

Employees Provident Fund – 2011  
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1. Financial Statements  
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1:1 Qualified Opinion  
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In my opinion, except for the effects of the matters described in paragraph 1:2 of this report, the financial statements give a true and fair view of the financial position of the Employees' Provident Fund as at 31 December 2011 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Accounting Standards.

1:2 Comments on Financial Statements  
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1:2:1 Sri Lanka Accounting Standards  
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Fixed Assets costing Rs.76,304,000 fully depreciated as at 31 December 2011 had not been revalued and brought to account in terms of Sri Lanka Accounting Standard No. 18. This stock of assets included a stock of computer accessories costing Rs.18,422,195 unused up to date and fully depreciated to zero value at 50 per cent.

1:2:2 Accounting Deficiencies  
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Two sums of Rs.987,015 and Rs.550,182 spent on carrying out repairs to motor vehicles and machinery respectively had been brought to account as capital expenditure.

1:2:3 Unsettled Balances  
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The following observations are made.

- (a) The recoveries made to the Employees' Provident Fund by the Commissioner General of Labour by instituting cases under the Employees' Provident Fund and recoveries of outstanding installments and not settled by crediting to the accounts of the respective accounts of members as at 31 December 2011 amounted to Rs.4,671,769,511. In this connection the Commissioner General of Labour and the Central Bank of Sri Lanka informed that a project is being implemented for

the expeditious settlement of this balance subject to fluctuations which are not due to any weakness in the financial control.

- (b) The balance of the General Deposit Account relating to the amount not settled by crediting to the respective beneficiaries as at 31 December 2011 amounted to Rs.346,697,934. In response to this matter the Commissioner General of Labour informed that action is being taken for the introduction of a computer programme to increase the present rate of identification of the owners and in the future this balance will be minimized.
- (c) The non-settlement of the balance of the Shortage and Excess Contributions Account which had been increasing from the inception of the Fund amounting to Rs.1,187,649,767 as at 31 December 2011 had resulted in the delay or loss of benefits of the recipients of the Fund. In reply to this matter in Central Bank of Sri Lanka informed that it is not possible for the Employees' Provident Fund alone to settle this balance created by the actions of the employers, that this matter can be considered by amending the Act, by introducing a methodology for punishing the employers who do not furnish correct information and that the Department of Employees' Provident Fund is taking action as far as possible with the resources available for the settlement of those balances.
- (d) The balances as at 31 December 2011 of the Unsettled Unclaimed Benefits Account and the Retained Benefits Account amounted to Rs.120,476,638 and Rs.13,160,611 respectively. In reply to this matter the Central Bank of Sri Lanka informed that action will be taken for the early payments and the balance of the Unclaimed Benefits Account created due to outdated cheques and the errors in the particulars of Bank Accounts furnished by the applicants for benefits, after making rectification of the information through the Commissioner of Labour and that the balance of the Retained Benefits Account where the benefits of the dependents of deceased members have been retained in the orders of the Commissioner of Labour will be settled again on the receipt of orders from the Commissioner of Labour and that this is not an error of the internal operating process which can be settled at the discretion of the Employees' Provident Fund.

1:2:4 Lack of Evidence for Audit

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The formal Board of Survey Reports and the detailed schedules in support of the assets of the Employees' Provident Fund valued at Rs.959,246,218 belonging to the Department of

Labour and the accumulation depreciation thereon amounting to Rs.480,309,648 had not been furnished to audit.

1:2:5 Non-compliance with Laws, Rules, Regulations and Management Decisions

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The following non-compliances were observed the course of audit.

Reference to Laws, Rules, Regulations, etc.	Non-compliances
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(a) Section 3 of the Employees' Provident Fund (Amendment) Act, No. 26 of 1981.	An audit test check of the database of the Central Bank of Sri Lanka on the recovery of surcharges for the failure to pay the contributions to the Employees' Provident Fund on the specified dates revealed that the surcharges amounting to Rs.101,140,260 recoverable for the period from the year 2009 to the year 2011 from 127 institutions registered with the Fund had not been recovered even by the end of the year under review.
(b) Financial Regulation of the Government of Sri Lanka ----- Financial Regulation 1645(a) and (b) and 1646	The Log Books of 39 motor vehicles had not been maintained properly and the Daily Running Charts and the Monthly Performance Reports had not been furnished to the Auditor General before the fifteenth day of the month following.
(c) Section 8.7 of the Public Enterprises Circular No. PED/12 of 02 June 2003.	The Pay As You Earn Tax amounting to Rs.1,395,505 recoverable from the employment income of the officers of the Employees' Provident Fund of the Central Bank of Sri Lanka had been paid from the Fund without being recovered from the officers concerned.

2. Financial Review

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2:1 Financial Results

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The net result of the operations of the Fund for the year under review had been an after tax surplus of Rs.107,202,066,499 as compared with the net surplus of Rs.111,445,011,747 for the preceding year. The net surplus for the year under review as compared with preceding year indicated a decrease of Rs.4,242,945,248. The decrease of income from investments by a sum of Rs.5,049,303,683 had been the main reason for the decrease in the financial results.

2:2 Management Inefficiencies

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The following observations are made.

- (a) Out of the 7,543 active employer institutions in the area of the District Labour Office, Colombo North, 2,632 institutions only had been subjected to inspection by the Labour Officers up to the end of the year under review. The balance 4,911 institutions or 65 per cent of the total number of institutions had not been subjected to inspection by Labour Officers during periods exceeding one year. In reply to this matter, the Commissioner General of Labour informed that the Labour Officers carrying out field duties in accordance with the Departmental Circulars can inspect only 2,880 institutions annually and that the institutions which breach Labour laws are subjected to regular inspections.
- (b) The Courts action instituted for the recovery of the outstanding contributions and surcharges in 337 instances from the employer institutions of 02 District Labour Offices of the Employees' Provident Fund had stopped halfway and as such the Employees' Provident Fund had been deprived of contributions to be credited to the accounts of the members amounting to Rs.92,097,672 and surcharges.
- (c) Even though a long period had elapsed after the dispatch of the first and the final notices for the recovery of the arrears of outstanding contributions amounting to Rs.204,584,371 and the surcharges from the employer institutions in the area of authority of the District Labour Office Maharagama, action had not been taken even by 30 June 2013 either for the recovery of the outstanding contributions or to take Courts action.

- (d) Action had not been taken even by 30 June 2013 for the recovery of the outstanding contributions amounting to Rs.13,249,417 and the surcharges relating to 47 employer institutions of the area of authority of the District Labour Office, Colombo North. In reply to this matter, the Commissioner General of Labour informed that even if it is difficult to take action due to the shortage of staff, plans have been made complete this work in 06 months.
- (e) Action had not been taken for the recovery of the contributions amounting to Rs.44,679,953 and surcharges amounting to Rs.14,423,022 in respect of 04 years payable to the Employees' Provident Fund by 55 institutions of the State Plantations Corporation and the Janatha Estates Development Board in the area of authority of the District Labour Office, Kandy North.
- (f) Even though warrants had been issued to two employer institutions in the area of authority of the District Labour Office, Kandy North, contributions to the Employees' Provident Fund amounting to Rs.1,692,078 (total of Rs.767,996 and Rs.924,082) recoverable through cases No.3688 and No.74135 filed in the Magistrates Court, Kandy could not be recovered up to date due to the failure to take follow up action. In reply to this matter the Commissioner General of Labour informed that the warrants on case No. 3688 could not be served as the owner of the institution had proceeded abroad while the institution relating to Case No. 74135 had been closed down 13 years ago and open warrants had been issued as the accused persons are not attending the Courts.
- (g) A sum of Rs.20,478,379 had been deprived of the beneficiaries of the Employees' Provident Fund from 32 pending Court Cases due to not producing adequate information to the Courts on the employees in the area of authority of the District Labour Office, Kandy South, lack of timely maintenance of information and the failure to pay due attention.
- (h) The contributions and surcharges not recovered even up to 30 June 2012 from 22 institutions of the State Plantations Corporation of Sri Lanka and the Janatha Estates Development Board in the area of authority of the District Labour Office, Kandy South due to the failure to take Courts action amounted to Rs.143,455,982. The Commissioner of Labour had been reported by his letter dated 19 July 2006 to the audit that the Ministry of Labour and the Ministry of Plantations Industries had decided to refrain from taking Courts action. In view of this decision, even the benefits of the sum of Rs.22,853,700 recovered from the personal salaries of

the employees of the Plantation Companies up to 31 December 2006 had been deprived of. In the circumstances, contributions of employees completing 55 years of age and the deceased employees had been subjected to the risk of loss.

- (i) Even though periods ranging from 09 to 12 months had elapsed after the issue of the final notice of an estate belonging to the Janatha Estates Development Board in the area of Gampola, Kandy South, the recovery of contributions payable to the Employees' Provident Fund amounting to Rs.10,151,794 and surcharges amounting to Rs.4,152,001 as well as the contributions of eighteen officers of the Biodiversity Institute Ambuluwawa from the year 2004 and surcharges amounting to Rs.1,572,120, and totalling Rs.15,875,915 had not been recovered even by 30 June 2012.
- (j) An agreement had been entered into with a private company on 23 November 2010 for the Re-registration of Members of the Employees' Provident Fund Project. Sums of Rs.6,467,403 and Rs.603,948 had been spent thereon in the years 2010 and 2011 respectively. The work on the Project had not been completed even by the end of the year 2012 and the machinery valued at Rs.7,457,195 purchased for the Project had been idling in the Department.
- (k) According to the database, the contributions to the Employees' Provident Fund from 10 active employers in Zone 6 of the District Labour Office, Colombo East for about 12 years and for periods ranging from 03 to 07 years from 09 other institutions, had not been recovered even by 30 June 2012.

3. Operating Review

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3:1 Performance

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3:1:1 Operating Performance

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The following observations are made.

- (a) The performance as at the end of the year 2011 had been as follows.

Particulars	Actual Number	Number relating to Activities of the Fund	Percentage
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Employment in the Private and Semi-Government Section	3,414,944	2,300,000	67.35
Employers	228,926	66,350	28.98
Members' Accounts of the Fund (Millions)	13.6	2.3	16.91

There were 2,427,705 self-employee persons in employment in Sri Lanka as at end of the year 2011. None of the courses of action taken for the benevolence of the self-employed persons had been reported. (Source : Report of the Central Bank of Sri Lanka 2011)

(b) Benefits paid to Members

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Year	2011	2010	2009	2008	2007
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	%	%	%	%	%
Percentage of Benefits paid	11.5	12.5	13.75	13.2	11.2

The decrease of the benefits paid to the members in the year 2011 as compared with the year 2010 by 1 per cent had been due to the decrease of income from investments in the year 2011 by a sum of Rs.5,049,303,683 and improvement in the members fund by a sum of Rs.110,734,645,618.

3:1:2 Investments and Investment Income

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The following observations are made in connection with the overall investment of Rs.73,948,947,927 made by the Employees' Provident Fund as at 31 December 2011 on long term and short term basis in 74 companies listed in the share market.

(a) Out of the long term and short term investments amounting to Rs.63,169,398,923 made by the Employees' Provident Fund in 76 companies in the share market by

15 January 2013, the value of investments made in 58 companies amounting to Rs.54,006,955,606 had diminished by Rs.11,737,841,979.

- (b) A sum of Rs.500,000,000 invested in 1,863,676 units of an airline company in July 2010 had not yielded any income to the Fund since the date of investment up to 30 January 2012. In reply to this matter the Central Bank of Sri Lanka informed that it is confident of future prospects of profits from the company with gradually decreasing losses.
- (c) A sum of Rs.2,975,000,000 invested in 29,750,000 units of an electricity generating company from the April 2007 to November 2008 had not yielded any income to the Fund in the years 2008, 2009 and 2010 while a sum of Rs.540,909,091 had been received twice in the year 2011 as dividend income. The income received as considered for the period of investment represented 4 per cent annually. In this connection the Central Bank of Sri Lanka informed that together with the income of Rs.216,363,636 received in the year 2012, the annual income percentage received from this company has improved up to 4.9 per cent and as this company is earning considerable income, there is the possibility of the Fund receiving an adequate dividend in the year 2013.
- (d) A sum of Rs.205,489,613 had been invested in 5,091,200 shares of a Finance Company from 23 February 2011 to 01 November 2011 and at the time of the decisions for investment was taken, the loss of Rs.4,285,937,284 revealed by that company according to the last published accounts of the Company had not been taken into consideration. The loss of that company even in the year under review amounted to Rs.3,830,135,175. The shares of the company had been purchased at an average price of Rs.40.36 per share and the market price per share of the company amounted to Rs.24 as at 31 July 2012. The Fund had not received any income from the investment since the date of investment.
- (e) The Fund had invested a sum of Rs.680,232,419 in 20,942,989 shares of a communications company and the share of that company had not been offered for sale in the stock market since the year 2009. As such the Fund could not earn capital profits. Even though dividends amounting to 3.39 per cent in the years 2008 and 2009, and 0.81 per cent in the year 2010 and 1.67 per cent in the year 2011 had been received during the period of investment such income was not commensurate with the investment. In this connection, the Central Bank of Sri Lanka informed that as the communication field would further develop in the economy of Sri Lanka and as such there is a belief that the dividends and the capital profits receivable by the Fund from the company would increase.
- (f) The Employees' Provident Fund had invested sum of Rs.3,890,902,522, Rs.6,877,822,908, Rs.39,133,587,926 and Rs.73,948,947,927 in the share market in the years 2008, 2009, 2010 and 2011 respectively. The income received for



those investments in the years 2008, 2009, 2010 and 2011 had been 8.94 per cent, 24.18 per cent, 6.84 per cent and 4.08 per cent respectively.

- (g) The Employees' Provident Fund had not received any income whatsoever for the investment of Rs.3,555,864,821 in the year ended 31 December 2011 in the shares of 11 companies.
- (h) In accordance with the instructions given by the Monetary Board of the Central Bank of Sri Lanka to increase the investments in the Hotels and Transport Sectors, investment of Rs.3,882,771,148 in 18 Hotels as at 31 December 2010 and Rs.7,219,711,548 in 16 Hotels as at 31 December 2011 had been made. Income of Rs.50,807,109 or 1.31 per cent had been received in the year 2011 for the investment made as at 31 December 2010 while a sum of Rs.173,616,783 or 2.4 per cent had been received in the year 2012 for the investment made as at 31 December 2011. The following observations are made in this connection.
  - (i) In accordance with the decision of the Monetary Board of the Central Bank of Sri Lanka on 05 May 2010, a sum of Rs.810,321,610 had been invested by 31 May 2010 in a Hotel Company which had incurred losses amounting to Rs.520.49 million, Rs.405.38 million, Rs.298.85 million and Rs.147.02 million in the years 2007, 2008, 2009 and 2010 respectively and had unfavourable earning ratios of (3.15), (3.45), (1.09) and (0.13) during the respective years. The loans payable by this Company by that date amounted to Rs.6.28 billion (approximately). The Fund had not received any income whatsoever since the date of investment up to 30 June 2013. In this connection the Central Bank of Sri Lanka informed that this Hotel Company situated in a central location in the city of Colombo could be expected to obtain better results from the improvements taking place in the tourism sector.
  - (ii) The Fund had not received any income whatsoever in the years 2011 and 2012 from two Hotel Companies in which the Fund had invested Rs.1,129,755,045. In this connection the Central Bank of Sri Lanka informed that these investments were made in the long term investment portfolio with the expectation of achieving the benefits from the development of the tourism industry and that these investments would provide better benefits to the Fund.
  - (iii) An inadequate income had been received from the investments made in 04 Hotel Companies as at 31 December 2011 and the percentage of that income as compared with the preceding year are given below.

Hotel Company	Investment as at 31 December 2011	Income	Percentage of Income	Investment as at 31 December 2010	Income	Percentage of Income
	Rs.	Rs.		Rs.	Rs.	
A	702,115,954	14,699,144	2.69	302,991,992	Nil	--
B	54,108,598	Nil	--	54,310,045	105,715	0.19
C	4,183,849	60,700	0.01	4,183,849	36,420	0.87
D	182,268,900	482,761	0.26	194,331,840	1,707,868	0.88
<b>Total</b>	942,677,301	15,242,605	1.62	555,817,726	1,850,003	0.33

(iv) Out of the 16 Hotel Companies referred to above, in which the Fund had invested a sum of Rs.7,560,267,157 as at 30 June 2012, the market value of the shares of 13 companies had diminished by Rs.1,605,197,185 and the Fund faced the risk in earning capital gains by the sale of the shares of those companies. In this connection, the Central Bank of Sri Lanka informed that looking at the progress of the tourism industry, an increase of the prices of shares of all Hotel Companies can be expected along with the share market reaching normalcy.

(v) No income whatsoever had been received in the year 2011 from a Hotel Company in which a sum of Rs.127,412,780 had been invested as at 31 December 2011.

(i) The overall long term investment made by the Employees' Provident Fund as at 31 December 2011 in 65 officially listed companies amounted to Rs.73,122,216,934. Out of that investment, a sum of Rs.58,349,901,901 had been invested in 21 Companies and income ranging from 0.37 per cent to 8.79 per cent had been received in the year 2012 for the investment in those companies.

(j) Investments of Rs. 3,657,803,132 had been made in 43 companies as new investment for purchase of 111,742,387 shares during the period from 31 December 2011 to 30 June 2012 during which the share prices of the Stock Market had been subject to rapid deterioration. Out of those companies, the price of shares of 30 companies had diminished by 30 June 2012, the resultant unrealized loss amounted to Rs.340,768,531. Out of these companies, the share prices of 24 companies had diminished even by 31 December 2011. In this connection the Central Bank of Sri Lanka informed that, the Bank is of the view

that it is not appropriate to consider the realized or unrealized profits or losses for long term investments.

- (k) According to the financial statements for the year ended 31 December 2011 of the 74 companies in which the Employees' Provident Fund had invested a sum of Rs.73,948,949,927 as at 31 December 2011, losses had been reported by 07 companies and the investment made in those companies amounted to Rs.1,711,538,303. Even though the balance 71 companies had reported profits for the year 2011/12 only 66 of those companies had declared dividends. Out of the dividends declared, the Employees' Provident Fund had received dividends amounting to Rs.1,638,242,546, and represented 2.21 per cent of the invested amount.
- (l) In view of the powers relating to the custody of the funds under Section 5(c) of the Employees' Provident Fund Act, No. 15 of 1958, the powers vested in the Monetary Board of the Central Bank of Sri Lanka over the surplus money of the Fund in terms of Section 5(e) of the Act, the powers vested in the Commissioner General of Labour in terms of Section 4(1) of the Act and the powers vested in the Minister under Section 5(l) of the Act, the significance of obtaining their views on the investments amounting to Rs.987,966,359,597 is emphasized.

### 3:2 Uneconomic Transactions

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Even though a printing machine valued at Rs.21,884,084 had been purchased in the year 2008 for the printing of formats needed for the activities of the Fund, a sum of Rs.4,487,163 had been paid to the Department of Government Printer even during the year 2011 for the printing of formats.

### 3:3 Delayed Projects

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The construction of a building for the Employees' Provident Fund had been commenced in the year 2010 and sums of Rs.48,702,131 and Rs.263,947,069 totalling Rs.312,649,200 had been spent in the years 2010 and 2011 respectively for the preliminary work of the building. The construction work of the building had been stopped halfway. A sum of Rs.71,257,404 had been paid to the Central Bank of Sri Lanka in the year 2011 as building rent.

3:4 Staff Administration  
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The following observations are made.

- (a) Action had not been taken even up to 31 December 2012 for filling the following 117 vacancies in the Employees' Provident Fund Section of the Department of Labour.

	Approved Number -----	Actual Number -----	Number of Vacancies -----
Staff Grades	30	19	11
Non-staff Grades	188	100	88
Minor Grades	42	24	18
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Total	260	143	117
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In this connection, the Commissioner General of Labour informed that these vacancies remain due to the failure of the Ministry of Public Administration and Home Affairs to make available the officers despite the requests made to fill the vacancies.

- (b) The provision for the annual expenditure of the Employees' Provident Fund of the Department of Labour had been approved by Parliament through the Annual Budget Estimates.. As the expenditure on the Employees' Provident Fund of the Central Bank of Sri Lanka does not fall under the Parliamentary approval, a sum of Rs.214,714,011 had been spent in the year 2011. Nevertheless, 13 activities had been outsourced from 11 parties without being executed through the staff of the Central Bank of Sri Lanka and a sum of Rs.42,149,957 had been paid in that connection in the year 2011. It was observed that such outsourcing would lead to the exposure of confidential information of the Fund to such parties.

4. Accountability and Good Governance

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4:1 Corporate Plan

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The Department of Labour had not prepared a Corporate Plan for the Employees' Provident Fund. The Corporate Plan for the years 2013-2017 prepared by the Central Bank of Sri Lanka included the plans relating to the activities of the Employees' Provident Fund relevant to the Central Bank of Sri Lanka.

4:2 Internal Audit

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The internal audit of the activities of the Employees' Provident Fund is carried out by the Department of Labour. But, due to the inadequacy of the staff, a limited part of the Fund only had been covered by that audit.

The Central Bank of Sri Lanka had outsourced the internal audit relating to the funds control to a private audit firm and the audit fee paid in the year 2011 amounted to Rs.7,314,048.

4:3 Conduct of the Meetings of the Audit and Management Committee

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The Department of Labour had conducted the meetings of the Audit and Management Committee of the Employees' Provident Fund as specified. The Employees' Provident Fund of the Central Bank of Sri Lanka had not participated in those Committees.

4:4 Observations on Unsettled Audit Paragraphs

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The following observations are made on the audit paragraphs remaining without being settled from the year 2006 to 2010.

- (a) Even though the contributions amounting to Rs.3,608,667 remitted to the Employees' Provident Fund by a certain employer institution credited to the accounts of the relations of the Labour Officer through fake C returns had been recovered from the officer through legal action, disciplinary action against him had not been finalized even up to 30 June 2013. (2006-2.5(a) )

- (b) The contributions and surcharges amounting to Rs.16,803,661 recovered by the Magistrate's Court, Kandy from the decided cases during the period 1995 to 2003 had not been received from the Magistrate's Court. (2006 – 2.5(b) )
- (c) A Finance Company registered as a company on 31 January 1994 and commenced business activities on 01 April 1997 had contributed to the Employees' Provident Fund on 03 December 1997. That company had been liquidated leaving an outstanding balance of contributions and surcharges amounting to Rs.48,461,705. The Employees' Provident Fund had failed to recover that amount even up to 31 December 2012. The Commissioner General of Labour had replied that a case had been filed against the company and that institution had filed a case against the Commissioner of Labour. (2008 – 2.2.6(e)(i) )
- (d) An investigation had not been held with regard to the non-payment of contributions to the Employees' Provident Fund up to 02 September 2007 by a Television Company. As the non-payment of a contribution to the Employees' Provident Fund had become a problem for the company to settle its legal requirements, it had been agreed according to the information produced to the Labour Office, to settle the contributions and surcharges only for the period from September 2007 to May 2008 amounting to Rs.18,449,928 in 20 installments on a request made by the Company. That money had not been paid even up to 30 June 2013. (2008 -2.2.6(e)(ii) )
- (e) Contributions of members of the Employees' Provident Fund and surcharges amounting to Rs..62,571,668 recovered through Court cases from the year 2005 to the year 2008 had been credited to the Consolidated Fund without being credited to the personal accounts of the members due to the unavailability of accurate information with the Employees' Provident Fund. (2011 – 2.2.1(a)(i).
- (f) Even though it was stated that replies would be sent after holding investigations on the matters pointed out in audit queries and the audit paragraphs No. 3.2.5(d) of the year 2009 and No. 3.2.1©(iii) of 2010 containing those matters relevant to the area of authority of the District Labour Office, Colombo Central such as the failure to recover the contributions and surcharges by filing cases, cases filed but failure to take follow up action, institutions defaulting the installment facilities given, non-recovery of money before liquidation of institutions, non-settlement of money deposited in the Suspense Account of the Employees' Provident Fund by producing C returns, non-crediting of contributions and surcharges received during the period 2003-2006 to the correct members' accounts and the non-

recovery of surcharges amounting to Rs.313,452,501, such replies had not been furnished even up to 31 December 2012.

5. Systems and Controls  
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Deficiencies in systems and controls observed during the course of audit were brought to the notice of the Commissioner General of Labour and the Superintendent, Central Bank of Sri Lanka from time to time. Special attention is needed in respect of the following areas of control.

5:1 Employees' Provident Fund Department of the Central Bank of Sri Lanka  
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- (a) Investments
- (b) Outsourcing of Operations to External Parties
- (c) Submission of Information to Audit

5:2 Employees' Provident Fund Unit of the Department of Labour  
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- (a) Accounting
- (b) Compliance with Accounting Standards
- (c) Recovery of Contributions and Surcharges
- (d) Fixed Assets
- (e) Inspection of Employer Institutions