

Questions to be answered by FINSAC

Answers by me, Patrick Hylton, to the best of my knowledge and recollection, are given in italics below each question.

Restructuring and sale of institutions

1. What was the gross amount disbursed by FINSAC to failed financial institution?

I do not recall the exact amount. As at March, 2002, I recall the figure for both Finsac Limited (Finsac) and Financial Institutions Services Limited (FIS) being in the region of \$90 billion. I do not recall how much it was for each, but the vast majority was Finsac.

2. For what specific purposes, to which institution and in what amount were these disbursements made? (For example purchase of preference shares in X Limited at a cost of J\$10,000,000.00.)

I cannot recall this, given the number of institutions in which we intervened and the time period over which it took place. I expect the details would be in files retained by Finsac and FIS.

3. What were the gross and net amounts received from the sale of the restructured institutions?

I cannot recall this, given the number of institutions in which we intervened and the time period over which it took place. I expect the details would be in files retained by Finsac and FIS.

4. Who was the valuator of each of the institutions sold by FINSAC?

Various valuers were used. I do not recall who was used in each case. I remember that the valuator for the NCB shares was HSBC. I recall NCB given the significant value of the interest being sold and the amount of work involved, and because it was one of the last institutions sold.

5. Was each valuator a licensed valuator?

Some shares were sold on the Jamaica Stock Exchange for prices that approximated the values we had expected based on our assessments. For other sales, the valuers were known globally and had considerable expertise. I do not recall us requesting to see their licences.

6. Who prepared the documentation on the offer for sale of each institution?

We had publicized the institutions in respect of which there was an interest that was for sale and indicated what we were looking for in purchasers - financial expertise, financial resources, and that the purchasers would be fit and proper. Such publication was in the media and on our website. Those would have been prepared internally, with little detail. Through our financial advisors, we also approached suitable investors locally and globally and dialogue was held with those that showed interest. The documentation relating to the sale of equity in the institutions would have been prepared by Finsac's advisors, in particular its legal advisors. I recall that for the NCB transaction, the attorneys were the Attorney General 's Department (Hon. Michael Hylton, O.J., Q.C.) and for the Union Bank of Jamaica Limited (now RBTT Jamaica Limited) transaction, the attorneys were Myers, Fletcher & Gordon (Barbara Alexander). We were guided on price and terms by our financial advisors, and such prices and terms had ultimately to be approved by Finsac 's board and then by Cabinet. The sale contracts would have been approved by our attorneys and the Board, with the essential terms also generally being referred for approval by Cabinet.

7. Who reviewed the responses to the offer for sale of each institution?

See answer to 6 above.

8. Who selected the persons with who negotiations should be done in respect of each institution?

See answer to 6 above.

9. Who made recommendations on the price and terms of sale of each institution?

See answer to 6 above.

10. Who approved the price and terms of sale of each institution?

See answer to 6 above.

11. Who approved the sale contract for each institution?

See answer to 6 above.

Debts and securities transferred from institutions

12. What was the gross amount of debts transferred from each institution to FINSAC?

I cannot recall, but expect this information could be obtained from Finsac 's records.

13. Were any of these debts challenged by the debtors?

Yes.

14. How was each challenge by a debtor addressed?

Each was assessed on the merits from the records of the intervened institution that we had inherited, and a determination was made (with legal advice where feasible and appropriate) as to how to respond to the challenge, whether to settle or to pursue recovery of the debt.

15. Were there counter claims by any debtor against a Finsaced institution?

There were counterclaims by debtors in relation to the debts of intervened institutions.,

16. How was each counter claim by a debt addressed?

Each counterclaim was assessed on the merits from the records of the intervened institution that we had inherited, and a determination was made (with legal advice where feasible and appropriate) as to how to respond to the challenge, whether to settle or to pursue the debt.

17. What steps did FINSAC take to validate the accuracy of the debtors account balance transferred from the institution?

Employees of Finsac would validate the accuracy of the account balances from the records inherited from the intervened institution. Sometimes, officers from that institution would be consulted.

18. What was the gross value of the securities transferred from each failed institution to FINSAC?

I cannot recall, but expect this information could be obtained from Finsac 's records.

19. What was the amount collected from debtors up to the point that the debts were transferred to JRF or other parties?

I cannot recall, but expect this information could be obtained from Finsac 's records.

20. What was the gross amount of debts that were forgiven?

I cannot recall.

21. What were the criteria applied in determining the debtors or debts to be forgiven?

I was not routinely involved in this process, except through the Loans Committee and/or the Board. In such cases, our determination would be based on the usual factors used by financial institutions to make such decisions - an assessment of whether the intervened institution had erred or acted unfairly or where recovery seemed unlikely or unfeasible (e.g., where persons had migrated, were destitute, had died, and/or had no available assets).

22. Who were the persons whose debts were forgiven? I

cannot recall.

23. What was the gross and net amount recovered from the sale of securities underlying debts up to the point that these securities were transferred to JRF or other parties?

I cannot recall, but expect this information could be obtained from Finsac 's records.

24. Who was the valuator of each of the non-financial institutions sold by FINSAC?

We sold interests in about 18 hotels or hotel properties. I recall the sale of shares in Grand Lido. We also sold interests in Holiday Inn and Jamaica Grande, though I cannot recall whether the sale was of shares in the relevant company or the real estate. I recall that we hired a well respected hotel valuator after going through a process of making requests for proposals from potential valutors. However, I cannot recall the name of the valuator.

25. Who prepared the documentation on the offer for sale of each institution? *I cannot*

recall, but expect this information could be obtained from Finsac 's records.

26. Who reviewed the responses to the offer for sale of each institution?

These would have been reviewed internally by the Asset Management Division, initially, then by me, the Board and then Cabinet.

27. Who selected the persons with who negotiations should be done in respect of each institution?

I would have made those selections.

28. Who made recommendations on the price and terms of sale of each institution?

That would vary, often depending on the size of the transaction. Recommendations could have been made by staff and/or external advisors (if such advisors had been engaged for such transactions), for ultimate consideration by the Board and (depending on size) Cabinet,

29. Who approved the price and terms of sale of each institution?

See answer to 28 above.

30. Who was the valuator of each of the properties sold by FINSAC?

I cannot recall for each property, but this is information Finsac should have in its records.

31. Who prepared the documentation on the offer for sale of each property?

The documentation in relation to sale of properties would have been prepared by our attorneys (in house in some cases, external in others). I cannot recall for each property who was the attorney involved, but this is information Finsac should have in its records. The sales would have been reviewed initially by our Asset Management Division. These were then escalated to the Board, and sometimes under a procedure authorized by the Board they may have been approved by me and subsequently ratified by the Board. Larger property sales had also to be approved by Cabinet.

32. Who reviewed the responses to the offer for sale of each property?

See answer to 31 above,

33. Who selected the persons with whom negotiations should be done in respect of each property?

The negotiations were primarily conducted by or through brokers. If Finsac was actively involved in the negotiations, it would have been staff of the Asset Management Division.

34. Who made recommendations on the price and terms of sale of each property?

Recommendations would have been made by the Asset Management Division, and sometimes the real estate broker.

35. Who approved the price and terms of sale of each property?

See answer to 31 above.

Transfer of debts and securities to JRF and others

36. What was the gross amount of debts transferred by FINSAC to JRF and each other party?

I do not recall, but Finsac's records should be able to answer this question.

37. Was an independent valuation of these debts undertaken by a competent valuator?

Internal valuations of the debts were done when they were acquired by Finsac and FIS, based on a methodology recommended and implemented by the international consulting firm, McKinsey. These established minimum values of the debts which were utilized in setting the targets for staff for collections and also when negotiating the value of the debts being sold to buyers other than JRF. In the case of JRF, OCWEN conducted a valuation of the debts.

38. If so who was the valuator and what value was placed on the debts? See

answer to 37 above. I do not recall what value was placed on the debts.

39. What was the gross value of securities pledged by debtors whose debts and securities were transferred to JRF and each other party?

I do not recall, but Finsac's records should be able to answer this question.

40. Was an independent valuation of these securities undertaken by a competent and licensed valuator?

Valuations of virtually all real estate securing outstanding debts were undertaken by valutors we considered to be competent.

41. If so who was the valuator and what value was placed on the securities? I do

not recall, but Finsac's records should be able to answer this question.

42. What percentage of the value of debts transferred to JRF did the payment by JRF of US\$23,000,000.00 represent?

The initial payment represented about 6% of the aggregate of the principal balances of the debts. It is to be noted that there was an obligation on the part of JRF to share collections with Finsac on a pre-determined schedule. The principal balances did not necessarily represent the value of the debts. Where, for example, we did not think the chances of recovering the principal balances were particularly high, we may have been internally treating the value of the debt as zero.

43. Why was title to the debts and securities transferred to JRF when the payment by JRF was not payment in full?

Transfer was necessary to enable JRF to collect the debts in its own right, as we were not engaging them as agents (which we understood would have continued to make Finsac/FIS liable for their acts).

44. What was the rationale for entering into a sale agreement with JRF?

The rationale for the sale of the portfolio included the fact that Finsac had collected on many of the loans that were easier to collect, and it had become difficult to sustain further collections for various reasons. For example, collections officers would complain that debtors would seek external assistance from influential persons to intervene on their behalf. Such persons would contact the collections officers on behalf of debtors. I too was the recipient of numerous calls from such persons and pressure being applied to stop asset recovery processes in train. We also thought it was unsuitable for a Government institution such as Finsac/FIS to continue to engage in the management of the collections when a moral dilemma had arisen: Finsac/FIS could be seen, in writing off certain debts and releasing the applicable security for persons who had not been meeting their obligations, as encouraging an ethos of not meeting loan obligations. This could be seen as problematic when one bore in mind that persons who had been meeting their obligations would have had to continue doing so to the institutions to which they were indebted. I also understood it to be a condition of multilateral financing the Government was seeking that the nonperforming loan portfolio be sold. We would also divest ourselves of the legal and other risks associated with collections and the administrative costs.

Our advisors went to the local and global markets to secure a purchaser. More than 20 expressions of interest were received, and through a process of elimination, JRF was eventually selected as the best offer of those that remained interested following the due diligence conducted by the interested persons.

45. What was estimated to be the amount that JRF would recover from the debts and securities transferred to JRF?

I cannot recall.

46. What was estimated to be the amount that FINSAC/GOJ would recover from the debts and securities transferred to JRF?

I cannot recall.

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

47. Were the depositors in each failed institution treated similarly? For example did each depositor receive a similar percentage of their deposits plus interest?

The depositors of the institutions in which Finsac intervened were treated similarly, save that it was decided that the connected parties of institutions that were being liquidated would not be paid, given that the payments were essentially being funded by the public and there were concerns about funding payments (directly or indirectly) to persons who appeared to have some responsibility for the failure of the institutions in question..

48. If not state the difference in treatment accorded to depositors and the justification for the variation in the treatment;

See answer to 47 above.

49. Were the depositors in all failed institution treated similarly? For example did each depositor in each failed institution receive a similar percentage of their deposits plus interest?

See answer to 47 above.

50. If not state the difference in treatment accorded to depositors across institutions and the justification for the variation in the treatment;

See answer to 47 above.

51. How were deposits, positive current account balances, funds held in escrow, etc, held in the names of debtors treated? For example were such balance offset against loan balances or were they refunded?

I would not have been involved in this on a regular basis, but so far as I can recall, the deposits were set-off only to the extent that they had been used to secure the loans.

52. Were the shareholders in all failed institution treated similarly?

No.

53. If not, state the difference in treatment accorded to depositors and the justification for the variation in the treatment;

Because (unlike the Minister of Finance) Finsac did not have powers of intervention, the interventions were by way of negotiation. With such negotiations, inevitably differing treatment of the institutions and their shareholders resulted.

54. Was there an agency agreement/s between the FINSAC (a private company) and the government that supported the activities that were undertaken by the institution?

Finsac was wholly owned by the Government of Jamaica and was given its mandate by the Government. However, so far as I am aware, no agency agreement was documented between Finsac and the Government.

55. Should the answer to the above be in the affirmative the Commission is requesting that it be provided with a copy of each agreement?

Not applicable.

56. Should the answer be in the negative, under what instrument of authority was title to the debts and underlying securities vested in FINSAC?

For Finsac, the debts and underlying securities were purchased by agreements with the intervened institutions. FINSAC also took equity positions in a number of the intervened institutions. In the case of the institutions in which FIS intervened there were schemes of arrangement under the Companies Act. For Workers Savings and Loan Bank, the shares were vested in the Minister of Finance who then provided an appropriate instrument of authority the details of which I cannot now recall.

57. Under what instrument of authority were the activities undertaken by the FINSAC?

See answer to 56 above. 58, For what purpose was FINSAC incorporated?

The purpose of Finsac and FIS' incorporation was to facilitate the orderly intervention in troubled financial institutions, to preserve the deposits and life insurance policies and pensions of the public and some confidence in the financial sector. Finsac was also to assist in restoring financial institutions that were considered capable of resuscitation and preparing them to be sold.

59. What was the policy of FINSAC in dealing with the failed institutions, namely, commercial banks, merchant banks and insurance companies?

The policy was to stabilize, consolidate and rehabilitate, where possible, with a view to ensuring a stable financial sector and institutions that could feasibly be sold to appropriate persons.

60. What criteria did FINSAC use to determine whether an institution was insolvent or had a liquidity problem?

We did an assessment with our financial advisors, working with persons involved in finance and management in the intervened institutions.

61. Did FINSAC rehabilitate any of the failed institutions? If so, which ones?

Yes. The rehabilitated financial institutions, as I recall, were CitizensBank, Island Victoria Bank, Eagle Commercial and Merchant Bank, Horizon Merchant Bank and Workers Savings and Loans Bank (these were amalgamated into Union Bank, now called RBTT Jamaica Limited); Crown Eagle Life, Dyoll Life, Horizon Life and Jamaica Mutual Life (amalgamated into Guardian Life); Life of Jamaica (including also what was then Island Life); Victoria Mutual Building Society and NCB.

62. How was such re-establishment accomplished?

The rehabilitations were accomplished by injection of capital, appointment of new boards and sometimes new management, development of rehabilitation business plans in conjunction with our consultants and the rationalization of costs and infrastructure as well as the consolidation and or merger of institutions and their business.

63. Did FINSAC inject cash into any of the failed institutions? If so, which ones?

Yes. I cannot recall the details of such injections, and the cash injected was not very significant in relation to the size of the institutions' equity, given that Finsac 's resources were quite limited.

64. Did FINSAC take shares or acquire shares in any of the failed institutions? If so, which ones?

Yes. Finsac took shares in all the intervened financial institutions that survived except for Victoria Mutual Building Society.

65. What was the total quantum of funds which FINSAC injected into failed institutions? I

do not recall, but this information should be ascertainable from Finsac's records.

66. Were depositors in the failed institutions repaid 100% of their capital plus interest to date of repayment?

The depositors of the institutions in which Finsac intervened were repaid 100% of their principal plus interest, save in the case of connected persons - see answer to 47 above,

67. What was the source of the money to make the abovementioned repayment to depositors?

In the case of institutions that were recapitalized, the capital was in the form of either cash or Finsac notes. Where the depositors were being transferred, the institutions to which they were transferred received Finsac notes to back the deposits.

68. In cases where Directors or shareholders of the failed institutions had deposits in their respective institutions, were they repaid deposits plus interest as in the case of other depositors? If not, why?

Only in the case of institutions that were liquidated upon intervention were directors and shareholders not repaid. They would not have been repaid because in such cases, it was felt that the controllers would have had some responsibility for the failure of the institutions and it would be inappropriate to use public funds to compensate them.

69. What was the aggregate indebtedness of the failed institutions at the time of takeover by FINSAC?

I do not recall, but I assume that Finsac 's records should provide an answer to the question.

70. What was the average rate of interest on the delinquent loans acquired by FINSAC and held from 1997 to 2002?

I do not recall, but I assume that Finsac 's records should provide an answer to the question.

71. How much money did FINSAC recover from delinquent loans between the periods 1997 to 2002?

I do not recall, but I assume that Finsac 's records should provide an answer to the question.

72. What were the total administrative and operational expenses of FINSAC and its' subsidiaries form 1997 to 2002?

I do not recall, but I assume that Finsac 's records should provide an answer to the question.

73. What was the aggregate of the debt sold by FINSAC to Jamaica Re-Development Foundation (JRF) in 2002?

To the best of my recollection, the aggregate principal debts sold was in the region of US\$380-390 million.

74. What was the average interest rate on those debts at that time?

I do not recall, but I assume that Finsac 's records should provide an answer to the question.

75. What is the amount received by FINSAC from JRF from 2002 to 2008 as proceeds from delinquent debtors?

I do not recall and for the latter part of the period I would not have had access to the information at all, but I assume that Finsac's records should provide an answer to the question.

76. What administrative, operational and legal expenses have been incurred by JRF from 2002 to 2008?

I do not recall and for the latter part of the period I would not have had access to the information at all, but I assume that Finsac 's records should provide an answer to the question.

77. What was the average interest rate that JRF charged delinquent debtors from 2002 to 2008?

Ido not know.

78. What is the total amount of indebtedness, still outstanding by delinquent borrowers as of June 2009?

Ido not know.

79. In cases where FINSAC released securities by way of sale, was there valuation prior to sale?

As far as I am aware, where Finsac was selling securities, the process of selling would involve obtaining a valuation before sale.

80. Were sales of delinquent borrowers' properties by way of Public Auction? If so, how many by Public Auction and how many by Private Treaty?

Some would have been by public auction and some by private treaty. I would not know how many were by each method, but Finsac 's records should be able to answer this questions.

81. How many delinquent borrowers there were with secured debts?

I do not know, but Finsac 's or JRF's records should be able to answer this question.

82. How many delinquent borrowers there were with unsecured debts?

I do not know, but Finsac 's or JRF's records should be able to answer this question.

83. Were any law suits brought to recover debts, and if so, how much was recovered consequent on litigation?

Yes, such law suits were brought. I do not know how much was recovered consequent on such litigation, but Finsac 's and/or JRF's records should be able to answer this question.

84. Did FINSAC render accounts to delinquent debtors when requested? If not, why?

I know accounts were rendered to many delinquent debtors. In some cases, there were difficulties properly assembling such records given the state of the records from the intervened institutions.

NOTE

Please prepare a Schedule without using the names of delinquent borrowers, but use alphabetical letters with the following information in respective columns -

- a. Debt with interest due;
- b. Valuation; and
- c. Sale price.

No names ought to be used for confidentiality, hence, use letters or symbols. *I do not have the records that would allow me to prepare such a Schedule.*