

Serious Fraud Investigation Office (SFIO)

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In news : The Ministry of Corporate Affairs (MCA) has recently ordered for investigation and assigned it to the Serious Fraud Investigation office (SFIO) and Regional Directors (RDs) in the cases where there are allegations of misuse of corporate structure/ fraud.

The Serious Fraud Investigation office (SFIO)

Background:

The Government of India had set up a Committee on Corporate Governance under the Chairmanship of Shri Naresh Chandra, former Cabinet Secretary. The Naresh Chandra Committee inter-alia recommended the setting up of a Corporate Serious Fraud Office.

Recommendations of the Naresh Chandra committee

Following are the are the recommendations of the committee which explain the role of SFIO:

- A Corporate Serious Fraud Office should be set up in the Department of Company Affairs with specialists inducted on the basis of transfer/deputation and on special term contracts.
- This should be in the form of a multi-disciplinary team that not only uncovers the fraud, but able to direct and supervise prosecutions under various economic legislations through appropriate agencies.
- There should be a Task Force constituted for each case under a designated team leader
- In the interest of adequate control and efficiency, a Committee each, headed by the Cabinet Secretary should

directly oversee the appointments to, and functioning of this office, and coordinate the work of concerned departments and agencies.

- Later, a legislative framework, along with the lines of the SF0 in the UK, should be set up to enable the CSFO to investigate all aspects of the fraud, and direct the prosecution in appropriate Courts.

Formation of SFIO

Consequent to the recommendation of Naresh Chandra Committee and in the backdrop of stock market scams as also the failure of non-banking companies resulting in huge financial loss to the public, the Cabinet in its meeting held on 9th January, 2003, decided to set up a Serious Fraud Investigation Office (SFIO).

As per the Companies Act, 2013 , Serious Fraud Investigation Office (SFIO) has been established through the Government of India vide Notification dated 21.07.2015.

Composition of SFIO

It is a multi-disciplinary organisation under the Ministry of Corporate Affairs, consisting of experts in the field of accountancy, forensic auditing, banking, law, information technology, investigation, company law, capital market and taxation etc. for detecting and prosecuting or recommending for prosecution white collar crimes/frauds.

SFIO is headed by a Director as Head of Department in the rank of Joint Secretary to the Government of India. The Director is assisted by Additional Directors, Joint Directors, Deputy Directors, Senior Assistant Directors, Assistant Directors Prosecutors and other secretarial staff. The Headquarter of SFIO is at New Delhi, with five Regional Offices at Mumbai, New Delhi, Chennai, Hyderabad & Kolkata

Responsibilities and functions of the SFIO will include, but

not be limited to the following:-

- The SFIO is expected to be a multi-disciplinary organisation consisting of experts in the field of accountancy, forensic auditing, law, information technology, investigation, company law, capital market and taxation for detecting and prosecuting or recommending for prosecution white collar crimes/frauds.
- The SFIO will normally take up for investigation only such cases, which are characterized by
 - complexity and having inter-departmental and multi-disciplinary ramifications;
 - substantial involvement of public interest to be judged by size, either in terms of monetary
 - the possibility of investigation leading to or contributing towards a clear improvement in systems, laws or procedures
- Investigation into the affairs of a company is assigned to SFIO, where Government is of the opinion that it is necessary to investigate into the affairs of a company –
 - on receipt of a report of the Registrar or inspector under section 208 of the Companies Act, 2013;
 - on intimation of a special resolution passed by a company that its affairs are required to be investigated;
 - in the public interest; or
 - on request from any department of the Central Government or a State Government