

Employees' Provident Fund - 2013

The audit of financial statements of the Employees' Provident Fund for the year ended 31 December 2013 comprising the statement of financial position as at 31 December 2013 and the income and expenditure statement, statement of changes in equity and cash flow statement for the year then ended and a summary of significant 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 6(3) of Employees' Provident Fund Act, No.15 of 1958. My comments and observations which I consider should be published with the Annual Report of the Fund in terms of Section 6(3) of Employees' Provident Fund Act, 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 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 judgements, including the assessment of the risks of material misstatements of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Fund'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 Fund'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 financial statements.

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

1.4 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraph 2.2 of this report.

2. Financial Statements

2.1 Qualified Opinion

In my opinion, except for the effects of the matters described in paragraph 2.2 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 2013 and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Accounting Standards.

2:2 Comments on Financial Statements

2:2:1 Sri Lanka Accounting Standards

Market price of the shares amounting to Rs.1,005,584,993 been invested in a company had diminished continuously over several years and the value had been diminished by a sum of Rs.815,640,503 or 81.1 per cent as at 31 December 2013. Despite the availability of primary evidence to clearly identify the impairment loss caused to the financial assets, action in terms of Section 58 of the Sri Lanka Accounting Standard 39 had not been taken in this connection.

2:2:2 Accounting Deficiencies

The following observations are made.

- (a) An expenditure of revenue nature amounting to Rs.51,514,358 incurred during the year ended 31 December 2013 had been capitalized and depreciation thereunder had also been made.
- (b) Equipment and software purchased at a cost of Rs.6,199,442 during the year under review had been omitted from the accounts.

2:2:3 Unsettled Balances

The following observations are made.

A sum of Rs.7,908,504,669 had not been credited to the accounts of the beneficiaries and settled by making payments as at 31 December 2013 due to the following reasons, thus resulting in loss of funds to the beneficiaries or delay in the payments. The Committee on Public Accounts had also enquired about the failure to settle those balances without delay.

- (a) A sum of Rs.5,982,176,693 recovered as outstanding installments by the Commissioner General of Labour by instituting cases under the Employees' Provident Fund had not been credited to the individual accounts of the members even by 31 December 2013.
- (b) A sum of Rs.440,452,911 not credited to the accounts of the beneficiaries as contributions to the Employees' Provident Fund had been retained in the General Deposit Account even by 31 December 2013.
- (c) The balance of the Shortage and Excess Contributions Account amounting to Rs.1,342,080,192 had not been settled even by the end of the year under review.
- (d) Balances of the Unclaimed Benefits Account and the Retained Benefits Account not settled as at the end of the year under review amounted to Rs.96,173,622 and Rs.47,621,251 respectively.

2:2:4 Lack of Evidence for Audit

The Register of Fixed Assets, Board of Survey Reports on Fixed Assets in support of the existence, value and correctness of fixed assets received from the Department of Labour valued at Rs. 757,897,367 and the Board of Survey Reports in respect of fixed assets valued at Rs. 143,252,603 in the premises of the Central Bank of Sri Lanka shown in the financial statements as at 31 December 2013 had not been furnished to audit.

3. Financial Review

3:1 Financial Results

The financial operations of the Fund for the year under review had resulted in a net profit of Rs. 125,609,876,616 as compared with the corresponding net profit of Rs.111,828,720,196 for the preceding year. Accordingly, the increase of the investment income by Rs.14,944,888,984 had mainly attributed to the favourable increase in the net profit of the year under review by Rs.13,781,156,420 as compared with the preceding year.

3:2 Management Inefficiencies

The following observations are made.

(a) District Labour Office, Colombo Central

- (i) Initial action (Legal Notice 3) to be taken for the recovery of outstanding contributions had been delayed for periods ranging from six months to two and a half years, and Court cases could not be duly filed. As such, outstanding contributions and surcharges amounting to Rs. 171,992,382 pertaining to 182 institutions had not been recovered.
 - (ii) Even though Legal Notice 3 should be sent after 14 days from sending Legal Notices 1 and 2, delays ranging from three months to one year were observed in several instances. Further, Legal Notice 3 had not been sent even by 30 June 2014 to recover outstanding contributions and surcharges amounting to Rs.28,742,744.
 - (iii) Action had not been taken to recover outstanding contributions and surcharges totalling Rs.7,171,353 relating to 12 out of the institutions inspected by the District Labour Office, Colombo Central while 20 institutions had not paid the contributions to the Fund for over a long period of time according to the database of the Central Bank of Sri Lanka.
 - (iv) One hundred and twenty two institutions had not been inspected for over a long period of time by the Labour Officers and reports on the institutions inspected had been submitted to the Subject Clerk after a delay of over two months.
- (b) The relevant reasons for a sum of Rs.83,410,920 recovered pertaining to the period from years 2004 up to 2011 by filing Court cases by the Fund, had not been clearly identified even by 31 December 2014.
- (c) The surcharges amounting to Rs.194,273,332 recoverable from 360 institutions registered under the Fund according to the database of the Central Bank of Sri Lanka in respect of the period 2000 to 2013 had not been recovered even by the end of August 2014.

- (d) Action had not been taken even up to 30 April 2014 for the recovery of the outstanding contributions and surcharges amounting to Rs.93,423,472 due from 102 institutions in the area of authority of the District Labour Office, Colombo East.
- (e) Notices had not been sent as required for the recovery of the outstanding surcharges of the Fund amounting to Rs.14,379,993 recoverable from 169 Local Authorities in respect of the period from the year 2000 to the end of the year 2013.
- (f) The outstanding contributions and the surcharges amounting to Rs.114,601,542 relating to the period from the year 2009 to January 2013 due from 131 institutions in the area of authority of the District Labour Office, Gampaha had not been recovered even by 30 June 2014.
- (g) The outstanding contributions and surcharges amounting to Rs.102,112,505 relating to the period from the year 2010 to the year 2012 due from 68 institutions in the area of authority of the District Labour Office, Avissawella had not been recovered even by 30 June 2014.
- (h) A sum of Rs.6,215,611,005 comprising the outstanding contributions of Rs.4,125,870,645 and surcharges of Rs.2,089,740,360 remained recoverable as at 30 September 2014 from Regional Offices of the Sri Lanka Transport Board situated island- wide.
- (i) Ten thousand six hundred and forty one Court cases had been filed throughout the Island for the recovery of contributions amounting to Rs.8,244,403,544 relating to the period from the year 2010 up to the end of year 2013. Documents had not been updated in a manner to obtain the information on the amount of money collected through those Court cases and the number of cases settled.
- (j) The outstanding contributions and surcharges thereon relating to the period from 01 January 2007 to 30 June 2013 recoverable and not paid to the Fund by 31 estate companies belonging to two main State Plantation institutions in the area of authority of the District Labour Office, Kandy North amounted to Rs.208,378,193.
- (k) The outstanding contributions and the surcharges relating to the period from the year 2003 to 2013 recoverable from 21 Janatha Estates Companies in the area of authority of the District Labour Office, Kandy South amounted to Rs.286,729,384.

3:3 Transactions of Contentious Nature

The following observations are made.

- (a) The Pay As You Earn Tax amounting to Rs.7,168,498 which should be recovered during the year 2013 from the employment income of the officers of the Central Bank of Sri Lanka attached to the Employees' Provident Fund had been paid by the Fund without being recovered from the respective officers contrary to Section 8.7 of the Public Enterprises Circular No.PED 12 of 06 June 2003. Further , Pay As You Earn Tax amounting to Rs.5,542,066 and Rs.6,459,092 pertaining to the years 2011 and 2012 respectively had been paid by the Fund without being recovered from the respective officers.
- (b) A contribution of Rs.5.147 billion had been made by the Employees' Provident Fund for the "Mehewara Piyasa" building being constructed at an estimated total cost of Rs.8.557 billion Employees' Trust Fund. The cost borne by the Fund in respect of this building as at 31 December 2013 had been Rs.890.55 million or 10.4 per cent of the total cost and even though the ownership of the land of building should be transferred to the Fund in terms of the Employees Provident Fund (Amendment) Act, No.2 of 2012, it had not been so done even by 30 September 2014.

4. Operating Review

4:1 Performance

4:1:1 Operating Performance

The following observations are made.

- (a) The performance as at the end of the year 2013 had been as follows.

Particulars	Actual Number	Figures related to the Activities of the Fund	Percentage
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Employment in the Private and Semi-Government Sectors	3,661,132	2, 403,501	65.65
Employers	204,777	69,148	33.77
Number of Members' Accounts of the Fund	15,203,073	2,403,501	15.81

(Source : Central Bank of Sri Lanka – Employees' Provident Fund-2013)

The amount credited as at 01 January 2013 to 12,799,572 dormant Members Accounts which do not remit contributions at present amounted to Rs.602,017,524,105 and the interest for the year 2013 credited to those account

holders amounted to Rs.66,221,927,651. The number of dormant Members Accounts had been 84.2 per cent of the total number of accounts maintained by the Fund.

(b) Benefits paid to Members

Year	2013	2012	2011	2010	2009	2008	2007
Percentage of Benefits paid	11	11.5	11.5	12.5	13.75	13.2	11.2

The following observations are made.

- (i) Decrease of investment income by Rs.5,049,303,683 and increase of members' fund by Rs.110,734,645,618 during the year 2011 had been the reason for the decrease in the benefits paid to the members during the year 2011 by 1 per cent as compared to the year 2010. Further, the percentage of benefits paid during the year 2013 had decreased by 0.5 per cent as compared to the year 2012.
 - (ii) Even though a sum of Rs.115,771,416,227 was required for the payment of members benefits in the year 2012 at 11.5 per cent paid during the year 2011 as well, due to the inadequacy of income of that year, a sum of Rs.5,700,000,000 from the Dividend Equalization Reserve had been credited to the income.
 - (iii) As the income was not adequate to pay members benefits at 11 per cent at the end of the year under review, a sum of Rs.3,700,000,000 from the Dividend Equalization Reserve had been credited to the income.
- (c) As the Regulations relating to the Act had not been approved by Parliament, it had been directed to provide housing and medical assistance as benefits of 30 per cent of the money deposited to the credit of the Fund as contributions to the members who fulfill the requirements of the Act according to the new Section 23(A) inserted immediately after Section 23 of the Principal Act by the Employees' Provident Fund (Amendment) Act, No. 2 of 2012. Nevertheless, the above directive had not been implemented even by 31 July 2014.
- (d) Several State Banks and five Statutory Institutions affiliated to the Government had introduced a Loan Scheme from the year 1998 for obtaining housing loans by placing the balance in the account in the Employees' Provident Fund as security. Loans amounting to Rs.47,785 million had been approved through 208,500 loan certificates under that scheme during the period from the year 2000 to 2013 and the loans defaulted by the borrowers during that period amounted to Rs.16,737 million and it represented 35 per cent of the loans. Further, a sum of Rs.2,500 million should have been payable to relevant banks even by 31 December 2013 due to the default of loans.

4:1:2 Investments and Investment Income

The following observations are made in connection with the entire investment of Rs.71,690,881,118 made by the Fund as at 31 December 2013 on long term and short term basis in 80 companies listed in the share market.

- (a) Out of the total long term and short term investments amounting to Rs.71,690,881,118 made by the Fund in 80 companies in the share market as at 31 December 2013, investment of Rs.52,092,805,864 made in 61 companies had diminished by a sum of Rs.13,823,352,605 as at that date. Nevertheless, the entire investment of the Fund in the share market made in 93 companies as at 30 June 2014 had been Rs.75,393,966,488 while the share market value of the investments amounting to Rs.45,533,044,007 made in 57 companies had diminished by a sum of Rs.9,679,212,488 as at that date.
- (b) It was revealed that eight companies in which Employees' Provident Fund had made long term investments amounting to Rs.3,285,216,703 as at 31 December 2013 had incurred losses during the year of accounts 2013/14 according to the Annual Reports of those companies. Two out of the above eight companies in which investments of Rs.199,555,228 and Rs.711,242,903 were made, had incurred losses continuously for a period of three years. The Fund had not received any benefit whatsoever from those investments during the relevant period.
- (c) The Employees' Provident Fund had purchased 11,324,228 shares at a cost of Rs.43,925,525 from a computer company in or about April 2013 while the liquidity of that company had not been considered before the above purchase. Further, that company had incurred a loss of Rs.478 million during the accounting period 2012/13 and the auditors had expressed an opinion on a considerable uncertainty over the going concern of the company. Share price of that company at the Share Market had diminished by Rs.40,528,254 or 92.27 per cent as at 14 June 2014. As such, there was an uncertainty over the withdrawal of money invested in that company.
- (d) Share prices had diminished on the short term investments made at the Share Market and as such the losses directly incurred by the Fund in the years 2011,2012, and 2013 amounting to Rs.174,077,469, Rs.117,619,396 and Rs.44,504,112 respectively totalled Rs.336,200,977 and those had been written off from the profit during the respective years.
- (e) The Fund had invested sums of Rs.3,890,902,522, Rs.6,877,822,908, Rs.39,133,587,926, Rs.73,948,947,927, Rs.63,102,761,384 and Rs.71,690,881,118 in the Share Market at the end of years 2008,2009,2010,2011,2012 and 2013 respectively. The profits received from those investments had been 8.93 per cent, 22.99 per cent, 5.08 per cent, 3.58 per cent, 3.77 per cent and 4.6 per cent respectively.
- (f) Any income whatsoever had not been received even by September 2014 from investments of Rs.14,093,581,728 made in 27 companies of the Share Market by the Fund as at 31 December 2013. Further, income from investments of Rs.3,555,864,821 made in 11 companies and Rs.8,793,951,889 made in 14 companies had not been received by the Fund during the years 2011 and 2012 respectively.

- (g) Any income whatsoever had not been received even by 31 October 2014 from the date of investments of Rs.1, 515,811,224 made in three companies by the Employees' Provident Fund as at 31 December 2013. Details are given below.
- (i) The Fund had not received any income whatsoever from the date of investment up to 31 October 2014 in relation to the investment of Rs.500,000,000 made for the purchase of 1,863,676 units of an Airline Company in July 2012.
 - (ii) The Fund had not received any benefit whatsoever from the date of investment in relation to the investment of Rs.205,489,614 made in 5,091,200 shares purchased from a Finance Company during the period from February 2011 to November 2011. The loss of Rs.4,285,937,284 incurred by that Company at the time of purchase of shares according to the last financial statements published, had not been considered while the accumulated loss of the Company as at the end of the financial year 2013/14 amounted to Rs.14,340,295,995. The value of a share of that Company purchased at a cost of Rs.40.36 had diminished to Rs.16.20 in the Share Market as at 10 June 2014.
 - (iii) The Fund had not received any income whatsoever from the date of investment up to 31 October 2014 in relation to the investment of Rs.810,321,610 made in 23,712,200 shares of a Hotel Company on a decision taken by the Monetary Board of the Central Bank of Sri Lanka on 05 May 2010. The value of a share of that Company purchased at a cost of Rs.34.17 had diminished to Rs.13.20 in the Share Market as at 10 June 2014.
- (h) A sum of Rs.5,000,000,000 had been spent by the Fund in the year under review for the purchase of shares in a company consisting a group of hotels proposed to be newly constructed.
- (i) Out of the entire investment amounting to Rs.71,690,881,118 of the Fund as at 31 December 2013, the long term and short term investment made in 13 hotel companies amounted to Rs.9,642,243,784 and it represented 13.45 per cent of the total investment. The following observations are made in this connection.
- (i) The investments made in the Hotels Sector had increased as Rs.3,882,771,148, Rs.7,219,711,549, Rs.7,746,506,674 and Rs.9,642,243,784 at the end of the years 2010, 2011, 2012 and 2013 respectively while the benefit received during those years amounted to Rs.56,326,376, Rs.174,011,584, Rs.151,531,857 and Rs.275,738,400 respectively. The percentage of the benefit received on those investments had been 1.45 per cent, 2.41 per cent, 1.96 per cent and 2.86 per cent respectively.

- (ii) The Fund had not received any benefit from the long term and short term investments of Rs.3,243,292,787 made in eight Hotel Companies during the year 2013.
- (j) Even though the share price of a private communication company from which 20,942,989 shares were purchased at a cost of Rs.680,232,420 had increased, those shares had not been used for the transactions of the Share Market since the year 2009. As such, the Fund had failed to yield capital gains from the sale of those shares. Even though the percentages of dividend income received in respect of that investment during the years 2008,2009,2010,2011,2012,and 2013 had been 3.39, 3.39, 0.81, 1.67, 2.62,and 3.02, that income had been at a very weak level as compared with the investment made.
- (k) The total capital gains received as at 30 September 2014 from the transactions of the Share Market in relation to the short term and long term investment of Rs.71,690,881,118 made by the Fund in the Share Market as at 31 December 2013 had been Rs.1,596,584,599 and it represented a marginal value of 2.23 per cent.
- (l) The entire long term investment made by the Fund in 67 officially listed companies as at 31 December 2013 had been Rs.71,128,266,562. Out of that investment, a sum of Rs.56,379,044,262 had been invested only in 26 companies while the percentage of income received during the year 2014 from investments made in 19 companies had been in a range between 0.37 and 7.33 per cent. The Fund had not received any income whatsoever from the investment totalling Rs.10,315,949,306 made in the remaining seven companies.

4:2 Staff Administration

The following observations are made with regard to the information on the staff attached to the Fund by the Department of Labour and the Central Bank of Sri Lanka.

- (a) Approved cadre of the Employees' Provident Fund of the Department of Labour as at 31 December 2013 had been 228 while the actual cadre had been 176 as at that date. Accordingly, 52 vacancies existed.

It was emphasized at the Committee On Public Accounts held on 19 August 2014 that immediate action should be taken by the Chief Accounting Officer to fill the vacancies existing in the Department of Labour.

- (b) There was no approved staff of the Central Bank of Sri Lanka for the Employees' Provident Fund while a staff of 120 and 138 had been employed in the years 2012 and 2013 respectively.

(c) The cost on salaries of the employees attached by the Department of Labour and the Central Bank of Sri Lanka in the year 2013 had been as follows.

	Number of Attached Employees	Cost on Employees Rs.	Cost per Employee Rs.
Department of Labour	176	234,664,284	1,333,320
Central Bank of Sri Lanka	120	334,145,376	2,784,545

The cost per employee of the Central Bank of Sri Lanka had indicated an increase of 108.8 per cent as compared with the cost per employee of the Department of Labour in the Employees' Provident Fund.

4.3 Operating Inefficiencies

Even though 395 Tablets purchased at a cost of Rs.34,967,296 in respect of the Labour officers during the year under review had been distributed among the Labour Officers and the Staff Grade Officers, activities of the Project for the Computerization of Labour Inspections had not been carried out even by 31 December 2014.

5. Accountability and Good Governance

5:1 Internal Audit

The internal audit relevant to the activities of the Fund had been carried out by the Department of Labour and due to the inadequacy of staff, limited areas of the Fund only had been covered. The Central Bank of Sri Lanka had outsourced the internal audit of the financial control of the Fund to a private audit firm and the audit fees paid in that connection during the year 2013 amounted to Rs.6,494,880.

5.2 Observations on Unresolved Audit Paragraphs

The major audit paragraphs that remained unresolved up to the date despite being reported in the year 2011 are given below.

(a) Failure to inspect 4,911 institutions out of the 7,543 active employer institutions belonging to the District Labour Office, Colombo North or 65 per cent of the total number of institutions by Labour Officers for over a period of one year.

- (b) Non-recovery of the contributions and surcharges amounting to Rs.87,546,668 even by 31 May 2014 which should be newly credited to the accounts of the members from the employer institutions of 02 District Labour Offices due to the stoppage of Court actions halfway.
- (c) Non-recovery of the outstanding contributions and surcharges amounting to Rs.176,215,549 recoverable to the Fund from the employer institutions belonging to the District Labour Office Maharagama even by 31 May 2014.
- (d) Failure to recover the contributions to the Employees' Provident Fund amounting to Rs.1,692,078 as further action had not been taken despite the warrants being issued in respect of two Court cases for the recovery of contributions by the District Labour Office, Kandy North.
- (e) Failure to recover the contributions amounting to Rs.9,255,876 even by 30 June 2014 relating to 20 pending Court Cases due to not producing adequate information to the Courts and lack of updated information.
- (f) Failure to complete the activities of the Project for Re-registration of Members which was implemented by the Fund in the year 2010 and payment of Rs.14,528,546 for machinery and the contractor in this connection.
- (g) Failure to obtain 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 from the Magistrate's Court.
- (h) Crediting the 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 to the State Revenue without being credited to the personal accounts of the members due to the unavailability of accurate information with the Fund.
- (i) Even though it was stated that replies would be sent after conducting 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(c)(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 further 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 outstanding surcharges amounting to Rs.313,452,501, such replies had not been furnished even up to 30 April 2014.

6. Systems and Controls

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

(a) Employees' Provident Fund Department of the Central Bank of Sri Lanka

- (i) Investments
- (ii) Outsourcing of Operations to External Parties

(b) Employees' Provident Fund Unit of the Department of Labour

- (i) Accounting
- (ii) Recovery of Contributions and Surcharges
- (iii) Fixed Assets
- (iv) Inspection of Employer Institutions