

# FINSAC LIMITED

"Financial Sector Adjustment Co. Ltd."  
1 SHALIMAR AVENUE, KINGSTON 3, JAMAICA W.I.  
MAILING ADDRESS: P.O. BOX 54, KINGSTON 5.  
Telephone: (876) 938-0030 Fax: (876) 928-1145

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November 26, 2009

The Commission of Enquiry  
Into the Collapse of the Financial Sector  
In Jamaica in the 1990s  
c/o The Jamaica Pegasus  
81 Knutsford Boulevard  
Kingston 5  
Attention: Mr. Fernando DePeralto

Dear Sirs

**RE: Commission of Enquiry into the Collapse of the Financial Sector  
in Jamaica in the 1990s**

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We refer to your letter of November 6, 2009 and as requested now submit the following responses to your queries:

**D Treatment accorded to debtors, depositors and shareholders in  
each failed financial institution**

47. I am not aware of the precise position with regards to all these categories of creditors to the various institutions.
48. Other than as stated in question 50 below, I am not aware of the treatment of depositors of other institutions.
49. I am not aware of the precise position with regards to all these categories of creditors to the various institutions.
50. I am aware that with the sanction of the Supreme Court, approval was received for depositors and creditors of the Century Financial Entities to be paid 100% of their deposits plus interest up to point of the intervention. These amounts were to be paid in two installments over six months. Depositors of the Blaise Financial Institutions were paid 90% of their deposits plus interest up to point of intervention in four installments over 18 months.

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51. I am not aware of the treatment of the credit balances for debtors of the various institutions.
52. I am not aware of the treatment of the shareholders of the various institutions.
53. I am not aware whether shareholders of some institutions were treated differently from others.
54. I am not aware of the existence of an agency arrangement between Finsac and the Government of Jamaica.
55. Not applicable.
56. I am not in a position to answer this question.
57. I am not in a position to answer this question.
58. Please see attached copy of an extract from the Budget Presentation by the Ministry of Finance & Planning in March 1997 that addresses the purpose for which Finsac was incorporated.
59. I am not in a position to answer this question.
60. I am not in a position to answer this question.
61. A number of the failed institutions were rehabilitated, namely, National Commercial Bank Jamaica Limited , Citizens Bank Limited /Union Bank of Jamaica Limited, Life of Jamaica Limited, Island Life Insurance Company Limited, Dyoll Group Limited, Jamaica Mutual Life Assurance Society (JMLAS), Crown Eagle Life Insurance Company Limited (CEL), Dyoll Life Limited (DLL) and Horizon Life Limited (HLL).
62. These entities were rehabilitated as follows:
  - a) NCBJ – Initially, Finsac acquired ordinary and preference shares and non-performing loans in the NCBJ. The preference shares were converted to ordinary shares in NCB Group Limited, giving Finsac a majority shareholding in the Group.

Thereafter, a scheme of arrangement was approved for Finsac to acquire the Group with its significant non-core real estate, leaving NCBJ to continue its core business. NCB was thereafter sold to AIC.

- b) CBL/UBJ – Initially, Finsac acquired ordinary and preference shares and non-performing loans (including LOJ's ordinary shareholding) in CBL. Following its acquisition of other banks, a decision was made to merge six entities into CBL, whose name was later changed to UBJ. UBJ was thereafter sold to RBTT.
- c) LOJ – Initially, Finsac acquired ordinary and preference shares in LOJ, along with its shareholding in CBL and CIBC Jamaica Ltd. The preference shares were later converted to ordinary shares, giving Finsac a majority position, which was thereafter sold to Barbados Mutual Life Assurance Society (BMLAS).
- d) IsLife – Initially, Finsac acquired ordinary and preference shares in Island Life. Further assistance was granted two years later when in conjunction with majority shareholder, BMLAS, IsLife was re-organized to improve its financial condition and continue to operate as an insurance company. The operations of IsLife were thereafter merged with LOJ as both were majority owned by the same entity. Finsac's IsLife shares were converted to LOJ shares and thereafter sold on the Jamaica Stock Exchange.
- e) Dyoll Group – Initially, Finsac acquired ordinary shares in Dyoll Group Limited (DGL) and preference shares in Dyoll Life Limited (DLL) and granted a loan to Dyoll Insurance Company Limited (DIC). DIC repaid its loan and the individual life policies of DLL were sold with others to Guardian Life Limited. In 2003, DGL repurchased its shares from Finsac.
- f) JMLAS/CEL/DLL/HLL – The combined individual life and group pension policies of these three entities were sold to Guardian Life Limited.

63. Finsac/FIS injected cash into a number of failed institutions. The details of these entities are shown in the spreadsheet supplied with answer to question 1.

64. Finsac acquired ordinary and preference shares in a number of the failed institutions. The details of these entities are shown in the spreadsheet supplied with answer to question 1.

November 26, 2009

65. A breakdown of the total amounts disbursed by Finsac/FIS to failed institutions is shown in the attached spreadsheet. This figure includes Interest Bonds issued by Finsac.
66. I am not aware whether all depositors were paid 100% of their deposits but my understanding is that any interest payment made to depositors was to the date of intervention **not** date of repayment.
67. I am not sure the source of funds for these payments.
68. I am not aware of the precise policy with regards to all these categories of creditors to the various institutions.
69. I am not in a position to answer this question.
70. The applicable interest rates charged by the various institutions were not provided in all cases to Finsac but a decision was taken to charge 30% p.a. and 15% p.a. on JAD and USD loans, respectively.
71. The gross amount collected from delinquent loans between 1997 and 2002 was \$5,929,914,468.
72. The total administrative and operational expenses incurred for the period 1997 to March 2002 by Finsac and ITS related entities were \$3,798,213,000.
73. The principal balances of the aggregate debt sold to JRF was J\$17,851,340,927, including local equivalent of some USD loans.
74. I am not aware that a comprehensive list of interest rates was maintained by Finsac in order to calculate average rates but for the most part, Finsac applied a rate of 30% p.a. and 15% p.a. to JAD and USD loans, respectively. In cases where lower contracted / agreed rates existed, these rates were applied.
75. The amount received by Finsac from JRF for the period since sale of the delinquent loan portfolio to December 2008 is US\$34,678,850.

76. Finsac is not in a position to advise the administrative, operational and legal charges incurred by JRF. However, we mention that Direct Costs (which are allowable costs incurred in preserving, realizing and protecting the loans, including valuations, real estate costs, legal fees, etc) incurred by JRF for the period to December 2008 was US\$8,238,913, of which Finsac has paid US\$2,582,198, in line with the Purchase/Sale Agreement with JRF.
77. Finsac is not aware of the interest rates charged/being charged by JRF.
78. Finsac does not have a list of the total debts still outstanding to JRF. We would recommend that this information be obtained from JRF.
79. My understanding is that valuations are always obtained prior to sale of collateral.
80. My understanding is that sales of delinquent debtors' properties are first attempted by public auction but if the reserve price is not obtained, private treaty sale is then pursued. I am not aware that a comprehensive list of the number of public/private sales was maintained.
81. I am not aware that a comprehensive list of secured creditors was maintained.
82. I am not aware that a comprehensive list of unsecured creditors was maintained.
83. Some law suits were brought by Finsac to attempt to recover debts but I am not aware that a comprehensive list exists for the amounts collected as a result of these legal actions.
84. My understanding is that Finsac provided accounts to debtors upon request, where the information is available and in some cases, recalculation of the accounts was done.

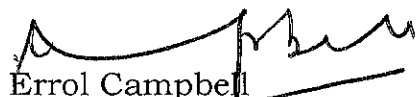
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85. We have provided a list of the debts sold to JRF, with principal balances only, Exhibit A, on CD. Unfortunately the interest balances were not captured.

Yours sincerely  
**FINSAC Limited**

  
Errol Campbell  
General Manager

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# *The Role of FINSAC*

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## **MANDATE:**

**FINSAC Limited** was incorporated with the specific mandate from Government:

- to resolve the problems of solvency and liquidity being experienced by the financial sector.

## **OBJECTIVES:**

In pursuance of this mandate, FINSAC developed eight broad objectives to guide its activities. These objectives are as follows:

- to protect the investments of policyholders, depositors and pensioners;
- to restore liquidity and solvency to distressed institutions (in pursuit of the first objective);
- to strengthen the financial management capability of intervened institutions;
- to improve the efficiency of the sector in mobilising and allocating financial resources;
- to create an attractive environment for investors to recapitalise financial institutions;
- to minimise moral hazard and promote prudent behaviour;
- to promote strong corporate governance, managerial accountability and shareholder oversight;
- to strengthen the sector through the establishment of appropriate institutional frameworks and regulatory structures.



# *The Role of FINSAC (cont'd)*

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In pursuit of these objectives, FINSAC was established with the following Terms of Reference, Financing and Exit Strategy\*:

## **TERMS OF REFERENCE:**

- 1 FINSAC serves as the vehicle through which realignment and restructuring of the financial sector will take place.
- 2 FINSAC serves as the executive arm of the Ministry of Finance and Planning in which Government strategy will be planned and through which the interventions of various agencies (specifically the Bank of Jamaica (BOJ) and the Superintendent of Insurance) will be coordinated.
- 3 Through FINSAC, the Government will provide financial assistance to the sector and, therefore, FINSAC will have the accountability for the spending of such resources provided to it directly or guaranteed by the Government.
- 4 Through FINSAC, the Government will provide guidance and technical assistance to the financial sector. It may mobilise and deploy external technical and managerial support for the restructuring of intervened institutions.
- 5 FINSAC will sponsor and/or undertake diagnostic studies of the overall health of the financial sector with specific focus on the institutions which require assistance.
- 6 FINSAC will assist institutions in developing workout plans, where necessary, to return them to viability. Such plans will form the basis for the conditions which FINSAC will attach to financial assistance. FINSAC will monitor the implementation of such plans on a continuing basis and will evaluate their effectiveness in achieving their specified objectives. It will inform and coordinate the inputs of FINSAC's board members of intervened institutions on issues considered essential to the viability of the financial sector.
- 7 Based on the experience gained in its work, FINSAC will advise the Government on the prudential regulation of the sector and on the renewal, suspension and revocation of operating charters of individual institutions within the sector.

\* Terms of Reference, Financing of FINSAC and Exit Strategy based on Budget Presentation by the Minister of Finance and Planning, March 27, 1997.



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## **FINANCING OF FINSAC**

FINSAC was initially financed by the Government through borrowing in the domestic market from funds raised through the sale of long-term registered stock and through government-guaranteed facilities from the Bank of Jamaica out of certain sterilised government deposits.

Since then, FINSAC has funded its intervention through the issue of FINSAC notes guaranteed by the Government.

FINSAC's debt servicing will be offset by the proceeds from the liquidation of assets, including real estate, recoveries against non-performing loans acquired from the financial institutions and disposal proceeds of rehabilitated banking and insurance institutions.

It is anticipated that there will be a funding gap which is not yet quantifiable. The Government of Jamaica backs FINSAC notes; accordingly this shortfall will be funded by government.

## **EXIT STRATEGY FOR FINSAC:**

FINSAC is expected to have an active life of about five to seven years. Support is provided to companies on the basis of rehabilitation plans to be implemented over five years. FINSAC expects to be fully repaid by the end of the fifth year assuming successful workouts of the existing problems. Interventions leading to the temporary acquisition of institutions will be short-lived. All the necessary interventions are likely to take place within the first 12 to 18 months of FINSAC's existence. Components which can be restored to viability will be rehabilitated and returned to private ownership within the shortest possible time, while other components will be liquidated or sold for merger with other institutions as soon as possible.

Given the experience of other countries, liquidations and the sale of assets as well as the collection of debts can often be a lengthy process. The usual approach has been to set up facilities for handling these aspects, outside of the vehicle for rehabilitation. For example, real estate investment trusts have been used as a holding arrangement for the management and disposal of real estate; paper assets have been put in unit trusts and the units marketed; and non-performing loans have been sold to a central debt-collection agency. FINSAC will evaluate the option of setting up a real estate investment trust and other asset disposal approaches. These liquidation arrangements are likely to outlive FINSAC.

After the initial period of intervention, implementation and rehabilitation activities, the role of FINSAC will be narrowed to primarily supervision and monitoring of work-out plans of institutions that have been financially assisted by FINSAC and the management of the investment portfolio arising out of assistance activities. Supervision and monitoring should end in six years as the workout plans are completed. By year seven, FINSAC's only responsibility is expected to be the collection of repayments from assisted institutions.



<b>FINSAC LIMITED / FINANCIAL INSTITUTIONS SERVICES LIMITED</b>					
<b>INTERVENTION COST ( J\$ 000 )</b>					
<b>AS AT MARCH 31, 2002</b>					
<b>Institutions</b>	<b>Bonds</b>	<b>Cash/LRS</b>	<b>Total</b>	<b>Interest Paid</b>	<b>Grand Total</b>
Billy Craig Finance & Merchant Bank	148,018	-	148,018.00	123,201	271,219
Buck Securites Merchant Bank	38,762	-	38,762.00	20,004	58,766
Caribbean Trust & Merchant Bank	23,917	-	23,917.00	12,343	36,260
Caldon Finance Merchant Bank	100,245	-	100,245.00	85,865	186,110
Citizens Bank Limited	2,747,706	-	2,747,706.00	1,740,177	4,487,883
Citizens Finance & Insurance Agency	19,454	-	19,454.00	1,856	21,310
Crown Eagle Life Insurance Company	11,737,288	2,944,854	14,682,142.00	5,020,315	19,702,457
Eagle Group	2,153,700	590,000	2,743,700.00	1,828,460	4,572,160
Dyoll Group	344,050	456,382	800,432.00	207,698	1,008,130
Fidelity Finance Merchant Bank	77,806	-	77,806.00	21,657	99,463
Horizon Merchant Bank Limited	4,583,114	-	4,583,114.00	3,447,665	8,030,779
Island Life Insurance Company	787,150	597,419	1,384,569.00	315,730	1,700,299
Intercontinental Merchant Bank	100,384	-	100,384.00	49,144	149,528
Jamaica Mutual Life Assurance Society	10,752,622	6,503,280	17,255,902.00	6,374,263	23,630,165
Life of Jamaica	1,858,000	-	1,858,000.00	1,509,564	3,367,564
National Commercial Bank	20,899,698	-	20,899,698.00	14,734,445	35,634,143
Island Victoria Bank	817,422	-	817,422.00	580,724	1,398,146
Victoria Mutual Building Society	1,352,373	-	1,352,373.00	484,054	1,836,427
Union Bank of Jamaica	6,473,665	2,300,000	8,773,665.00	1,824,952	10,598,617
Corporate Group	9,565,708	30,429	9,596,137.00	3,305,574	12,901,711
Partners Merchant Bank	19,719	-	19,719.00	12,854	32,573
Century National Bank	5,528,684	-	5,528,684.46	3,604,053	9,132,737
Blaise Trust and Merchant Bank	-	943,000	943,000.00	543,627	1,486,627
Unallocated	-	-	-	5,890,813	5,890,813
<b>Total</b>	<b>80,129,485</b>	<b>14,365,364</b>	<b>94,494,849</b>	<b>51,739,038</b>	<b>146,233,887</b>