS(M) stated that the Standing Committee members had also expressed their concern over the possibilities of re-emergence of same players under a different guise for raising capital.

3.1 It was decided that with the involvement of RBI, the information in the form of list of defaulters with the banks generated through the banking channels would probably serve as an early detection/alert on vanishing companies. The coordination set up with RBI would also help in dealing with the complaints of investors received against a "potential vanishing company" or "a vanishing company" which is a Non-Banking Financial Companies (NBFCs). The representative from the Department of Economic Affairs (DEA) stated that the DEA had no role in the operational aspect of coordination but would certainly play an important role in the policy issues of coordination. On the other concerns, it was noted that the report submitted by the Small Group had addressed few such concerns/issues, the same may be decided while deliberating upon the report.

3.2 As regards the criteria for identifying a Vanishing Company, it was decided that the group may be advised to recommend modifications, if any, required in the criteria for identifying a "vanishing company" and place it before CMC in its next meeting for consideration.

It was further decided that as regards action against the Vanishing Companies, especially in cases where the prosecutions had already been filed and the FIRs had been registered, a meeting of State nodal officers may be convened at the level of the Co-Chairmen so that the progress on cases under investigation and those filed in the Courts could be reviewed and monitored. It was agreed to that an effective action with concrete outcomes against a few select Vanishing Companies and their directors would have a demonstrative impact on others. It was also observed that the issue of locus standi of the State (i.e. RoCs) being a complainant in the Criminal Cases/prosecutions launched against the

vanishing companies could be taken up at higher levels of the Courts (say, Apex Court) so that the Criminal cases do not fail for want of a complainant to whom wrongful loss had been caused by these Vanishing Companies.

20.4 Review of the working of the Small Group:

The Committee noted that two groups set up by CMC have since submitted their reports. It was decided to deliberate on both the reports after discussing other agendas and also after seeing the presentation to be made by the Midas Touch Investors Association.

20.5 Overview of flaws relating to Vanishing Companies and suggestive measures and presentation by Shri Virendra Jain, Director (IH), Midas Touch Investor Association:

This agenda item was taken up after discussing agenda items 20.6, 20.7, 20.8, 20.9 and 20.10. Shri Virendra Jain, Director (IH), Midas Touch Investors Association made a presentation before the Committee.

Main suggestions inter-alia were the following:

- (i) Identify companies on an on going basis- who have not submitted the information timely or not complied or violated the terms of Listing Agreement;
- (ii) Suspension of trading and issue notices to defaulting Companies in a time bound manner, failure to comply with the time-frame may lead to imposition of penalty;
- (iii) Physical inspection of the registered office and main work site/factory;

- (iv) Investigating the affairs of the company by Registrar of Companies/any other Competent Authority;
- (v) Investigate the role of professionals in certifying the earlier documents filed with Stock Exchanges/Registrar of Companies;
- (vi) If prima facie case of siphoning off of the funds can be established then to apply for winding up of the company and for disgorgement of the personal assets of the directors and promoters of the company;
- (vii) Every company to file a certificate from a Practicing Company Secretary/Chartered Accountant on a quarterly basis certifying Compliances and specific non-compliances in the quarter and the details of investors grievances which will include opening balance, complaints received, redressed and pending and reasons for grievances pending redressal for more than one month.

The Committee noted the suggestions and informed that Midas Touch that "vanishing companies" per-se is not a legal term. A company which fails to meet any statutory requirements is any way liable for an action in terms of the provisions of the respective Act/Regulations/Listing agreement. Specification of any additional regulatory requirement comes with a cost, which is indirectly borne by a shareholder only. The Committee discussed the above suggestions and decided to forward the suggestions of MIDAS to the 'Small Group' for their comments. It was also informed that the report submitted by the Small Group (referred in agenda item 20.4) has been taken as a preliminary report and the group may like to rework on its report after considering certain issues discussed in the meeting and in the presentation made by MIDAS.

20.6 Review of the working of Task Forces:

The Committee reviewed the functioning of the progress made by Regional Task Forces on the action against the Vanishing Companies and noted that there was still a gap between the number of Vanishing Companies and the total number of FIRs registered. Chairman observed that the Regional Directors who were heading the respective Task Forces may analyse the individual cases where the FIRs had not been registered on a priority basis and complete the action by May 20, 2007. In case, it was decided by the Task Force that no FIR was needed to be registered in a particular case, it may so be so specifically stated along with the reasons.

20.7 Proposal for Deletion of name of the company from the list of Vanishing Companies:

The recommendations of the Small Group for deleting the name of M/s Prime Capital Market Ltd. registered with RoC, Cuttack from the list of Vanishing Companies was approved by the Committee.

20.8 Identification of Vanishing Companies:

The Committee accepted the recommendation of the Small Group for including the names of nine companies (list given in Annexure II), which came out with the IPOs during the period 1998-2001, in the list of Vanishing Companies. As regards the recommendation for including companies from the other two lists, it was decided that the concerned Task Force may be asked to indicate the year of IPO made by those

companies and also the year in which the companies started its non-compliance with the provisions. This report may be submitted by the respective Task Force to the CMC before its next meeting.

20.9 Review of the status of Companies in liquidation:

It was decided that those Vanishing Companies which were under liquidation be shown separately under the head 'Vanishing Companies under Liquidation' and it may be explained before the concerned Hon'ble High Court that though the company was under liquidation but the promoters and directors of the company remained liable for Criminal prosecution, in case insolvency of the Company was attributable to the mis-utilisation of the funds on the part of the promoters/directors.

20.10 Delisting of Companies by Bombay Stock Exchange (BSE):

It was informed by SEBI representative that SEBI has sought comments of BSE on the matter, which are awaited.

The meeting ended with a vote of thanks to the Chair.

Annexure I

List of officers who attended the 20th meeting of the Coordination & Monitoring Committee (CMC) on Vanishing Companies held on 23.4.2007 at 11.00 A.M. in the Chamber of Secretary, Ministry of Company Affairs (MCA), New Delhi.

Ministry of Company Affairs

1. Shri M. Damodaran, Chairman, SEBI in chair
1. Shri Jitesh Khosla, Joint Secretary
2. Shri Y. S. Malik, Joint Secretary
3. Shri V.S. Rao, RD, Western Region
4. Shri Rakesh Chandra, RD, Northern Region
5. Shri U.C. Nahta, RD, Eastern Region
6. Shri Pawan K Kumar, Director
7. Shri M.S. Sahoo, Director(SM), M/o Finance
8. Shri Diwan Chand DII (P)
9. Shri E. Selvaraj, JD (L), O/o RD (SR)
10. Shri Alok Samantarai, JD (L)
11. Shri J.K. Jolly, DD (I), O/o RD (NR)

SEBI

1. Shri Amarjeet Singh, Regional Manager, NRO, SEBI.
2. Ms. Neelam Bhardwaj, Dy. General Manager
3. Ms. Jyoti Jungar, Dy. General Manager

Annexure-II

List of 09 Companies came out with IPOs during 1998-2001
recommended for inclusion in the list of Vanishing Companies:

Sl. No.	Name of the Company	State
1.	M/s. BARON INFOTECH LIMITED	ANDHRA PRADESH
2.	M/s. DAISY SYSTEMS LIMITED	-DO-
3.	M/s. IMAP TECHNOLOGIES LIMITED	-DO-
4.	M/s. ORPINE SYSTEM LIMITED	-DO-
5.	M/s. SEQUEL SOFT INDIA LIMITED	-DO-
6.	M/s. SIBAR MEDIA & ENTERTAINMENT LIMITED	-DO-
7.	M/s. SIBAR SOFTWARE SERVICES (INDIA) LIMITED	-DO-
8.	M/s. SWAL COMPUTERS LIMITED	-DO-
9.	M/s. VISLE CYBERTECH LIMITED	-DO-
