

Minutes of the 26th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies held on 20.11.2012 at 11.00 A.M. in the Chamber of Secretary, Ministry of Corporate Affairs, Shastri Bhawan, New Delhi

The 26th Meeting of the Co-ordination and Monitoring Committee (CMC) on Vanishing Companies was held on 20.11.2012 at 11.00 AM under the Chairmanship of Secretary, Ministry of Corporate Affairs, New Delhi. Chairman, SEBI (co-chairman of CMC) could not attend the meeting. However, Chief General Manager, SEBI attended the meeting on his behalf. The list of officers who attended the meeting as per Annexure-I.

The Committee took up the Agenda items for deliberation and the following decisions were taken:

26.1 Confirmation of the minutes of the 25th meeting held on 27-03-2012

26.1.1 Minutes of the 25th meeting of the CMC held on 27-03-2012, were confirmed and approved.

26.2 Review of Action taken on the decisions taken in the 25th meeting

26.2.1 Chairman, CMC while reviewing the action taken report, expressed concern over the issue regarding physical verification of the premises of such vanishing companies which had defaulted in filing of statutory returns. He emphasised the need for having such mechanism of verification of premises of such companies which default in filing of statutory returns and suggested that where such verification appeared to be not feasible by the ROCs due to staff constraints, the option of getting

such verification done through outside agency on outsourcing-basis, needs to be explored.

(Action: All RDs)

26.2.2 It was decided that the matter regarding verification of premises of defaulting listed companies may be referred to Policy Cell, MCA to explore the option of engaging outside agencies on outsourcing basis.

(Action: CL-II/ CL-V Sections of MCA)

26.2.3 It was further decided that the format/ language of verification to be used by qualified professionals in eForms 1, 18, 32 and DIN-I need to be re-examined by the Policy Cell of MCA to ensure that there is no ambiguity in the relevant verifications and it becomes crystal clear that the professional concerned is personally satisfied about the facts verified on the basis of named documents which need to be uploaded along with the verification.

(Action: CL-II/ CL-V Sections of MCA)

26.3 Review of working of the Task Forces:

All the RDs being chairmen of the Regional Task Forces (RTFs) made presentations about working of the Task Forces. After detailed discussions, the following decisions were taken:

26.3.1 Wherever any vanishing company has started filing statutory returns regularly, joint physical inspection by the representatives of Stock Exchanges/ ROCs be taken up.

(Action: All Stock Exchanges/ ROCs)

26.3.2 Wherever local Stock Exchanges have become non-functional, SEBI to nominate representatives for the respective Task Forces.

(Action: SEBI)

26.3.3 Vanishing Companies which have started filing statutory returns regularly, such status be indicated on the website of MCA, in the list of the vanishing companies.

(Action: CL-II/ E-Governance Cell of MCA)

26.3.4 The names of companies which have been taken out of the list of Vanishing Companies and have been placed under 'Watch List' be also displayed separately on the Ministry's website.

(Action: CL-II/ E-Governance Cell of MCA)

26.3.5 As per the existing instructions, meetings of the Regional Task Forces are required to be held once in three months. It was however, noticed that meetings of the some of the task forces, such as ER & NWR were not being held regularly. RDs were, therefore, advised to hold the meetings of the RTFs regularly. Further, regions, which have higher number of vanishing companies, such meetings may be held more frequently.

(Action: All RDs)

26.4 Presentation by SEBI:

26.4.1 Representative of SEBI explained the steps taken by SEBI in identification of vanishing companies and action taken against such companies. It was informed that SEBI had issued 'orders of debarment' of the promoters/ directors in respect of each of the vanished companies.

Upon being asked about the period of applicability of such orders, it was informed that such orders were applicable for a period of five years and in none of the cases, these orders were renewed or reviewed. As these orders were passed in the years 2000-2002, the time period of such orders might have already been over. It was therefore decided that SEBI may examine the issue regarding renewal/ review of such orders and take appropriate action and furnish status in the next meeting of CMC.

(Action: SEBI)

26.5 Presentation by RBI:

26.5.1 Representative of RBI explained the steps taken by RBI in identification of vanishing companies which are NBFCs and informed that RBI also maintains a separate list of such vanishing companies which are displayed on its website. However, it was informed that RBI was not having a list of vanishing companies being maintained by MCA/ CMC. It was therefore, decided that a copy of such list be shared with RBI and RBI may examine the same and find out such vanishing companies which exist in both the lists, i.e., the one maintained by MCA/ CMC and the other maintained by RBI and share the information with MCA for appropriate action under the guidance of CMC. RBI representative was also requested to state the action, if any, taken by the RBI in respect of the vanishing companies which are/ were NBFCs.

(Action: RBI)

26.6 Addition to the list of Vanishing Companies:

26.6.1 The matter regarding addition of the name of M/s Bafna Spinning Mills & Exports Ltd., which was earlier a vanishing company but was later on taken out of the list of Vanishing Companies and put on the 'watch list' was taken up. It was however, observed that proposal of ROC Coimbatore was not discussed by the respective RTD and such recommendation had not come from RTF. It was therefore decided that all such cases where the names of the companies are proposed to be added to the list of Vanishing Companies, the same need to be examined and verified by the respective Task Forces and specific recommendations of the Task Forces in each individual case be submitted for consideration of the CMC. The recommendations of Task Force, in such cases should be unambiguous and clear.

(Action: All RTFs)

26.7 Progress of long pending cases

26.7.1 RDs informed that the progress in respect of pending cases before the police authorities as well as Courts has been very slow. The Committee discussed various options for expeditious disposal of such cases and noted that the pendency was on account of loopholes in the legal system and the relevant laws which were being misused by the vanishing companies and their directors for prolonging disposal of such matters before the police authorities as well as courts. It was, therefore, decided that the members may examine the relevant laws and propose amendments which may

enable to fast track such cases which may then be forwarded to the Law Commission.

(Action: MCA/ RTFs/ SEBI/ RBI)

26.8 Deletion from the list of Vanishing Companies:

26.8.1 The Committee noted that though the representations of eight companies were examined by RTF of North-Western Region yet no specific recommendation has been made by the Task Force and instead it had decided that the facts & circumstances of each company be placed before the CMC for suitable decision with respect to deletion of their names from the list of vanishing companies. It was therefore decided that RTF, should may re-examine the representations and give unambiguous and clear recommendations for deletion of the names of the companies from the list of vanishing companies.

(Action: All RTFs)

26.8.2 Sh. U.C. Nahta, DII, MCA pointed out that in case of one of the companies - M/s Super Domestic Machines Ltd., which has been recommended by RD(NWR) for deletion from the list of vanishing companies, the public issue was not fully subscribed and in fact it could secure public subscription of less than 75%. As per SEBI guidelines, in case a company receives less than 90% public subscription, then all the money collected has to be refunded. However, in this case, the company appeared to have utilized the under subscribed proceeds and had not returned the money collected. It was decided that the matter needs to be

examined by SEBI and its report be submitted to the CMC for necessary action in the matter.

(Action: SEBI)

26.9 Any other matter

26.9.1 Sh. U.C. Nahta, DII, MCA pointed out that about three years ago, SFIO was required to trace the whereabouts of the promoters/ directors of some vanishing companies through some private agency. SFIO had submitted a report which had been circulated to all the RDs. As per the said report, SFIO, with the help of the private agency, was able to trace the promoters/ directors of some of the vanishing companies. It was decided to explore the possibility of doing the said exercise again.

(Action: CL-II Section of MCA/ SFIO)

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

List of Officers who attended the meeting on 20-11-2012

1.	Shri Naved Masood, Secretary, MCA – In chair
2.	Shri U.C. Nahta, DII, MCA
3.	Shri Rakesh Chandra, RD (NR), MCA
4.	Shri SMA Millath, RD (WR), MCA
5.	Shri E. Selvaraj, RD (WR), MCA
6.	Dr. Navrang Saini, RD (ER), MCA
7.	Shri Mahesh Kuvadia, RD (SER), MCA
8.	Shri B.C. Meena, JD, O/o RD (NWR), MCA
9.	P.K. Bindlish, CGM, SEBI
10.	Versha Agarwal, AGM, SEBI
11.	Nilimesh Baruah, Director, SFIO, MCA
12.	Sh. S.K. Pable, Deputy General Manager, RBI, Mumbai
13.	Jaipal Sharma AD (PM), DEA
14.	Shri Sanjay Sood, DD, MCA