

Securities and Exchange Commission of Sri Lanka - 2013

The audit of financial statements of the Securities and Exchange Commission of Sri Lanka for the year ended 31 December 2013 comprising the statement of financial position as at 31 December 2013 and the statement of financial performance, statement of changes in reserves and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information was carried out under my direction in pursuance of provisions in Article 154 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with Section 13 (1) of the Finance Act, No. 38 of 1971 and Section 37(2) of the Securities and Exchange Commission of Sri Lanka Act, No.36 of 1987. This report is issued in terms of Article 154 (6) of the Constitution of the Democratic Socialist Republic of Sri Lanka. My comments and observations which I consider should be published with the Annual Report of the Commission are appear in this report.

1.2 Management’s Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as the management determines is necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error.

1.3 Auditor’s Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Standards of Supreme Audit Institutions (ISSAI 1000 -1810) . Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgement, including the assessment of the risks of material misstatement of the financial statements whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission’s internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Sub-sections (3) and (4) of the Section 13 of the Finance Act, No. 38 of 1971 give discretionary powers to the Auditor General to determine the scope and extent of the Audit.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

2. Financial Statements

2.1 Opinion

In my opinion, the financial statements give a true and fair view of the financial position of the Securities and Exchange Commission of Sri Lanka as at 31 December 2013 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

2.2 Comments on Financial Statements

2.2.1 Non - compliance with Laws, Rules, Regulations and Management Decisions

The following instances of non-compliance with Laws, Rules and Regulations were observed in audit.

- (a) The Manual of Procedures with a chapter on Human Resource Management, providing rules and regulations on all matters relating to management of Human Resources should be approved by the Board and thereafter the concurrence of the Secretary to the Treasury should be obtained. However, in this connection the Commission had failed to comply with the Section 9.14 of Chapter 9 of the Public Enterprise Guidelines for Good Governance Circular No. PED/12 of 02 June 2003.
- (b) The Commission had not followed the instructions and directives given in the Government Circulars and other Rules and Regulations that are related to the Public Institutions with regard to the recruitment of employees and fix their salaries and other emoluments. There is a letter dated 31 March 1992 issued by the Secretary, Ministry of Finance indicated that the Commission is free to recruit personnel and to fix their salaries and emoluments without being subject to Government Regulations. However, the Commission had not obtained the required approval from the Cabinet of Ministers in order to deviate from the Government Rules and Regulations. Further, there is no any provisions in Securities and Exchange Commission of Sri Lanka Act No. 36 of 1989 that exempting the Commission from existing Government Rules and Regulations.

2.2.2 Unauthorized Transactions

Even though, the Committee on Public Enterprises (COPE) had directed the Commission to obtain the Treasury approval for the payment of bonus, the Commission had paid an annual bonus amounting to Rs. 10,638,789 for the year under review without obtained such approval.

3. Financial Review

3.1 Financial Results

According to the financial statements presented, the operations of the Commission for the year ended 31 December 2013 had resulted in a deficit of Rs. 305,703,501 before taking into account the

transfers from the Cess Fund for the operational expenses as compared with the corresponding deficit of Rs. 206,497,805 for the preceding year. The financial results for the year under review had become a surplus of Rs. 12,843,540 after taking into account the transfers from the Cess Fund of Rs. 318,547,041 for the operational expenses. The previous year deficit had become a surplus of Rs. 12,024,832 after taking into account the transfers from the Cess Fund of Rs. 218,522,637 for the operational expenses for that year, thus indicating an increase of Rs.818,708 in the financial results.

The main reasons for the above increase can be described as follows.

The revenue of the Commission for the year under review was Rs. 348 million including transfers from the Cess Fund of Rs.319 million for operational expenses as compared with the revenue of Rs.255 million including transfers from the Cess Fund amounting to Rs. 219 million for operational expenses in the preceding year which representing an increase of 36.5 per cent in the revenue. Whereas the expenditure incurred for the capital market development activities during the year under review was Rs. 66 million when compared with that of Rs. 24 million in the previous year. Thus indicating an increase of 175 per cent in this expenditure. The changes of the revenue and expenditure of the Commission during the year under review, as compared with the preceding year are shown below.

	2013	2012	Change	
	Rs.(M)	Rs.(M)	Rs.(M)	%
Transfer from Cess Fund	319	219	100	46
Broker license fees, administration levy and educational programmes	14	21	(7)	(33)
Sundry income and recognition of grant	15	16	01	06
Personal and administration cost	269	219	50	23
Capital market development expenses	66	24	42	175
Surplus for the year	13	12	01	08

It was observed that, out of the total expenditure only 20 per cent had been incurred for capital market development activities during the year under review as compared with that 10 per cent in the preceding year.

4. Operating Review

4.1 Performance

4.1.1 Achievement of Targets in the Action Plan

Significant delays had been observed in audit with regard to the achievement of targets stipulated in the Corporate Plan and the Action Plan which had been revised during the year under review. Details are given below.

Division	Objectives and Strategies	Date of Commencement	Expected Date to be completed	Delay in months as at 31 December 2013	Revised date of completion
Capital Market Development and Research	Develop new products (derivatives, commodities) to broad base the product range				
	<ul style="list-style-type: none"> ● Facilitate establishment of a commodities and derivatives exchange 	1Q 2013	2Q 2013	6	4Q 2013
	<ul style="list-style-type: none"> *Commission a consultant from ADB or World Bank to advise MoF appointed TEC, CAPC and SEC 	1Q 2013	2Q 2013	6	4Q 2013
	<ul style="list-style-type: none"> *TOR for the consultant 	1Q 2013	2Q 2013	6	4Q 2013
	<ul style="list-style-type: none"> *Appoint the consultant 	1Q 2013	2Q 2013	6	4 Q 2013
	<ul style="list-style-type: none"> *Draft the contract * Award the contract 				
Finance and Administration	<ul style="list-style-type: none"> ● Information Technology 				
	<ul style="list-style-type: none"> * Implementation of Disaster Recovery Site 	1Q 2013	2Q 2013	6	4Q 2013
	<ul style="list-style-type: none"> ● Improvement of the investigations infrastructure and methodology 	1Q 2009 (CP 2009)	3Q 2009	30	4Q 2013
Investigation	<ul style="list-style-type: none"> ● Improve the data base on investigations using IT inputs 	4Q 2010	2 Q 2011	51	1Q 2014
	<ul style="list-style-type: none"> ● Implementation of E-filing for Managing Companies of Unit Trust. 	1Q 2009 (CP 2009)	1Q 2009	57	4Q 2013
Supervision	<ul style="list-style-type: none"> ● Implementation of E-filing for Market Intermediaries. 	2Q 2009 (CP 2009)	4Q 2009	48	
	<ul style="list-style-type: none"> Credit Rating Agencies, Investment Managers, Margin Providers and Underwriters). 				Removed 4Q 2014 2Q 2014 Removed
Legal and Enforcement	<ul style="list-style-type: none"> ● Finalization of new Takeovers and Mergers Code 	1Q 2010 (CP 2010)	1Q 2010	45	4Q 2013

4.2 Matters in Contentious Nature

The following observations are made.

- (a) According to the Securities and Exchange Commission of Sri Lanka Act, actions should be taken in timely manner against the detections in order to minimize the violations such as price manipulation, insider/related party dealings, unethical conduct of brokers etc. However, out of 31 cases identified by the Commission during the year under review through the Surveillance Division and the Colombo Stock Exchange, only 02 cases were warranted for further investigations with the approval of the Commission.

Fifteen investigations had been conducted by the Investigation Division and 7 investigations had been concluded. Rest of the investigations are in progress. Out of the above 15 investigations 9 had been commenced prior to 2013. However, significant delays were observed particularly in the investigation process. The Chairman of the Commission informed me that, the stock market related investigations should follow a lengthy process before finalizing and it was the reason for the delay .

- (b) Out of the total expenditure of Rs. 38.7 million incurred on Public Awareness Programmes, a sum of Rs. 9.1 million or 23 per cent had been incurred for “Deyata kirula ” and “Tharunyata Hetak” Programmes. The Chairman of the Commission informed me that, the Commission had spent on the above programmes to imparting the knowledge of the general public on the capital market.

4.3 Human Resources (HR) Management

The following observations are made.

- (a) Even though the approved cadre of the Commission was 96 , the actual cadre was 83 and it had been categorized into 08 service grade as at the end of the year under review and it was failed to fill the vacancies even up to 30 June 2014.
- (b) As per the Section 12:5:4 of Chapter VII of the Establishment Code, the Commission had granted an acting appointment to a permanent officer and paid an acting allowance of Rs. 311,250 from April 2013 to December 2013 without obtaining the approval from Secretary to the Treasury and Secretary to the Public Administration. According to the Public Administration Circular No. 06/97 of 03 February 1997 the period of acting appointment should be the maximum of 03 months, and the vacancy for the acting post had not been filled even though the acting period was 14 months.

5. Budgetary Control

Variances ranging from 60 per cent to 96 per cent were observed between the estimated and the actual expenditure for the year under review, thus indicating that the Budget had not been made use of as an effective instrument of management control. Such few instances are given below.

- (a) Although the Commission had budgeted a sum of Rs. 62.3 million as capital expenditure, spent only a sum of Rs. 7.4 million and the variance was 88 per cent of the budgeted expenditure.
- (b) A sum of Rs.11 million had budgeted for legal expenses, only Rs. 1.35 million had been incurred and the variance was 87 per cent.
- (c) An amount of Rs.3.5 million had budgeted for member fees and the actual expenditure was Rs.0.98 million deriving a variance of 72 per cent of the budgeted expenditure.

6. Systems and Controls

Deficiencies in systems and controls observed in audit were brought to the notice of the Chairman of the Commission from time to time. Special attention is needed in respect of the following areas of control.

- a) Budget
- b) Human Resources Management
- c) Surveillance and Investigations
- d) Internal Controls