

Employees' Provident Fund - 2012

1 Financial Statements

1:1 Qualified Opinion

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 2012 and its financial performance and cash flows for the year then ended in accordance with the Sri Lanka Accounting Standards.

1:2 Comments on Financial Statements

1:2:1 Sri Lanka Accounting Standards

The following observations are made.

- (a) According to Section 34 of Sri Lanka Accounting Standard 16, the fixed assets should be revalued at least once in 03 or 05 years. Nevertheless, the fixed assets of the Fund costing Rs.76,656,104 which had been fully depreciated had not been revalued.

- (b) Even though it was stated that an impairment test in terms of Section 58 of Sri Lanka Accounting Standard 39 had been done to ascertain whether the investments made in companies of which financial assets had been classified and brought to account as investments were subject to impairment during the year under review, adequate evidence in that connection had not been furnished to audit.

Nevertheless, an impairment test had been done at the end of the year 2013. The yard stick applied in that connection had been 20 per cent decrease in the Share Market Price as against the cost or such occurrence for over 20 years. According to the test done based on this policy, the Share Market value of the investments made in the shares of 02 companies as at 31 December 2012 amounted to Rs.189,944,490 and Rs.6,794,537 respectively and as compared

with the cost of those amounting to Rs.1,005,584,993 and Rs.43,925,523 the impairment in the value amounted to Rs.815,640,503 and Rs.37,130,986 or 18.9 per cent and 15.5 per cent respectively.

1:2:2 Accounting Deficiencies

A sum of Rs.56,916,275 spent as recurrent expenditure during the year ended 31 December 2012 had been brought to account under the purchase of fixed assets and the purchase of computers and accessories and that included the expenditure on repairs to motor vehicles and repairs to machinery, consultancy fees. ABH computerization, charges on training programmes and newspaper notices, Finger Print Project and the payments made to the Government Factory.

1:2:3 Unsettled Balances

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 members as at 31 December 2012 amounted to Rs.5,409,262,080.

According to the Central Bank of Sri Lanka this amount comprised the moneys recovered on Courts decisions on the cases filed against the employers who do not pay the contributions to the Employees' Provident Fund regularly and the money recovered through the intervention of Labour Officers and that action will be taken to settle this balance in the order of the full payment of installments.

- (b) The balance retained in the General Deposit Account as at 31 December 2012 without being credited to the accounts of the beneficiaries as contributions to the Employees' Provident Fund amounted to Rs.341,677,762.
- (c) The balance of the Shortage and Excess Contributions Account which had been increasing from the inception of the Fund amounting to Rs.1,425,783,355 had not been settled.

1:2:4 Lack of Evidence for Audit

The Register of Fixed Assets and the schedules required for the confirmation of the existence, the value and the accuracy of the fixed assets amounting to Rs.1,138,938,751 relating to the Employees' Provident Fund belonging to the Department of Labour had not been furnished to audit.

2. Financial Review

2:1 Financial and Results

The net result of the operations of the Fund for the year under review had been an after tax surplus of Rs.111,828,720,197 as compared with the net surplus of Rs.107,202,066,499 for the preceding year. As such the net surplus for the year under review as compared with the preceding year indicated an increase of Rs.4,626,653,698. The increase of the investment income by a sum of Rs.5,537,659,176 had been the main reason for the financial result.

2:2 Management Inefficiencies

The following observations are made.

(a) The contributions and the surcharges receivable in terms of the Employees' Provident Fund Act had not been received as shown below.

* The surcharges recoverable from 396 institutions registered under the Fund according to the database of the Central Bank of Sri Lanka, in respect of the period 2009 to 2012 amounting to Rs.101,140,260 had not been recovered even by 30 April 2014.

* Action had not been taken even up to 30 April 2014 for the recovery of the outstanding contributions and surcharges amounting to Rs.175,449,814 due from 148 institutions relating to the area of authority of the District Labour Office, Colombo East.

- * Notices as required had not been sent for the recovery of the surcharges of the Employees' Provident 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.
 - * The outstanding contributions and the surcharges relating to the period from the year 2009 to January 2013 amounting to Rs.145,268,636 recoverable from 297 institutions in the area of authority of the District Labour Office, Gampaha had not been recovered.
 - * The outstanding contributions and surcharges relating to the period from the year 2010 to the year 2012 amounting to Rs.184,570,423 recoverable from 205 institutions in the area of authority of the District Labour Office, Avissawella had not been recovered.
 - * The contributions and surcharges for the Employees' Provident Fund in respect of the employees of 22 Depots of Sri Lanka Transport Board amounting to Rs.498,374,779 had not been recovered.
- (b) The money relating to the 10,641 cases filed throughout the Island from the year 2010 to the end of the year 2013 for the recovery of contributions to Employees' Provident Fund amounted to Rs.8,244,403,544. The information on the amount of money collected through those cases and the number of cases settled out of those had not been updated by the Employees' Provident Fund.
- (c) The outstanding contributions to the Employees' Provident Fund in respect of the period from 01 January 2007 to 31 December 2009 due from 22 Plantation Companies of the Sri Lanka State Plantations Corporation and the Janatha Estates Development Board in the area of authority of the District Labour Office, Kandy North but not paid and the related surcharge amounted to Rs.30,226,443 and Rs.13,786,734 respectively. In addition, those Plantation Companies had not paid the contributions to the Employees' Provident Fund for the period from the year 2010 to the end of the year 2013. *The Commissioner General of Labour informed that action has been taken to file cases and to take Courts action for the recovery of a sum of Rs.208,378,193 due from the year 2010 to 30 June 2013 from 31 State Plantation Companies.*

- (d) The total of the outstanding contributions and the surcharges relating to the years 2003 to 2006 recoverable to the Employees' Provident Fund from 14 Janatha Estates Companies in the area of authority of the District Labour Office, Kandy South amounted to rs.42,066,439. Those Estates Companies had not paid the contributions to the Employees' Provident Fund from the year 2007 to the end of the year 2013. *The Commissioner General of Labour informed that cases had been filed in 26 instances for the recovery of a sum of Rs.171,734,992 due from 15 Estates Companies in respect of the period from the year 2003 to the year 2013 and that action is being taken in respect of 108 instances for filing cases for the recovery of money.*
- (e) Action had not been taken for the settlement of the balances of the Unclaimed Benefits Account and the Retained Benefits Account as at 31 December 2012 amounting to Rs.125,325,963 and Rs.34,138,653 respectively.

2:3 Transactions of Contentious Nature

The following observations are made.

- (a) Capital goods valued at Rs.2,093,000 purchased from funds of the Employees' Provident Fund had been recorded in the stock books of the Department of Labour.
- (b) The Pay As You Earn Tax amounting to Rs.6,459,092 which should be recovered from the employment income of the officers of the Central Bank of Sri Lanka attached to the Employees' Provident Fund had been paid from the Employees' Provident Fund without being recovered from the respective officers.

3. Operating Review

3:1 Performance

3:1:1 Operating Performance

The following observations are made.

(a) The performance as at the end of the year under review had been as follows.

Particulars	Actual Number	Number related to the Activities of the Fund	Percentage
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Employment in the Private and Semi-Government Sector	3,832,840	2,250,000	58.70
Employers	227,612	68,771	30.21
Number of Members' Accounts of the Fund (Millions)	14.25	2.25	15.79

(Source : Report of the Central Bank of Sri Lanka 2012)

The amount credited as at 01 January 2012 to 12,000,000 Members accounts which do not remit contributions at present (dormant) amounted to Rs.497,306,421,269 and the interest for the year 2012 credited to those account holders amounted to Rs.57,190,238,790.

(b) Benefit's paid to Members

The percentages of benefits paid to the Members from the year 2007 to the year 2012 are given below.

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

A sum of Rs.101,284,166,436 had been utilized for the payment of members benefits in the year 2011 and a sum of Rs.115,771,416,227 was required for the payment of members benefits at the same percentage for the year under review. As the increase in the income for the year under review as compared with the preceding year had been only Rs.4,626,653,698, the additional money required

for the payment of same dividend of 11.5 per cent paid in the preceding year amounting to Rs.5,700,000,000 had been transferred from the Dividend Equalization Reserve to income.

- (c) According to the new Section 23A inserted immediately after Section 23 of the Principal Act by the Employees' Provident Fund (Amendment) Act, No. 2 of 2012, provision had been made for the members who fulfil the requirements of the Principal Act to be given 30 per cent of the money deposited to the credit of the Fund as contributions for purposes of housing and medical treatment. But that has not been implemented up to date. *The Commissioner General of Labour informed that the Regulations relating to the Act, No. 2 of 2012 have been presented to Parliament and action to provide the benefits will be taken after approval of the Regulations.*
- (d) Several State Banks and Statutory Institutions affiliated to the State had introduced a Loan Scheme from the year 1998 for the grant of housing loans by placing the balance in the account in the Employees' Provident Fund as security. Loans amounting to Rs.40,871 million had been approved through 192,232 loan certificates under that scheme during the period from the year 2000 to 2012 and the loans defaulted by the borrowers during the said period amounted to Rs.14,559 million.

3:1:2 Investments and Investment Income

The following observations are made in connection with the overall investment of Rs.63,102,761,384 made by the Employees' Provident Fund as at 31 December 2012 on long term and short term basis in 72 companies listed in the share market.

- (a) The overall long term and short term investments made by the Employees' Provident Fund in the share market as at 16 December 2013 had increased to Rs.70,520,488,212. Out of that investment the share price of Rs.50,700,023,800 made in 64 companies had diminished by a sum of Rs.14,410,838,379 as at that date while the value of shares of the investments amounting to Rs.17,821,779,895 made in the shares in 22 Companies had appreciated in the Stock Market by a sum of Rs.4,015,715,500. Nevertheless, the overall investment of the Fund in the Share Market as at 10 June 2014 in 82 companies

amounted to Rs.74,840,763,800 and as at that date the Share Market value of the investments made in 48 companies had diminished by a sum of Rs.9,651,570,175 while the appreciation of the Share Market value of 34 companies amounted to Rs.8,996,856,733.

- (b) The Fund had not received any income whatsoever from the dates of investments in relation to the investment of Rs.500,000,000 made in 1,863,676 units of an Airline Company in July 2010, the investment of Rs.205,489,613 made in 5,091,200 shares a Finance Company from 23 February 2011 to 01 November 2011 and the investment of Rs.810,321,611 made for the purchase of 23,712,200 shares a Hotel Company by 31 May 2010. *Nevertheless, the Central Bank of Sri Lanka is of the view that though the investment is not in a profitable status at present, those being converted to more profitable status in the future can be expected as the investments are in a stage of being converted to profitability status.*
- (c) Even though the share price of 20,942,989 shares of the Communications Company purchased for Rs.680,232,429 had appreciated in the share market, the Fund could not obtain capital gains from the sale of those shares, as those had not been transacted in the Share Market from the year 2009. Even though dividends at the rates of 3.39 per cent, 0.81 per cent, 1.67 per cent and 2.62 per cent had been received for the investment in the years 2008 and 2009, 2010, 2011 and 2012 respectively, such income as compared with the investment made, had been very low. *Nevertheless, the Central Bank of Sri Lanka is of the view that the dividends and capital gain from this Company will increase in the future as the Communications Sector is geared to expand together with the economic development of Sri Lanka.*
- (d) The Employees' Provident 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 and Rs.63,102,761,384 in the Share Market in the years 2008, 2009, 2010, 2011 and 2012 respectively. The income received from those investments in the years 2008, 2009, 2010, 2011 and 2012 had been 8.93 per cent, 22.99 per cent, 5.08 per cent, 3.58 per cent and 3.77 per cent respectively.

- (e) The Fund had not received any income from the investment of Rs.8,793,951,889 made in 14 Companies as at 31 December 2012. Out of those 14 Companies, the investments made in 6 companies amounted Rs.7,358,547,720. *Nevertheless, the Central Bank of Sri Lanka is of the view that there is no intention of reaping larger benefits in the short term as the total investment in 14 companies had been made with the objective of obtaining long term benefits and that is the normal practice followed in portfolio investments.*
- (f) Five Companies in which the Employees' Provident Fund had invested Rs.2,412,402,036 had incurred losses in the year of accounts 2012/2013. Out of those 05 Companies, 04 Companies in which Rs.2,206,912,423 had been invested had incurred losses in the year of accounts 2011/2012 as well. The Fund had not received an income whatsoever from the respective Companies in the two years of accounts.
- (g) The Fund had invested sum of Rs.2,684,119,949 and Rs.706,343,975 in 17.28 per cent of shares with voting right and 34.70 per cent of shares without voting rights of a certain Gas Company. According to second paragraph of Section 2.5(c) of the Investment Policy Statement issued in December 2011 the expectation of investments made in any Company should be the improvement of the benefits. Nevertheless, the income received for this investment in the years 2011 and 2012 had been only 3.36 per cent. By 31 March 2013, the Fund had reached the second place in the ownership of shares with voting rights and the first place in the ownership of shares without voting rights. The share market value of the shares with voting rights and the value of shares without voting rights of this Company had diminished by Rs.1,063,963,496 and Rs.328,152,141 respectively by 16 December 2013. *According to the central Bank of Sri Lanka it is expected that the investment made in this profit making Company with expectation of long terms benefits would appreciate in due course.*
- (h) The shares of 37 Companies included in the Trade Portfolio purchased for trading in the Share Market for a period less than one year costing Rs.773,665,828 had diminished over and over again and the expected objectives therefrom had not been achieved. Accordingly 28,915,417 shares of 25 Companies costing Rs.585,216,158 had been transferred to the Investment

Portfolio on 06 December 2012. The net diminution of the market value of all 37 Companies as at that date had been Rs.240,122,387 or 31 per cent of the cost.

- (i) Even though the investments made in the Hotels Sector had appreciated by Rs.3,882,771,148, Rs.7,219,711,549 and Rs.7,746,506,674 in the years 2010, 2011 and 2012, the income received during those years amounted to Rs.56,511,978, Rs.146,632,975 and Rs.146,122,343 respectively. The percentage of the income received on this investment had been 1.46 per cent, 2.03 per cent and 1.89 per cent in the years 2010, 2011 and 2012 respectively. Nevertheless, the Central Bank of Sri Lanka is of the view the investment in this Sector which expects to attract 2.5 million tourists to Sri Lanka is highly profitable the benefits as well would be of long term.
- (j) The Fund had purchased the shares of 47 Companies in the year 2012 at a cost of Rs.5,018,155,587. That investment included Rs.141,140,617 invested in 03 Companies which had incurred losses, not yielded an income and the share prices of which had diminished, Rs.588,329,845 invested in 04 Companies which had not yielded an income and the share prices of which had diminished and Rs.2,719,273,541 invested in 15 Companies in which the share prices had diminished. *Nevertheless, the Central Bank of Sri Lanka is of the view that the normal strategy in case of diminution price in the Stock Market is to increase the investment and reduce the Weighted average price, that investments are made by taking into consideration the primary matters and that forecasts of price fluctuations are not done.*
- (k) The transactions of the Share Market in the years 2010, 2011 and 2012 had yielded capital gains amounting to Rs.714,995,491, Rs.1,020,279,860 and Rs.102,895,132 in the years 2010, 2011 and 2012 respectively. The decrease in the income in the year 2012 as compared with the year 2011 represented 89.92 per cent. This had been due to the rapid diminution of the share prices in Share Market in the year 2012.

3:2 Idle and Underutilized Assets

The following observations are made.

- (a) Five machines purchased at a cost of Rs.2,391,800 in the year 2008 under the Project for the issue of New Identity Cards to the Members of the Employees' Provident Fund and Re-registration had not been used for the achievement of the objectives even by 30 June 2013.
- (b) Even though 15,000 Memory Chips had been purchased at a cost of Rs.10,965,000 for the computer work on the issue of new identity cards referred to above, those Memory Chips remained idle without being used even by 30 June 2013.

3:3 Staff Administration

Action had not been taken even up to March 2014 to fill the following 88 vacancies in Employees' Provident Fund staff of the Department of Labour that existed as at 31 December 2012.

	Approved Number	Actual Number	Number of Vacancies
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Staff Grades	30	15	15
Non-staff Grades	188	124	64
Minor Grades	42	33	09
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Total	260	172	88
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4. Accountability and Good Governance

4:1 Internal Audit

The internal audit of the activities of the Fund is done by the Department of Labour and due to the inadequacy of staff, limited areas of the Fund only had been covered by that Internal Audit.

The Central Bank of Sri Lanka had outsourced the internal audit of the financial control of the Fund to a private audit firm and that audit had not covered certain important areas of the Fund. The audit fee paid to that private audit firm in the year 2012 amounted to Rs.6,494,880 approximately

4:2 Observations on Unsettled Audit Paragraphs

The following observations are made on the audit paragraphs remaining without being settled from the year 2006 to 2011.

- (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 April 2014. (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 had not been received up to 30 April 2014. (2006 - 2.5(b))

Even though the Commissioner General of Labour informed that necessary action had been taken on money relating to 04 cases got down from the Courts and that action was being taken to get down the money relating to the other cases, the particulars of the money recovered had not been furnished to audit.

- (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 recover that amount even up to 30 April 2014. (2008 - 2.2.6(e)(i))
- (d) 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 State Revenue without being credited to the personal accounts of the members due to the unavailability of accurate information with the Employees' Provident Fund. Action had not been taken even by 30 April 2014 to settle these accounts. (2010 - 2.2.1(a)(i).
- (e) 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, No. 3.2.1(c)(iii) of 2010 and No. 5.4(f) of 2011 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 30 April 2014.

5. 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.

5:1 Employees' Provident Fund Department of the Central Bank of Sri Lanka

- (a) Investments
- (b) Outsourcing of Operations to External Parties

5:2 Employees' Provident Fund Unit of the Department of Labour

- (a) Accounting
- (b) Compliance with Accounting Standards
- (c) Recovery of Contributions and Surcharges
- (d) Fixed Assets
- (e) Inspection of Employer Institutions

H.A.S. Samaraweera

Auditor General